

# PORTER, MAINE

## LAND USE ORDINANCE

*(Includes Shoreland Zoning Regulations & Cross-Reference to Subdivision Regulations)*

*Adopted March 20, 1982*  
*Revised March 21, 1987*  
*Revised September 21, 1987*  
*Revised June 30, 1988*  
*Revised March 18, 1989*  
*Revised March 17, 1990*  
*Revised March 21, 1992*  
*Revised July 15, 1994*  
*Revised March 18, 1995*  
*Revised March 16, 1996*  
*Revised March 15, 1997*  
*Revised July 13, 1998*  
*Revised March 18, 2000*  
*Revised November 13, 2000*  
*Revised March 19, 2005*  
*Revised March 18, 2006*  
*Revised March 21, 2009*  
*Revised March 16, 2013*  
*Revised October 7, 2019*  
*Revised October 28, 2020*  
*Revised April 7, 2021*  
**Revised June 8, 2022**

# PORTER LAND USE ORDINANCE

## TABLE OF CONTENTS

### ARTICLE I GENERAL PROVISIONS

- 1.1 Legal Authority
- 1.2 Purpose
- 1.3 Effective Date
- 1.4 Availability
- 1.5 Severability
- 1.6 Conflicts with Other Ordinances
- 1.7 Validity and Amendments
- 1.8 Official Zoning Map a Part of this Ordinance
- 1.9 Districts and Zoning Map
- 1.10 Certification of Zoning Map
- 1.11 Changes in the Official Zoning Map
- 1.12 Replacement of the Official Zoning Map
- 1.13 Conflicts Between Official Zoning Map and Ordinance Text
- 1.14 Interpretation of Boundary Location
- 1.15 Division of Lots by District Boundaries

### ARTICLE II NON-CONFORMING SITUATIONS

- 2.1 General Provisions
- 2.2 Non-Conforming Uses
- 2.3 Non-Conforming Structures
- 2.4 Non-Conforming Lots
- 2.5 Non-Conforming as to Performance Standards/Site Development
- 2.6 Vested Rights

### ARTICLE III DISTRICTS AND DIMENSIONAL REQUIREMENTS

- 3.1 Designation of Districts
- 3.2 Dimensional Standards
- 3.3 General Requirements (*Article 10.6 and 10.14 Subdivision Regulations cross-reference*)
- 3.4 Uses Permitted

### ARTICLE IV. PERFORMANCE STANDARDS - GENERAL REQUIREMENTS

- 4.1 Applicability and Purpose
- 4.2 Standards
  - 4.2.A Access Control and Traffic Impacts (*Cross-Reference 10.12 & 10.15 of Subdivision Regs*)
  - 4.2.B Off-Street Parking and Loading Requirements (*Cross-Reference 10.6, 10.13, 10.15 of Subdivision Regs*)
  - 4.2.C Roads & Driveways (In Shoreland) (*Cross-Reference 10.3, 10.12, 10.13, 10.15, 10.16 of Subdivision Regs*)
  - 4.2.D Light and Glare
  - 4.2.E Noise
  - 4.2.F Refuse Disposal (*Cross-Reference 10.5 of Subdivision Regs*)
  - 4.2.G Water Quality Protection (*Cross-Reference 10.3, 10.9, 10.12, 10.13 of Subdivision Regs*)
  - 4.2.H Sanitary Standards (*Cross-Reference 10.6 & 10.13 Subdivision Regs*)

## PORTER LAND USE ORDINANCE

- 4.2.I Dust, Fumes, and Gases
- 4.2.J Explosive Materials
- 4.2.K Landscape Buffers and Screening (*Cross-Reference 10.6 & 10.13 of Subdivision Regs*)
- 4.2.L Soils and Soil Erosion Control (*Cross-Reference 10.3, 10.9, 10.12, 10.13 of Subdivision Regs*)
- 4.2.M Storm Water Run-Off (*Cross-Reference 10.3, 10.9, 10.12, and 10.13 of Subdivision Regs*)
- 4.2.N Water Supply (*Cross-Reference 10.3, 10.9, 10.12, 10.13 of Subdivision Regs*)
- 4.2.O Other Regulations Apply (*Cross-Reference 10.7 of Subdivision Regs*)
- 4.2.P Signs
- 4.2.Q Solar Consideration
- 4.2.R Preservation of Historic and Archaeological Resources (*Cross-Reference 10.14 of Subdivision Regs*)
- 4.2.S Land Uses and Activities in the Resource Protection District and All Shoreland Areas (*Cross-Reference 10.3, 10.6, 10.9, 10.10, 10.12, 10.13 of Subdivision Regs*)
- 4.2.T Clearing or Removal of Vegetation for Development in a Shoreland Zone (*Cross-Reference 10.6 & 10.13 of Subdivision Regs*)
- 4.2.U Essential Services in the Shoreland Zone (*Cross-Reference 10.6 & 10.13 of Subdivision Regs*)
- 4.2.V Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal within Shoreland (*Cross-Reference 10.6 & 10.13 of Subdivision Regs*)
- 4.2.W Revegetation Requirements within Shoreland (*Cross-Reference 10.6 & 10.13 of Subdivision Regs*)
- 4.2.X Exemptions to Clearing and Vegetation Removal Requirements within Shoreland (*Cross-Reference 10.3, 10.6, 10.9, 10.12, and 10.13 of Subdivision Regs*)

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

- 5.1 Adult Businesses
- 5.2 Agriculture & Farm & Farm Related Ventures
- 5.3 Animal Husbandry (>30 AEU or 300 AFO/CAFO)
- 5.4 Automobile Graveyard, Junkyard, or Recycling
- 5.5 Bed & Breakfast, Boarding, or Renting Rooms
- 5.6 Campgrounds
- 5.7 Civic, Social Service Uses, Churches, and Not-for-Profits
- 5.8 Garage and Yard Sales
- 5.9 Ground Water and/or Spring Water Extraction and/or Storage
- 5.10 High Impact Uses
- 5.11 Hotels/Motels/Inns
- 5.12 Individual Private Campsites
- 5.13 Animal Care Facilities
- 5.14 Mineral Exploration and Extraction
- 5.15 Minor Earthmoving Activities
- 5.16 Mobile Home Parks
- 5.17 Modular Housing and Mobile Homes
- 5.18 Motorized Vehicle Racing Facilities
- 5.19 Multifamily Dwelling Units
- 5.20 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
- 5.21 Renting Apartments
- 5.22 Restaurants
- 5.23 Special and/or Hazardous Waste Facilities
- 5.24 Tire Storage and Disposal
- 5.25 Timber Harvesting within the Shoreland Zone

# PORTER LAND USE ORDINANCE

5.26 Wireless Communication Facilities, Communication Towers, and Antennas

## **ARTICLE VI. ADMINISTRATION, ENFORCEMENT & PENALTIES**

- 6.1 Administering bodies and Agents
- 6.2 Enforcement
- 6.3 Permit Requirement. (Land Use & Building)
- 6.4 Land Use and Building Permit Authorizations
- 6.5 Land Uses and Activities Not Requiring a Land Use or Building Permit Fee
- 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 (s) – Land Use and Building
- 6.11 Installation or Relocation 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 10 M.R.S.A. §9724 §§5 and § 9725** (*Building Ordinances*),
- **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, §1561, §1562, §2608** (*Local Health Officers*),
- **Title 25 M.R.S.A. § 2353-A, 2354, 2357-A** (*Municipal Inspection of Buildings*), **§ 2432, 2464, 2465, 2468** (*Preventative Measures & Restrictions*),
- **Title 30-A M.R.S.A. §3261 to §3264 and §3281 to §3284** (*Conservation Commission and Public Shade Trees*),
- **Title 30-A M.R.S.A. § 3751 to 3760** (*Junkyards & Automobile Graveyards & Automobile Recycling*), **§ 4101 to 4223** (*Regulation, Licenses, Permits*), **§ 4301 to 4457** (*Planning and Land Use Regulation*);
- **Title 38 MRSA Section 435-448 et seq.** (*Mandatory Shoreland Zoning*).; and
- Pursuant to the **Comprehensive Plan of the Town of Porter**

### 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 all districts and zones, as well as to maintain the present rural character of the town, 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, old growth forests, and rural character in public right-of-ways.

### 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

## PORTER LAND USE ORDINANCE

a permit submitted for property in the shoreland zone within the **forty-five (45)** 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. Municipal Timber Harvesting Regulation - REPEALED**

*The municipal Regulation of timber harvesting activities is repealed under 38 M.R.S.A. Section 438-A, B, 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.*

### **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.

### **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 generally favor the property owner unless it frustrates State Law.*

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

### **1.7 Validity and Amendments.**

- A. 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.
- B. 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. Notice of the hearing shall be given in accordance with **Title 30-A MRSA, Section 4352, Subsection 9**. The Board shall submit a written recommendation within (30) days following the public hearing regarding passage to the Municipal Officers prior to any action on the amendment by the Municipal Officers.
- C. The Municipal Officers shall hold a town meeting on the proposed amendment within **sixty (60)** days of receipt of the Planning Board written recommendation(s). Notice of the meeting 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 town meeting, 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.

## PORTER LAND USE ORDINANCE

- D. If Shoreland zoning is affected, 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 affecting Shoreland 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.

### 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) – **Two (2)** Zones
  2. Rural District
  3. Shoreland (Zones): *Shoreland Residential (two (2) types), Stream Protection, 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 certified by the attested signature of the Town Clerk and shall be located in the municipal office.

### 1.11 Changes in the Official Zoning Map.

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

## PORTER LAND USE ORDINANCE

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 right-of-ways, 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.

### 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 **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.

**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.

- B. **Change of Use.** 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 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.
- 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 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

## PORTER LAND USE ORDINANCE

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.

**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 or intentional action, it may be replaced as close to the lot line (*outside of Shoreland*) 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 - Expansions (below)**, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total 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.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 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**. 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 a and b below.

(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,

## PORTER LAND USE ORDINANCE

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 2.3 B (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.

(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 **one hundred (100)** feet from the normal high-water line of a great pond or a river flowing to a great pond, 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.

(iii) In addition to the limitations in subparagraphs (i) and (ii) above, 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 **seventy-five (75)** feet from the normal

## PORTER LAND USE ORDINANCE

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)**, 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)(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.
- D. **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.

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**. Replanting shall be required as follows:

1. Trees removed in order to relocate a structure shall be replanted with at least **one (1)** native tree, **three (3)** feet in height, for every tree removed. If more than **five (5)** 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.

## PORTER LAND USE ORDINANCE

- E. 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.

In determining that no greater adverse impact will occur, the 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.

### 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 if a principal use or structure exists on each or at least **one (1)** 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 (2)** 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 if **two (2)** 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 except where rights have vested, or the lots have frontage on parallel streets.

**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 if **two (2)** 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,

## PORTER LAND USE ORDINANCE

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.

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.

# PORTER LAND USE ORDINANCE

## 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 Zones
  - 1. Shoreland Limited Residential – Two (2) types (*Great Ponds and Other*)
  - 2. Stream Protection
  - 3. Resource Protection
- D. General Development District

\*Contact the **Saco River Corridor Commission** if within **one thousand (1000)** feet of the Ossipee River floodplain, or within **five hundred (500)** feet of the Ossipee outside of the floodplain – Go to <http://srcc-maine.org>

Unless otherwise set forth on the official maps, district boundary lines are centerlines of right-of-way 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.

**Shoreland Limited Residential Zone:** includes uses listed in **Article III Section 3,4** within the **two hundred fifty (250)** foot Shoreland Buffer that may be suitable for specific development.

**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 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:

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” 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:

## PORTER LAND USE ORDINANCE

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.

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. Areas of **two (2)** or more contiguous acres with sustained slopes of 20% or greater.
3. 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.
4. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

**General Development District:** Includes Uses listed in ***Article III Section 3.4***.

The southerly border of the District is **five hundred (500)** feet northerly of the center line of Ossipee Trail (**Route 25**) extending **two-thousand five-hundred (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.

### **Footnotes to Table of Dimensional Standards to Table 3.2 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** (2.02 acres) 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.
- C. Within Porter Town Tax Maps **U-1, U-2, U-4, U-5, U-7, U-8**, where a proposed structure is abutted on both sides by existing structures whose setbacks from the right-of-way centerline are less than **fifty (50)** feet, the setback of the proposed structure may be reduced to that of the abutting structures.
- D. The indicated setback is required for new commercial or non-for-profit uses abutting an existing residential use per ***Article IV Section 4.2 - Landscape Buffering & Screening***.
- E. 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 ***Article III Table 3.2***, unless equal to or greater than **ten (10)** acres in area.
- F. Lots in the Village Districts of Porter 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. (.668 acre). New single family residential structure – See ***Article VI Section 6.8*** for exemption regulations.
- G. **\*\*\*Contact the town CEO to determine the right-of-way and required setbacks at the proposed development.**
- H. One detached or attached accessory dwelling unit is permitted on a parcel with a minimum of 2.5 acres and four hundred (450) feet in road frontage (*or meets the conditions of footnote E above*) in the rural district, between 300 SF and 400 SF in ground floor footprint, with a compliant subsurface wastewater disposal system



## PORTER LAND USE ORDINANCE

approved by the LPI. The accessory dwelling unit shall provide for only one bedroom, provide one additional parking space to the primary dwelling, and have a maximum occupancy of one person. The dwelling unit may be detached if it is secured to a foundation and has a compliant subsurface wastewater disposal system (HHE-200) approved by the LPI. If it is attached to the primary dwelling, it must consist of less than 400 SF of ground floor footprint or 35% of the primary dwelling ground floor, whichever is less. The septic design for the primary dwelling shall be adequate to support an attached accessory dwelling by a site evaluator and be approved by the LPI. Any accessory dwelling unit under 400 SF shall be built to current State building codes for *Tiny Homes*. 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.

