

**SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE**

***SUBDIVISION REGULATIONS***

***TOWN OF PORTER, MAINE***

Adopted by vote of the Porter Planning Board April 16, 2003  
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**ARTICLE 1 – PURPOSES AND STATUTORY REVIEW CRITERIA**

The purposes of these regulations are:

- 1.1 To provide for an expeditious and efficient process for the review of proposed minor and major subdivisions;
- 1.2 To clarify the approval criteria of the state Subdivision Law, found in Title 30-A M.R.S.A., §4404; Statutory Review Criteria: When reviewing any application for a subdivision, as defined by Article 3, the Review Authority shall find that the following criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of the Zoning Ordinance and other sections of this Regulation have been met, before granting approval.
- 1.3 To assure new development in the Town of Porter meets the goals and conforms to the policies of the approved Porter Comprehensive Plan;
- 1.4 To assure the comfort, convenience, safety, health and welfare of the people of the Town of Porter;
- 1.5 To protect the environment and conserve the natural and cultural resources identified in the Porter Comprehensive Plan as important to the community;
- 1.6 To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that *lots in subdivisions are capable of supporting the proposed uses and structures*;
- 1.7 To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- 1.8 To promote the development of an economically sound and stable community.
- ~~1.8~~ 1.9 To provide Performance Standards and Design Guidelines for ALL subdivisions and other road construction activities, regardless of exemptions from the Planning Board Subdivision regulatory review process.

Comment [PB5]: SMPDC recommendation

Comment [PB6]: SMPDC recommendation

Comment [PB7]: clarification

Comment [DDS8]: The most specific in-depth specifications for road work and subdivisions of any kind are included in this ordinance, and should be reference for all other road work activities and exempt subdivisions, regardless of a specific requirement to fulfill the obligations of a subdivision regulatory review (minor and major).

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**ARTICLE 2 - AUTHORITY AND ADMINISTRATION**

**2.1 Authority.**

A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.

B. These standards shall be known and may be cited as “Subdivision Regulations of the Town of Porter, Maine.”

**2.2 Administration.**

A. The Planning Board of the Town of Porter, hereinafter called the Board, shall administer these regulations.

B. The provisions of these regulations shall pertain to all land and buildings proposed for **minor and major** subdivision within the boundaries of the Town of Porter.

**2.3 Amendments.**

A. These regulations may be amended by the Planning Board if the Legislative Body has not adopted or amended the standards.

B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven (7) days in advance of the hearing.

**Comment [PB9]:** Omitted in 2003 edition from printed copy provided to townspeople and municipal officials/officers.

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**ARTICLE 3 - DEFINITIONS**

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Porter Land Use Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

**Affordable Housing:** Housing units which will meet the sales price and/or rental targets established by the comprehensive plan for housing affordability.

**Applicant:** The person applying for subdivision approval under these regulations.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

**Buffer Area:** A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Capital Improvements Program (CIP):** The municipality’s proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

**Capital Investment Plan:** The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

**Cluster Subdivision:** A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space—, 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. The cluster development shall be developed in accordance with these regulations.

**Comment [DDS10]:** Harmonizing conflicting definitions (LUO and Subdivision).

**Certified Soil Scientist:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

**Common Open Space:** Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote by the Board to waive the submission of required information. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

**Complete Substantial Construction:** The completion of a portion of the improvements which represents no less than thirty percent (30%) of the costs of the proposed improvements within a

**Comment [DDS11]:** 30% is not substantial. Recommend upgrading to limit town risks.

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subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

**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.~~

A document or interrelated documents adopted by the Legislative Body, containing the elements established under Title 30-A M.R.S.A. §4326 sub-§§ 1 to 4, including the strategies for an implementation program which are consistent with the State goals and guidelines established under Title 30-A M.R.S.A. §§4311 through 4350.

Comment [PB12]: Updated to SMPDC standards 2006

**Conservation Easement:** A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

**Density:** The number of dwelling units per acre of land.

**Developed Area:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

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

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary or as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

Comment [PB13]: Update for new easy to access resources.

**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 (single-family residences). ~~A vehicular accessway serving two dwelling units or less.~~

Comment [DDS14]: Land Use Ordinance Definition - harmonizing definitions.

**Engineered Subsurface Waste Water Disposal System:** A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BOD<sub>5</sub> and total suspended solids concentrations than domestic waste water.

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**Farmland:** "Farmland" means a parcel consisting of 5 or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or

B. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2. -

"Agricultural products" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products, manure and compost and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.

**Comment [PB15]:** Updated to current State Statute – 30-A Section 4401

**Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

### **Freshwater Wetland:**

Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

~~Areas which are 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; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.~~

**Comment [DDS16]:** Land Use Ordinance Definition – Harmonizing – verify Title 38 M.R.S.A., §436-A

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**High Intensity Soil Survey:** A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall ~~not~~ **NOT** be considered to constitute high intensity soil surveys.

**Comment [PB17]:** emphasis

**100-Year Flood:** The highest level of flood that, on the average, has a one percent (1%) chance of occurring in any given year.

### **High Water Mark:**

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**Inland Waters:** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, ~~1991-2010~~ edition or most current addition at the time the application is submitted, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Comment [PB18]: Updating Manual reference

**Multifamily Development:** A subdivision which contains ~~three- four (4)~~ four (4) or more dwelling units on land in common ownership, such as apartment buildings or, condominiums, ~~or mobile home parks. Three (3) or more independent dwellings require review under Multi-Family Dwelling in the Land Use Ordinance, and Mobile Home Parks are reviewed under the Land Use Ordinance. Over four multi-family dwelling units require a land use permit AND a subdivision review.~~

Comment [PB19]: Clarification of Subdivision law and coordination with town subdivision regulations.

**Net Residential Acreage:** The total acreage available for the subdivision, as shown on the proposed subdivision plan, *minus the area for streets or access and the areas that are unsuitable for development as outlined in Section-Article 1210.10.C.3.*

**Net Residential Density:** The average number of dwelling units per net residential acre.

**New Structure or Structures:** Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

~~**Person:** Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.~~

Comment [PB20]: Readily available in statute or dictionary, not require to be acknowledged here.

**Planning Board:** The Planning Board of the Town of Porter.

**Preliminary Plan:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

**Professional Engineer:** A professional engineer, registered in the State of Maine.

**Professional Land Surveyor:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

**Public Water System:** A water supply system that provides water to at least fifteen (15) service connections or services water to at least twenty-five (25) individuals daily for at least thirty (30) days a year.

**Recording Plan:** An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

**Reserved Affordable Housing:** Affordable housing which is restricted by means of deed covenants, financing restrictions, or other binding long term methods to occupancy by households making 80% or less of the area median household income.



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**Sight Distance:** The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

**Street:** Public and private ways 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 over which the public has easement of travel, provides frontage to a lot, and meets the Town of Porter Subdivision review standards. If not legally conforming, it must be recorded on a plan of a subdivision at the Registry of Deeds, or have been accepted by the municipal legislative body.

**Comment [DDS21]:** Harmonizing conflicting definitions between LUO& Building Code and Subdivision regulations.

### Street Classification:

**Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets:

*Route 25 (Ossipee Trail)*

**Collector Street:** A street that collects traffic from residential streets and feeds it to arterials. The following roadways shall be considered collector streets:

*Route 160 (Brownfield Road)*

**Cul-de-sac:** A street with only one outlet and having the other end for the reversal of traffic movement.

**Industrial or Commercial Street:** Streets servicing industrial or commercial uses.

**Major Residential Street:** A street servicing only residential properties and which is not a collector but has an average daily traffic of more than *200 vehicles per day*.

**Minor Residential Street:** A street servicing only residential properties and which has an average daily traffic of less than *200 vehicles per day*.

**Private Right-of-Way:** A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

**Subdivision:** The division of a tract or parcel of land into three (3) or more lots within any 5-year period, that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term “subdivision” also includes the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a 5-year period, the construction or placement of three (3) or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of the tract or parcel is considered to create the first two (2) lots and the next dividing of either of these first two (2) lots, by whomever accomplished, is considered to create a third lot, unless:

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1. Both dividings are accomplished by a subdivider who has retained one (1) of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least five (5) years immediately preceding the 2<sup>nd</sup> division; or
  2. The division of the tract or parcel is otherwise exempt under this subchapter.
- B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
- C. A lot of forty (40) or more acres must be counted as a lot, ~~except:~~
- ~~When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of forty (40) or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.~~
- D-1. A division accomplished by **devise** does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D-2. A division accomplished by **condemnation** does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D-3. A division accomplished by **order of court** does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D-4. A division accomplished by **gift** to a person related to the donor of an interest in property held by the donor for a continuous period of five (5) years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor," means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. - A gift under this paragraph can not be given for consideration that is more than half (1/2) 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.

**Comment [PB22]:** Clarification, the Town of Porter does not exempt 40+ acres lots from subdivision review.

**Comment [PB23]:** Amended Statute

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- E. The division of a tract or parcel of land into three (3) or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.
- F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

~~G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.~~

Comment [PB24]: Repealed

~~H.G. 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.~~

Comment [PB25]: Repealed

- I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs **D-1 to D-6**, or subsequent transfer of that entire lot by the original holder of the security interest or that person’s successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

**Subdivision, Major:** Any subdivision containing more than four (4) lots or dwelling units, or any subdivision containing a proposed street.

**Subdivision, Minor:** Any subdivision containing four (4) lots or ~~dwelling units or less, four (4) dwelling units~~, and in which no street ~~is~~ are proposed to be constructed.

Comment [PB26]: Removes conflicts with the land use ordinance regarding the evaluation of 2 and 3 dwelling proposed uses.

**Tract or Parcel of Land:** ~~All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.~~ “Tract or parcel of land” means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

Comment [PB27]: Updated to current State Statute – 30-A Section 4401

**Usable Open Space:** That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture.

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In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding ten percent (10%).

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ARTICLE 4 - ADMINISTRATIVE PROCEDURE

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than ten (10) days in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. No application may be considered at a Planning Board meeting unless it has been filed with the Planning Board (*in care of the Town Office*) by the CEO by the third Tuesday first day of the month of that regularly scheduled Planning Board meeting.

Applicants who attend a meeting but who are not on the Board’s agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the Board’s written agenda.

Comment [PB28]: Allows for proper processing notifications to abutters and for the CEO to have time to review the initial submission.

~~ARTICLE 5 - PREAPPLICATION MEETING, SKETCH PLAN MEETING AND ON-SITE INSPECTION~~

Comment [PB29]: Updated subdivision model - SMPDC

5.1 Purpose.

The purpose of the ~~pre-applications~~sketch-plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board’s comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

5.2 Procedure.

- A. The applicant shall present the Pre-application Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant’s presentation, the Board may ask questions, point out potential problems or issues for future discussions, –and make suggestions to be incorporated by the applicant into the application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.
- C. The date of the on-site inspection is selected.

Comment [PB30]: SMPDC clarification of the state subdivision laws.

5.3 Sketch-Plan Submission.

The Pre-application Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the applicant and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor’s map(s) on which the land is located. The Sketch Plan shall be accompanied by:

- 3 copies of the sketch plan and all supporting materials must be submitted —14 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board’s agenda. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to

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existing conditions. The sketch plan, which does not have to be engineered and may be a freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained.

A. A sketch plan application form, and a sketch plan application fee of \$100;

**Comment [PB31]:** Combine SMPDC and Porter Reg – Move fees to a separate schedule for Town Management (with other fees – building, appeals, land use)

A. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision unless the proposed subdivision is less than ten (10) acres in size;

B. A copy of that portion of the *county soil survey* covering the proposed subdivision, showing the outline of the proposed subdivision, and;

D. A written project narrative as described above.

**Comment [PB32]:** A more thorough understanding – SMPDC model reg

### 5.4 Contour Interval and On-Site Inspection.

Within thirty (30) days of the pre-application meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Preliminary/Final Plan combination in the case of a Minor Subdivision, if attainable (Reference Article 12 Section 12.3). The applicant shall place “flagging” at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board shall not conduct on-site inspections during the months of December, January, February or March. In the event the subdivision was not properly flagged and the inspection has to be re-scheduled once the flagging is installed per this section, THE APPLICANT WILL BE RESPONSIBLE TO PAY FOR ALL COSTS ASSOCIATED WITH THE ADMINISTRATION OF THE ON-SITE INSPECTION.

**Comment [PB33]:** Equity for taxpayers when non-compliance occurs.

### 5.5 Rights not Vested.

The pre-applicationsketch plan meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., §302.

**Comment [PB34]:** SMPDC recommendation

### 5.6 Establishment of File.

Following the pre-applicationsketch plan meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the pre-application meeting and application shall be maintained in the file.

**Comment [PB35]:** SMPDC recommendation

## ~~ARTICLE 6 – “MINOR” SUBDIVISION~~

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### 6.1 General.

~~The Board may require, where it deems necessary to make a determination regarding the criteria for approval from **Title 30-A M.R.S.A., §4404**, or the standards from **Article 11** of these regulations, that a Minor Subdivision comply with some or all of the submission requirements for a Major Subdivision.~~

### 6.2 Procedure.

~~A. Within six (6) months after the on site inspection by the Board, the applicant shall submit an application for approval of a final plan. Applications shall be submitted by mail to the **Code Enforcement Officer and the Board in care of the municipal office** or delivered by hand to the municipal office. Failure to submit the application within six (6) months shall require resubmission of the Sketch Plan to the Board, except as stipulated below. The final plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.~~

**Comment [PB36]:** Information sharing needed, and realistic receipt of applications to afford the town time to prepare.

