

MEETING NOTICE

The regular monthly meeting of the Ellsworth City Council will be held on Monday, November 20, 2023 at 6:00 PM in the Ellsworth City Hall Council Chambers

Meetings will be broadcast live on:

Facebook: <https://www.facebook.com/ellsworthme>

YouTube: <https://www.youtube.com/c/CityofEllsworthMaine>

Channel 7

Agenda

1. Call to Order.
2. Pledge of Allegiance.
3. Rules of Order.
4. Adoption of minutes from the following meeting (s) of the Ellsworth City Council:
 - October 16, 2023 Regular Council Meeting.
5. City Manager's Report.
6. Committee Reports.
 - Appointment of Councilors to various City Committees by the Chairman of the City Council.
 - Appointment of Matthew Welch to the Appeals Board, acceptance of Mike Wight's resignation.
 - Appointment of Jeff Gordon as an Alternate to the Harbor Commission
 - Approval of a Community Development Advisory Committee to help with the CDBG project
7. Citizens' Comments.
8. Presentation of Awards.
 - Small Business Day Proclamation – November 25, 2023.
 - Special Presentation by the City Clerk
 - Presentation of the Downtown Project of the Year Award received in collaboration with the Heart of Ellsworth- Sponsored by Beal.

UNFINISHED BUSINESS

9. Discussion and potential action to enforce Chapter 56 via a consent agreement with Maine Organics
10. Review of the FY 2022 Audit with RHR Smith

CONSENT AGENDA

CONSENT AGENDA: All items with an asterisk (*) are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which event, the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

NEW BUSINESS

11. Public hearing and action on the following business licenses:

- Stephen Curtin, DBA Steamy Buddha Café, 50 Church Street for a renewal State liquor license Class I, II, III and IV and upgrade to City Class C license from Victualer.
- Ryan Lounder, DBA Strike N Slice, 25 Eastward Lane Suite 6, for a renewal City Class C license and State liquor license Class I, II, III, and IV
- E.T.C. LLC, DBA Dyon's, 35 Eastward Lane, for a renewal of State liquor Tennis Club class III and IV.

12. Public Hearing and action on Council Order #112000 Request of the City Planner to approve amendments to Chapter 56.

13. Discussion and action on Council Order #112001 Request of the Highway Foreman to award a bid for the Red Bridge Road culvert replacement.

14. Discussion and Potential Action on Council Order #112002 to accept \$32,000 from the Community Resilience Partnership grant program. There is no required matching funds associated with this grant award and the scope of the grant is to fund an evaluation of Ellsworth's pedestrian and bicycle transportation resources within the downtown area.

15. Discussion and Potential Action on Council Order #112003 on applying for the MaineDOT's Village Partnership Initiative Planning Phase for a planning study evaluating bicycle and pedestrian infrastructure and streetscape design in the City's downtown area, with a 50% local match allocated from the Community Resilience Partnership grant, funding up to \$10,000 from the FY24 Local Roads fund, and funding up to \$15,000 from FY24 TIF funds.

16. Discussion and action on Council Order #112004 to take over the care and maintenance of Juniper Ridge Cemetery at the request of the heirs of former association members.

17. Discussion and action to approve the Arbor Commission applying for a Project Canopy Grant- Sponsored by Hanson

18. Scheduling of workshops for the homelessness in Ellsworth and watershed/natural resources- Sponsored by Stein

19. Councilor Comments

20. Adjournment.

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Spectrum Channel 1303

AGENDA

1. Call to Order.
2. Pledge of Allegiance.
3. Rules of Order.
4. Adoption of minutes from the following meeting of the Ellsworth City Council:
 - 09/18/2023 Regular Monthly Meeting. **
Motion to approve by T. Mote, second, G. Lyons, passed 7-0
5. City Manager's Report.
6. Committee Reports.
 - Appointment of Mark Honey to the Historic Preservation Commission as a volunteer consultant
Motion to approve by T. Mote, second G. Lyons, passed 7-0
 - Appointment of Ellerie Ezekiel to the Recreation Commission
Motion to approve by C. Hanson, second G. Lyons passed 7-0
 - Appointment of new committee
Motion to approve the HR Resume Review Committee to include PJ Keenan, Cara Romano, Amy Boles, Beth Fendl, Jack Frost, Paul Markosian by C. Hanson, second by T. Mote, passed 5-2 (S. O'Halloran, G. Lyons opposed)