3.2. (TABLE) - Dimensional Standards	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		
Without sanitary sewers (per family or by Use)	20000 (.459 acre)	88000 (Note H) (2.02 acre)	Select Appropriate District	NA	(Note A)	88000 (2.02 acre)
Residential or Use (not high impact), within 250 ft of Ossipee River	40,000 (F) (.918 acre)	88,000 (F) (2.02 acre)	Select Appropriate District	NA	(Note A, F)	NA
Governmental, Institutional, or High Impact USES within 250 ft of Ossipee River	60000 (1.37 acre)	NA	Select Appropriate District	NA	(Note A)	NA
<b>Minimum Street and/or Shore Frontage (FT)</b>				Select Appropriate District		
On a street (E)	75 (Note E)	300 (Note E, H)	Select Appropriate District	NA	(Note A)	100 (Note E)
<b>On waterbodies or wetlands (if applicable):</b>				Select Appropriate District		
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 per principal structure (Note B)	300	NA	Select Appropriate District	NA	(Note A)	NA
<b>Minimum Setbacks (FT) - ***See the CEO to establish the Right-of-Way in which the setback is measured from</b>				Select Appropriate District		
Front (Note G)	40 (C, D)	50 (C)	Select Appropriate District	NA	(Note A)	50
Side (Note G)	20 (D)	50	Select Appropriate District	NA	(Note A)	30
Rear (Note G)	20 (D)	50	Select Appropriate District	NA	(Note A)	30
Distance from high water line of great	100	100	100	NA	250 (Note A)	250
Distance from high water line of other water bodies or upland edge of wetland	75	75	75	NA	250 (Note A)	250

## PORTER LAND USE ORDINANCE

### Notes and Exceptions in Calculating and Measuring Dimensional Standards

1. ADA Considerations: 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**
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.
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.
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.
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.
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:
  - a. The site has been previously altered and an effective vegetated buffer does not exist;
  - b. 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;
  - c. 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;
  - d. The total height of the wall(s), in the aggregate are no more than **twenty-four (24)** inches;
  - e. 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;
  - f. 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
  - g. 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:

## PORTER LAND USE ORDINANCE

- 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 Clearing or Removal of Vegetation for Development in a Shoreland Zone** may traverse the buffer if there is no cleared opening greater than the **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 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.
- 

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

**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.

Exception: Reference Article III Section 3.2 Dimensional Standards – Footnote “H” for accessory dwellings.

**C. Accessory buildings (excluding dwellings)** 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**

## PORTER LAND USE ORDINANCE

**Buffers & Screening** requirements for specific uses). Front setback is 35 feet from the centerline of right-of-way boundaries, or from street centerline when right-of-way boundaries do not exist.

- D. Farmstands (*as defined in Article III Section 3.2 and Article VIII Section 8.2 Definitions*) that are less than **one hundred twenty (120)** square feet may be placed no less than **thirty-five (35) feet** from the centerline of right-of-way boundaries, or from street centerline when right-of-way boundaries do not exist.
- E. Specific Uses may require building and impervious restrictions in relation to lot size (*Reference Article V Specific Uses*)
- F. **Swimming Pools.** A swimming pool is an accessory structure requiring a permit and conforming to the screening and buffering measures in Article IV. All electrical services to the pool are to be protected by a ground fault circuit interrupter.
- G. Unless specified otherwise, Subdivision Regulations (**Article 10 Performance and Design Standards**) are to be referenced for all road construction of subdivided parcels within the municipality, regardless of type (*Exempt, multi-family dwellings, Minor, or Major*).
- H. **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.
- I. **Height of a Structure.**  
A structure 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 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.
- J. **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:
1. 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
  2. The cupola, dome, widow's walk or other similar feature:
    - a. Does not extend beyond the exterior walls of the existing structure;
    - b. Has a floor area of **fifty-three (53)** square feet or less; and
    - c. Does not increase the height of the existing structure, as determined under **M.R.S.A 38 section 436-A, subsection 7-A**, by more than **seven (7)** feet.
- NOTE:** 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.**
- K. **Mixed Uses Allowed.**  
More than one use is allowed on lots meeting the minimum lot area **Article III Section 3.2 Dimensional Standards** (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.

## PORTER LAND USE ORDINANCE

### L. Creation or Division of Lots.

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.

### M. 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.

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. The municipality, upon request of a waiver by the property owner, may grant an extension of up to **three (3) years**, if substantial work and progress is being performed.

### N. Dangerous Buildings.

If the municipal officers or designees find that a building is structurally unsafe, unstable or unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, it is adjudged to be a nuisance or danger. The municipality is entitled to any costs incurred in securing the building. Notice need not be given before securing a building if it is a threat to the public health and safety which requires prompt action. (**MRSA 17 Sections 2851 through 2859**)

### O. Drone Dimensional use in relation to 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, similar appurtenances, or property trees that have no floor area.

**P. Shade tree removal** by a landowner within any Town right-of-way is **PROHIBITED** unless authorized by the municipality (Reference M.R.S.A. 30-A Sections 3263, 3281, 3283) and must comply with Shoreland Law.

## 3.4 Uses Permitted.

The following uses are permitted in the designated land use districts, supported by the **Comprehensive Plan**, and subject to the standards of this Ordinance, as applicable:

**NOTE:** The 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**,

## PORTER LAND USE ORDINANCE

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.

**Key:**

**A** = Use is allowed without a fee but shall notify the CEO in writing 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

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
Accessory Dwelling	See Footnote H Section 3.2	-	C	-	-	-	-	-
Adult Business		P	-	-	-	-	-	-
Agriculture (>10 acres developed)		P	P	P	P	P	P	P
Animal Husbandry		-	-	-	-	-	-	P
Antique stores		P	P	P	-	-	-	-
Aquaculture		P	P	P	P	P	P	P
Assisted Living Facility		p <sup>2</sup>	p <sup>2</sup>	p <sup>2</sup>	p <sup>2</sup>	-	-	-
Auto repair shops		P	-	-	-	-	-	P
Automobile graveyard, junkyard, or recycling		-	-	-	-	-	-	P
Bed and breakfast, Boarding, or Renting Rooms (>3 rooms let excluding owner room)		P	P	P	P	-	-	-
Building, Renovation, Expansion, Demolition, or Relocation of Structures		C	C	C	C	C	C	C
Cabinetry and woodworking shops		P	P	P	P	-	-	P
Campgrounds		P	P	P	P	-	-	-
Carpentry-Building-Trade Contractors		P	P	P	P	-	-	P
Civic and Social Service		P	-	P	-	-	-	-

## PORTER LAND USE ORDINANCE

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
Clearing or removal of vegetation for activities other than timber harvesting		A	A	A <sup>9</sup>	A <sup>9</sup>	C <sup>3</sup>	C <sup>3</sup>	A
Cluster Development (See Subdivision Law)		P	P	P	-	-	-	-
High impact not otherwise listed	Principal Structure & Uses	P	-	-	-	-	-	P
Low Impact not otherwise listed	Principal Structure & Uses	P	P	P	P	-	-	P
Conversions of seasonal residences to year round residences		LPI	LPI	LPI	LPI	LPI	LPI	LPI
Day care centers		P	P	P	P	-	-	-
Driveway Access to Public or Private Street		C	C	C	C	C <sup>7</sup>	C <sup>7</sup>	C
Educational Facility		P	-	P	P	-	-	-
Emergency operations		A	A	A	A	A	A	A
Farm produce stands (<120 SF)		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>
Farming and farm related ventures		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>
Farming and farm related ventures involving medical marijuana		C	C	C	C	-	P	C
Fire Prevention Activities		A	A	A	A	A	A	A
Garage and yard sales		A	A	A	A	A	A	A
Garden Nursery, Garden Supply, and/or Grain & Feed Store		P	P	-	-	-	-	P
Governmental and Institutional	Principal Structure & Uses	P	-	P	-	-	-	-
Ground and Spring Water Extraction (2k-10 GPD)		C	C	-	-	-	-	C
Ground and Spring Water Extraction (10k-20k GPD)		P	P	-	-	-	-	P
Health Care Facility		P <sup>2</sup>	-	P <sup>2</sup>	-	-	-	-
Home Occupations		A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	P	P	A <sup>9</sup>
Hotels/Motels/Inns		P	-	-	-	-	-	-
Individual, private campsites		C	C	C	C	C	C	C
Animal Care Facilities		P	P	P	-	-	-	P
Marinas		-	-	P	P	-	-	-
Mineral Exploration (<100SF)		A	A	A <sup>4</sup>	A <sup>4</sup>	-	A <sup>4</sup>	A <sup>4</sup>
Mineral Extraction (e.g. Gravel Pit)		P	P	P	P	-	P	P
Minor earthmoving activities		A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	A <sup>9</sup>	P	P	A <sup>9</sup>

**PORTER LAND USE ORDINANCE**

<b>Type of Use<sup>1</sup></b>	<b>Notes</b>	<b>Villages</b>	<b>Rural</b>	<b>Shoreland Limited Residential Other<sup>1</sup></b>	<b>Shoreland Limited Residential Great Ponds<sup>1</sup></b>	<b>Shoreland District-Stream Protection<sup>1</sup></b>	<b>Resource Protection<sup>1</sup></b>	<b>General Development</b>
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 (>3)	Principal Structure & Uses	P	-	-	-	-	-	-
Neighborhood grocery and convenience stores		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>	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 to three family residential	Principal Structure & Uses	C	C	C	C	P	P	-
Other Essential Services	Essential Services	A	A	P	P	P <sup>6</sup>	P <sup>6</sup>	A
Parking facilities ( <i>Independent of Other Use Applications or Municipal Efforts</i> )	Principal Structure & Uses	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	-	-	-
Private recreational areas involving minimal structural development or facilities		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 or roofmount Solar systems (>16KW <i>Commercial/High Impact</i> )	Principal Structure and Uses	P	P	P	P	P	P	P
Remote of roofmount Solar systems (<16KW <i>residential or low-impact</i> )		C	C	C	C	-	-	C



## PORTER LAND USE ORDINANCE

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
Restaurants (e.g. Café-Tea Shoppe-Bakery)		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		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>
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 (< 120SF)		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>
Structure accessory to allowed uses (> 120 SF, excluding Article VI Section 6.5.D.6 and 6.5.D.9)		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		C	C	C <sup>8</sup>	C <sup>8</sup>	C <sup>8</sup>	C <sup>8</sup>	-
Uses similar to allowed 'A' uses (DEP)		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>
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, Communications Towers, and Antennas		-	-	-	-	-	-	P

### Footnotes to Section 3.4 above:

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:

## PORTER LAND USE ORDINANCE

- Auto washing facilities
- Auto or other vehicle service and/or repair operations, including body shops
- Automobile Graveyards, Automobile Recycling Operation, Junkyards
- 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

2. The following uses shall only be permitted on properties with frontage or direct driveway access to arterial & collector streets and in accordance with **Article III Section 3.4**:

### ***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.
5. In Resource Protection not allowed in areas so designated because of wildlife.
6. 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. 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 are not required but shall file a written “notice of intent to construct” with the CEO to verify that the 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.

# 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: improving 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, orchards, and forests, 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.

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. 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 or Building Permit for the new building or structure.

a. **A separate Land Use Permit from the Code Enforcement Officer shall be required for any new access onto a public or private road (e.g. Driveway Permit)**, pursuant to **Article III Section 3.4** of this Ordinance (*See also Section 4.2 A – Access Control and Traffic Impacts*), prior to the creation of an E911 address or any other permitting approvals or authorizations for the property.

b. ALL new curbcuts/driveways onto Route 25 (*Ossipee Trail*) or Route 160 (*Brownfield Road*) require a State Driveway Permit approved through the MEDOT (in addition to local permitting), and shall be provided to the Planning Board, CEO, or designee prior the creation of an E911 address or any other permitting approvals or authorizations for the property.

## PORTER LAND USE ORDINANCE

c. Previous timbering harvest access roads into a parcel that were not removed are not considered existing permitted driveways.

EXCEPTION: Land uses reviewed by the CEO include the local access permitting.

2. Any access onto 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 Reviewing Authority 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 road,
- b. There will be no further division of the parcel,
- c. The shape and physical conditions of the parcel do not permit access to or the creation of a road,
- d. Proper sight distance will be maintained; and
- e. The access is approved by the Maine Department of Transportation.

Lots in existence at the time of adoption of this standard are allowed only one driveway onto **Routes 25 and 160** unless approved by the Maine Department of Transportation or the lot is located in the Village District. Lots in the Village District are allowed **two (2)** driveways on **Routes 25 and 160**. 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 roads which have limited potential for traffic congestion and for hazards to traffic and pedestrians.

5. **Slope, intersection angle and Grade.** Comply with the *Performance and Design Standards of the Town of Porter Subdivision Regulation*

6. **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 suitable to accommodate the amounts and types of traffic generated by the proposed use. *Comply with the Performance and Design Standards of the Town of Porter Subdivision Regulation Article 10 Section 10.15*

**Public road improvements required.**

Where specified, to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, engineered provisions shall be made for turning lanes, traffic directional islands, frontage roads, and traffic controls within the public roads.

7. **Prevent queuing.**

Driveways shall be designed so as to prevent queuing of entering vehicles on any public road.

## PORTER LAND USE ORDINANCE

### 8. Circulation connections to adjoining lots.

Where topographic conditions and ordinance setbacks 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.

### 9. Sight distance.

a. All driveways shall be designed in profile and grading, and located, so as to provide sight distance per *Town of Porter Subdivision Regulations – Article 10 Section 10.15 Performance and Design Guidelines*.

b. 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, alignment (*grade & superelevation at horizontal curves*), cross-slope traffic volume, and distances to intersections.

**NOTE:** The performance variance in **10.b** above does not apply to *Article V High Impact Uses, Minor & Major Subdivisions, Campgrounds, Mobile Home Parks, Hotels/Motels/Inns, Cluster Developments, or Multi-Family Dwellings*. These uses must provide sight distances based on the State minimum road speed to accommodate for significant future development growth.

c. Keep 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 centerlines, in order to provide visibility for vehicles entering and leaving the premises.