~~If an applicant cannot submit the final plan within six (6) months, due to delays caused by other regulatory bodies, or other extenuating circumstances, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made *due progress* and exhibited *good faith* in the preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.~~

**Comment [PB37]:** Provision for unnecessary delay (similar to Land Use Ordinance), to assure equity for taxpayers

~~B. All applications for final plan approval for a Minor Subdivision shall be accompanied by a non-refundable application fee of **\$250** and **\$25 per lot or dwelling unit**, payable by check to the municipality. In addition, the applicant shall pay a fee of **\$100 per lot or dwelling unit** to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional **\$25 per lot or dwelling unit** be deposited by the applicant. The Board shall continue to notify the applicant and require that an additional **\$25 per lot or dwelling unit** be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising.~~

**Comment [DDS38]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees – Initial fee more in line with surrounding municipalities to cover costs for taxpayers

**Comment [DDS39]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees

**Comment [DDS40]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees

**Comment [DDS41]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees

**Comment [PB42]:** All meetings are public, including site visit, this is arbitrary and biased for smaller less-complicated subdivisions, unless the process is merged and consistently followed.

~~C. The applicant, or his duly authorized representative, shall submit the final plan to the Code Enforcement and the Planning Board.~~

~~D. Upon receipt of an application for final plan approval of a minor subdivision, the Code Enforcement and the Planning Board shall:~~

- ~~1. Issue a dated receipt to the applicant.~~
- ~~2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.~~

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~~3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.~~

~~E. Within thirty (30) days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.~~

~~F. Upon a determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination and schedule a public hearing on the final plan application.~~

~~G. The Board shall hold the hearing within thirty (30) days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. A copy of the notice shall be mailed to the applicant and abutters.~~

~~H. Within thirty (30) days from the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria contained in Title 30-A M.R.S.A., §4404 and the standards of Article 11. If the Board finds that all the criteria of the Statute and the standards of Article 11 have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of Article 11 have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The Board shall issue a written notice of its decision to the applicant, including its findings, conclusions, and any reasons for denial or conditions of approval.~~

Comment [PB43]: Cross-referencing land use and subdivision regulations

### ~~6.3 Submissions.~~

~~The final plan application shall consist of the following items:~~

#### ~~A. Application Form.~~

~~B. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:~~

- ~~1. Existing subdivisions in the proximity of the proposed subdivision.~~
- ~~2. Locations and names of existing and proposed streets. On existing and proposed streets, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet, in accordance with the Town of Porter E911 Addressing Ordinance, to aid in assignment of numbers to structures subsequently constructed.~~
- ~~3. Boundaries and designations of zoning districts.~~
- ~~4. An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.~~

~~C. Final Plan. The subdivision plan for a Minor Subdivision shall consist of two (2) reproducible, stable based transparencies, one to be recorded at the Registry of Deeds by the applicant, the other to be filed at the municipal office, and three (3) copies of one or~~

Comment [PB44]: Clarification



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~~more all maps or drawings drawn to a scale of not more than one hundred feet to the inch (1 inch = 100 feet).~~

~~The reproducible transparencies shall be embossed with the seal of the individual responsible for preparation of the plan. Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred feet to the inch (1 inch = 200 feet), provided all necessary detail can easily be read.~~

~~Plans shall be no larger than 24 by  $\times$  36 inches in size, and shall have a margin of two inches (2'') outside of the border lines on the left side for binding and a one inch (1'') margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three (3) copies of all information accompanying the plan shall be submitted. In addition, one copy of the Plan(s) reduced to a size of  $8.5 \times^{1/2}$  by 11 inches or 11 by  $\times$  17 inches, and all accompanying information shall be mailed to each the Code Enforcement Officer and the Planning Board member no less than seven ten (10) days prior to the meeting.~~

Comment [PB45]: Distribution of information

### D. Application Requirements.

~~The application for approval of a Minor Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30 A.M.R.S.A., §4404 are met.~~

- ~~1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the assessor's map and lot numbers.~~
- ~~2. Verification of right, title, or interest in the property.~~
- ~~3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor registered in the State of Maine. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.~~
- ~~4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights of way, or other encumbrances currently affecting the property.~~
- ~~5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.~~
- ~~6. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator licensed in the State of Maine shall be provided. A map showing the location of all test pits dug on the site shall be submitted.~~
- ~~7. An indication of the type of water supply system(s) to be used in the subdivision.
  - ~~a. When water is to be supplied by public water supply, a written statement from the Consumers Maine Water Company water company servicing the area shall be submitted indicating that there is adequate supply and pressure for the subdivision and that the company approves the plans for extensions where necessary. Where the company's supply line is to be extended, a written statement from the fire~~~~

Comment [PB46]: Requirement for Maine registered surveyor in Porter

Comment [PB47]: Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

Comment [PB48]: Prescriptive – companies come and go, this is not the correct name.

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~~chief, stating approval of the location of fire hydrants, if any, and a written statement from the district approving the design of the extension shall be submitted. If public water infrastructure is to be extended, engineered drawings indicating specifications and limits of work is to be submitted with the application.~~

**Comment [PB49]:** Acquiring useful information for record for the town and taxpayers

b. ~~When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area and who is certified and registered in the State of Maine.~~

**Comment [PB50]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

~~8. The date the plan was prepared, north point, and graphic map scale.~~

~~9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and adjoining property owners.~~

~~10. A high intensity soil survey by a Certified Soil Scientist certified in the State of Maine. Wetland areas shall be identified on the survey, regardless of size.~~

**Comment [PB51]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

~~11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing existing vegetation.~~

~~12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.~~

~~13. Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level.~~

~~14. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.~~

~~15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.~~

~~16. The location, names, and present widths of existing streets and highways, and existing and proposed easements, *building lines*, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.~~

~~17. The width and location of any streets, public improvements or open space shown upon the comprehensive plan, if any, within the subdivision.~~

~~18. The location of any open space to be preserved and a description of proposed improvements and how it is to be managementmanaged.~~

~~19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the~~

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~~municipality, written evidence that the municipal officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.~~

**Comment [PB52]:** Not advised for the town to remove land from tax role and assume liability

~~20. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.~~

~~21. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer who are certified and registered in the State of Maine, experienced in hydrogeology, when:~~

**Comment [PB53]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

~~a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1985/1998, Map No. 198-195 & 98-197; or~~

**Comment [PB54]:** Updating

~~b. Any part of the subdivision located over riparian habitats shown on *Beginning With Habitat* Map "Riparian Habitats";~~

**Comment [PB55]:** Updating informative references

~~e. The subdivision has an average density of more than one dwelling unit per one hundred thousand (100,000) square feet.~~

~~—The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground-water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per one hundred thousand (100,000) square feet but the density of the developed portion is in excess of one dwelling unit per eighty thousand (80,000) square feet; or proposed use of shared or common subsurface waste water disposal systems.~~

~~—The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.1 below.~~

~~22. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from *Trip Generation Manual*, 1991 edition, the most current addition at the time the application is submitted, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.~~

**Comment [PB56]:** Updating

~~23. For subdivisions involving forty (40) or more parking spaces or projected to generate more than four hundred (400) vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer registered in the State of Maine with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.~~

**Comment [PB57]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

~~24. A storm water management plan, prepared by a registered professional engineer in accordance with the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995) *Maine's Stormwater Best Management Practices Manual (2016)* or the current~~

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~~revision at the time the application is submitted and reviewed by the Oxford County Soil and Water Conservation District. The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.~~

Comment [PB58]: Updating

~~25. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices (BMPs) Manual for Designers and Engineers*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991–October 2016 revision or current revision at the time of application submission and reviewed by the Oxford County Soil and Water Conservation District. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.~~

Comment [PB59]: Updating

~~26. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife, within the comprehensive plan, or areas within plant an animals habitats shown on Beginning With Habitat Map “Plant and Animal Habitats”. If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan or the Maine Natural Areas Program, or areas within plant an animals habitats shown on Beginning With Habitat Map “Plant and Animal Habitats”, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.~~

Comment [PB60]: Updating informative references

Comment [PB61]: Updating informative references

~~27. If the proposed subdivision is in the direct watershed of a great pond, a phosphorus control plan is to be provided:~~

~~a. For subdivisions which qualify for the simplified review procedure as described in **Section 11.17.A.2**, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems.~~

~~b. For subdivisions which do not qualify for the simplified review procedure as described in **Section 11.17.A.2**, the following shall be submitted:~~

~~1. A phosphorus impact analysis and control plan conducted using the procedures set forth in *Volume 2 of the Maine Stormwater BMP Manual (Reference <https://www.maine.gov/dep/land/stormwater/stormwaterbmps/index.html>) Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, September, 1992 revision.~~

Comment [PB62]: Updating

~~2. A long term maintenance plan for all phosphorus control measures.~~

~~3. The contour lines shown on the plan shall be at an interval of no less than five (5) feet.~~

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~~4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.~~

~~28. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan as historically notable, sensitive, or likely to contain such sites.~~

~~29. The location and method of disposal for land clearing and construction debris.~~

**Comment [PB63]:** Acknowledges the Town Comprehensive Plan and 200 Years Journal

**ARTICLE ~~7-6~~ - PRELIMINARY PLAN FOR “MAJOR” SUBDIVISION**

**~~7.6.1~~ Procedure.**

A. Within six (6) months after the on-site inspection by the Board, the applicant shall submit an application for approval of a preliminary plan by the first day of the month prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Code Enforcement Officer and the Board in care of the municipal offices or delivered by hand to the municipal offices. Failure to submit an application within six (6) months shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. All applications for preliminary plan approval for a **Major** Subdivision shall be accompanied by a non-refundable application fee of ~~\$250 and \$25-50~~ per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of ~~\$100-250~~ per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional ~~\$25-50~~ per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require that an additional ~~\$25-50~~ per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising.

~~C. All applications for preliminary plan approval for a **Minor** Subdivision shall be accompanied by a non-refundable application fee of \$250 and \$25 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of \$100 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional \$25 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require that an additional \$25 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. If a public hearing is deemed~~

**Comment [DDS64]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees. Initial fee more in line with surrounding municipalities to cover costs for taxpayers

**Comment [DDS65]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees Initial fee more in line with surrounding municipalities to cover costs for taxpayers

**Comment [DDS66]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees Initial fee more in line with surrounding municipalities to cover costs for taxpayers

**Comment [DDS67]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees Initial fee more in line with surrounding municipalities to cover costs for taxpayers

**Comment [DDS68]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees. Initial fee more in line with surrounding municipalities to cover costs for taxpayers

**Comment [DDS69]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees Initial fee more in line with surrounding municipalities to cover costs for taxpayers

**Comment [DDS70]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees Initial fee more in line with surrounding municipalities to cover costs for taxpayers

**Comment [DDS71]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees Initial fee more in line with surrounding municipalities to cover costs for taxpayers

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necessary by the Board, an additional fee shall be required to cover the costs of advertising. Reference Article 12 Section 12.3 to evaluate the feasibility of combining Preliminary with Final Plan procedures for Minor Subdivisions.

~~¶D.~~ The applicant, or ~~the~~an applicant's representative who is qualified to answer questions, shall attend the meeting of the Board to present the preliminary plan application. Failure to attend the meeting ~~to~~intended to present the preliminary plan application and to effectively and competently answer questions shall result in a delay of the Board's receipt of the plan until the next meeting that the applicant attends.

Comment [PB72]: Assures applicant proxy is qualified and competent to answer to the board

~~¶E.~~ Within three (3) days of the meeting at which an application for preliminary plan approval of a ~~major~~ subdivision is initially presented, the Board shall:

1. Issue a dated receipt to the applicant.
2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
3. Notify the clerk and the review authority of the neighboring municipalities if:

a. Any portion of ~~the~~ a major subdivision abuts or crosses the municipal boundary.

b. Any major subdivision is in the watershed of a neighboring municipality's public water supply or the watershed of a great pond/waterbody subject to phosphorus control provisions, or

c. Any major subdivision is accessed by a local road leading from an adjacent municipality at risk of impact.

Comment [PB73]: Addresses watershed and infrastructure impacts caused by abutting municipal development on other towns. Collaborative.

~~¶F.~~ Within thirty days (30) of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

~~¶G.~~ Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of its determination and schedule a public hearing on the preliminary plan application.

~~¶H.~~ The Board shall hold the public hearing within thirty days (30) of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. A copy of ~~the~~this notice shall also be mailed to the applicant and the abutters.

~~¶I.~~ Within thirty (30) days from the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

~~¶J.~~ When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:

1. The specific changes which it will require in the final plan;

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2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.

~~J~~K. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations ~~and~~ the conditions of preliminary approval, if any, ~~and the Town of Porter Land Use Ordinance~~. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

Comment [PB74]: Cross-referencing land use ordinance with subdivision regulations

### 76.2 Submissions.

The preliminary plan application shall consist of the following items.

#### A. Application Form ~~and Proof of Payment of Fees~~.

B. **Location Map.** The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision.
2. Locations and names of existing and proposed streets.
3. Boundaries and designations of zoning districts.
4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.

C. **Preliminary Plan.** The preliminary plan shall be submitted in three (3) copies of ~~all one or more maps~~ or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred feet to the inch (1 inch = 100 feet). Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred feet to the inch (1 inch = 200 feet), provided all necessary detail can easily be read. In addition, one (1) copy of the plan(s) reduced to a size of ~~8 1/2 by x~~ 11 inches or 11 ~~by x~~ 17 inches, and all accompanying information shall be mailed to each Board member no less than ~~seven-ten (10)~~ days prior to the meeting.