Motion to ad appointment of Appeals Board member after a vacancy by C. Hanson, second by J. Stein, 6-1 (S. O'Halloran opposed)
7. Citizens' Comments.
8. Presentation of Awards.
 - Barbie Bailey for 15 years of service with the Ellsworth Police Department as a Communications Officer
 - Special Presentation to Chairman Dale Hamilton for 6 years on City Council by City Clerk.

UNFINISHED BUSINESS

* ** - Consent Agenda items containing backup material.

** - Agenda items with backup material.

CONSENT AGENDA

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NEW BUSINESS

9. Public hearing and action on the application (s) for the following license (s):

- Hane Yee, Inc., d/b/a China Hill Restaurant, 301 High Street, for renewal of a City Class B License (Victualer, Liquor, and Amusement) and renewal of a State Restaurant (Class I, II, III, IV) Malt, Spirituous, Vinous Liquor License. **

Motion to approve by C. Hanson, second by G. Lyons, passed 7-0

10. Public hearing and action on amendments to the City of Ellsworth Code of Ordinances, Chapter 36, General Assistance Ordinance. **

Motion to approve by T. Mote, second by G. Lyons, passed 7-0

11. Council Order #101600, Request of the Highway Foreman to award a bid for overhead door replacement **

Motion to approve by M. Beal, second by C. Hanson, passed 7-0

12. Council Order #101601, Request of the Police Department to award a cleaning contract for the police department **

Motion to approve by G. Lyons, second by C. Hanson, passed 7-0

13. Council Order #101602, Request of the IT Director to fund an additional year of Tyler Munis maintenance and support **

Motion to approve by G. Lyons, second by C. Hanson, passed 7-0

14. Public Hearing, Discussion, and Potential Action on Council Order #101603, Resolution to accept a Public Service Community Development Block Grant. The purpose of the grant application is to help support a new program in partnership with a local public service agency in order to assist low income and homeless persons in Hancock County. **

Motion by C. Hanson, second by G. Lyons, passed 7-0

15. Review, Discussion, and Potential Action on Council Order #101604, Adoption of the Community Development Block Grant Standards of Conduct in order to administer the accepted Public Service Community Development Block Grant. **

Motion to adopt as presented by C. Hanson, second G. Lyons, passed 7-0

16. Review, Discussion, and Potential Action on Council Order #101605, Adoption of the Community Development Block Grant Fair Housing Resolution. **

Motion to adopt as presented by C. Hanson, second by G. Lyons, passed 7-0

17. Review, Discussion, and Potential Action on Council Order #101606, Adoption of the Community Development Block Grant Section 504 Self-Evaluation and Transition Plan. **

* ** - Consent Agenda items containing backup material.

** - Agenda items with backup material.

Motion to adopt by T. Mote, second by C. Hanson, passed 7-0

18. Review, Discussion, and Potential Action on Council Order #101607, Adoption of the Community Development Block Grant Residential Anti-Displacement and Relocation Assistance Plan. **

Motion to adopt by C. Hanson, second by J. Stein, passed 7-0

19. Review, Discussion, and Potential Action on Council Order #101608, Adoption of the Community Development Block Grant Equal Employment Opportunity Policy Statement. **

Motion to adopt by G. Lyons, second by C. Hanson, passed 7-0

20. Presentation by RHR Smith for the FY 2022 audit (Sponsored by Beal)

Motion to table to November by M. Beal, second by T. Mote, passed 7-0

21. Public hearing and action on the Charter amendments to the Ellsworth City Charter. **

Motion to place on June ballot, effective 7/1/23, by C. Hanson, second by G. Lyons, passed 7-0

22. Presentation by Downeast Wood Bank for winter services and needs in Ellsworth by Tom Matthews (Sponsored by Stein)

Send applications and policies to City Council for modification.