10. **Distance to intersection.** See Table 10.15-2 of the Porter Subdivision Regulations

11. **Distance to property lines.** See Table 10.15-2 of the Porter Subdivision Regulations

### 12. Construction Standards.

a. 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. A driveway serving high impact commercial or high impact industrial uses, regardless of driveway volume, must comply with *Article 10 Section 10.15 of the Town of Porter Subdivision Regulations*.

1. Traffic volume of the developments or the engineered needs for high impact industrial or commercial uses must be in accordance with *Article 10 Section 10.15 of the Town of Porter Subdivision Regulations*.

2. The driveway and culvert size and location shall be approved by the prior to installation and reviewed by the Road Commissioner.

3. A vehicular access-way more than **five hundred (500)** feet in length serving two single-family dwellings or one two-family dwelling, or less (*single-family residences*) is defined as a street and must be constructed as outlined in *Article 10 Section 10.15 of the Town of Porter Subdivision Regulations*.

4. Unless specified otherwise, *Article 10 Section 10.15 of the Town of Porter Subdivision Regulations* are to be referenced for all road construction of subdivided parcels serving more than **two (2)** dwellings within the municipality, regardless of type (*Exempt, multi-family*

## PORTER LAND USE ORDINANCE

*dwelling (3 dwellings), Minor, or Major*). Existing gravel driveways for one or two dwelling units should be in good repair, graded, and compacted to support loading.

### B. Off-Street Parking and Loading Requirements.

1. 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 typical walking distance 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 **one (1)** use, unless written approval and validation from the affected parking space owners is provided.
2. No off-street parking facility may have more than **two (2)** entrances and exits on the same street. 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.
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 **three hundred (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 or Route 160** to access the use, regardless of trip-generation created by the use.
4. New parking and loading areas for one or two dwelling units or home businesses shall be properly stabilized, graded and compacted to support intended and actual loading. To prevent this material from entering the public way, paving or diversion ditching and cross-slope may be needed at entrances and exits.
5. Unless specified otherwise, Subdivision Regulations 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, Multi-Family Dwelling, Minor, or Major*)
6. Typical parking space (*outside of the **two hundred fifty (250)** feet of Shoreland buffer*) is approximately **nine (9)** feet wide and **twenty (20)** feet long.
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

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

LAND USE	REQUIRED NUMBER OF SPACES
Agriculture	1 for every 2 employees or contractors
Antique stores	1 per 400 sq.ft. of gross floor area
Apartments	1.5 per dwelling, plus 1 manager or owner
Auto repair shops	1 per 300 sq.ft. of gross floor area
Automobile graveyard, junkyard, or recycling	1 for every 500 SF of gross use area
Bed and Breakfast or Boarding Houses	2 for dwelling, plus 1 per rental room
Cabinetry and woodworking shops	1 per 1000 sq.ft. of gross floor area
Carpentry, Building, and Trade contractors	1 for every 2 employees or contractors
Civic and social service	1 per 500 sq. ft. of gross floor area
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
Garden nurseries/Grain and feed stores	1 per 1,000 sq.ft. of display and sales gross floor area
Ground or spring water extraction	1 for every employee or contractor
High impact USES	1 per 400 sq.ft. of gross floor area
Home Occupation	1 for the dwelling, plus 2
Hotel/Motel/Inn	1 for every room rented, 1 for manager or owner dwelling, plus spaces required for staff and any restaurant facility ( <i>See below</i> )
Kennels (Boarding or Breeding) and Veterinary hospitals	1 per 300 sq.ft. of gross floor area

## PORTER LAND USE ORDINANCE

LAND USE	REQUIRED NUMBER OF SPACES
Low impact USES	1 per 500 sq.ft. of gross floor area
Marina	1 per 200 sq.ft. of gross floor area
Mineral exploration and extraction	1 for every 2 employees or contractors
Mobile home parks	1.5 per dwelling
Multi-family residential (dwelling) - Cluster Development, Minor, and Major Subdivisions similar	1.5 per dwelling
Neighborhood Grocery and Convenience Stores	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
Private Club	1 per 100 sq. ft. of gross floor area
Recreational facilities	1 per 200 sq.ft. of gross floor area of all structures, plus 1 for every 3 persons the facility is designed to accommodate
Restaurant	1 per 3 seats, based upon maximum seating capacity
Sawmills	1 for every 2 employees or contractors
Single family residential	2 ( <i>See Note A</i> )
Special and/or hazardous waste facility	1 for every 2 employees or contractors
Timber harvesting	1 for every 2 employees or contractors
Two-family residential	2 per dwelling
Small businesses which are similar in operational nature, traffic generation, and potential off-site impacts to uses listed	Same as most similar use listed above, as determined by the Planning Board

**Note A:** Where permitted and when dimensional standards are met for accessory dwellings, one additional parking space shall be provided to the primary dwelling unit parcel.

### 9. Off-Street Loading.

In any District where permitted or allowed, 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.

### 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 setback 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.

**NOTE:** An applicant's engineered parking developments may require greater space dimensioning.



## PORTER LAND USE ORDINANCE

### C. Roads & Driveways (*In Shoreland*).

#### 1. 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 C.2 a & 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 Subsections **C.2 a & 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, provided it is in conformance with the **NRPA, Shoreland Zoning, and M.R.S.A. 30-A Chapter 157**.
- 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 **Article IV Section 4.2 Soil and Soil Erosion Control**.
- g. No road and driveway grades may be greater than **10%** except for segments of less than **two hundred (200)** feet.
- 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:

## PORTER LAND USE ORDINANCE

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

### D. Light and Glare.

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 will determine whether an illuminated property is in compliance with this subsection.

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**.

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.

### E. 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. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this Ordinance is listed below.
2. Noise shall be measured per *MEDEP 06-096 Chapter 375 Article 10 Control of Noise*
3. The hourly sound levels resulting from routine operation of the development and measured in accordance with the described measurement procedures shall not exceed the following limits:
  - a. At any protected location in an area for which the zoning and the existing use or use contemplated under a comprehensive plan, is **NOT** predominantly commercial, transportation, or industrial (**e.g. Rural, Limited Residential, Village, Shoreland districts**);

**60 dBA** between 6:30 a.m. and 8:30 p.m. (*the "daytime hourly limit"*), and

## PORTER LAND USE ORDINANCE

50 dBA between 8:30 p.m. and 6:30 a.m. (*the "nighttime hourly limit"*)

b. At any protected location in an area for which the zoning and the existing use or use contemplated under a comprehensive plan, **IS** predominantly commercial, transportation, or industrial (**e.g. Development district**):

70 dBA between 6:30 a.m. and 8:30 p.m. (*the "daytime hourly limit"*), and

60 dBA between 8:30 p.m. and 6:30 a.m. (*the 'nighttime hourly limit'*).

4. **"Peak short duration"** sounds and accounting for variable **"ambient sound conditions"** are listed within *MEDEP 06-096 Chapter 375 Article 10*.

5. Uses and activities that are **exempt** from the sound pressure level regulations are listed within *MEDEP 06-096 Chapter 375 Article 10 Section 5 – Exceptions*

### F. 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.
2. 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.
4. Reference **Article VIII Section 8.2 Definitions (Junkyard, Automobile Graveyard, and Litter) and Article V (Automobile Graveyard, Junkyard, or Recycling and Garage and Yard Sales)** for more specific information regarding the definition and treatment of various forms of refuse.
5. Automobile related activities not regulated under **M.R.S.A. 30-A Section 3752 Subsection 1** are to have each vehicle removed from the site within **one hundred eighty (180)** days of receipt of title by the business and meet the requirements of **Article VI Section 4.2 - (Landscape Screening & Buffering)**.

**EXCEPTION:** An automobile hobbyist must comply with the following requirements:

- a. Screening and buffering of hobbyist vehicles in accordance with **Article IV Section 4.2 - (Landscape Screening & Buffering)**,
- b. 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**; and
- c. Any places where old, discarded, worn-out or junked motor vehicles or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are public nuisances.

## PORTER LAND USE ORDINANCE

6. Other articles of salvage or refuse (*See Article VIII Section 8.2 Definitions – Junkyards and Litter*), 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 when adverse impact is determined, (*unless specifically noted otherwise in the Article IV Section 4.2 Landscape Screening & buffering table*): 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.

7. For public safety and access, **no materials may placed within the Right-of-Way.**

8. Littering on private property requires prior written documentation of landowner(s) consent to be on file with the Code Enforcement Office, and the activity shall not create a public nuisance or violate any state law or local rule.

9. Any places where old, discarded, worn-out or junked recreational vehicles, semitrailers, motor vehicles not defined in F.4 and F.5 above, or parts thereof, are gathered together, kept, deposited or allowed to accumulate beyond normal household activities and maintenance, in such manner or in such location or situation either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are public nuisances and a stockade fence or a dense evergreen hedge six (6) feet or more in height is required for buffering and screening.

10. Motor Vehicle Battery disposal or storage. No person may dispose of a battery by burial, incineration, deposit or dumping so that the battery and any of its constituents may enter the environment or be emitted into the air or discharged into any waters. Bulk collections of motor vehicle batteries (*e.g. Heavy metals, Ni-Cd, Ni-Lithium, Lithium Ion, metal hydride, lead-acid*) beyond normal household activities and maintenance on a parcel or within a structure is prohibited.

**NOTE:** *If the municipal officers or designees find that a building is structurally unsafe, unstable or unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, it is adjudged to be a nuisance or danger. The municipality is entitled to any costs incurred in securing the building. Notice need not be given before securing a building if it is a threat to the public health and safety which requires prompt action. (MRSA 17 Sections 2851 through 2859)*

### G. 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.

## PORTER LAND USE ORDINANCE

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 **two hundred seventy-five (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.
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>	
<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. 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>).

### H. Sanitary Standards.

1. All subsurface sewage disposal facilities shall be installed in conformance with the *Maine Subsurface Waste Water Disposal Rules*.
  - 1A. *All internal plumbing shall be installed in conformance with the Maine Internal Plumbing Code.*
  - 1B. A plumbing permit is required **before** any installation, expansion, or replacement of any portion of the internal drainage or vent system, for the installation or replacement of a water heater, or installing or replacing a subsurface wastewater disposal system.
2. 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 completed **site evaluation forms (HHE-200)** which evidences adequate soil conditions for wastewater disposal.

## PORTER LAND USE ORDINANCE

- 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.

### 3. Subsurface Wastewater:

- (a) A valid HHE-200 **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, or
- (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 or structure.
- (c) *HHE-204, 233, 234, 236, 238, 300, and 304* submissions may be required, depending on holding tank, variance, or installer provisions for the property.

4. Subsurface Wastewater Disposal System and Internal Plumbing Permits expire two (2) years after issuance if work has not begun.

5. Additional inspection fees may also be required as determined by the municipality, when work is found to be incomplete, in non-compliance, or when access cannot be obtained at a prearranged date and time.

### 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.*

### J. 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 highly flammable or explosive liquids, solids, or gases, stored below ground shall be at least **forty (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 **four thousand (4,000)** gallons may be located within **two hundred-fifty (250)** feet of any lot line, unless a fire safety analysis in accordance with *NFPA 58* is submitted by a qualified person and accepted by the Planning Board.

### K. Landscape Buffers and Screening.

## PORTER LAND USE ORDINANCE

1. 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 VIII Section 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*). 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.

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

3. **Shade tree removal** by a landowner within any Town right-of-way is **PROHIBITED** unless authorized by the municipality (*Reference M.R.S.A. 30-A Sections 3263, 3281, 3283*) and must comply with Shoreland Law.

**NOTE:** *If the municipal officers or designees find that a building is structurally unsafe, unstable or unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, it is adjudged to be a nuisance or danger. The municipality is entitled to any costs incurred in securing the building. Notice need not be given before securing a building if it is a threat to the public health and safety which requires prompt action. (MRSA 17 Sections 2851 through 2859)*

**PORTER LAND USE ORDINANCE**

Use (By Type)	Review & Approval Authority	Required Undeveloped or Safety/ Security Buffer ( <i>excludes driveways</i> )	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
Animal Husbandry	P	Yes (See General Note)	NA	Yes	50	8 (min)	Masonry	6	Stockade fence <u>AND</u> a dense evergreen hedge
	General Notes: 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.								
Automobile Graveyard, Junkyard, Recycling	P	Yes (See General Note)	NA	Yes	100	6 (min)	Masonry	6	Stockade fence <u>AND</u> a dense evergreen hedge
	General Note: 300 feet from any school or dwelling ( <i>other than that of the owner or operator of the Automobile Graveyard</i> ). No site boundary shall lie closer than three hundred (300) feet from any water body, to include intermittent streams, or private wells. No site boundary shall lie closer than 1000 feet of a public water source. Comply with M.R.S.A. 30-A Section 3754-A.								
Automobile Hobbyist	CEO	Yes (See General Note)	Yes (See General Note)	Yes (See General Note)	NA	6 (min)	NA	NA	Stockade fence <u>OR</u> a dense evergreen hedge
	General Notes: More than three (3) 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) or 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	6	Wooded or Masonry	6	Evergreen shrubs, trees, fences, walls, landscaped earth berms, <u>OR</u> any combination
	General Notes: 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 <u>and/or</u> dense evergreen hedge
	General Notes: Existing historically notable structures in the villages do not require screening and buffering along road frontage.								
Cluster Developments	P	Yes (See General Note)	Yes - 50 Feet (See General Note)	Yes	25	6 (Min)	Wooded or Masonry	6	Evergreen shrubs, trees, fences, walls, landscaped earth berms, <u>OR</u> any combination
	General Notes: 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. Buffers for Wildlife & Rare Natural Habitat (11.3), Phosphorous vegetative buffer from great ponds (10.17 & 11.11), and shoreland buffers (11.5) are outlined in the subdivision application review for this use.								
Farm & Farm Related Ventures involving commercial medical marijuana caregiver activity	CEO/PB	Cultivation area is to be at least 100 feet from lotlines and centerlines of streets	NA	Yes	25	8	NA	NA	Evergreen shrubs, trees, fences, walls, landscaped earth berms, <u>OR</u> any combination