~~D~~. **Application Requirements.** The application for preliminary plan approval shall include the following information. ~~The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.~~

Comment [DDS75]: Moved to NEW #29 - It was out of place.

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.



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2. Verification of right, title or interest in the property.
3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments.
4. A copy of the most recently recorded deed for the parcel—A copy and copies of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. An indication of the type of sewage disposal to be used in the subdivision.

When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist licensed and certified in the State of Maine shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

**Comment [PB76]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

7. An indication of the type of water supply system(s) to be used in the subdivision.

When water is to be supplied by public water supply, a written statement from the Consumers Maine Water Company water utility provider servicing the area shall be submitted indicating there is adequate supply and pressure for the subdivision. If public water infrastructure is to be extended, engineered drawings indicating specifications and limits of work is to be submitted with the application.

**Comment [PB77]:** Prescriptive – companies come and go, this is not the correct name.

8. The date the plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
10. A high intensity soil survey by a Certified Soil Scientist certified in the State of Maine. Wetland areas shall be identified on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
14. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
15. The location and size of existing and proposed water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
16. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

**Comment [PB78]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine



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17. The width and location of any streets, public improvements or open space shown upon the comprehensive plan, if any, within the subdivision.
18. The proposed lot lines with approximate dimensions and lot areas in accordance with the dimensional requirements of the Porter Land Use Ordinance.
19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
20. The location of any open space to be preserved and a description of proposed ownership, improvement and how it is to be managementmanaged.
21. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
22. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
23. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology who are certified and registered in the State of Maine, when:
  - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 19851998, Map No. 1398-195 & 98-197; or
  - b. Any part of the subdivision located over riparian habitats shown on Beginning With Habitat Map "Riparian Habitats"; or
  - ~~b.~~ c. The subdivision has an average density of more than one dwelling unit per one hundred thousand (100,000) square feet.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per one-hundred thousand (100,000) square feet but the density of the developed portion is in excess of one dwelling unit per eighty-thousand (80,000) square feet; or the proposed use of shared or common subsurface waste water disposal systems.

The hydrogeologic assessment shall be conducted in accordance with the provisions of ~~Section Article 1110.12.A.1~~ below.
24. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from *Trip Generation Manual*, 1991 edition, the most recent edition at the time the application was submitted, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
25. For subdivisions involving forty (40) or more parking spaces or projected to generate more than four hundred (400) vehicle trips per day, a traffic impact analysis, prepared by a ~~Registered~~ Professional Engineer registered in the State of Maine with

Comment [PB79]: Coordinating this regulation with land use ordinances

Comment [PB80]: Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

Comment [PB81]: Updating

Comment [PB82]: Updating informational resources

Comment [PB83]: updating

Comment [PB84]: Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

26. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife, or within the comprehensive plan, or areas within plant and animal habitats shown on Beginning With Habitat Map "Plant and Animal Habitats". If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program, or within plant and animal habitats shown on Beginning With Habitat Map "Plant and Animal Habitats", the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

Comment [PB85]: Updating informational resources

Comment [PB86]: Updating informational resources

27. If the proposed subdivision is in the direct watershed of a great pond, and qualifies for the simplified review procedure for phosphorus control, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems and the application shall also include a long-term maintenance plan for all phosphorus control measures.

28. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the *National Register of Historic Places*, or have been identified in the comprehensive plan as historically notable, sensitive, or likely to contain such sites.

Comment [PB87]: Acknowledges the Town Comprehensive Plan and 200 Years Journal

29. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

Comment [PB88]: New State Law updated into this regulation

- 27-30. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

Comment [PB89]: Moved from above.

## ARTICLE 8-7 - FINAL PLAN FOR "MAJOR" SUBDIVISION

### 87.1 Procedure.

- A. Within six (6) months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan to the Code Enforcement Officer by the first day of the month prior to a scheduled meeting of the Board. Applications shall also be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices. If the application for the final plan is not submitted within six (6) months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

Comment [PB90]: Communication flow

If an applicant cannot submit the final plan within six (6) months, due to delays caused by other regulatory bodies, or other extenuating circumstances reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed,

Comment [PB91]: Delay provisions justified

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made *due progress* and exhibited good faith in the preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

Comment [PB92]: Delay provisions justified

~~B. B.~~—All applications for final plan approval for a ~~major~~ subdivision shall be accompanied by an application fee of ~~\$25~~\$50 per lot or dwelling unit payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

Comment [DDS93]: Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees – Indexed for inflation and comparable to region

NOTE: The Final Plan fee is waived for **Minor** Subdivisions when the conditions of Article 12 Section 12.3 (Waiver of Procedures) are met.

C. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:

1. **Maine Department of Environmental Protection**, under the Site Location of Development Act.
2. **Maine Department of Environmental Protection**, under the Natural Resources Protection Act or if a storm water management permit or a waste water discharge license is needed.
3. **Maine Department of Human Services**, if the applicant proposes to provide a public water system.
4. **Maine Department of Human Services**, if an engineered subsurface waste water disposal system(s) is to be utilized.
5. **U.S. Army Corps of Engineers**, if a permit under Section 404 of the Clean Water Act is required.

6. **Maine Department of Transportation**, for introducing new roadways, roadway signage, street lighting, or impacting, altering, or connecting to existing roadways controlled or managed by the Maine DOT.

Comment [PB94]: A missing agency who has a great deal of involvement in developments affecting roadways.

7. **Town of Porter – Confirmation that the fees required for final plan approval (e.g. - Section 7.1B fees have been received), unless waived through Article 12 Section 12.3**

8. If any portion of the property is within one thousand (1000)feet of the Ossipee River floodplain, or 500 feet of the Ossipee River outside of the floodplain, notification to and approval by the **Saco River Corridor Commission** is recommended. (Go to <http://srcc-maine.org/regulations/forms/>)

~~D. 9. **Maine Historic Preservation Commission and/or Parsonsfield-Porter Historical Society**~~ - If the preliminary plan identified any areas ~~listed on or eligible to be listed on the National Register of Historic Places~~, in accordance with **Section 76.2.D.28**, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation ~~commission~~ **Commission** ~~or the Parsonsfield Porter Historical Society~~ prior to submitting the final plan application.:

Comment [PB95]: redundant

Comment [PB96]: Include a society we pay for that cares about this.

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

~~ED.~~ The applicant, or ~~the~~an applicant's duly authorized representative who is qualified to answer questions, shall attend the meeting of the Board to discuss the final plan. Failure to attend the meeting intended to present the final plan application and to effectively and competently answer questions shall result in a delay of the Board's receipt of the plan until the next meeting which the applicant attends.

Comment [PB97]: Assures applicant proxy is qualified and competent to answer to the board

~~FE.~~ At the meeting at which an application for final plan approval of a ~~major~~-subdivision is initially presented, the Board shall issue a dated receipt to the applicant.

~~GE.~~ Within thirty (30) days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

~~HG.~~ Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant. The Board shall determine whether to hold a public hearing on the final plan application of minor subdivisions. A public hearing for the final plan of major subdivisions cannot be waived.

~~H.~~ If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two (2) times, the date of the first publication to be at least seven (7) days before the hearing. In addition, the notice of the hearing shall be posted in at least three (3) prominent places within the municipality at least seven (7) days prior to the hearing.

~~I.~~ The Board shall notify the road commissioner, school superintendent, police chief, and fire chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.

~~KJ.~~ Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in **Article 1311**.

~~LK.~~ Within thirty (30) days from the public hearing or within sixty (60) days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in **Title 30-A M.R.S.A., §4404** and the standards of these regulations, or the Town of Porter Land Use Ordinance. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board finds that any of the criteria of the ~~statute~~or the standards of these regulations, or the Town of Porter Land Use Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

Comment [PB98]: Cross-referencing

Comment [PB99]: Cross-referencing

**NOTE: The municipal reviewing authority may not accept or approve final plans or final documents prepared within the meaning and intent of Title 32, chapter 141 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in Title 32, section 18226.**

Comment [PB100]: Update to current State Statutes – 30-A Section 4403.

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

### 87.2 Submissions.

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch (1''=100 feet). Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred feet to the inch (1''=200 feet) provided all necessary detail can easily be read. Plans shall be no larger than ~~24 by 36~~ 24x36 inches in size, and shall have a margin of two (2) inches outside of the border line on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two (2) reproducible, stable-based transparencies, one (1) to be recorded at the Registry of Deeds by the applicant, the other to be filed at the municipal office, and three (3) copies of the plan shall be submitted. The applicant may instead submit one reproducible stable-based transparent original of the final plan and one recording plan with three (3) copies of the final plan. In addition, one (1) copy of the final plan, reduced to a size of 8.5x11 ~~8+2 by 11~~ inches or 11 by 17 ~~11x17~~ inches, and all accompanying information shall be mailed ~~to the Code Enforcement Officer and the~~ each Planning Board member no less than seven-ten (10) days prior to the meeting.

The final plan shall include or be accompanied by the following information.

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
- B. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- C. An indication of the type of sewage disposal to be used in the subdivision.
- D. An indication of the type of water supply system(s) to be used in the subdivision.
  1. When water is to be supplied by an existing public water supply, a written statement from the ~~Consumers Maine Water Company~~ water utility provider servicing the area shall be submitted indicating the company has reviewed and approved the water system design. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
  2. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area, and who is certified and registered in the State of Maine.
- E. The date the plan was prepared, north point, graphic map scale.
- F. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- G. The location of any zoning boundaries affecting the subdivision.
- H. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- I. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- J. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. On

**Comment [PB102]:** Prescriptive – companies come and go, this is not the correct name.

**Comment [PB103]:** Prescriptive names are not constants, generalize.

**Comment [PB104]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

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existing and proposed streets, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet, in accordance with the Town of Porter E911 Addressing Ordinance, to aid in assignment of numbers to structures subsequently constructed. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a ~~registered~~ land surveyor registered in the State of Maine. The original reproducible plan shall be embossed with the ~~seal of the State of Maine~~ seal of the State of Maine registered land surveyor and be signed by that individual.

**Comment [PB105]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

**Comment [PB106]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

K. Street plans, meeting the requirements of ~~Section Article 1210-2.B.2.~~

L. A storm water management plan, prepared by a registered professional engineer in accordance with the Maine's Stormwater Best Management Practices Manual (2016) or the current revision at the time the application is submitted Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection (1995) and reviewed by the Oxford County Soil and Water Conservation District. The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than **5%** of the area of the subdivision.

**Comment [PB107]:** Updating

M. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sedimentation Control: Best Management Practices (BMPs) – Manual for Designers and Engineers, October 2016 revision or current revision at the time of application submission Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991 and reviewed by the Oxford County Soil and Water Conservation District. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than **5%** of the area of the subdivision.

**Comment [PB108]:** Updating

N. The width and location of any streets or public improvements or open space shown upon the comprehensive plan, if any, within the subdivision.

O. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.

P. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

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Q. If any portion of the proposed subdivision is in the direct watershed of a great pond, and does not qualify for the simplified review procedure for phosphorus control under **Section 1110.17-A.2**, the following shall be submitted or indicated on the plan.

1. A phosphorus impact analysis and control plan conducted using the procedures set forth in ~~*Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*~~, published by the Maine Department of Environmental Protection, revised September, 1992. ~~Volume 2 of the Maine Stormwater BMP Manual (Reference~~ <https://www.maine.gov/dep/land/stormwater/stormwaterbmps/index.html>) The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the *Technical Guide*.
2. A long-term maintenance plan for all phosphorus control measures.
3. The contour lines shown on the plan shall be at an interval of no less than five (5) feet.
4. Areas with sustained slopes greater than **25%** covering more than one acre shall be delineated.

Comment [PB109]: Updating

R. A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots, ~~and~~ evidence that the applicant has financial commitments or resources to cover these costs, ~~a project schedule from mobilization, construction, through completion of the development prior to the sale of the lots, a list of prior subdivisions completed by the applicant, a list of violations of previous approvals granted to the applicant (including liquidation harvesting of lots with the express intended interest in subdividing), and written documentation of the training and experience of the applicant's consultants and contractors.~~

S. A list of construction and maintenance items, with both capital and annual operating cost estimates; that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

~~- Schools, including busing~~

~~- Street maintenance and snow removal~~

~~- Police and fire protection~~

~~- Solid waste disposal~~

~~- Recreation facilities~~

~~- Storm water drainage~~

~~- Waste water treatment~~

~~- Water supply~~

~~- The applicant shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.~~

T. The location and method of disposal for land clearing and construction debris.



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U. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

**Comment [PB110]:** New State Law updated in this regulation.

V. A Land Use Permit that has been approved or approved with conditions by the Porter Planning Board that meets all applicable performance standards or design criteria within the Porter Land Use Ordinance including but not limited to: Article II (Non-Conforming Situations), Article III (District & Dimensional Requirements), and Article IV (Performance Standards – General Requirements), and Article V (Specific Use) of the Land Use Ordinance.

Examples: Frontage, setbacks, acreage, parking, signage, light, glare, noise, dust, fumes, gases, explosive material, landscape buffering & screening, vegetation removal and revegetation within Shoreland, etc.