23. Discussion and possible action to enforce Chapter 56 of the Unified Development Ordinance regarding odor at Maine Organics (Sponsored by O'Halloran)

Motion to draft consent agreement by O'Halloran, second G. Lyons, failed 1-6 (all except S.O opposed)

Motion to draft consent agreement, with attorney present to review at November meeting by M. Beal, second by C. Hanson, passed 7-0

24. Councilor Comments

25. Adjournment.

Motion by J. Stein, second M. Beal, passed 7-0

October 16, 2023 Minutes

Dale Hamilton

I call to order the Monday October 16, 2023 Ellsworth city council meeting all councilors are present at this moment except for Councilor Hanson, Pledge of Allegiance.

Dale Hamilton

before we get into the agenda, the auditor unfortunately had a transportation issue of his flight get changed, so he is not going to be available this evening. So I'd like to make a motion to remove item 20 from the agenda.

Michelle Beal

Can we just table it till next month?

Dale Hamilton

Yeah, yep, we can do that. Thanks. Sorry. Hello. Councilor Hanson is here so we'll get to the item we'll just hit Yeah, that's good. Okay, item three rules of order. We follow Robert's Rules of Order and any other rules are adopted by the council during the organizational meeting. item for adoption of minutes from the following meetings of the Ellsworth City Council 9/18/23 regular monthly meeting.

Tammy Mote

Move approve

Gene Lyons

Second

Dale Hamilton

Well, the motion a second. Any discussion? All those in favor?

Dale Hamilton

Item five. City Manager's report manager Moshier is absent this evening. The Madam Clerk will fill in.

Toni Dyer

Good evening City Council have half a dozen items or so here to just go over. Absentee Voting is in process for information or how to vote you can call or visit the clerk's office. The number is 6676603. annual dog licenses have come open as of today. Please bring a current rabies and proof of spay or neuter if applicable. All of the late fees begin on February 1 of 2024. Police Department is now operating out of the 416 High Street Station. If you visit here City Hall, you may be asked to take a trek up to the new location. They have also moved the pill drop off and disposal to the new location. So if you are coming in with old medications, please be sure to go up to 416 High Street we can't take those here any longer. wanted to thank the community that came out to the police department open house on the 29th of September. It was well attended and there was a lot of great feedback there. Also, the fire department had an open house this past Saturday, the end of Fire Prevention Week. We appreciate the

support to our public safety departments. I did have a letter from the deputy chief for the open house we had about 75 people and about 22 children and the following businesses contributed to the open house with donations of food for lunch as well as supplies for some of the events that we had. So we had Subway restaurant, Finelli's pizzeria, Walmart, Hannaford, Home Depot, sugar mags, harbor freight, Shaw's, Dunkin Donuts, Casa Jalisco, flexit, governor's, Cadillac Mountain Sports, Harmons carwash, Renys, Hammond lumber, friend and family market, crazy sumo, Tractor Supply, industrial protection supply, Zeppa's pizza, and Thomas Canavan. All of those folks donated either material or gift cards for door prize raffles. And we feel that there was a great education to be had the children really enjoyed it. And there's a special thank you to Dena Belletete and Harleigh Belletete for their help in getting all of the kids their fire hats and raffle tickets organized. Thank you to Thomas Canavan and firefighter Chris Jordan for the amount of effort into making the event happen. Election day is Tuesday November 7, polls are open eight to eight as usual. If you're unsure of your ward, you can call the clerk's office. From the facilities director public bathrooms are closed at Knowlton Park, Demeyer field and Harbor Park. There are porta potties at Harbor and Knowlton park until spring and we are starting the 2023 Silent Auction For the month of November, donations for the auction are welcome and the proceeds support the Christmas for kids Fund, which provides presents to local children this holiday season who otherwise may not receive gifts and experienced holiday spirit. Donations can be taken to the clerk's department from now until October 31. Local businesses may donate gift card certificates or items of choice. Those will be on display. The public is welcome to bid and it runs from November 1 through November 30. And the planning board is accepting letters of interest to fill the vacancy. So if you are interested in serving on the planning board, you should contact Matt in the planning department. And last but not least, the Comprehensive Plan Community Survey is available and you can access it online on our webpage.

Dale Hamilton

Thank you. Any questions?