**PORTER LAND USE ORDINANCE**

Use (By Type)	Review & Approval Authority	Required Undeveloped or Safety/ Security Buffer ( <i>excludes driveways</i> )	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
High Impact USES	P	Yes	NA	Yes	30	6 (Min)	Masonry	6	Evergreen shrubs, trees, fences, walls, landscaped earth berms, <u>OR</u> any combination
Hotels/Motels/Inns	P	Yes	NA	No	20	NA	Wooded or Masonry	6	Stockade fence <u>and/or</u> any combination of grass, bushes, flowers, trees, evergreen shrubs, landscaped earthberms
Animal Care Facilities	P	Yes	NA	Yes	50	8 (min)	Wooded or Masonry	6	Security fence <u>AND</u> a dense evergreen hedge
	General Notes: All pens or other shelters for animals, including animals, shall be set back at least two hundred (200) in the Rural District and one hundred (1000 feet in the Village District from any lot line.								
Mineral Extraction (> 3:1 Slope Excavations)	P	Yes - 10 FT	NA	Yes	NA	6	NA	NA	Fence ( <i>safety</i> )
	General Notes: To Limit Access; Approval requirements per Article 3.4								
Minor and Major Subdivisions	P	Yes ( <i>See General Note</i> )	See Subdivision Regulations Article 10	Yes	10	6 (Min)	Wooded or Masonry	6	Evergreen shrubs, trees, fences, walls, landscaped earth berms, <u>OR</u> any combination
	General Notes: Additional Buffers may be required per Article 10, Sections 10.6 and 10.13 of the Subdivision Regulations								
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)	Masonry	6	Stockade fence <u>AND</u> a dense evergreen hedge
	General Notes: Structures may not be located less than 15 feet from any boundary lines of an individual interior lot								
Mobile Home Parks (All other conditions)	P	Yes - 50 FT	15 FT (See General Note)	Yes	20	6 (Min)	Masonry	6	Stockade fence <u>AND</u> a dense evergreen hedge
	General Notes: Structures may not be located less than 15 feet from any boundary lines of an individual interior lot								

**PORTER LAND USE ORDINANCE**

Use (By Type)	Review & Approval Authority	Required Undeveloped or Safety/ Security Buffer ( <i>excludes driveways</i> )	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
Multi-Family Dwellings (3)	P	Yes	50	Yes (See General Notes)	10 (See General Notes)	6 (Min)	Masonry	6	Stockade fence <u>AND</u> a dense evergreen hedge
	General Notes: Developed Village District front setbacks (Within Porter Town Tax Maps U01, U02, U03, U04, U05, U06, U07, U08) where an existing structure is abutted on both sides by existing structures with setbacks from the ROW of less than ten (10) feet, a frontline visual landscape buffer is not required.								
Parking Lots ( <i>Paved</i> )	P	Yes	NA	Yes	20	6 (Min)	NA	NA	Stockade fence <u>and/or</u> a dense evergreen hedge
	General Notes: Parking lots with 20 or more spaces shall be landscaped with at least 1 tree (of 2" caliper measured 3 ½ feet above the ground) for every 5 car spaces, to be located at representative points throughout or around the lots.								
Pool(s)	CEO	Pool (and equipment 20 feet from lot lines and 45 feet from ROW's)	Yes (See General Note)	Yes	Yes	6, including secure gate to limit access	NA	NA	Stockade fence <u>AND</u> a dense evergreen hedge
	General Notes: The enclosure shall have no openings larger than four (4) inches in the least dimension and all gates and doors opening through the enclosure shall be equipped with latching devices for keeping the gate or door latched at all times, constructed so as to provide nuisance and safety screening; See also Article III Section 3.3.F General Requirements								
Recreational Facility	P	Yes	NA	Yes	8	6 (min)	Wooded	6	Stockade fence or wall <u>and/or</u> a combination of evergreen shrubs, trees, or landscaped earthberms.
Remote Solar Systems	C or P	Yes	NA	Yes	50	See General Notes	NA	NA	Dense evergreen hedge, shrubs, trees, natural vegetation, landscaped earth berms, <u>OR</u> any combination
	General Notes: A fence surrounding remote solar arrays is recommended for children safety. A line-of-sight buffer is required between the remote solar system and abutting property dwellings. Provide 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)								
Restaurants	P	Yes	NA	See General Note	8	6	Wooded or Masonry	6	Fences or walls <u>and/or</u> a combination of evergreen shrubs, trees, landscaped earthberms.
	General Notes: Continuous visual screening around parking lot and loading areas ONLY								

## PORTER LAND USE ORDINANCE

Use (By Type)	Review & Approval Authority	Required Undeveloped or Safety/ Security Buffer ( <i>excludes driveways</i> )	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
Tire Storage & Disposal	P	Yes (See General Note)	Yes (See General Note)	Yes	150	10	Masonry	6	Stockade fence <u>AND</u> a dense evergreen hedge
	General Notes: *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.								
Motorized Vehicle Racing Facilities	P	Yes (See General Note)	NA	Yes	50	12(min)	Masonry	6	Stockade fence <u>AND</u> a dense evergreen hedge
	General Notes: There shall be a minimum 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	10	Masonry	6	Stockade fence <u>AND</u> a dense evergreen hedge
	General Notes: 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

## L. Soils and Soil Erosion Control. (*During Construction*)

### 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 professional. 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.

### 2. Soil Erosion and Sedimentation Control.

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.
- 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 (250)** 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.

## PORTER LAND USE ORDINANCE

- 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.
- 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.

### **M. 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 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 the **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.

---

**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 **twenty-thousand (20,000)** square feet or more of impervious area or **five (5)** acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with **one (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 **one (1)** acre impervious area (**twenty-thousand (20,000) square feet for most-at-risk lakes and urban impaired streams**) and less than **five (5)** acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in **one (1)** acre or more of disturbed area.

---

### **N. Water Supply.**

Prior to the issuance of an 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.

## PORTER LAND USE ORDINANCE

### O. Other Regulations Apply.

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

Assure that the requirements of Article II, Article III, Article IV Sections 4.2 B, C, D, E, I, J, K, O, P, and Q, and Article V are met for subdivisions.

Uses such as Article V Sections 5.7, 5.10, 5.11, 5.19, and 5.22 may require a General Construction Permit from the Maine State Fire Marshall's Office.

### P. Signs.

The standards and requirements for signs as stated in this section take precedence over all other references to signs in this Ordinance (*See Signage Reference Chart and key below*).

#### Key:

- = not applicable, unrestricted

**SM** = Surface Mount

**FS** = Freestanding

**SLR** = Shoreland Limited Residential

## PORTER LAND USE ORDINANCE

SIGNAGE REFERENCE CHART (Sign Type-Use)	MAX # of signs permitted	Allowed	Permit Req'd	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	-	-	-	-	-	-	-	-	-
'For Sale' of the premises (Real Estate Entity)	-	Yes	No	6	6	-	10	Until Sold	-	-	6
Political Signs (Temporary)	-	Yes	No	-	6	Up to 30 Days	10	30	-	-	-
Special Event PUBLIC Signs (Temporary)	-	Yes	No	16	6	Up to 30 Days	10	30	-	-	-
Special Event PRIVATE Signs (Temporary)	-	Yes	No	16	6	Up to 30 Days	10	30	-	-	-
No Trespassing or No Hunting	-	Yes	No	2	2	-	-	-	-	-	-
Public Safety & Welfare Signs	-	Yes	No	-	6	-	-	-	-	-	-
Private residential	-	Yes	No	3	3	-	-	-	-	-	-
Flags and insignia of any government	-	Yes	No	-	6	-	-	-	-	-	-
Legal notice, identification, information, or directional signs erected or required by government bodies	-	Yes	No	-	6	-	-	-	-	-	-
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	-	Yes	No	-	6 <i>(Public Safety signage is EXEMPT)</i>	-	-	-	-	-	-
Private residential signs which are used to convey the inhabitants' names, property name, and safety or caution messages.	-	Yes	No	3	3	-	-	-	SM of FS	-	-
'For Sale, Rental, or Lease' of the premises (By users and owners)	-	Yes	No	3	3	-	-	-	-	-	-
Special Commercial Sales (Temporary)	-	Yes	Yes - CEO	16	In SLR, shall not exceed two (2), (16) square feet signs per premises.	Up to 10 Days	2	12	-	12	-
Home Occupations (Per Lot) (*see notes below)	4*	Yes	No	16	In SLR, shall not exceed two (2), (16) square feet signs per premises.	-	-	-	SM of FS	-	6
Cluster Development or Major/Minor Subdivisions	1	Yes	Yes - PB	32	6	-	-	-	SM of FS	-	5.5 (FS)*
Commercial (*see notes below)	4	Yes	Yes - CEO	32	In SLR, shall not exceed two (2), (16) square feet signs per premises.	-	-	-	SM of FS	-	5.5 (FS)*
Educational, Non-for-Profit, and Religious (*see notes below)	4	Yes	Yes - CEO	32	6	-	-	-	SM of FS	-	5.5 (FS)*

# PORTER LAND USE ORDINANCE

## 1. General

- a. All signs shall comply with these requirements unless there is a specific exception.
- 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** (above), 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. 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.
- h. Permanent freestanding signs may not be closer than **ten (10)** feet to the right-of-way nor closer than **ten (10)** feet to either side or rear lot line.
- i. **PROPERTY ADDRESS:** All owners of structures shall display and maintain in a conspicuous place on said structure, assigned E911 address numbers in the following manner:
  1. The assigned number shall be displayed on both sides of a post, fence, wall, the mail box, or on some structure adjacent to the walk or access drive that is visible from the road at all times of the year; and
  2. Numbers shall be a minimum of four (4) inches in height.

## 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 **one (1)** sign per occupancy may be affixed to the building exterior, except occupancies which face more than **one (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,



## PORTER LAND USE ORDINANCE

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 masonry, not exceed **66"** 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 lot, 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 **one hundred twenty-eight (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.

**NOTE:** *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 **five (5)** years of the date of said damage or destruction.

#### Q. Solar Consideration.

- 1. When solar energy systems are proposed which are not attached to a house, they shall meet the more stringent setbacks set forth in **Article III 3.2 Dimensional Standards** for the affected district or **Article IV Section 4.2K Landscape Buffers and Screening**.
- 2. Solar energy systems shall be set back **seventy-five (75)** feet from the normal highwater line and shall meet the standards for **Article IV Section 4.2 "Clearing of Vegetation in a Shoreland Zone for Activities**

## PORTER LAND USE ORDINANCE

***Other than Timber Harvesting***". Approval for solar energy systems closer than **seventy-five (75)** feet from the normal highwater line may be approved by the Reviewing Authority if the following conditions can be met:

- 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
3. Projects designed for commercial generation of power must comply with structure setback requirements, in the Shoreland and zoning districts where they are allowed.
  4. Solar energy systems in the Shoreland District are subject to design approval by the Reviewing Authority.
  5. Lot coverage requirements of this Ordinance apply to solar energy systems, including Shoreland Districts.
  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, if a battery array is present and the system is intended to remain on the premises.
  8. Remote solar systems require a 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.**
  9. Remote energy systems collectively greater than **16KW** are prohibited over wetlands, waterbodies, floodplains, natural historic districts, cemeteries, prime farmland, farmland of statewide importance, 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 16KW, contains a ridgeline 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 distances of the ridge top.

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

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*, designated in the Comprehensive Plan, or structures in the Village District constructed earlier than the year 1901 that is 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.

## PORTER LAND USE ORDINANCE

**Exemptions:** Structures regulated under *M.R.S.A 17 § 2851 to 2859* - Dangerous Buildings

### S. 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 **twenty percent (20%)**, including areas previously developed.
9. Will meet the intent and purpose of the *Comprehensive Plan*.
10. **Photographic record required.** An applicant for permit(s) for development within the Shoreland zone is to provide the municipal permitting authority preconstruction photographs and, no later than twenty (20) days after completion of development, post-construction photographs of the shoreline vegetation and development site.

**NOTE:** Contact the *Saco River Corridor Commission* if within **one thousand (1000)** feet of the Ossipee River floodplain, or within **five hundred (500)** feet of the Ossipee outside of the floodplain – Go to <http://srcc-maine.org>)

### T. Clearing or Removal of Vegetation in a Shoreland Zone for Activities Other Than Timber Harvesting.

**NOTE:** Contact the *Saco River Corridor Commission* if within **one thousand (1000)** feet of the Ossipee River floodplain, or within **five hundred (500)** feet of the Ossipee outside of the floodplain – Go to <http://srcc-maine.org>)

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 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.

2. Except in areas as described in *subsection T.1* above, 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, 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:

- 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

## PORTER LAND USE ORDINANCE

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.

- b. 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 subsection 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 x 50-foot** rectangular (**1250 square feet**) area as determined by the following rating system:

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

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

---

**NOTE:** As an example, adjacent to a great pond, river, or stream flowing to a great pond (*subsection T.2.b above*), 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 **twelve (12)** inches in diameter, the rating score is:  $(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36$  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 (*subsection T.2.c above*) - Trees totaling 20 points ( $36 - 16 = 20$ ) may be removed from the plot, provided that no cleared openings are created.

---

The following shall govern in applying this point system:

- (i) The **25-foot 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 x 50-foot** rectangular area may consist of trees greater than **twelve (12)** inches in diameter.

For the purposes of *subsection T.2.b (above)* “other natural vegetation” is defined as retaining existing vegetation under **three (3)** feet in height and other ground cover and

## PORTER LAND USE ORDINANCE

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 x 50-foot** rectangle area. If five saplings do not exist, no woody stems less than **two (2)** inches in diameter can be removed until five (5) saplings have been recruited into the plot.