**Comment [PB111]:** Coordinated with the Land Use Ordinance

### 87.3 Final Approval and Filing.

A. No plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved Plan within the municipality.

B. Upon findings of fact and determination that all standards in **Title 30-A M.R.S.A., §4404**, ~~and these regulations, and the Town of Porter Land Use Ordinance~~ have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One (1) copy of the signed plan shall be retained by the Board as part of its permanent records. One (1) copy of the signed plan shall be forwarded to the tax assessor. One (1) copy of the signed plan shall be forwarded to the code enforcement officer. Any subdivision not recorded in the Registry of Deeds by the applicant within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void.

**Comment [PB112]:** Cross-referencing

**Comment [PB113]:** Defining roles to avoid confusion and cost

**NOTE:** The municipal reviewing authority may not accept or approve final plans or final documents prepared within the meaning and intent of Title 32, chapter 141 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in Title 32, section 18226.

**Comment [PB114]:** Update to current State Statutes – 30-A Section 4403.

C. At the time the Board grants final plan approval, it may permit the Plan to be divided into (2) two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the plan to be divided into sections to prevent classroom overcrowding. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.



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- D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with **Article 109**. The Board shall make findings that the revised plan meets the criteria of **Title 30-A M.R.S.A., §4404**, ~~and~~ the standards of these regulations, ~~and the Town of Porter Land Use Ordinance~~. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Except in the case of a phased development plan, ***failure to complete substantial construction of the subdivision within five (5) years of the date of approval and signing of the plan shall render the plan null and void.*** Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

Comment [PB115]: Cross-referencing

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**ARTICLE ~~9-8~~ - REVISIONS TO APPROVED PLANS**

**98.1 Procedure.**

An applicant for a revision to a previously approved plan shall, by the first day of the month prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

**98.2 Submissions.**

The applicant shall submit a copy of the approved plan as well as three (3) copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and, the criteria of the statute, and the Town of Porter Land Use Ordinance. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

**98.3 Scope of Review.**

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

**8.4 Public Hearings.**

Public hearings are not required for minor revisions to approved plans that do not create additional lots or dwelling units. All monthly Planning Board Meetings are posted and public.

**Article ~~10-9~~ - Inspections and Enforcement**

**109.1 Inspection of Required Improvements.**

A. At least (5) five days prior to commencing construction of required improvements, the subdivider or builder shall:

1. Notify the code enforcement officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.

**Comment [DDS117]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees

**Comment [DDS118]:** Move to a Fee Document Chart for all LUO, Subdivision, and building code Fees

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- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the municipal officers, Board, and the subdivider and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.
- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. ***For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 98.***
- D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By October 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations, the Town of Porter Land Use Ordinance, and State of Maine standards. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. “As built” plans shall be submitted to the municipal officers.
- G. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners’ association.

Comment [PB119]: Cross referencing

### ~~109.2~~ Violations and Enforcement.

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with these regulations.
- B. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.

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- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.
- G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of **Title 30-A M.R.S.A., §4452**.

## ARTICLE ~~11~~10 - PERFORMANCE & DESIGN STANDARDS

The ~~performance~~performance and design standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute (**Title 30-A M.R.S.A., §4404**). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following ~~performance~~ standards and make findings that each has been met prior to the approval of a final plan. Compliance with the ~~design guidelines~~regulations of ~~this~~ Article ~~12~~ shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the ~~design guidelines~~regulations of ~~this~~ Article ~~12~~ may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

## ARTICLE ~~12~~ – ~~design guidelines~~

~~This article is intended to provide an example of design guidelines, which if followed will result in meeting the appropriate performance standards of Article 11. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this article may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.~~

### 10.1 Basic Subdivision Layout

#### Blocks.

Where street lengths exceed one thousand (1,000) feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least twenty (20) feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five (5) feet in width constructed in accordance with design standards in ~~Section~~this

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

~~article 12.3.B.2.j0.~~ Maintenance obligations of the easement shall be included in the written description of the easement.

Comment [PB120]: Missing regs – State Law, reintroduce

12.6

### Lots.

- A. Wherever possible, side lot lines shall be perpendicular to the street.
- B. The subdivision of tracts into parcels *with more than twice the required minimum lot size* shall be laid out in such a manner as either to provide for or preclude future division. *Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of these regulations and conditions placed on the original approval.*
- C. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it *may not* be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
- D. **The ratio of lot length to width shall not be more than three to one (3:1). Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.**
- E. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board. Municipal Addressing Officer.

### F. WITHIN the Saco River Corridor (eg. 1000 feet of floodplain, 500 feet of the Ossipee River):

- a.) All proposed single family lots shall be plotted in a sketch plan in a reasonable pattern which makes provision for placement of a 24 x 32 foot single family residence on suit-able land and in conformance with the frontage and setback requirements of the Limited Residential District and all other applicable performance standards.
- b.) The minimum setback of the multi-unit residential dwelling shall be not less than the average of the setback distances of all single family residences in the submitted sketch plan.
- c.) No multi-unit residential dwelling allowed under this standard shall be more than two (2) stories or thirty-five (35) feet in height.

12.7

### Utilities.

Utilities serving major subdivisions in areas designated by the comprehensive plan as growth areas shall be installed underground. Utilities serving lots with a street frontage of 125 feet or less less than three hundred (300) feet shall also be installed underground. ~~The Board may approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the comprehensive plan.~~

Comment [DDS121]: There is no planned growth areas in Porter and subdivisions are permitted in all districts, except Resource Protection

Comment [DDS122]: The Town has not updated planning every five years, nor updated the plan in 27 years. Outdated financial targets will be exploited and cause accelerated speculation,

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

### ~~12.8~~ Monuments.

- A. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than seven hundred fifty (750) feet apart along street lines without curves or intersections.
- B. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is one hundred thirty-five degrees (135°) or less.
- C. Stone or concrete monuments shall be a minimum of four inches (4'') square at the top and four (4) feet in length, and set in the ground at final grade level. After they are set, drill hole  $\frac{1}{2}$  one half inch (1/2'') deep shall locate the point or points described above.
- D. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the *Maine Board of Registration of Land Surveyors*.

### ~~11.10.2~~ Sufficient Water.

#### A. Water Supply.

1. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant in accordance with the rules of the Public Utilities Commission. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the water utility provider servicing the area Consumers Maine Water Company and the fire chief.
2. When a proposed subdivision is not to be served by a public water system, water supply shall be from individual wells or a private community water system.
  - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
  - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and, the Well Drillers and Pump Installers Rules, and the Town of Porter Land Use Ordinance.
  - c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (**10-144A C.M.R. 231**).

Comment [PB123]: Prescriptive, companies come and go, not proper name

Comment [PB124]: Cross-referencing

#### B. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the *Maine Rules Relating to Drinking Water*. If existing water quality contains contaminants in excess of the secondary drinking water standards in the *Maine Rules Relating to Drinking Water*, that fact shall be disclosed in a *note on the plan to be recorded in the Registry of Deeds*.

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

### ~~11.3.~~ **C. Impact on Existing Water Supplies.**

In meeting the standards of ~~Section Article 11.10.2.A~~, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the water utility service provider in the region Consumers Maine Water Company beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the company's system as necessary to alleviate existing deficiencies.

Comment [PB125]: Prescriptive, companies come and go, not proper name

### ~~12.1.~~ **Sufficient Water.**

#### ~~A.D.~~ **Well Construction.**

1. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one (1) acre. On lots of one (1) acre or smaller, the applicant shall prohibit dug wells by *deed restrictions and a note on the plan.*
2. Wells shall not be constructed within one hundred (100) feet of the traveled way of any street, if located downhill from the street, or within fifty (50) feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a *note on the plan and deed restriction to the effected lots.*

#### ~~B.E.~~ **Fire Protection.**

1. Fire hydrants connected to a public water supply system shall be located no further than five hundred (500) feet from any building.
2. A minimum storage capacity of ten thousand (10,000) gallons shall be provided for a subdivision not served by a public water supply. Additional storage of two thousand (2,000) gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the fire chief. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three (3) feet of ice.
3. Hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six (6) inches.
4. Where the dry hydrant or other water source is not within the right-of-way of a proposed or existing street, an easement to the municipality shall be provided to allow access. A suitable accessway to the hydrant or other water source shall be constructed.

### ~~11.410.3~~ **Soil Erosion, Erosion & Sedimentation and Impact on Water Bodies**

- A. The proposed subdivision shall prevent soil erosion from entering waterbodies, wetlands, and adjacent properties.

### ~~11.11.~~ **Impact on Water Quality or Shoreline.**

- ~~B.~~ Cutting or removal of vegetation along waterbodies shall not increase water temperature, result in shoreline erosion or sedimentation of waterbodies.

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

~~B.C.~~ The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

~~C.D.~~ Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

### ~~11.6~~10.4 Sewage Disposal.

A. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the *State of Maine Subsurface Wastewater Disposal Rules*.

1. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to a disposal area on soils which meet the *Disposal Rules*.
2. On lots in which the limiting factor has been identified as being within twenty-four (24) inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be ***shown on the plan and restricted*** so as not to be built upon.
3. In ~~no~~ NO instance shall a disposal area be on a site which requires a *New System Variance* from the *Subsurface Wastewater Disposal Rules*.

### ~~11.7~~10.5 Solid Waste.

A. If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five (5) years.

### ~~11.8~~10.6 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

#### A. Preservation of Natural Beauty and Aesthetics.

1. The plan shall, by notes on the ***final plan and deed restrictions***, limit the clearing of trees to those areas designated on the plan.
2. ***Except in areas of the municipality designated by the comprehensive plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads.***
3. The Board ~~may~~ requires the application to include a landscape plan that will show the preservation of any existing trees larger than twenty-four (24) inches diameter breast height, the replacement of trees and vegetation, and graded contours.
4. When a proposed subdivision street traverses open fields the plans shall include the planting of street trees.



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- ~~28.~~ 5. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

NOTE: For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

### C. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. Two-hundred fifty (250) feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife or the comprehensive plan as:
  - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
  - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas; or
2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor; or
3. ~~Or~~ Other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas; or
4. Any portion within riparian, plant, or animal habitats identified in *Beginning With Habitat mapping*.

the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected

Comment [PB126]: Updating information references

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

~~E.D.~~ Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.

### ~~EE.~~ Protection of Significant Wildlife Habitat and Important Habitat Areas.

The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources identified in ~~Section Article 1110.8.C.~~

#### 1. Protection of Habitat of Endangered or Threatened Species.

- a. Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.
- b. Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within two hundred fifty (250) feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.

#### 2. Protection of Waterfowl, and Wading Bird Habitat.

- a. There shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet inland from the normal high-water mark of the following habitat areas:
  1. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas; or
  2. Other important habitat areas identified in the comprehensive plan; or  
3. *Beginning With Habitat* riparian, plant, and animal habitat maps.
- b. This restriction shall appear as a *note on the plan and as a deed restriction to the affected lots.*

#### 3. Protection of Deer Wintering Areas.

The report prepared by a wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas and consider *Beginning With Habitat* animal habitat maps.

#### 4. Protection of Important Shoreland Areas.

- a. Except as in areas described in ~~Section 1210.3.C.2~~, within all areas subject to the state mandated two hundred fifty (250) foot shoreland zone:

Comment [PB127]: Updating informative reference databases

Comment [PB128]: Updating informative reference databases

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1. Tree removal shall be limited to no more than forty percent (40%) of the volume of trees four (4) inches or more in diameter measured at 4'-6''4-1/2 feet above the ground level on any lot in any ten (10) year period.
2. Cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, twenty-five percent (25%) of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed.
- b. *These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.*
5. If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife ~~or, the comprehensive plan, or~~ Beginning With Habitat riparian, plant, and animal habitat maps, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

Comment [PB129]: Updating informative reference databases

### 12.3F. **Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.**

#### A. **Preservation of Natural Beauty and Aesthetics.**

1. A subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifty (50) feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
2. Building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of building when viewed from existing public streets.
3. When a proposed subdivision 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 fifty (50) feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.
4. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty (50) feet apart.

### 11.910.7 **Conformance with Zoning Ordinance and Other Land Use Ordinances.**

*All lots shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the land use ordinance.*

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Applicable performance standards or design criteria include, but are not limited to: Article II (Non-Conforming Situations), Article III (District & Dimensional Requirements), and Article IV (Performance Standards – General Requirements) and Article V (Specific Use) of the Land Use Ordinance. The Subdivision applicant will have to apply for a land use permit from the Town of Porter.

**Examples:** Frontage, setbacks, acreage, parking, signage, light, glare, noise, dust, fumes, gases, explosive material, landscape buffering & screening, vegetation removal and revegetation within Shoreland, etc.

**Comment [PB130]:** Coordinated with the Land Use Ordinance

### **11.10.8 Financial and Technical Capacity.**

#### **A. Financial Capacity.**

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute ~~and~~, the standards of these regulations, and the Town of Porter Land Use Ordinance. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

**Comment [PB131]:** Cross-referencing

#### **B. Technical Ability.**

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the *applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.*

### **11.12.10.9 Impact on Ground Water Quality or Quantity.**

#### **A. Ground Water Quality.**

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
  - a. A map showing the basic soils types.
  - b. The depth to the water table at representative points throughout the subdivision.
  - c. Drainage conditions throughout the subdivision.
  - d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of one thousand (1,000) feet from potential contamination sources, whichever is a shortest distance.

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

- f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within two-hundred (200) feet of the subdivision boundaries.
  2. Projections of ground water quality shall be based on the assumption of drought conditions (*assuming 60% of annual average precipitation*).
  3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the *Primary Drinking Water Standards*. No subdivision shall increase any contaminant concentration in the ground water to more than the *Secondary Drinking Water Standards*.
  4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
  5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
  6. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, ***those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.***
- B. Ground Water Quantity.
1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
  2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

Comment [PB132]: Need to confirm accuracy

### **11-1310.10 Floodplain Management.**

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact **shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.**

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### ~~11.14.10.11~~ Identification of Freshwater Wetlands.

Freshwater wetlands shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers, and the U.S. Fish & Wildlife Service "National Wetlands Inventory".

Comment [PB133]: Updating references and data sets

### ~~11.15.10.12~~ Storm Water Management.

A. Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, storm drains and best management practices equivalent to those described in the *Maine's Stormwater Best Management Practices Manual (2016) or the current revision at the time the application is submitted* ~~*Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995)~~, in conformance with the policies of the comprehensive plan. The storm water management system shall be designed to meet the following standards:

Comment [PB134]: Updating

#### 1. Quantity.

Peak discharge rates shall be limited to the predevelopment levels for the 2-year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean.

#### 2. Quality.

##### a. Major Subdivisions.

Storm water run-off in major subdivisions must be treated by the use of best management practices equivalent to those described in the ~~*Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995~~ *Maine's Stormwater Best Management Practices Manual (2016) or the current revision at the time the application is submitted*, ~~to achieve, by design, 40% reduction in total suspended solids.~~

Comment [PB135]: Updating

Comment [PB136]: BMP guideline, this is prescriptive

##### b. Minor Subdivisions.

Storm water run-off in minor subdivisions must be treated by the use of best management practices equivalent to those described in the ~~*Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995~~ *Maine's Stormwater Best Management Practices Manual (2016) or the current revision at the time the application is submitted*, ~~to achieve, by design, 15% reduction in total suspended solids.~~

Comment [PB137]: Updating

Comment [PB138]: BMP guideline, this is prescriptive

B. Where necessary to achieve the above standards, there shall be provided ***easements or drainage rights-of-way*** with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

### ~~11.1.~~ **C. Pollution.**

- ~~A~~**1.** The proposed subdivision shall not discharge waste water to a water body without a license from the Maine Department of Environmental Protection.
- ~~B~~**2.** Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface waterbodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.

### ~~12.4D.~~ **Storm Water Management Design Guidelines.**

- ~~A~~**1.** Design of best management practices shall be substantially equivalent to those described in the Maine's Stormwater Best Management Practices Manual (2016) or the current revision at the time the application is submitted Storm Water Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995.
- ~~B~~**2.** Drainage easements for existing water courses or proposed drainage ways shall be provided at least thirty (30) feet wide, conforming substantially with the lines of existing natural drainage.
- ~~C~~**3.** The minimum pipe size for any storm drainage pipe shall be fifteen (15) inches for driveway entrances and eighteen (18) inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three (3) inches, lumps of clay, or organic matter, reaching a minimum of six (6) inches below the bottom of the pipe extending to six (6) inches above the top of the pipe.
- ~~D~~**4.** Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.

Comment [PB139]: Updating

### ~~E~~**5. Storm Drainage Construction Standards.**

#### **1. Materials.**

- a. Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications **Section 706** for non-metallic pipe and **Section 707** for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street underdrains. Bituminous-coated steel pipes shall not be used.
- b. Where the storm drainage pipe is to be covered by ten (10) feet or more of fill material, pipe material with a fifty (50) year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, and corrugated aluminum alloy pipe.
- c. Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.

#### **2. Pipe Gauges.**

Metallic storm drainage pipe shall meet the thickness requirements of Table ~~12.410.12-1~~, depending on pipe diameter:

Table 12.4 1. Culvert Size and Thicknesses Material

**SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE**

<del>Inside Diameter</del>	<del>Galvanized CMP</del>	<del>Aluminum/Zinc Coated CMP</del>	<del>Aluminum Coated CMP</del>
<del>Inside Diameter</del>	<del>Corrugated Aluminum Alloy</del>	<del>Polymer Coated CMP</del>	<del>Polymer Coated CMP</del>
15" to 24"	14 ga.		16 ga.
30" to 36"	12 ga.		14 ga.
42" to 54"	10 ga.		12 ga.
60" to 72"	8 ga.		10 ga.

Comment [DDS140]: reformatted - not changed

**Table 12.410.12-1. Culvert Size and Thicknesses Material**

Inside Diameter	Galvanized or Aluminim/Zinc Coated CMP OR Corrugated Aluminum Allow	Aluminum or Polymer Coated CMP
15" - 24"	14 ga.	16 ga.
30" - 36"	12 ga.	14 ga.
42" - 54"	10 ga.	12 ga.
60" - 72"	8 ga.	10 ga.

3. Drain inlet alignment shall be straight in both horizontal and vertical alignment ~~unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the municipal engineer.~~
4. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of four hundred (400) foot intervals.

Comment [DDS141]: We don't have a municipal engineer.

~~F6.~~ Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean ~~until final acceptance.~~

Comment [PB142]: Goes without saying and beyond.

**10.13 POLLUTION/IMPACTS ON WATER BODIES AND SHORELAND**

**11.11 Pollution.**

- A. The proposed subdivision shall not discharge waste water to a water body without a license from the Maine Department of Environmental Protection.
- B. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface waterbodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.

**12.5.2 Impact on Water Quality or Shoreline.**

Within a strip of land extending one hundred (100) feet inland from the normal high-water line of a great pond or any tributary to a great pond, and seventy-five (75) feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. *The deeds and plans to any lots which include any such land shall contain the following restrictions.*



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- A. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six (6) feet.
- B. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. No more than forty percent (40%) of the total volume of trees four (4'') inches or more in diameter, measured at 4'-6'' ~~+2 feet~~ above ground level may be removed in any ten (10) year period.
- C. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
- D. Pruning of tree branches, on the bottom third (3<sup>rd</sup>) of the tree is permitted.

### ~~11.173~~ Phosphorus Impacts on Great Ponds.

#### A. Phosphorus Export.

- 1. Any subdivision within the watershed of a great pond shall limit its post development phosphorus export in accordance with the intent of the Town of Porter Comprehensive Plan to the standards contained in Table 11.17.1, dependent on the great pond in whose watershed the subdivision is located.

~~The Board-Town~~ shall keep an accurate record of subdivision permits issued by watershed and shall notify the comprehensive planning committee of the actual development rates at five year intervals, as the comprehensive plan is revised. The above table shall be amended as required by amendments to the comprehensive plan, reflecting changes in expected development rates.

Comment [PB143]: Cross referencing with Comp Plan

Comment [DDS144]: Does not exist.

Comment [PB145]: Should this be removed – it has never been done, nor does the town have the resources to assure it will be done.

- 2. **Simplified Phosphorus Review.**

The simplified review may be used for a

- a. Proposed subdivision of three (3) or four (4) lots with less than two hundred (200) feet of new or upgraded street with a cumulative driveway length not to exceed four hundred fifty (450) feet for a three (3) lot subdivision or six hundred (600) feet for a four (4) lot subdivision;
- b. Proposed subdivision of three (3) or four (4) lots with no new or upgraded street with a cumulative driveway length not to exceed nine hundred fifty (950) feet for three (3) lot subdivisions or one thousand one hundred (1,100) feet for four (4) lot subdivisions; or
- c. Proposed subdivision consisting of multi-family dwellings that have less than twenty thousand (20,000) square feet of disturbed area including building parking, driveway, lawn, subsurface waste water disposal systems, and infiltration areas, and new or upgraded streets not exceeding two hundred (200) linear feet.

Comment [DDS146]: conflicted with the Land Use Ordinance – verify LUO corrected

Comment [DDS147]: conflicts with LUO definition of driveway – verify LUO corrected

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A proposed subdivision which creates lots which could be further divided such that five (5) or more lots may result shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.

### 3. Standard Review.

This section shall apply to proposed subdivisions which do not qualify for the simplified review. Phosphorus export from a proposed development shall be calculated according to the procedures in ~~Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, revised September, 1992. Volume 2 of the Maine Stormwater BMP Manual (Reference - https://www.maine.gov/dep/land/stormwater/stormwaterbmps/index.html)~~ When a proposed subdivision creates lots which are more than twice the required minimum lot size and there are no deed restrictions proposed to prohibit future divisions, the applicant shall either calculate phosphorus loading based on the maximum feasible number of lots, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.

Comment [PB148]: Updating

### 4. Maintenance and Use Restrictions for Phosphorus Control Measures.

Provisions for monitoring, inspections, and maintenance of phosphorus control measures shall be included in the application.

#### a. Vegetative Buffer Strips.

Individual lot owners shall be required to maintain buffer areas on their individual lots in accordance with the following standards, to be specified in recorded deed restrictions and as notes on the plan. Where a vegetative buffer strip is to be owned in common by property owners in the subdivision, documentation establishing the lot owners' association shall include the following standards.

##### i. Wooded Buffers.

Maintenance provisions for wooded buffers shall provide for either of the following two options.

##### (a) No Disturbance.

Maintenance and use provisions for wooded buffer strips which are located on hydrologic soil group D soils ~~and~~, within 250 feet of the great pond or a tributary, or which are located on slopes over 20% shall include the following.

- [1] Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.
- [2] All existing undergrowth (vegetation less than four (4) feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact, except that one winding walking path, no wider than six (6)

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feet, is allowed through the buffer. This path shall ~~not~~**NOT** be a straight line to the great pond or tributary and shall remain stabilized.

- [3] Pruning of live tree branches that do not exceed twelve (12) feet above the ground level is permitted provided that at least the top two-thirds (2/3<sup>rd</sup>) of the tree canopy is maintained.
- [4] No cutting is allowed of trees except for normal maintenance of dead, wind blown, or damaged trees.
- [5] Buffers shall not be used for all-terrain vehicle or vehicular traffic.

### (b) **Limited Disturbance.**

Maintenance and use provisions for other buffer strips may include the following:

- [1] There shall be no cleared openings. An evenly distributed stand of trees and other vegetation shall be maintained.
- [2] Activity within the buffer shall be conducted to minimize disturbance of existing forest floor, leaf litter and vegetation less than four (4) feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.
- [3] Removal of vegetation less than four (4) feet in height is limited to that necessary to create a winding foot path no wider than six (6) feet. This path shall ~~not~~**NOT** be a straight line to the great pond or a tributary. The path must remain stabilized.
- [4] Pruning of live tree branches that do not exceed twelve (12) feet in height above the ground level is permitted provided that at least the top two-thirds (2/3<sup>rd</sup>) of the tree canopy is maintained.
- [5] Where the removal of storm-damaged, diseased, unsafe, or dead trees results in a cleared opening, those openings shall be replanted with native trees at least three (3) feet in height unless existing new tree growth is present.
- [6] Buffers shall not be used for all terrain vehicle or vehicular traffic.

### ii. **Non-wooded Buffers.**

- (a) Non-wooded buffers may be allowed to revert or to be planted to forest, in which case the standards above shall apply.
- (b) A buffer must maintain a dense, complete and vigorous cover of “non-lawn” vegetation which shall be mowed no more than **once** a year. Vegetation may include grass, other herbaceous species, shrubs and trees.

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- (c) Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.
- (d) Buffers shall not be used for all-terrain vehicles or other vehicular traffic.

### b. Infiltration Systems.

Individual lot owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in Volume 2 of the Maine Stormwater BMP Manual (Reference - <https://www.maine.gov/dep/land/stormwater/stormwaterbmps/index.html>), Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, revised September, 1992. **Requirements for maintenance shall be included in deed restrictions and as notes upon the plan.** As an alternative to maintenance by individual lot owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement. Where infiltration systems serve more than one lot, **a lot owners' association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association.**

Comment [PB149]: Updating

### c. Wet Ponds.

A lot owners' association shall be established to maintain wet ponds, unless ~~the municipality or~~ some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a ~~public-private~~ entity shall include the maintenance standards specified in the manual Volume 2 of the Maine Stormwater BMP Manual (Reference - <https://www.maine.gov/dep/land/stormwater/stormwaterbmps/index.html>), Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, revised September, 1992.

Comment [PB150]: Not recommended for a small town without resources to assume the liability and management burden, or land taken off tax rolls.

Comment [PB151]: Updating

## ~~12.104~~ Phosphorus Export in Great Ponds.

- A. When a proposed subdivision is within the direct watershed of a great pond and qualifies for the simplified review procedure, buffer strips shall be provided in accordance with the ~~tables in the appendix~~ following table. Buffer strips shall be provided on the downhill side of all lots along all tributaries to great ponds and along the great pond.

Comment [DDS152]: It was not provided to applicants of the PB

The minimum required width of buffer strips are designated in the ~~tables~~ Table 121.11-1 below and depend on the watershed in which the proposed subdivision is located, the size of the lot, the hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot.

**Table ~~121.11-1~~ Buffer Strip Widths in Watershed of Hypothetical Pond**

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Phosphorus Standard: 0.07 - 0.08 lbs./acre Buffer Width (ft.) per lot			
Lot Size	H.S.G*	Clearing Restricted to 12,500 sq. ft.	No Clearing Restrictions
< 1 Acre	A	75	85
< 1 Acre	B	130	150
< 1 Acre	C	NA	NA
< 1 Acre	D	NA	NA
1-1.99 Acres	A	25	25
1-1.99 Acres	B	25	55
1-1.99 Acres	C	55	190
1-1.99 Acres	D	200	NA
2-2.99 Acres	A	25	25
2-2.99 Acres	B	25	25
2-2.99 Acres	C	25	50
2-2.99 Acres	D	25	200

H.S.G.\* - Hydrologic Soil Group

All lots three (3) acres and larger shall provide a minimum twenty five (25) foot buffer.