- c. 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.
  - d. 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 **subsections T.2 & T.2a** (above).
  - e. Pruning of tree branches on the bottom **1/3** of the tree is allowed.
  - f. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing tree growth is present.
  - g. 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 **Article IV Section 4.2 Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**.
  - h. **Subsection T.2** above 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 **four (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, 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.
  6. **Photographic record required.** An applicant for permit(s) for development within the Shoreland zone is to provide the municipal permitting authority preconstruction photographs and, no later than twenty (20) days after completion of development, post-construction photographs of the shoreline vegetation and development site.

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

## PORTER LAND USE ORDINANCE

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 for proved services to a permitted use 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.
4. **Photographic record required.** An applicant for permit(s) for development within the Shoreland zone is to provide the municipal permitting authority preconstruction photographs and, no later than twenty (20) days after completion of development, post-construction photographs of the shoreline vegetation and development site.

### 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:

## PORTER LAND USE ORDINANCE

- 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;
  - (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.

### 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;
  - 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;

## PORTER LAND USE ORDINANCE

- 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 minimum of **five (5)** years.

7. **Photographic record required.** An applicant for permit(s) for development within the Shoreland zone is to provide the municipal permitting authority preconstruction photographs and, no later than twenty (20) days after completion of development, post-construction photographs of the shoreline vegetation and development site.

### **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 **Article IV Section 4.2 (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



## PORTER LAND USE ORDINANCE

woody vegetation, the requirements of Article IV Section 4.2 (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 5.2 and 5.3 (Agriculture and Animal Husbandry)** 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**.
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.

---

**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)

---

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.

# 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 improve municipal operational efficiency, promote an environment that supports local employment and economic well-being, and allows for the retention and restoration of farmlands, orchards, and forests, 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.

### 5.1 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 one **thousand (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 devices 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.

### 5.2 Agriculture & Farm and Farm Related Ventures.

- 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 4201-4214**). 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.

**NOTE:** Manure storage structures are to be constructed according to plans approved by the **Oxford County Soil Conservation District**.

- 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 (25)** feet, horizontal distance, of tributary streams, streams, and wetlands.
- 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 **forty**

## PORTER LAND USE ORDINANCE

**thousand (40,000)** square feet (.918 acre) in surface area may be done only in accordance with a *Conservation Plan* which shall be filed with the Reviewing Authority. 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/>

---

- 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 reviewing authority.
- E. All feed and grain is stored in rodent proof containers.
- F. All paddocks, pastures, barnyards, or other enclosures are adequately fenced to contain livestock, animals, or fowl.
- G. It is the responsibility of the parcel owner to assure that the animals remain within their property.
- H. Animal Unit Equivalent per acre of land (**AUE's/Acre**) that is to be utilized for housing, exercising, and pasturing of animals is recommended to be 1 AUE for the village district and 2 AUE for Rural or General Development Districts
- I. Farm & Farm Related Ventures involving medical marijuana caregiver(s):
  - 1. No more than two (2) medical marijuana caregivers can co-locate on a single lot or contiguous lots under the same ownership where cultivation occurs.
  - 1A. At least one medical marijuana caregiver on a single lot or contiguous lots under the same ownership where cultivation occurs must have proof of property ownership and be a resident of the municipality.
  - 2. The maximum allowable cultivation canopy size in the Town of Porter is 7,000 square feet for each medical caregiver.
  - 3. Screening and buffering is in accordance with Article IV Section 4.2K.
  - 4. This Land Use shall allow annual site evaluations by local code enforcement and assessors.

**NOTE:** A chart of suggested spacing and housing guidelines for fully mature farm animals is provided for reference material below.

# PORTER LAND USE ORDINANCE

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

Animal	Horse	Beef Cow	Dairy Cow	Dairy Goat	Pig	Sheep	Hen	Broiler	Turkey
Unit	1 horse	1 cow	1 cow	1 goat	1 pig	1 sheep	1 hen	1 broiler	1 turkey
Enclosed Housing Area/Animal	- 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.
Exercise Yard Area/Animal	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.
Pasture Area/Animal	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.
Type of Housing and Boundary Setback	Enclosed ventilated barn or open 3-sided barn. Setback 50 ft.	Open front 3-sided barn. Set-back 50 ft.	Open front 3-sided barn, free-stall or enclosed stanchion barn. Set-back 50 ft.	Enclosed barn with remov-able side panels or windows. Setback 50 ft.	Enclosed barn, huts, shed, hutches or lean-to. Setback 50 ft.	Open front 3-sided shed. Set-back 50 ft.	Enclosed barn. Set-back 50 ft.	Enclosed barn. Setback 50 ft.	Enclosed barn. Setback 50 ft.
Fencing	-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
Family Needs	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.*

### 5.3 Animal Husbandry.

- A. All pens, stables, barns, or other shelters for animals, including animals and animal manure shall be set back at least **two hundred (200)** feet from any lot line.
- B. All manure is stored in a covered structure and must be stockpiled greater than **two hundred fifty (250)** feet, horizontal distance, of the normal highwater mark of a great pond or river, or any other water bodies, tributary streams, wetlands, or well.
- C. 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.

## PORTER LAND USE ORDINANCE

**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*.

D. Reference **Article IV Section 4.2 Landscaping Buffer and Screening** for 'Specific Uses'.

E. Manure storage structures are constructed according to plans approved by the Oxford County Soil Conservation District.

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

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

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

I. 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.

J. 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 pens and cages (*including heights*), and notations of proposed square footage per animal with respect to housing, exercise yard, and pasture.
5. A standard boundary survey of the property on which the use is proposed, prepared by a surveyor licensed in the State of Maine.
6. A project schedule for mobilization, construction, and completion of this facility is to be included for Planning Board Review and record.

K. 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.

L. Studies by such qualified engineers, environmental consultants, or other suitable professionals as shall be satisfactory to the Planning Board, demonstrating compliance with the following **Article IV 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.

## PORTER LAND USE ORDINANCE

- M. Animal Unit Equivalent per acre of land (AUE's) that is to be utilized for housing, exercising, and pasturing of animals is recommended to be 1 AUE for the village district and 2 AUE for Rural or General Development Districts.

### 5.4 Automobile Graveyard, Junkyard, or Recycling.

A. Prior to issuance of the municipal permit (*whether an automobile graveyard, automobile junkyard, or automobile recycling operation*), the applicant shall present either a permit from the **Maine Department of Environmental Protection (MEDEP)** or a letter from the DEP stating that a permit is not required.

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.

#### C. 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, junkyard, or recycling operation 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 **three hundred (300)** feet of any school, or any dwelling other than that of the owner or operator of the Automobile Graveyard, Junkyard, or recycling operation.
5. No motor vehicles or material may be stored within **three hundred (300)** feet of any water body.
6. No motor vehicles or material may be stored within **three hundred (300)** feet of a private well or within **one thousand (1000)** feet of a public water source.
7. Applicant must comply with M.R.S.A. 30-A Section 3754-A.

#### D. Operational Considerations:

## PORTER LAND USE ORDINANCE

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. Applicant must comply with M.R.S.A. 30-A Section 3754-A.

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

- 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**.
- B. There shall be **one (1)** bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.
- C. Each rental room shall have at least **one hundred twenty (120)** square feet in floor area.
- D. The building shall meet applicable State and local fire regulations, and be inspected by appropriate fire inspection personnel.
- E. **One (1)** bedroom is to be dedicated for only owner use.
- 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.
- 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.
- J. This use is subject to Article VI Inspections.

### 5.6 Campgrounds.

Campgrounds with **five (5)** or more sites 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 (.115 acre) 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%**.

## PORTER LAND USE ORDINANCE

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 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 **twelve thousand (12,000)** square feet (.275 acre) of total park area.

### B. Performance Requirements.

2. 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.

**\*\*NOTE: Two hundred fifty (250) feet** is required within the Saco River Corridor.

3. 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.

4. Within the Saco River Corridor, a campground shall contain a minimum of **ten (10)** contiguous acres of land, some portion of which may be outside the Saco River Corridor. The SRCC performance standards shall only apply to those portions of the campground within the Saco River Corridor.

5. Subdivision Regulations are to be applied for all road construction related to this use.

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

6. See **Article IV 4.2 - Landscape Buffers & Screening** for specific use buffering and screening requirements.

7. The application shall contain an estimate of the average daily traffic projected to be generated by the use. Estimates of traffic generation shall be based on the *Trip Generation Manual*, published by the Institute of Transportation Engineers. Traffic impact analysis and stormwater management plan engineering, if required, are in accordance with the *Town of Porter Subdivision Regulations Article 10 Section 10.15*.

8. **Minimum Sight Distance.** In accordance with *Article 10 Section 10.15 of the Town of Porter Subdivision Regulations*.

C. 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.



## PORTER LAND USE ORDINANCE

- D. 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.
- E. 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.

### 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 **sixty-six inches (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 Section 4.2 - Landscape Buffering and Screening*
- E. The application shall contain an estimate of the average daily traffic projected to be generated by the use. Estimates of traffic generation shall be based on the *Trip Generation Manual*, published by the Institute of Transportation Engineers. Traffic impact analysis and stormwater management plan engineering, if required, are in accordance with the *Town of Porter Subdivision Regulations Article 10 Section 10.15*.

### 5.8 Garage and Yard Sales.

- A. Garage and Yard Sales are permitted in all districts.
- B. For public safety and access, no materials may be placed within the Right-of-Way of the road.
- C. 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.
- E. After each event, items for sale are to be placed in an enclosed structure and concealed from public view. (*Reference Article VIII Section 8.2 Definitions of Junkyard and Litter, and Article IV Refuse Disposal*)

### 5.9 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* 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 Reviewing Authority. The Reviewing Authority 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.

**Exception:** Agricultural uses and water districts providing regional support & service (*not export, which is a land use*)

#### B. Submission Requirements.

The application together with site plan shall include the following information:

## PORTER LAND USE ORDINANCE

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; and
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:
  - a. 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.
5. The written report indicated in **B.4** above shall include the following information:
  - 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 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. 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 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.
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

## PORTER LAND USE ORDINANCE

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.

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.

### 5.10 High Impact Uses

A. High Impact Commercial or Industrial: A commercial activity meeting any **one (1)** of the following:

1. Having greater than **five thousand (5,000)** square feet of gross floor area,
2. Having more than **ten thousand (10,000)** square feet of total impervious surfaces (includes structures and pavement),
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;
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.
6. A project schedule for mobilization, construction, and completion of this facility is to be included for Planning Board Review and record.

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 **Article IV 4.2 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 the discretion to order peer reviews of any such professional studies, at the applicant's expense.

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**).

## PORTER LAND USE ORDINANCE

F. Continuous perimeter Buffer and Visual Screening are required (excluding driveway entrance(s)). *See Article IV Section 4.2 - Landscape Buffering and Screening.*

G. The application shall contain an estimate of the average daily traffic projected to be generated by the use. Estimates of traffic generation shall be based on the Trip Generation Manual, published by the Institute of Transportation Engineers. Traffic impact analysis and stormwater management plan engineering, if required, are in accordance with the *Town of Porter Subdivision Regulations Article 10 Section 10.15.*

H. Subdivision Regulations are to be applied for all road construction related to this use.

I. This use is subject to Article IV inspections.

### 5.11 Hotels, Motels, or Inns.

A. If cooking or eating facilities are provided in these rental units, each rental unit is considered a dwelling unit and the use is required to meet all the standards for multifamily developments in this Ordinance including the residential density requirements of the appropriate district.

B. Each 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 **one hundred twenty (120)** square feet in floor area, exclusive of bathrooms. Each rental unit shall include private bathroom facilities.

C. On each lot, **one (1)** dwelling unit must be provided for a resident owner, manager, or other responsible staff person.

D. 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.
6. A project schedule for mobilization, construction, and completion of this facility is to be included for Planning Board Review and record.

F. Continuous Buffer and Visual Screening are required, excluding driveway entrance(s), *See Article IV Section 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.

H. The application shall contain an estimate of the average daily traffic projected to be generated by the use. Estimates of traffic generation shall be based on the *Trip Generation Manual*, published by the Institute of

## PORTER LAND USE ORDINANCE

Transportation Engineers. Traffic impact analysis and stormwater management plan engineering, if required, are in accordance with the Town of Porter Subdivision Regulations Article 10 Section 10.15.

I. This use is subject to Article VI inspections.

### 5.12 Individual Private Campsites.

- 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 (.689 acre) 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 **five thousand (5,000)** square feet (.115 acre) for the individual private campsite(s) separately.

**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.

Any prior dwelling being replaced with an Individual Private Campsite or new dwelling is to be properly removed or disposed of.

- 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.

**\*\*NOTE: Two hundred fifty (250)** feet is required within the Saco River Corridor.

- D. Only **one (1)** 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.
- 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.
- 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 **one hundred thirty-five (135)** days per year outside of shoreland zone with the intent of being used as a dwelling, 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 and Article VI inspections*.

G.1 When a recreational vehicle, tent or similar shelter **is placed** on-site for more than **one hundred twenty (120) days within Shoreland zone**, all requirements for residential structures shall be met (e.g. *foundation, tie-downs, skirting, CofO, etc.*), including the installation of a subsurface sewage disposal system in compliance with the *State of Maine Subsurface Wastewater Disposal Rules*.

- 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.

## PORTER LAND USE ORDINANCE

- 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.
- J. 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.
- K. This use is subject to Article VI inspections.
- L. The Use must comply with Article IV Section 4.2.F – Refuse Disposal.

### 5.13 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.
- 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.
- 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 animals. 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 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**).
- 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.

**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 Section 8.2 - Definitions of Kennels**).

### 5.14 Mineral Exploration and Extraction.

- A. **Mineral Exploration.**

## PORTER LAND USE ORDINANCE

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 III Section 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.** (*e.g. Gravel Pits*)

Unless specifically allowed in **section 5.14.A** above, or in **Article V Section 5.15, “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 Land Use Application Permit has been filed with, and approved, by the Planning Board and a permit for such operations has been issued by the Code Enforcement Officer. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of **sections C and D** below.

**C. Submission Requirements for Mineral Extraction.**

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:

1. Plans for the proposed extraction site shall include:

- a. A standard boundary survey of the property lines;
- b. 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, of the extraction activities;
- c. Proposed fencing, buffer strips, signs, lighting;
- d. Parking and loading areas, entrances and exits;
- e. A written statement of the proposed method, regularity;
- f. Proposed plans and specifications for the rehabilitation and restoration of the site upon completion of the operation;
- g. An estimate of the elevation of the seasonal high-water table within the excavation site shall be submitted. A hydro geologic 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 III Section 3.2 Dimensional Standards** for the district in which the activity is to occur.
- h. MEDEP Notice of Intent to Comply submission for pits greater than 5 acres, if applicable.
- i. A letter from the applicant stating they will comply with M.S.R.A 38 Section 490-M for pits less than five (5) acres.
- j. If more than one (1) acre is disturbed on a project at any time, a **Storm Management Law Permit-By-Rule Notification** or a **Generation Construction Permit NOI or NOT** may be required, depending on the district in which it is located

**D. Performance Standards.**

## PORTER LAND USE ORDINANCE

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 lot size indicated in Article III Section 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. 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. Slopes steeper than **3:1** slope up to **2:1** within **twenty (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.
5. 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. 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. 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. The sides and bottom of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure.
9. Excavation may not extend below **five (5)** feet above the seasonable highwater 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 highwater 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 **fifty (50)** feet from such public roads (*e.g. 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:
  - 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.
  - 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.



## PORTER LAND USE ORDINANCE

- 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. 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 **three to one (3: 1)** slope or flatter in all areas outside of Shoreland buffer (**NOTE: a 2 ½:1** slope is required within any Shoreland Buffer).
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 highwater line of a great ponds, or within **seventy-five (75)**, feet, horizontal distance, of the normal highwater line of any other water body, tributary stream, or the upland edge of wetlands.
  15. See **Article VI Section 4.2 - Landscape Buffer and Screening** for screening and buffering requirements.
  16. **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 **two hundred and fifty (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.
  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.

### 5.15 Minor Earthmoving Activities.

- A. The following minor earth moving activities do not require a permit from the CEO or Planning Board (*depending on the Article III Section 3.4 proposed use*):
  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 **two (2)** foot, excluding subsections c, d, and e below.
    - b. The filling, removal of material, and grading of an area which is not in excess of **one (1) acre**.

## PORTER LAND USE ORDINANCE

- c. The removal or filling of material incidental to construction, alteration, or repair of a building or in the grading and landscaping incidental thereto, not in excess of **two (2) acres**.
  - 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.
  - e. Earthwork activities specific to establishing restorative agricultural use under **ten (10)** acres (tilled or for grazing).
- B. All other earth-moving, processing, and storage in any approved District exceeding this section requires a permit authorized by the Planning Board under **Article V - Mineral Extraction**.
- C. The earthmoving activity must comply with **M.S.R.A 38 Section 490-M subsections 1 and 2 and M.S.R.A. Title 30-A Section 3105**.
- D. 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 **two hundred and fifty (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.
- E.** If more than one (1) acre is disturbed on a project at any time, a **Storm Management Law Permit-By-Rule Notification** or a **Generation Construction Permit NOI and NOT** will be required, depending on the district in which it is located.

### 5.16 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.
- 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.)

## PORTER LAND USE ORDINANCE

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.
6. A project schedule for mobilization, construction, and completion of this facility is to be included for Planning Board Review and record.

### C. Lot Area and Lot Width Requirements.

Notwithstanding the dimensional requirements for Mobile Home Park Lots located in **Article III, Section 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: **Twenty thousand (20,000)** square feet (.459 acre)
  - b. Minimum lot width: **One hundred (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: **Twelve thousand (12,000)** square feet (.275 acre)
  - b. Minimum lot width: **Seventy-five (75)** feet

### D. Unit Setback Requirements.

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.
3. A high-intensity soil survey map, certified by a Registered Soil Scientist licensed in the State of Maine, shall be submitted.
4. No building may be constructed on soil classified as being very poorly drained.

## PORTER LAND USE ORDINANCE

5. The overall density of any park served by any subsurface wastewater disposal system may not exceed one dwelling unit per **twenty-thousand (20,000)** square feet of total park area

### 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 shall be designed and constructed in accordance with the standards for streets in *Article 10 Section 10.15 of the Town of Porter Subdivision Regulations*.
3. The intersection of any street within a park and an existing public street shall meet *Article 10 Section 10.15 Performance and Design Standards of the Town of Porter Subdivision Regulations*:
4. 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. Traffic impact analysis and stormwater management plan engineering, if required, are in accordance with the *Town of Porter Subdivision Regulations Article 10 Section 10.15*.

### 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 hydro geologic assessment shall be prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology and shall contain at least the following information:

- 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 groundwater 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 **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.

#### 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

## PORTER LAND USE ORDINANCE

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 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.

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 (***See Article VIII Section 8.2 Definition of Small Homes***) may be located within the park.
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 is discontinued for **five (5)** years is to be provided to the Planning Board during application review.

### 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:

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,
6. Any prior dwelling being replaced is to be properly removed or disposed of,
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.
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.

B. These design requirements in **(A)**, above, shall be in conformance prior to the relocation of new or existing mobile homes and modular homes from one lot to another in town.

## PORTER LAND USE ORDINANCE

- C. All new or used relocated mobile homes and modular homes being moved from lot to lot within the town or moved into town from another locale shall be:
1. Inspected for the presence of life-threatening conditions,
  2. 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. 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. Inspected by Local Plumbing Inspector after necessary plumbing permits have been obtained,
  5. Verified by the Town to be in compliance with **M.R.S.A Title 30-A Section 4358 subsection 4 (sales tax)** and **M.R.S.A Title 30-A section 4103 subsection 3.c (property tax)**,
  6. Fully skirted to prevent water infiltration, pest, and rodents,
  7. Subject to Article VI inspections; and be
  8. Fully tied down and secured to the foundation.

**NOTE:** Multi-unit modular housing shall meet the same standards and requirements as site-built homes.

### 5.18 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 (MEDEP)** 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. - 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 Section 4.2 - Landscape Buffering and Screening**.
4. Signs are to be ground mounted, with masonry or landscaping around the base, and shall not exceed **sixty-six inches (66")** in height above the uppermost grade (**See Article IV Section 4.2 – Signs**).

## PORTER LAND USE ORDINANCE

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.
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.
7. The owner/operator shall make such arrangements with the Fire Department or otherwise have available equipment capable of containing a fire at the site as deemed appropriate by the Chief of the Department.
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.

### C. Submission requirements:

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:

- a. A standard boundary survey of the property on which the motorized vehicle racing facility is proposed, prepared by a 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 **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.
- g. A project schedule for mobilization, construction, and completion of this facility is to be included for Planning Board Review and record.
- h. Proposed fencing, buffer strips, signs, and lighting;
- i. Parking and loading areas, entrances, and exits;
- j. All proposed racecourses or tracks, including any areas of "crew pits" and other vehicle maintenance and repair;
- k. All proposed spectator areas and/or seating;
- l. Proposed hours of operation on a daily, weekly, and annual basis;

2. 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 **Article IV Section 4.2: 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.

## PORTER LAND USE ORDINANCE

3. 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.

4. The application shall contain an estimate of the average daily traffic projected to be generated by the use. Estimates of traffic generation shall be based on the *Trip Generation Manual*, published by the Institute of Transportation Engineers. Traffic impact analysis and stormwater management plan engineering, if required, are in accordance with the *Town of Porter Subdivision Regulations Article 10 Section 10.15*.

5. 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.

### 5.19 Multifamily Dwelling Units.

Multifamily dwelling units (**three (3)** dwelling units or more) shall meet all of the Ordinance requirements for an authorized land use permit, including the following criteria:

- A. **Four (4)** dwelling units or more are to be evaluated under the Subdivision Regulations, as well as this Land Use Ordinance.
- B. **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%**.



## PORTER LAND USE ORDINANCE

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.
  3. No building may be constructed on soil classified as being very poorly drained.
  4. **NOTE:** Within the Saco River Corridor, multi-unit residential dwellings cannot exceed **thirty-five (35)** feet in height, contain more than **two (2)** floors, or be greater than **24'x32'** in floor dimension (See **SRCC**).
- C. **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 firefighting 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.
- D. 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.
- E. Continuous Buffer and Visual Screening are required (*excluding driveway entrance(s)*), see **Article VI 4.2 (Landscape Buffer and Screening)**.
- F. There shall be at least **fifty (50)** feet between principal buildings located on a single lot.
- G. Subdivision Regulations are to be applied for all road construction related to this use.
- H. **Scaled Drawing Submission:**

The applicant for a Land Use Permit under this specific use for a multi-family dwelling containing more than three dwelling units 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.
- 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 do not restrict the use of alcohol are required to apply for a **Special Amusement Permit** from the Town of Porter.
  - L. This use is subject to Article VI inspections.

### 5.20 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.

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.
2. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
3. The location shall not interfere with existing developed or natural beach areas.
4. The facility shall be located so as to minimize adverse effects on fisheries.
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. Any docks, piers or floats in the fresh-water areas of the Saco River Corridor must be constructed or installed so that they are temporary and capable of seasonal removal and so that they do not extend more than **10%** of the width of the river at any time or extend into the water more than **ten (10)** feet perpendicular to the shore, which-ever is less.
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 other than a dock is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.*

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**.
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

## PORTER LAND USE ORDINANCE

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 **twelve (12)** feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

(b) Revegetation must occur in accordance with **Article IV Section 4.2 - Revegetation Requirements within Shoreland**.

### 10. 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.

**NOTE:** Development within **one thousand (1000)** feet of the Ossipee River floodplain or within **five hundred (500)** feet of the Ossipee River outside of floodplain must receive approval from the Saco River Corridor Commission.

### 11. 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:

- a. The use will not unreasonably interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities;
- b. 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;
- c. The use will not cause unreasonable soil erosion nor lower the quality of any waters;
- d. The use will not unreasonably alter the natural flow or storage capacity of any water body; and
- e. The use will not create or cause to be created unreasonable noise or traffic of any nature.

### 12. 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.

### 5.21 Renting Apartments.

- A. Applies to **two (2)** dwelling units within a single-family dwelling that each contain cooking, sleeping, and toilet facilities, regardless of the time-period rented or owner-occupied.
- B. There may be no new external construction to increase the size of the structure to accommodate 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.

## PORTER LAND USE ORDINANCE

- C. Any apartment created under this section exceeding **two (2)** independent dwelling units must meet the requirements for multifamily housing contained in Article V of this ordinance, and the Town of Porter Subdivision Regulations if **three (3)** independent dwelling units are exceeded.
- 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.
- G. This use is subject to Article VI inspections.

### 5.22 Restaurants.

- A. The application for a permit shall state the maximum seating capacity of the restaurant.
- B. The application shall contain an estimate of the average daily traffic projected to be generated by the use. Estimates of traffic generation shall be based on the *Trip Generation Manual*, published by the Institute of Transportation Engineers. Traffic impact analysis and stormwater management plan engineering, if required, are in accordance with the *Town of Porter Subdivision Regulations Article 10 Section 10.15*.
- 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. Signs are to be ground mounted, with masonry or landscaping around the base, and shall not exceed **sixty-six (66'')** in height above the uppermost grade (***See Article IV Section 4.2 – Signs***).
- E. Continuous perimeter Buffer and Visual Screening are required (*excluding driveway entrance(s)*). ***See Article IV Section 4.2 - Landscape Buffering and Screening***
- F. Uses in this section exceeding Low Impact Standards must also comply with the requirements of ***Article V – High Impact Uses***.

### 5.23 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;
  - 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.)

## PORTER LAND USE ORDINANCE

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.
6. A project schedule for mobilization, construction, and completion of this facility is to be included for Planning Board Review and record.

### 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 Section 4.2- 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 Regulations are to be applied to all road construction related to this use.

### C. Performance Standards.

If the Town does not operate the site, the site shall not be approved 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 **\$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 **\$4,000,000.00** per occurrence, and insure against property damage in an amount at least **\$4,000,000.00** 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 **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.
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

## PORTER LAND USE ORDINANCE

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, 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.

### 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.

## 5.24 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 D (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 (MEDEP)** or a letter from the DEP stating that a DEP permit is not required.
- 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 a tire storage and disposal facility is proposed, prepared by a surveyor licensed in the State of Maine.

### C. Site Consideration:

1. **Water Quality**

## PORTER LAND USE ORDINANCE

- 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 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, at least three hundred (300) feet from a private well and at least one thousand (1000) feet from a public water source.
- 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 **sixty-six inches (66")** in height above the uppermost grade (*See Article IV Section 4.2 – Signs*).

### 2. Community Protection

- a. The owner/operator shall make such arrangements with the Fire Department or otherwise have available equipment capable of containing a fire at the site as deemed appropriate by the Chief of the Department.
- 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 Tire Storage & Disposal Use 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.

### D. 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:

## PORTER LAND USE ORDINANCE

- 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
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.

### 5.25 Timber Harvesting within the Shoreland Zone.

Effective January 1, 2013, **M.R.S.A 12 section 8867-B** statewide standards are effective for timber harvesting and related activities in Shoreland areas in accordance with (**M.R.S.A 38 § 438-B6**). Contact the Bureau of Forestry: **1-800-367-0223**

### 5.26 Wireless Communication Facilities Communications Towers, and Antennas

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 (*e.g. fencing perimeter*).

C. **NEW** towers ONLY: 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;
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.
6. A project schedule for mobilization, construction, and completion of this facility is to be included for Planning Board Review and record.

E. From the finished grade, the maximum height of a communications tower shall be **one hundred ninety-nine (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.

F. The tower or attachment point shall be placed a minimum distance of **125 percent (125%)** of the height of the tower or antenna attachment point from any boundary line or any scenic or historic vantage points listed in the



## PORTER LAND USE ORDINANCE

Comprehensive Plan to establish a safety and aesthetic zone. The Board of Appeals shall not be authorized to grant a variance from this requirement.