B. When the proposed subdivision is within the direct watershed of a great pond and does not qualify for simplified review, the phosphorus control measures shall meet the design criteria in Volume 2 of the Maine Stormwater BMP Manual (Reference - <https://www.maine.gov/dep/land/stormwater/stormwaterbmps/index.html>) Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, revised September, 1992.

Comment [PB153]: Updating

**~~11.1610.14 Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.~~ OPEN SPACE AND COMMON LAND**

A. All open space common land, facilities and property shall be owned by:

1. The owners of the lots or dwelling units by means of a lot owners' association;
2. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or

~~3. The municipality.~~

Comment [PB154]: Liability and removing land from tax rolls not recommended.

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- B. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a **conservation easement** deeded to the municipality prohibiting future development.
- C. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
1. It shall not be used for future building lots; and
  2. ~~Which portions of the open space, if any, may be dedicated for acceptance by the municipality.~~
- D. The final plan application shall include the following:
1. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
  2. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
  3. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
- E. In combination, the documents referenced in paragraph D above shall provide for the following.
1. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
  2. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
  3. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
  4. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.
- F. **Retention of Open Spaces and Natural or Historic Features.**
1. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive ~~plan or~~ the Maine Natural Areas Program, ~~or~~ *Beginning With Habitat* riparian, plant, and animal habitat maps, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

Comment [PB155]: Liability and removing land from tax rolls not recommended.

Comment [PB156]: Updating informational references

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2. If any portion of the subdivision is designated a site of historic, historically notable, or prehistoric importance by the comprehensive plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.
3. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics.
4. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.

~~5. Reserved open space land may be dedicated to the municipality.~~

~~6. Where land within the subdivision is not suitable or is insufficient in amount, where the applicant prefers, or when suggested by the comprehensive plan, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.~~

### ~~12.3 B.G.~~ Retention of Open Spaces and Natural or Historic Features.

1. The subdivision shall reserve between 5% and 10-% of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the needs identified in the comprehensive plan ~~or recreation plan~~ for open space or recreation facilities in the neighborhood surrounding the subdivision and the policies of the plan for meeting those needs; the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.
2. Subdivisions with an average density of more than three (3) dwelling units per acre shall provide no less than fifty percent (50%) of the open space as usable open space to be improved for ball fields, playgrounds or other similar active recreation facility. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one (1) or more streets of at least two hundred (200 feet), and have no major dimensions of less than two hundred (200) feet.
3. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five (25) feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.

**Comment [PB157]:** Acknowledges Comp Plan and 200 Years Journal

**Comment [PB158]:** Not recommended to take land off of tax rolls or receive a buy-out to induce non-conforming development.

**Comment [DDS159]:** There is no recreation plan in Porter, infrastructure and development does not exist

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4. Proposed subdivisions which include or are adjacent to buildings or sites on the National Register of Historic Places or which the comprehensive plan has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission and the Parsonsfield-Porter Historical Society in reviewing such plans.

**Comment [PB160]:** Acknowledging a society taxpayers pay for who care about this.

### **11.510.15 Traffic Conditions and Streets.**

- A. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
  1. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
  2. Avoid traffic congestion on any street; and
  3. Provide safe and convenient circulation on public streets and within the subdivision.
- B. More specifically, access and circulation shall also conform to the following standards.
  1. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to “E” or below, unless the comprehensive plan has indicated that Levels of Service “E” or “F” are acceptable for that street or intersection.
  2. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycleways and traffic controls within existing public streets.
  3. Accessways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.
  4. Where topographic and other site conditions allow, *provision shall be made for street connections to adjoining lots of similar existing or potential use within areas of the municipality designated as growth areas in the comprehensive plan*, or in non-residential subdivisions when such access shall be provided if it will:
    - a. Facilitate fire protection services as approved by the fire chief; or
    - b. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.
5. **Street Names, Signs and Lighting.**



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Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Board. The developer shall ~~either install street name, traffic safety and control signs meeting municipal specifications this regulation and the Town of Porter Land Use Ordinance or reimburse the municipality for the costs of their installation.~~ Street lighting shall be installed as approved by the Board.

**Comment [PB161]:** Define roles and responsibilities – not deferring start-up costs to the municipality

### 6. Clean-up.

Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

### 7. Engineering.

~~Traffic safety signage, traffic control signage, streets, and street lighting analysis and design for Major Subdivisions shall be designed by a Professional Engineer registered in the State of Maine, and depicted on the plans for Final Approval.~~

**Comment [PB162]:** Missing section to cover a need by the board to administer the application

## ~~12.2.~~ 8. Traffic Conditions and Street Design.

### A. Access Control.

1. Where a subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be *noted on the plan and in the deed of any lot with frontage on the arterial street*
2. Where a lot has frontage on two (2) or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as *a note on the plan and as a deed restriction to the affected lots*.
3. **Subdivision Access Design for Subdivisions Entering onto Arterial Streets.**

When the access to a subdivision is a street, the street design and construction standards of ~~this Section Article 12.2.B~~ below shall be met. Where there is a conflict between the standards in this section ~~and the standards of Section 12.2.B~~, the stricter or more stringent shall apply.

#### a. General.

Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the ~~Trip generation rates used shall be taken from Trip Generation Manual, the most current addition at the time the application is submitted Trip Generation Manual, 1991 edition,~~ published by the Institute of Transportation Engineers.

**Comment [PB163]:** This manual has been updated ten times since introduced.

1. ~~Low~~ ~~v~~Volume ~~a~~Access: An access with fifty (50) vehicle trips per day or less.

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2. **Medium** ~~v~~Volume ~~a~~Access: Any access with more than fifty (50) vehicle trips per day but less than two hundred (200) peak hour vehicle trips per day.
3. **High** ~~v~~Volume ~~a~~Access: Peak hour volume of two hundred (200) vehicle trips or greater.

### b. Sight Distances.

Accesses shall be located and designed in profile and grading to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten (10) feet behind the curblineline or edge of shoulder, with the height of the eye ~~3'-2.3'-6''~~ feet, to the top of an object 4'-3'' ~~4'-4'~~ feet above the pavement. ~~The required sight distances are listed by road width and for various posted speed limits.~~

#### Two Lane Roads.

A minimum sight distance of ten (10) feet for each mile per hour of posted speed limit shall be maintained or provided for all new roads. The required sight distances are listed by road width and for various posted speed limits in section 121.2.B.i.3.

**Comment [PB164]:** Coordination with LUO for significant developments and measuring criteria.

### c. Vertical Alignment.

Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of ~~3~~-three percent (3%) or less for at least seventy-five (75) feet. The maximum grade over the entire length shall not exceed ten percent (10%).

### d. Low Volume Accesses.

#### 1. Skew Angle.

**Low** volume accesses shall be two-way operation and shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.

#### 2. Curb Radius.

The curb radius shall be between 10 feet and 15 feet, ~~with a preferred radius of 5 feet.~~

#### 3. Access Width.

The width of the access shall be between 20 feet and 24 feet, ~~with a preferred width of 20 feet.~~

**Comment [PB165]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

### e. Medium Volume Accesses.

#### 1. Skew Angle.

**Medium** ~~v~~Volume ~~a~~Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly ninety degrees (90°) as site conditions permit, but in no case less than sixty degrees (60°).

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### 2. Curb Radius.

Curb radii will vary depending if the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, ~~with a preferred radius of 30 feet.~~ On one way accesses, the curb radii shall be thirty (30) feet for right turns into and out of the site, with a five (5) foot radius on the opposite curb.

**Comment [PB166]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

### 3. Width.

On a two-way access the width shall be between 24 and 26 feet, ~~with a preferred width of 26 feet,~~ however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, ~~with a preferred width of 16 feet.~~

**Comment [PB167]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

**Comment [PB168]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

### 4. Curb-Cut Width.

On a two-way access the curb-cut width shall be between 74 feet and 110 feet ~~with a preferred width of 86 feet.~~ On a one-way access the curb-cut width shall be between 46 feet and 70 feet ~~with a preferred width of 51 feet.~~

**Comment [PB169]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

## f. High Volume Accesses.

### 1. Skew Angle.

High ~~v~~Volume ~~a~~Accesses shall intersect the road at an angle as nearly to ninety (90°) as site conditions permit, but in no case less than sixty degrees (60°).

**Comment [PB170]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

### 2. Curb Radius.

Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.

### 3. Curb Cut Width.

Without channelization, curb-cut width shall be between 106 feet and 162 feet ~~with a preferred width of 154 feet.~~ With channelization, the curb-cut width shall be between 196 feet and 262 feet ~~with a preferred width of 254 feet.~~

**Comment [PB171]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

4. Entering and exiting accesses shall be separated by a raised median which shall be between six (6) feet and ten (10) feet in width. Medians separating traffic flows shall be no less than 25 feet in length, ~~with a preferred length of 100 feet.~~

**Comment [PB172]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

**Comment [PB173]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

### 5. Width.

Access widths shall be between 20 feet and 26 feet on each side of the median, ~~with a preferred width of 24 feet.~~ Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet, ~~with a preferred width of 20 feet.~~

**Comment [PB174]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

**Comment [PB175]:** Coordinated with these regulations and the LUO. Either provide flexibility, or don't (not both)

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6. Appropriate traffic control signage shall be erected at the intersection of the access and the street and on medians and channelization islands.

**g. Access Location and Spacing.**

**1. Minimum Corner Clearance.**

Corner clearance shall be measured from the point of tangency for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed in **Table 1210.15-2-1**, based upon access volume and intersection type.

Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

**Table 12.2 1. Minimum Standards for Corner Clearance**  
**Minimum Corner Clearance (feet)**

Access Type	Intersection	Intersection
	Signalized	Unsignalized
Low Volume	150	50
Medium Volume	150	50
High Volume	500	250
Special Case		
Right turn in only	50	50
Right turn out only	100	50
Right turn in or out only	100	50

**Comment [DDS176]:** redundant and confactory - wasting time and resources interpreting. Standardize to 100/50.

Access Type	Minimum Corner Clearance (in Feet)	
	Signalized Intersection	Unsignalized Intersection
Low volume	150	50
Medium volume	150	50
High volume	500	250
Right turn in or out ( <i>Special Case</i> )	100	50

**2. Access Spacing.**

Accesses and street intersections shall be separated from adjacent accesses, streets and property lines as indicated in **Table 1210.15-2**, in order to allow major through routes to effectively serve their primary function of conducting

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through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.

**3. Distance to property lines.**

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

Comment [PB177]: Coordinated with LUO

**Table 12.2 2. Minimum Access Spacing**

Access Type	Minimum Spacing to Property Line (Dpl) <sup>1</sup>	Minimum Spacing to Adjacent Access by Access Type <sup>2</sup> (Dsp) <sup>3</sup>			
	(feet)	Medium	High w/o RT*	High w/RT**	Special Case
Low Volume	5	-	-	-	-
Medium Volume	10	75	-	-	-
High Volume (w/o RT)*	75	75	150	-	-
High Volume (w/ RT)**	75	75	250	500	-
Special Case	10	75	75	75	40***

<sup>1</sup>Dpl measured from point of tangency of access to projection of property line on roadway edge.

<sup>2</sup>For two more accesses serving a single parcel, or from a proposed access from an existing access.

<sup>3</sup>Dsp measured from point of tangency of access to point of tangency of adjacent access.

\* High volume access without right turn channelization

\*\* High Volume access with right turn channelization

\*\*\* Right turn in only upstream of right turn out only. Right turn out followed by right turn in not allowed.

Access Type	Minimum Spacing (feet) to Property Line (Dpl) <sub>1</sub>	Minimum Spacing (feet) to Adjacent Access by Access Type <sub>2</sub> (Dsp) <sub>3</sub>			
		Medium	High w/o RT*	High w/RT**	Special Case
Low Volume	5	-	-	-	-
Medium Volume	10	75	-	-	-
High Volume (w/o RT)*	75	75	150	-	-
High Volume (w/ RT)**	75	75	250	500	-

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Special Case (right turn IN or OUT)	10	75	75	75	40***
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- 1 - Dpl measured from point of tangency of access to projection of property line on roadway edge
- 2 - For two (2) more accesses serving a single parcel, or from a proposed access from an existing access
- 3 - Dsp measured from point of tangency of access to point of tangency of adjacent access

- \* - High volume access without right turn channelization
- \*\* - High Volume access with right turn channelization
- \*\*\* - Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed

**h. Number of Accesses.**

The maximum number of accesses on to a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

1. No low volume traffic generator shall have more than one two-way access onto a single roadway.
2. No medium or high volume traffic generator shall have more than two (2) two-way accesses or three (3) accesses in total onto a single roadway.

**i. Construction Materials/Paving.**

1. All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.
2. All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses, regardless of access volume, shall be paved with bituminous concrete pavement within thirty (30) feet of the street right-of-way.

**B. Street Design and Construction Standards.**

**1. General Requirements.**

- a. The Board shall not approve any subdivision plan unless proposed streets are designed by a professional engineer licensed in the State of Maine in accordance with any local ordinance or the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
- b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within three hundred (300) feet of any proposed intersections. The plan view shall be at a scale of one (1) inch equals no more than fifty (50) feet (1" = 50 feet). The vertical scale of the profile shall be one (1) inch equals no more than five (5) feet (1" = 5 feet). The plans shall include the following information:
  1. Date, scale, and north point, indicating magnetic ~~or~~ and true.
  2. Intersections of the proposed street with existing streets.