G. The tower shall not be lit unless mandated by the Federal Aviation Administration or other applicable state and federal requirements.

H. 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.

I. 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.

J. 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.

K. The applicant shall submit a scenic assessment consisting of:

1. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level.
2. 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.
3. Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the 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.
4. A narrative discussing the:
  - a. 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;
  - b. the tree line elevation of vegetation within **one hundred (100)** feet of the facility or antenna attachment point; and
  - c. the distance to the proposed facility from the designated scenic and historic resources' as noted vantage points in the Comprehensive Plan.

L. Prior to approval the applicant shall submit a guarantee acceptable to the town in an amount or 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 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)** business 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 or attachment location and the vendors intending to lease/collocate on that facility.

## PORTER LAND USE ORDINANCE

2. If the owner of the facility, attachment point, 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)** calendar 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.

### M. Small Cell Antennas/Facilities within Public Right of Ways

1. All property owners within **five hundred (500)** feet of each small cell antenna installed are to be notified as required in Article VI at the expense of the applicant, prior to Planning Board approval.

2. The Land Use Application Permit Fee applies to each small cell antenna to be installed (*Fee multiplied by the number of cells*).

3. Appurtenances and devices supporting pole-mounted small cell antennas within public right-of-ways are to be installed underground.

4. The minimum height of small cell antennas installed in public right of ways is **twenty-five (25)** feet above existing grade.

5. The minimum distance between small cell antennas within Public Right-of-Ways is to be **fifteen hundred (1500)** feet.

6. Aesthetic design is to comply with the requirements of this **Article V Section 5.26** in its entirety.

7. Project cost and project schedule are to be submitted to the Planning Board.

8. The planning board reserves the right to hire independent consultants at the applicant's expense to validate engineering and design, in addition to providing a study regarding the viability of a fiber optic network.

9. The applicant must provide evidence in writing that the Town will be indemnified and defended against any liabilities arising from permits and the installation, operation, and maintenance of small cell installations.

10. Installations must be relocated if they interfere with a public project, at the expense of the applicant.

11. Land Use Application Permits for Small Cell Antennas are for a 12-month duration, and require annual re-permitting.

# PORTER LAND USE ORDINANCE

## ARTICLE VI: ADMINISTRATION, ENFORCEMENT AND PENALTIES

### 6.1 Administering Bodies and Agents

- A. **Code Enforcement Officer.** The Select Board 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 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.
- D. **Local Health Officer.** A Local Health Officer created in accordance with Title 22, Chapter 153.

### 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**, 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 ensure 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 written complaints of alleged violations of this Ordinance.
- C. The CEO may conduct on-site inspections to ensure 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, written complaints, and fees collected.

### 6.3 Permit Requirements (Land Use & Building).

A. No person may, without first obtaining the proper permit(s) or approvals, engage in any activity or use of land or structure requiring a permit according to **Article III, Section 3.4, Article IV Section 4.2 Signs, or this Article**; or expand, change, add, demolish, relocate, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued permit(s) pursuant to this Ordinance shall have a copy of the permit(s) on site while the work authorized by the permit(s) is being performed.

B. A local Driveway (Land Use) permit is required for any **NEW** private curbcut, subject to permitting approval of the CEO. New private curbcuts or culverts with-in a town right-of-way also requires review by the Road Commissioner. This local Driveway Permit must be approved prior to establishing an E911 address for the location.

1. Previous timber harvesting access roads into a parcel that were not removed are **NOT** considered existing permitted driveways.

**EXCEPTION:** A permit fee is not required for the replacement of an existing private road culvert outside of a town right of way for any replacement culverts not more than 25% longer than the culvert being replaced

## PORTER LAND USE ORDINANCE

and less than **seventy-five (75)** feet in total length. The inside replacement culvert dimension must be equal to or greater than the existing culvert and meet or exceed fifteen inches (**15"**) minimum, whichever is greater.

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. If any portion of the property is within **one thousand (1000)** feet of the Ossipee River floodplain, or within the **five hundred (500)** feet of the Ossipee River, approval by the **Saco River Corridor Commission** is required before permit applications are processed. (Go to <http://src-maine.org/regulations/forms/> )

**F. Photographic record required.** An applicant for permit(s) for development within the Shoreland zone is to provide the municipal permitting authority preconstruction photographs and, no later than twenty (20) days after completion of development, post-construction photographs of the shoreline vegetation and development site.

### 6.4 Land Use and Building Permit Authorizations.

Land Use, Driveway, and Building Permits may be authorized by the CEO or the Planning Board, in accordance with *this Ordinance*.

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

The Code Enforcement Officer shall be notified with a Notice of Intent from the property owner or authorized representative for the items listed below:

A. As designated exempt per Article III Section 3.4 - Uses Permitted

B. As designated exempt per Article IV 4.2 – Signs

C. **This Ordinance shall apply to**, but no permit fee is required for one of each the following on a single lot, unless a variance is needed:

1. An accessory structure which does not exceed **one hundred twenty (120)** square feet in area;
2. A temporary roadside stand used for sale of flowers, vegetables, fruit, or similar produce which does not exceed **one hundred twenty (120)** square feet in area and which remains in place for less than **seven (7)** months in any period of **twelve (12)** consecutive months;
3. Steps, stairs, or wheelchair ramps used exclusively to gain access to a primary dwelling;
4. Overhang roofs constructed without columns added exclusively to provide weather shelter to egress doorways or steps;
5. A boundary wall or fence;
6. An assembled hoop garage wrapped in canvas or poly that is no larger than **five hundred (500)** square feet .

## PORTER LAND USE ORDINANCE

7. Replacement of existing windows and doors in existing openings.
8. Replacement or repair of house shell (e.g. siding, windows, safe egress, and roofing shingles).
9. An assembled hoop greenhouse less than **five hundred (500)** square feet per lot installed over an exposed soil surface to extend the growing season for family subsistence. Article III dimensional setbacks apply.
10. Demolition of structures under **six-hundred (600) square feet**. Littering on private property requires prior written documentation of landowner(s) consent to be on file with the Code Enforcement Office, and the activity shall not create a public nuisance or violate any state law or local rule.
11. Moveable above ground pools without permanent decking or veneer framing.
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).

E. 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.

F. Fees **may** be applied in the event that the Town of Porter CEO is not notified regarding any activity requiring notification per this Ordinance. After-the-fact permits are **DOUBLED** (*example: performing the work first, then acquiring a permit or notifying the town afterward*).

### 6.6 Permit Application(s).

- A. Every application for a Land Use or Building Permit shall be submitted to the CEO in **written application**, including a site plan. 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:
  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.
  6. 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, or
    - (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 or structure.

## PORTER LAND USE ORDINANCE

7. **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 **two hundred and fifty (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.
  8. **Photographic record required.** An applicant for permit(s) for development within the Shoreland zone is to provide the municipal permitting authority preconstruction photographs and, no later than twenty (20) days after completion of development, post-construction photographs of the shoreline vegetation and development site.
  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, depict the following in a site plan:
    - 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, 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.
  10. A certification that the information in the application is complete and correct to the best of the applicant's knowledge and belief.
  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.**
  12. The application fee(s).
- 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)** 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) after the CEO has reviewed it to assure it is complete and 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 **fourteen (14)** days of receipt of the application (*per Section 6.7A below*).

### 6.7 Land Use Permit Review Procedure by the CEO.

## PORTER LAND USE ORDINANCE

- A. Within **fourteen (14)** 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 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, 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, citing the relevant sections of this ordinance by section and subsection as 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.
- G. If the CEO cannot judge that the proposed land use or activity will conform to all applicable provisions of this Ordinance, or other applicable codes, ordinances, or regulations of the town, the CEO may, after notification to the applicant, provide the application to the Planning Board for administration of the proposed land use or activity for their determination.

### 6.8 Land Use Permit Review Procedure by the Planning Board.

- A. Applications considered complete per **Section 6.7 A&B** will be submitted to the Planning Board and they shall schedule review of the application on the agenda of the following month. 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.
- B. No application may be considered at the following month's Planning Board meeting unless it has been filed with the CEO by the **third Tuesday of the month**.
- C. At least **seven (7)** days prior to the Planning Board meeting at which the application will be reviewed for completeness, the Planning Board shall notify in writing :
  - 1. The CEO
  - 2. The applicant.
  - 3. All other persons within the municipality owning land within **two hundred (200)** feet 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. If the **two hundred (200)** or **five hundred (500)** feet extend into an abutting municipality, the Town of Porter will notify the abutting town(s) of the use application.
  - 5. The Board shall inform the above that the application may be reviewed for approval or any other action as stated in **Section 6.8.H, 6.8.I. or 6.8.J. (below)**, at the same meeting, time permitting.
- D. The Planning Board shall also, **seven (7)** 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

## PORTER LAND USE ORDINANCE

complete, the Planning Board may not review the application to determine if it is satisfactory. Incomplete applications which remain inactive or in which required information has not yet been provided 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(s).
- G. At least **Seven (7)** 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:
1. The CEO,
  2. The applicant, and
  3. All other persons within the municipality 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.
  4. If the **two hundred (200)** or **five hundred (500)** feet extend into an abutting municipality, the Town of Porter will notify the abutting town(s) of the use application.
- H. The Planning Board shall use the following procedure when reviewing the application to determine whether it is satisfactory:
1. The applicant presents the application and explains 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.
  2. Questions from those present, including Planning Board members, may be asked through the Planning Board Chair.
  3. The applicant or any other party may be represented by an agent.
  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. 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, if a site visit is warranted to validate existing conditions and potential impacts of the proposed use, 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 this Ordinance;
    - b. is supported by the goals and objectives of the approved **Comprehensive Plan**; and



## PORTER LAND USE ORDINANCE

- c. is complete with respect to Applicant submission requirements.
- I. If the Planning Board cannot 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, including citations by section and subsection of elements that do not conform, 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 (above)*, excepting structure setback requirements, the Planning Board may approve a permit for a **single-family residential 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 **768 square feet (24x32)**. 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

## PORTER LAND USE ORDINANCE

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. Photographic record required. An applicant for permit(s) for development within the Shoreland zone is to provide the municipal permitting authority preconstruction photographs and, no later than twenty (20) days after completion of development, post-construction photographs of the shoreline vegetation and development site.

### 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(s) – Land Use and Building Permits.

Building Permits shall expire **one (1)** year from the date of issuance if a substantial start is not made in construction. If the proposed development is not completed within three (3) years, the permit shall expire and the applicant will have to file for a new permit pro-rated to the balance of the work, or the minimum building permit fee, whichever is greater.

Inactive Land Use Permits expire within three (3) years of issuance and the applicant will have to file for a new Land Use Permit.

### 6.11 Installation or Relocation of Public Utility Services.

Utility provider *Certification of Electrical Inspection for Single Family Dwellings* and/or *Certification of Shoreland Zoning and Subdivision Compliance* is required in accordance with *M.R.S.A. 38 Section 444, M.R.S.A. Title 30-A Section 4406, and M.R.S.A 32 Section 1102 subsection D.3.*

### 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:
  1. Any lot, or change in the use of any lot from one use category to another according to **Article III, Section 3.4**.
  2. A habitable structure hereafter erected or a change in the use category of an existing structure.
  3. Change in the occupant of an **Article V** use.
  4. Change in property ownership of an apartment rental.
- 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 6.15 (below)**, and the lot, building, or structure complies with all the provisions of this Ordinance, and any other local ordinance or regulation. The CEO may require proof of 3<sup>rd</sup> party inspections before the issuance of a CofO. A record of all certificates of occupancy shall be kept on file in the town office, provided by 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. The certificate of occupancy shall state specifically the uses it permits and note conditions regarding *Variances* or *No-Action* orders.

## PORTER LAND USE ORDINANCE

Certificate of Occupancy reviews will include evaluating life-threatening conditions.

- C. To ensure the continued health and safety of rental dwelling units (*apartments, multi-family, bed & breakfast, boarding arrangements, hotels, motels, inns*), the Town may conduct periodic inspections of rental units for which the Reviewing Authority has received a written complaint, and/or finds a condition creating a health and safety problem. This periodic inspection period will continue until the Reviewing Authority 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 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 and/or Health 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 ***M.R.S.A. 30-A Section. 4452.***
- D. For development within the Shoreland zone, a land use and/or building permit holder is to provide the municipal permitting authority preconstruction photographs and, no later than twenty (20) days after completion of development, post-construction photographs of the shoreline vegetation and development site, in order for a Certificate of Occupancy to be issued.

### 6.13 Legal Action and Violations.

A. Violations of this Ordinance include, but are not limited to:

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.
4. Willful neglect of the performance requirements of the Ordinance.

B. 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:

1. the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official,
2. there is no evidence that the owner acted in bad faith, or
3. 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.

## PORTER LAND USE ORDINANCE

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.

---

**NOTE:** Current penalties include fines of not less than **\$100** nor more than **\$5000** per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to **\$10000 (30-A M.R.S.A. section 4452)**.

---

### 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 (*e.g. project cost and schedule*). The conditions and amount of the performance guarantee shall be determined by the Review Authority after discussion with the Select Board.
- 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. 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.

### 6.16 Fees.

- A. The Select Board 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.
- B. The applicant shall pay into a special account the cost to the town 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 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.

# PORTER LAND USE ORDINANCE

## 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** (below).

## ARTICLE VII. BOARD OF APPEALS

### 7.1 Establishment and Organization.

- A. A Board of Appeals is hereby established. It consists of **five (5)** members 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.
- 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.

### 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. Meetings notices and agenda shall be posted at least **ten (10)** days prior to the meeting.
- 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.

#### B. Administrative appeal of the Planning Board.

## PORTER LAND USE ORDINANCE

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.

### 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 in accordance with *M.R.S.A. 30-A Section 4353 subsections 4, 4-A subsection B, and 4.B*:

- 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. Except as provided in *M.R.S.A 30-A Section 4353 subsections 4-A, 4-B and Section 4353-A*, the board may grant a variance only when 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 in *section C above* 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.
- F. The party receiving the variance and any subsequent owner of the property shall comply with any conditions imposed.
- 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, for variances within Shoreland. 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.

# PORTER LAND USE ORDINANCE

## 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 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.

**NOTE:** The decision of the Planning Board is the approval, denial, or approval with conditions of a Land Use Application under this Ordinance, following substantive review (*Findings of Fact/Conclusion of Law*).

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.
3. 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. When an appeal is filed, it shall be examined by the Board of Appeals 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 a Section 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.

## PORTER LAND USE ORDINANCE

6. Each application for an appeal shall be accompanied by a fee to cover all advertising and administrative costs, the fee to cover all advertising and administrative costs for an administrative appeal (*de novo or appellate remand*) that has been granted will be refunded. 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)** business days of the receipt of the complete written application, unless this time period is extended by the parties.

### B. Notification:

1. At least **five (5)** 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 **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,
  - 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

NOTE: If the **two hundred (200)** or **five hundred (500)** feet extends into an abutting municipality, the Board of Appeals will notify the abutting town(s) of the appeal.

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.

### C. Hearings:

1. The Board of Appeals 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 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 designee, or the Planning Board Chair if the appeal is of their decision made in the administration of **Article 10.7 and 11 of the subdivision Regulations**, 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.



## PORTER LAND USE ORDINANCE

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.

### 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.
- 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 to the applicant and agent, the Planning Board, the CEO, and the Municipal Officers within **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 to the Department of Environmental Protection within **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)** days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded.
- 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) 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.

# PORTER LAND USE ORDINANCE

## 7.9 Fees.

The application fee shall be set annually by the Select Board to cover all advertising and administrative costs, unless an administrative appeal is granted.

## 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 I Section 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.

### 8.2 Definitions

In this Ordinance the following terms have the following meanings unless a contrary meaning is specifically prescribed:

**Accessory Dwelling Unit:** “Accessory Dwelling Unit” means a dwelling unit located within a detached single-family dwelling unit, either as a portion of the primary dwelling unit or as a separate dwelling unit on a single parcel.

**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. Semitrailers used as an accessory storage structure on a property or that remain idle for more than eighteen (18) months are considered accessory structures which require a building permit.

**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.

**Agent:** Anyone having written authorization signed by a property owner, to act in behalf of that property owner.

## PORTER LAND USE ORDINANCE

**Aggrieved Party:** 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.

**Agriculture:** The production, keeping, or maintenance for sale or lease of plants 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 greenhouse products exceeding **ten (10)** acres. Agriculture review does not include intensive or industrial animal farming (Animal Husbandry > **30 AUE** or **300 AFO/CAFO**), incidental home occupations or farm stands <**120 SF**, Farm & Farm Related Ventures, forest management or, timber harvesting activities.

**Airbnb:** An online community marketplace that connects people looking to rent their homes with people who are looking for accommodations. **Airbnb** users include hosts and travelers: hosts list and rent out their unused spaces, and travelers search for and book accommodations in 192 countries worldwide.

**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)*)

**Animal Unit Equivalent (AUE):** A concept used in North America to facilitate planning, analysis, and administration of land use for a wide variety of animals based on a 1000-pound cow with or without an un-weaned calf equaling one (1) Animal Unit, in order to evaluate the relationship between stocking and carrying rates in order to minimize the depletion of vegetation and soil resources as well as public nuisances.

**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.

**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.

**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.

## PORTER LAND USE ORDINANCE

**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:** "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 include electronic components). "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations. Reference State Statutes *M.R.S.A 30-A Section 3752 Subsection 1 and M.R.S.A 29-A Section 101, subsection 42.*

**Automobile Hobbyist:** An automobile hobbyist is a person who is not primarily engaged in the business of selling any of those motor vehicles or parts from motor vehicles on their premises.

**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.

**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.

**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:** Any residential structure in which non-housekeeping rooms are offered and rented to the public for periods typically less than **thirty (30)** days and in which **one (1)** meal per day may be available and only to the occupants. The building shall also be dedicated for use by only the resident manager or owner. There may be no provisions for cooking in any individual guest room.

## PORTER LAND USE ORDINANCE

**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.

**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:** See, Height of Structure.

**Bureau of Forestry:** State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

**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 more than **four (4)** 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.

**Carpentry, 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.

**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.

**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 this ordinance, the **Subdivision Regulations**, and **State Law**.

**Code Enforcement Officer:** A person appointed by the Board of Select Board 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 or Industrial Use:** The utilization of lands, buildings, or structures, **other than** "home occupation", "farm and farm related ventures", "garage and yard sale", "bed & breakfast, boarding, or renting rooms", "farmstands < 120 SF", or the rental of a residential building and/or **two (2)** dwelling units within a residential building occupied by the owner,

## PORTER LAND USE ORDINANCE

*defined in this Ordinance*, the intent and result of which activity is the production of income from the buying and selling of goods and/or services.

**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 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.

**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.

**dB (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.

**Day Care Center:** An establishment, **other than** a “*home occupation*”, defined below, licensed as required by the Maine Department of Human Services, where children are cared for in return for compensation.

**Deck:** An uncovered structure with a floor, elevated **thirty inches (30’)** or greater above ground level.

**Decibel (dB):** 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*);

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

**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 height.

**Disability:** “disability” has the same meaning as a physical or mental disability under *Title 5, section 4553-A*.

**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.

**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.

## PORTER LAND USE ORDINANCE

**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.

**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. **NOTE:** *Four or more independent dwelling units in a primary structure is considered a subdivision and requires both a land use permit and subdivision review.*

**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.

**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:

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, including, but not limited to: dancing, gymnastics, music, automobile driving, mentoring, vocational, business skills, or horseback riding, is taught.

**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 footprint of a structure, including all extensions such as, but not limited to, attached decks, garages, porches, and greenhouses.

**Expansion of Use:** The addition of one or more months to a use’s operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

**Family:** One or more persons occupying a premises and living as a single housekeeping unit.

## PORTER LAND USE ORDINANCE

**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.

**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.

**Filling:** Depositing or dumping any matter on or into the ground or water.

**Flood:** A temporary rise in a stream flow or tidal surge that results in water overtopping its banks and inundating adjacent areas.

**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)

**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 of the horizontal area of the floor(s) of a structure enclosed by exterior walls.

**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.

**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 (10)** 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 cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, , 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, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot 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.

**Fungicides:** Biocidal chemical compounds or biological organisms used to kill parasitic fungi or their spores A fungistatic inhibits their growth.

**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.

**Garden Nursery, Garden Supply, and/or Grain and Feed Store:** A business, with either 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 for use.

**Grade:** In relation to building, the average of the finished ground level at the center of each wall of a building.

**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.

**Ground Cover:** Small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**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 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.

**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. Chapter 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.

**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.

## PORTER LAND USE ORDINANCE

**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 Section 3.3***

**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.

**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 **three (3)** full-time people or equivalent thereof 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 accessories 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 this Ordinance. Permitted home occupations include, but are not necessarily limited to the following: ***artists, authors, architectural services, advertising, barber and beauty shops, alternative medicine, consulting services, homesteading, dance studio, aerobic exercise, music lessons, tutoring and general educational instruction, 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)***

**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.

**Institutional:** A non-profit or quasi-public use, or institution such as a, library, public school, or municipally owned or operated building, structure or land used for public purposes.

**Intersecting Street Lines** - An intersection is the centerline point where two lines or streets cross.

**Junkyard.** "Junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

1. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture;
2. Unorganized, Discarded, scrap and junked lumber (not intended for fuel); and

## PORTER LAND USE ORDINANCE

3. 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 (*Also reference "Litter"*).

**NOTE:** See *Automobile Graveyard* for specific regulations regarding vehicles and vehicle electronics and parts.

**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.

**Kennel (Boarding):** "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.

**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.

**Laundromat:** An establishment where, for compensation, clothes and the like are washed with soap and water.

**Litter:** "Litter" means all waste materials including, but not limited to, bottles, glass, crockery, cans, junk, paper, garbage, rubbish, refuse, tires, or any and all packages or containers used for the purpose of containing a product sold or held out for sale for human or animal consumption that are thrown or deposited on the property.

**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 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.

**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.

**Lot, Coverage:** The percentage of the lot covered by buildings, structures, parking lots, and other non-vegetated surfaces.

**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 corner lot, the rear lot line is opposite the front lot line of least dimension.

## PORTER LAND USE ORDINANCE

**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 this Ordinance, the horizontal distance between the side lot lines, measured at the minimum setback line as established by this Ordinance.

**Low Impact Uses:** A commercial activity having fewer than **five thousand (5,000)** square feet of gross commercial floor area or impervious service and employing fewer than **twenty (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 and employing fewer than **twenty (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; 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.

**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 of whom are 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.

## PORTER LAND USE ORDINANCE

**Mineral Extraction** (*e.g. Gravel Pit Operations*): 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 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 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.

**Multi-Family Dwelling:** Any structure containing **three (3)** dwelling units for occupation by **three (3)** families living independently of one another, with the number of families not exceeding the number of dwelling units. Four or more independent dwelling units in a primary structure is considered a subdivision and requires both a land use permit and subdivision review.

**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*).

**Non-commercial Vehicle:** "noncommercial vehicle" means a motor vehicle as defined in Title 29-A, section 101, subsection 42 with a gross vehicle weight of no more than 6,000 pounds, bearing a disability registration plate issued pursuant to Title 29-A, section 521 and owned by the person with the permanent disability.

**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.

## PORTER LAND USE ORDINANCE

**Nonconforming Lot:** 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, 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 which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Normal Highwater 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. Section 1901*, et. seq. which points the way to public accommodations and facilities or other commercial facilities.

**Orchard:** An intentional planting of trees, bushes, or shrubs that are maintained for food production, generally grown for subsistence, hobby farming, or commercial sale.

**Outlet stream:** Any perennial or intermittent stream, as shown on the 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.

**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*.

**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.) nematicide, 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.

**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.

## PORTER LAND USE ORDINANCE

**Permanent:** Structures which remain in or over the water for **seven (7)** months or more in any period of **twelve (12)** consecutive months.

**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.

**Place of Worship:** A building or group of buildings used for the conduct of religious services; church

**Principal Structure:** 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.

**Principal Use:** A use other than one which is wholly incidental or accessory to another use on the same lot.

**Private Club:** Any voluntary association of persons organized for social, 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.

**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.

**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.

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

**Reasonable Cost** - Reasonable cost is a price that is consistent with what a reasonable person would pay in the same or similar circumstances for the same or similar item.

**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 an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, 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 comply with the provisions in Article IV Section 4.2 F (*Refuse Disposal*) and V Section 5.12 (*Individual Private Campsites*).

## PORTER LAND USE ORDINANCE

**Remote 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, and that meets the provisions of Article IV Q (2) of the Porter, Maine Land Use Ordinance. Passive solar energy systems are included in this definition but not to the extent that they fulfill other functions such as structural and recreational.

**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.

**Renovation:** The act of converting a floor plan, changing the configuration or quantity of kitchens, bedrooms, or bathrooms, changing the structure through demolition and construction, or updating an existing structure with cosmetic changes.

**Rental Unit:** Any dwelling unit that is offered for rent, lease or hire or which is rented, leased or hired.

**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*).

**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.

**Right-of-Way:** A private or public easement allowing passage by vehicles or foot over another's property.

**Riprap:** Rocks, irregularly shaped, and at least **six (6)** inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of **two (2)** units horizontal to **one (1)** unit vertical or less.

**River:** A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of **twenty-five (25)** square miles to its mouth.

**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.

**Saw Mill:** A business in which logs are converted into planks, boards, chips, pellets, firewood, etc. by machinery.

**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.

**Semitrailer:** "Semitrailer" means a vehicle without motive power; designed for being drawn by a motor vehicle; and designed so that some part of its weight and its load rests upon or is carried by that motor vehicle. For the purpose of this Ordinance, pole dollies, pole dickets, and tow dollies are excluded from the definition.

**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



## PORTER LAND USE ORDINANCE

- 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 the lot line/boundary and the nearest part of a structure.

**Setback from Water:** The nearest horizontal distance from the normal highwater 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.

**Shoreland Zone:** The land area located within two hundred and **fifty (250)** feet, horizontal distance, of the normal highwater 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 highwater 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.

**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 and skirted, or meet the State Manufactured Housing Act; also referred to as *Tiny Homes, Micro Homes, Mini Homes, THOWS*.

**Solar Array:** Multiple solar panels combined together to create one system.

**Solar Energy System:** A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. It may be roof-mounted or ground-mounted.

## PORTER LAND USE ORDINANCE

**Sound Pressure Level:** The level of sound measured in decibel (db) units with a sound level meter which has a uniform (“flat”) response over the band of frequencies measured.

**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** A free-flowing body of water 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 national hydrography dataset available from the United States Geological Survey on the website of the United States Geological 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. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a 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; travelled way.

**Structure:** Anything 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, solar energy systems, solar arrays, 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:

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

## PORTER LAND USE ORDINANCE

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.

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 cannot be given for consideration that is more than **half (½)** the assessed value of the real estate.

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

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land 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

## PORTER LAND USE ORDINANCE

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. **Four (4)** or more dwellings require a land use permit (*similar to multi-family dwelling*) in addition to a subdivision review.

**Subdivision, Minor:** Any subdivision containing **four (4)** lots or less or **four (4)** dwelling units, and in which no street is proposed to be constructed. **Four (4)** dwellings require a land use permit (*similar to multi-family dwelling*) in addition to a subdivision review.

**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.

**Sustained Slope:** A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**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:** A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “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.

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.

## PORTER LAND USE ORDINANCE

---

**NOTE:** *Water setback requirements apply to tributary streams within the shoreland zone.*

---

**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 **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 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 Geological 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.

**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.*

## PORTER LAND USE ORDINANCE

**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.

**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.

**NOTE:** *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*

**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.