**Comment [PB178]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

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3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
  4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
  5. Complete curve data shall be indicated for all horizontal and vertical curves.
  6. Turning radii at all intersections.
  7. Centerline gradients.
  8. Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- c. Upon receipt of plans for a proposed public street, the Board shall forward one (1) copy to the **municipal officers and the road commissioner** for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the **road commissioner** for review and comment.
- d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the **road commissioner or the Maine Department of Transportation**, as appropriate, and designed by a professional engineer registered in the State of Maine.
- e. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.
- “All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners, or lot owners association and shall not be candidates to be accepted or maintained by the Town, until unless they meet the municipal street design and construction standards.”

**Comment [PB179]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

**Comment [PB180]:** Clarification to address past problems with how subdivisions occurred, were submitted, and how they were constructed – to protect town and taxpayers.

### 2. Street Design Standards.

- a. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of ~~Article 11~~ this Regulation.
- b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
- c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations and the Maine Department of Transportation.
- d. Where a subdivision borders an existing narrow street (*not meeting the width requirements of the standards for streets in these regulations or the Maine*

**Comment [PB181]:** Requirement evaluators, surveyors, engineers, consultants to be registered in Maine

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Department of Transportation, or when the comprehensive plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, *the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.”* Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance. When such widening or realignment is included in the municipality’s capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

**Comment [PB182]:** Coordination with MEDOT when required.

- e. Any subdivision expected to generate average daily traffic of two hundred (200) trips per day or more shall have at least two street connections with existing public streets, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of two hundred (200) trips per day or more shall have at least two (2) street connections leading to existing public streets, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- f. The design standards of **Table 12.2.3-3** shall apply according to street classification.

**Table 12.2.3. Street Design Guidelines**

Type of Street Description	Private Industrial/ Commercial				
	Arterial	Collector	Minor	Rights of Way	
Minimum Right of Way Width	80'	50'	50'	50'	60'
Minimum Traveled Way Width	44'	24'	20'	18'	30'
Minimum Width of Shoulders — (each side)	5'	3'	3'	3'	9'
Sidewalk Width	8'	5'	5'	N/A	8'
Minimum Grade	.5%	.5%	.5%	N/A	.5%
Maximum Grade*	5%	6%	8%	8%	5%
Minimum Centerline Radius — without superelevation	500'	280'	280'	175'	400'
— with superelevation	350'	175'	175'	110'	300'
Roadway Crown**	1/4"/ft	1/4"/ft	1/4"/ft.	***	1/4"/ft.
Minimum angle of street — intersections****	90°	90°	75°	75°	90°
Maximum grade within 75 ft. — of intersection	3%	3%	3%	N/A	3%
Minimum curb radii at — intersections	30'	25'	20'	N/A	30'*****
Minimum r/o/w radii at — intersections	20'	10'	10'	10'	20'

**Comment [DDS183]:** 18' roadways meet state standards for AADT under 200.

**Comment [DDS184]:** 2 foot shoulders meets minimum state standards.

**Comment [DDS185]:** Clarified - private ways need to drain using minimum standards, pitch or crown

**Comment [DDS186]:** It is 1/4" per foot if asphalt, else 3/4" for gravel

**Comment [DDS187]:** Coordinate with Land Use Ordinance and simplified

**Comment [DDS188]:** Coordinated with the Land Use Ordinance

**Comment [DDS189]:** Simplified

\* Maximum grade may be exceeded for a length of 100 feet or less.



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~~\*\* Roadway crown is per foot of lane width.~~

~~\*\*\* Gravel surfaces shall have a minimum crown of 3/4 inch per foot of lane width.~~

~~\*\*\* Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.~~

~~\*\*\*\* Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.~~

**Comment [DDS190]:** Updated for formatting and shoulders and superelevation clarified and coordinated with state standards

**Comment [PB191]:** Chart and footnotes coordinated with the LUO and this regulation

Description	Type of Street				
	Arteria l	Collecto r	Mino r	Privat e	High Impact Industrial/ Commercial
Minimum Right-of-Way Width	80'	50'	50'	50'	60'
Minimum Traveled Way Width	44'	24'	<del>20'</del> 18'	18'	30'
Minimum Width of Shoulders ( <i>each side</i> )	5'	3'	<del>3'</del> 2'	<del>3'</del> 2'	9'
Sidewalk Width	8'	5'	5'	N/A	8'
Minimum Grade	0.50%	0.50%	0.50%	(Note 1)	0.50%
Maximum Grade (Note 2)	5%	6%	8%	8%	5%
Minimum Centerline Radius without superelevation	500'	280'	280'	175'	400'
Minimum Centerline Radius with superelevation	350'	175'	175'	110'	300'
Roadway Crown (Note 3)	1/4"/ft	1/4"/ft	1/4"/ft	1/4"/ft (Note 4)	1/4"/ft
Minimum angle of street intersections	90°	90°	75° - 90°	75° -90°	90°
Maximum grade within 75 ft. of intersection	3%	3%	3%	N/A 8%	3%
Minimum curb radii at intersections	30'	25'	20'	N/A	≥30' (Note 6)
Minimum r/o/w radii at intersections	20'	10'	10'	10'	20'

Note 1: Private ways must pitch to drain through either superelevation or crown

Note 2: Maximum grade may be exceeded for a length of 100 feet or less.

Note 3: Roadway crown is per foot of lane width.

Note 4: Gravel surfaces shall have a minimum crown of 3/4 inch per foot of lane width.

Note 5: The Porter Land Use Ordinance permits a maximum of 8% within 75 feet of intersection

Note 6: Based on engineered turning radii of expected commercial vehicles, but shall be no less than 30 feet.

- g. The centerline of the roadway shall be the centerline of the right-of-way.
- h. **Dead End Streets.**

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In addition to the design standards in **Table 1210.2.15-3**, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii:

1. Property line: sixty (60) feet;
2. Outer edge of pavement: fifty (50) feet;
3. Inner edge of pavement: Thirty (30) feet.

Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board shall require the reservation of a twenty (20) foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street.

The Board may also require the reservation of a fifty (50) foot easement in line with the street to provide continuation of the road where future subdivision is possible.

**i. Grades, Intersections, and Sight Distances.**

1. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

**2. Design Speed.** The design speed for a road is the speed at which the traffic is expected to travel. All geometry for the road should be designed to safely carry the design vehicle travelling at that speed. Low design speeds are applicable to roads in rough terrain; where the terrain is level, the design speed should be higher. Design speed also depends upon the road classification and the level-of-service (LOS) desired.

**Comment [PB192]:** Formatting for better navigation

**Comment [PB193]:** Omitted descriptor for ease of document navigation

Minimum Design Speeds for Local Rural Roads (AASHTO)				
Type of Terrain	Current ADT Under 50	Current ADT 50-250	Current ADT 250-400	Current ADT 400 and Over
Level	30	30	40	50
Rolling	20	30	30	40
Mountainous	20	20	20	30

- ~~2.3.~~ All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.

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Minimum Stopping Sight Distances					
Design Speed (mph)	20	25	30	35	45
Stopping Sight Distance (ft.)	125	150	200	250	380 (+/-)

**Comment [PB194]:** Added to actually have a reference to minimum state speed

<del>Design Speed (mph)</del>	<del>20</del>	<del>25</del>	<del>30</del>	<del>35</del>
<del>Stopping Sight Distance (ft.)</del>	<del>125</del>	<del>150</del>	<del>200</del>	<del>250</del>

**Comment [DDS195]:** Reformatted and included 45 MPH, the standard that the municipality uses for town way speeds.

Stopping sight distance shall be calculated with a height of eye at 3'-3½ feet and the height of object at 6'-½ feet.

3. 3.—Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the new road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver’s seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten (10) feet behind the curbline or edge of shoulder, with the height of the eye 3'-6'½ feet, to the top of an object 4'-3" 4¾ feet above the pavement.

**NOTE:** The minimum sight distance when entering an existing town way for a subdivision shall be 450 feet, unless the town way is posted for a vehicular speed greater than 45 M.P.H.

**Comment [PB196]:** Coordinated with LUO site distance criteria

<del>Posted Speed Limit (mph)</del>	<del>25</del>	<del>30</del>	<del>35</del>	<del>40</del>	<del>45</del>	<del>50</del>	<del>55</del>
<del>Sight Distance (ft.)</del>	<del>250</del>	<del>300</del>	<del>350</del>	<del>400</del>	<del>450</del>	<del>500</del>	<del>550</del>

<b>Posted Speed Limit (mph)</b>	25	30	35	40	<b>45</b>	50	55
<b>Sight Distance (ft.)</b>	250	300	350	400	<b>450</b>	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

4. Cross (four-cornered) street intersections shall be avoided insofar as possible, A minimum distance of one hundred twenty-five (125) feet shall be maintained between centerlines of minor streets and two hundred (200) feet between collectors or a collector and minor street.

**j. Sidewalks.**

Where sidewalks exist adjacent to a proposed subdivision, sidewalks shall be installed connecting to existing sidewalks. Where installed, sidewalks shall meet these minimum requirements.

**1. Location.**

Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2'-6" ½ feet from the curb facing or edge of shoulder if the new street is not curbed. Sidewalks adjacent to existing town ways must be a minimum of 21'-4" from the centerline of the ROW.

**Comment [PB197]:** Coordination with state minimum standards

**2. Bituminous Sidewalks.**

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- (a) The “subbase” aggregate course shall be no less than twelve (12”) inches thick after compaction.
- (b) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two (2) lifts, each no less than one (1) inch after compaction.

**3. Portland Cement Concrete Sidewalks.**

- (a) The “subbase” aggregate shall be no less than twelve (12) inches thick after compaction.
- (b) The portland cement concrete shall be reinforced with six (6) inch square, ~~number #10~~ wire mesh, or equivalent, and shall be no less than four (4) inches thick.

**Comment [PB198]:** Industry standard, accounts for innovation and product upgrades – ie coal tar ban

**k. Curbs.**

- 1. Curbs shall be installed for stormwater purposes and/or to protect the pavement edge from unraveling along parking lanes or in very intensive developments where heavy use may erode the planted area at the edge of the pavement. Curbs for stormwater management shall be contingent on the stormwater design standards specified in this Regulation. If curbs are not necessary for stormwater management purposes, they are not required for subdivisions in which the average lot width is 100 feet or greater.
- 2. If the Board requires a vertical curb and no parking lane is present, a minimum shoulder of 2 feet is recommended from the traveled way to the curb. For sloped curbs where no parking lane is present, a minimum 1 foot shoulder is required from the traveled way to the curb.
- 3. Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement.

**Comment [PB199]:** Omitted in current ordinance, but should be considered, particularly in the village, or in large subdivisions as part of the design

**3. Street Construction Standards.**

- a. The minimum thickness of material after compaction shall meet the following specifications in Table ~~12.10.2.15~~-4.

**Table 12.2 4. Minimum Pavement Materials Thicknesses**

<u>Street Materials</u>	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private</u>	<u>Industrial/</u>
	<u>Commercial</u>		<u>Right</u>	<u>of</u>	<u>Way</u>
Aggregate Subbase Course (Max. sized stone 6")					
Without base gravel	24"	18"	18"	15"	24"
With base gravel	20"	15"	15"	12"	20"
Crushed Aggregate Base Course (if necessary)	4"	3"	3"	3"	4"
<b>Hot Bituminous Pavement</b>					
Total Thickness	3"	3"	3"	N/A	4"
Surface Course	1 1/4"	1 1/4"	1 1/4"	N/A	1 1/4"
Base Course	1 3/4"	1 3/4"	1 3/4"	N/A	2 3/4"
Surface gravel	N/A	N/A	N/A	3"	N/A

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Table <del>1210.2.15-4.</del> Minimum Pavement Thicknesses	Type of Street				
	Arterial	Collector	Minor	Private	Industrial/Commercial
Aggregate Subbase Course (Max. sized stone 6") w/o Base Gravel	24"	18"	18"	15"	24"
Aggregate Subbase Course (Max. sized stone 6") with Base Gravel	20"	15"	15"	12"	20"
Crushed Aggregate Base Course (if necessary)	4"	3"	3"	3"	4"
Hot Bituminous Pavement: Base Course	1 3/4"	1 3/4"	1 3/4"	N/A (Note 1 & 2)	2 3/4"
Hot Bituminous Pavement: Surface Course	1 1/4"	1 1/4"	1 1/4"	N/A (Note 1 & 2)	1 1/4"
Hot Bituminous Pavement: Total Thickness	3"	3"	3" (Note 1)	N/A (Note 1 & 2)	4"
Surface Gravel	N/A	N/A	N/A	3" (Note 1 & 2)	N/A

Comment [PB200]: Coordinated with LUO

Comment [PB201]: Coordinated with LUO

Comment [PB202]: Coordinated with LUO

Comment [PB203]: Coordinated with LUO

Comment [PB204]: Coordinated with LUO

Comment [PB205]: Coordinated with LUO

Note 1 - AADT under 50 may permit the construction of an unpaved gravel roadway

Note 2 - Private ways anticipated to be taken over by the municipality must be constructed to Minor Street Specifications

**b. Preparation.**

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1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50) foot intervals.
2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
3. All organic materials or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

**c. Bases and Pavement.**

**1. Bases/Subbase.**

- (a) The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the following grading requirements: of Table ~~1210.2.15~~-5.

**Table 12.2-5. Aggregate Subbase Grading Requirements**

Sieve Designation	Percentage by Weight Passing
	Square Mesh Sieves
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

**Comment [DDS206]:** No changes, only formatted for readability

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/4 inch	25-70%

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No. 40	0-30%
No. 200	0-7%

Aggregate for the subbase shall contain no particles of rock exceeding six (6) inches in any dimension.

- (b) If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three (3) inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three (3) inch square mesh sieve shall meet the following grading requirements of Table ~~1210.2.15~~-6.

Aggregate for the base shall contain no particles of rock exceeding two (2) inches in any dimension.

**Table 12.2-6. Base Course Grading Requirements**

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

**Comment [DDS207]:** Formatted for readability, no changes

<b>Table <del>1210.2.15</del>-6. Base Course Grading Requirements</b>	
<b>Sieve Designation</b>	<b>Percentage by Weight Passing Square Mesh Sieves</b>
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

**2. Pavement Joints.**

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint. Tack coat is to be applied to all cold joints, both perpendicular and parallel.

**Comment [PB208]:** A missing industry standard, state reg, and quality assurance need

**3. Pavements.**

- (a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix **grade B** with

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an aggregate size no more than one (1) inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between **April 15 and November 15**, provided the air temperature in the shade at the paving location is equal or higher than 35°F, is rising, or higher and the surface to be paved is not frozen or unreasonably wet.

Comment [PB209]: Industry standard state regs

(b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix **grade C or D** with an aggregate size no more than three quarter (3/4) inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between **April 15 and October 15**, provided the air temperature in the shade at the paving location is equal or higher than 50°F or higher, and is rising.

Comment [PB210]: Industry standard, state regs

**4. Surface Gravel.**

Private Rights-of-Way need not be paved and may have a gravel surface. Surface gravel shall be placed on top of the aggregate subbase, shall have no stones larger than two inches in size and meet the following grading requirements: of Table 12.910.2.15-7.

Table 12.2.7. Surface Gravel Grading Requirements

<u>Sieve Designation</u>	<u>Percentage by Weight Passing</u>	
	<u>Square Mesh Sieves</u>	
2 inch	95-100%	
1/2 inch	30-65%	
No. 200	7-12%	

Comment [DDS211]: No changes, only formatted for clarity

<b>Sieve Designation</b>	<b>Percentage by Weight Passing Square Mesh Sieves</b>
2 inch	95-100%
1/2 inch	30-65%
No. 200	7-12%

**12.910.16 Cluster Developments.**

**A. Purpose**

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

**B. Application Procedure.**

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

Comment [PB212]: Moved back from Land Use Ordinance for more legal authority



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1. Submit two (2) scaled plans for the proposed development, one layout as a conventional development and the second as a cluster development. Each lot in the conventional development shall meet the minimum lot size and lot width requirements of the Porter Land Use Ordinance, have an area suitable for subsurface wastewater disposal according to the State of Maine Subsurface Wastewater Disposal Rules, and shall exclude land which is undevelopable according to this Ordinance or the Subdivision Regulations. The number of lots in the cluster development may in no case exceed the number of lots in the standard development, or
2. Calculate the allowable number of lots by dividing the net residential acreage of the parcel of land by the minimum lot size of the district in which the development is located. The net residential acreage is calculated by taking the total area of the lot and subtracting, in order, the following:

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

[1] slopes greater than 25% (20% within 250 feet of resource protection districts).

[2] organic or wetland soils.

[4] 50% of the poorly drained soils.

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

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

### C. Basic Requirements for Cluster Developments.

1. Cluster developments shall meet all requirements for a subdivision, the street acceptance requirements, and all other applicable town ordinances.
2. The applicant for a Land Use Permit under this specific use shall submit a fully scaled site plan. 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 shape, size, and location of the lot, to scale, on which the structure is, or is proposed to be, located.

**Comment [DDS213]:** Redundant to LUO regulations, and without measurable criteria (subjective - Due Process and IDLA concerns)

**Comment [DDS214]:** Coordinated with conflicting language in the LUO, and this section - 20% only applies within 250 feet of resource protection districts.

**Comment [J215]:** Consolidated

**Comment [DDS216]:** Consolidated

**Comment [PB217]:** Recommend adding this to Cluster Developments when moved back to Subdivision Regulations where it should be located to be able to enforce.

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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.)

1. A lifecycle plan that includes removing infrastructure (roads, concrete pads, shared structures, re-merging lots, etc.) when the development has outlived its purpose or is discontinued for five (5) years is to be provided to the Planning Board during application review.
3. Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The developer shall illustrate the placement of buildings and the treatment of spaces, paths, roads, utility service, and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.
4. A high-intensity soil survey shall be submitted. No building may be constructed on soil classified as being very poorly drained.
5. Except for in-ground homes, no building may be located or constructed on slopes steeper than 25%.
6. No building may be located or constructed within one hundred (100) feet of any water body or wetland.
7. No lot may be smaller in area than twenty thousand (20,000) square feet.
8. The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the District.
9. No individual lot or dwelling unit may have direct vehicular access onto a public road existing at the time of development.
10. 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*, recent addition at the date of application submission, published by the Institute of Transportation Engineers.
11. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as access to it, shall be a part of the common land.
12. The applicant shall demonstrate the availability of water adequate for domestic purposes as well as for fire safety. The Fire Marshall and/or State Regulations may require the construction of storage ponds and dry hydrants, if survey of the supply available does not meet the design demand required. The location of all wells shall be shown on the plan.
13. The location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. The reserve areas shall be restricted so as not to be built upon. The report of a licensed Site Evaluator shall accompany the plan. If the subsurface disposal system is an engineered system, approval from the Department of Human Services, Division of Health Engineering shall be obtained prior to Planning Board approval.

Utilities shall be installed underground wherever possible. Transformer boxes, pumping stations, and meters shall be located inside of the buffer and screening for the use, accessible for maintenance, and incorporated into the overall design plans submitted to the Planning Board.

### D. Dedication and Maintenance of Undeveloped Area and any Common Facilities.

1. There may be no further subdivision of this land, which may be used only for agriculture, forestry, conservation, or non-commercial recreation. However, easements

**Comment [J218]:** A necessary requirement in this era, based on speculation and vacating large developments after opportunities are exhausted (towers, malls, etc...)

**Comment [DDS219]:** Redundant to Article III.

**Comment [J220]:** This standard no longer exists and is not available to the Board, CEO, or townspeople. Updated ten times.

**Comment [DDS221]:** Redundant to Article I, II, and III.

**Comment [DDS222]:** Deemed subjective (Due Process and IDLA issues) by Common Law - There is a consolidated section in Article IV as a general requirement. Prescriptive.

**Comment [DDS223]:** This is under the Plumbing Inspector and Fire Marshall purview as well as plumbing and Fire Code.

**Comment [DDS224]:** The Use has a robust buffer and screening requirement - This is not unreasonable and subjective to dictate meters, pumps, and power infrastructure, and can be discussed and reviewed on the plans when submitted.

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for public utilities or structures accessory to non-commercial recreation, agriculture, or conservation may be approved by either the CEO, or the Planning Board, depending on the intended approved use and impact level.

2. The undeveloped area shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:

- (a) the undeveloped area may not be used for future building lots; and  
(b) the final disposition of the undeveloped area, which may be:

[2] Deeded to a land trust,

[3] Retained by the applicant, or

[4] Reserved for ownership by a homeowners' association made up of the owners of the lots in the cluster development.

3. If any or all of the undeveloped area is to be reserved for use by the residents as in [3] above,

(a) A homeowners' association shall be formed and the by-laws of the homeowners' association shall specify maintenance responsibilities. The by-laws shall be submitted to the Planning Board for their approval prior to approval of the development plan.

(b) Covenants for mandatory membership in the association, setting forth the owners, rights' interest, and privileges in the association and the common land, shall be reviewed by the Planning Board and included in the deed for each lot.

(c) This homeowners' association has the responsibility of maintaining the undeveloped area and any common facilities

(d) The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities and town assessments.

The developer shall maintain control of the open space and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination is made by the Planning Board upon request of the homeowners' association or the developer.

*NOTE: The developer shall maintain control of the open space and be responsible for its maintenance until the open space is complete and stabilized, to support the association.*

4. If the undeveloped area is retained by the applicant, as in (2)(b)[2] above:

(a) The land may only be used for active agriculture, active forestry, non-commercial recreation, and conservation. The conditions of this use shall be approved by the Planning Board and indicated on the development plan.

(b) The development rights of the undeveloped area shall be deeded to an entity approved by the Planning Board and may not be deeded back to the owner of the undeveloped land.

(c) An area suitable for the noncommercial recreational use of the owners of the lots in the cluster development shall be reserved. This area shall be either dedicated to

**Comment [DDS225]:** Clarification and coordination of the LUO language.

**Comment [DDS226]:** Taking parcel acreage off of the tax rolls is not competent or reasonable.

**Comment [DDS227]:** Error - The town should not take on any liability of this use.

**Comment [DDS228]:** This controls liability of maintenance (owner) whether or not a HA is created. The adjustment above obligates the HA, once it is created, to address its own maintenance.

**Comment [DDS229]:** Coordination of this regulation

**Comment [DDS230]:** The Town should be hesitant to take on the liability and to reduce tax rolls.

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the town or reserved for a homeowners' association as in (3) above. This area shall be equal in size to 2,500 square feet per lot in the cluster development.

5. If the undeveloped area is deeded to a land trust as in (2) (b) [3] above, the Planning Board shall approve the land trust and the conditions of the deed. NOTE: The applicant will be responsible for 100% of the annual property taxes for the undeveloped area.

**Comment [DDS231]:** Addresses tax shelter or need to address non-for-profit PILO (Pay in Lieu Of) to account for decreased tax rolls.

## ARTICLE ~~13~~11 - pPerformance guarantees

### ~~13~~11.1 Types of Guarantees.

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either ~~a~~A certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;
- B. A performance bond payable to the municipality issued by a surety company, approved by the municipal officers;
- C. An irrevocable letter of credit (~~see Appendix B for a sample~~) from a financial institution establishing funding for the construction of the subdivision, from which the Municipality may draw if construction is inadequate, approved by the municipal officers or town manager ~~or~~.
- D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed. The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the municipal officers ~~and~~ the road commissioner, and/or municipal attorney.

**Comment [PB232]:** Recommended flexibility from 2006 model

**Comment [PB233]:** No appendix – error, deleted.

**Comment [PB234]:** Recommended update to 2006 model.

### ~~13~~11.2 Contents of Guarantee.

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.

### ~~13~~11.3 Escrow Account.

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

## SUBDIVISION REGULATIONS – TOWN OF PORTER, MAINE

### **1311.4 Performance Bond.**

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

### **1311.5 Letter of Credit.**

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

### **1311.6 Conditional Agreement.**

The Board at its discretion may provide for the applicant to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the final plan on the condition that no more than four (4) lots may be sold or built upon until either:

- A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or
- B. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

### **1311.7 Phasing of Development.**

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

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### **1311.8 Release of Guarantee.**

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer or other qualified individual(s) retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

### **1311.9 Default.**

If upon inspection, the Code Enforcement Officer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the code enforcement officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

### **1311.10 Improvements Guaranteed.**

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and the Town of Porter Land Use Ordinance, and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

Comment [PB235]: Cross-referencing

## **ARTICLE 14-12 - Waivers**

### **1412.1 Waivers Authorized – When Waiving Submission Requirements.**

Comment [PB236]: clarification

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, or that the application is simple and minor in nature, it may waive portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, building code, the zoning ordinance, or these regulations.

Comment [PB237]: Updated to 2006 recommendations and due to merging minor and major

### **1412.2 Findings of Fact Required – When Waiving Physical Improvements.**

Comment [PB238]: clarification

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety, or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, unless prohibited by these regulations or Maine statutes, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, building code, the zoning ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

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### 12.3 Waiver of Procedural Steps (for Minor Subdivisions ONLY)

The Board may allow an applicant of a minor subdivision to combine the final plan and preliminary plan application steps into one procedure, upon making all of the following written findings of fact:

1. No new streets are proposed;
2. No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a “Permit by Rule;”
3. The Board agrees to approve a waiver from the requirement to submit a stormwater management plan and sedimentation and erosion control plan, as ordinarily required by this regulation, unless prohibited by these regulations, Maine statutes, or the Land Use Ordinance:
  - a. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
  - b. The Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

: and

4. The application contains all other applicable submissions required for both the preliminary and final plan steps, except for those items for which a waiver of a required submission has been requested and granted.

#### 1412.34 Conditions.

Waivers may only be granted in accordance with **Sections ~~1412.1 and 1412.2, and 12.3.~~** When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

#### 1412.45 Waivers to be shown on final plan.

When the Board grants a waiver to any of the improvements required by these regulations, *the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.*

### 12.6 Time Limitations.

The variance is not valid until recorded as provided in M.R.S.A. 30-A §4406 §§ 1.B. Recording must occur within 2 years of the final subdivision approval or approval under Title 38, chapter 3, subchapter 1, article 6, where applicable, whichever date is later, or the variance is void.

Comment [PB239]: Valid addition to consider minor and major, now merged in process.

Comment [PB240]: State Law

## ARTICLE ~~15~~13 - APPEALS

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**~~15~~13.1 Appeals to Superior Court.**

An aggrieved party may appeal any decision of the Board under these regulations to Oxford County Superior Court, within thirty (30) days of the date the Board issues a written order of its **final plan** decision.

**Comment [PB241]:** Clarifies appeal process is not interim.