Dale Hamilton

All right. Item six committee reports. Have any counselors attended committees that they want to report on?

Casey Hanson

Mr. Chairman, I attended the Communications Subcommittee with councilor Hanson as well. Soon we'll be launching a new survey to identify people's favorite most convenient ways to communicate and receive information with them from the city. So look at these upcoming events. We're going to try to get fliers out QR codes, etc. Get information from all of you on how you want to get information from the city. Maura, and the rest of the communication staff here have been putting a lot of work in at the city. The city calendar is now updated on the website. They've been populating the social media pages as well. And good questions, respectful comments and questions on social media will eventually be answered as well. So if that's the way that you have questions, post them up there and they'll get back to you. The fix it ticket is also up and running still. And you can feel free to submit things like pop holes and other works that you're curious about. And you will receive a response from the city and updates as well as they start to work on it reveals.

Tammy Mote

I have three things. First of all, now that you're no longer going to be a counselor, when you to appoint somebody to the HR committee, and Jon Stein has so graciously accepted. So we'd first need to appoint him. Does that need to be a separate item? Or can we just go ahead and appoint him from here? So the HR committee held a meeting recently, it was councilor Hanson, the HR director Kerri Taylor and myself we met to discuss and review the resumes received a total of 15. Right and at this point, councilor Hanson, I decided that it'd be helpful to have some input from community members during this first phase. We identified six members who are willing to review the resumes. Those members are PJ Keenan, Beth Fendl, Jack Frost, Paul Markosian, Cara Romano and Amy Boles. We're creating a rubric to determine who we're going to interview like, probably around five, that's kind of what we were looking at. The names will be blacked out on the resumes for confidentiality purposes. We should be back next month with some more information. Hopefully some interviews all scheduled.

Casey Hanson

What do we need everybody to prove? Oh,

Tammy Mote

yeah, yeah, that's right.

Casey Hanson

So those people that we've identified are temporary members of the ad hoc committee. Did they need to go legally through a an application process or

Casey Hanson

just need to be approved by today?

Gene Lyons

How did you pick on

Tammy Mote

brainstorming? We just brainstormed and try and look at who are like on. Do you think they should be more?

Gene Lyons

just want a what you call it? A is that six people? So if there's like a whole you know, people from all I mean, we're picking a city manager, sure,

Casey Hanson

but it's not actually a full selection committee that we're even talking about. This is literally just took a look at 12 or 15 resumes, say like Tammy and I looked through the I think nine that we had at the time and it was honestly it was pretty clear. Well Like, who seemed fit for the job and who does it. So it wasn't, it's really just to get through that first 15 people, then once we bring the five people here, it's going to be a whole process involving the community involving the staff. And the other thing that we are requesting and carries putting this together is a short survey to the staff of the city to say, basically,

what do you think is the biggest challenge facing a new city manager? And what qualities do you look for in a new city manager, so we're trying to take staff input, so it's really just a committee for this very initial process.

Michelle Beal

are you going to create another committee for interviewing people. So

Casey Hanson

it really got that far, mostly just trying to get past this first stage. So you can put some people in front of you all and

Gene Lyons

just where the 15 people, you're narrowed down to five, if you have six like minded people, you're gonna get, you know, five people that are exactly like the like minded people. If you have six, unlike minded people, you probably have a better chance of getting five decent candidates for the job. I mean,

Casey Hanson

we could certainly open it up to an application process, but that's going to put this search another month down the road.

Gene Lyons

I mean, we're not gonna find a city manager a month. So

Casey Hanson

add a month to the process,

Tammy Mote

because we've already had to, you know, send emails to the applicants to say, you know, we're still in this phase, and this is pointed out, and additionally,

Gene Lyons

the last search took quite a while before they even had three candidates to anyway.

Casey Hanson

Yeah, so we just don't want to push it off any further. You know, we tried to pick someone, well, I

Gene Lyons

don't want anybody be hasty, you know, though.

Steven O'Halloran

That brings up, you know, should there be a focus on an interim? As well, you can't crash through the process. But at the same time, just thought that there might be some thoughts of an interim, depending on how long you think this was.

Casey Hanson

I mean, the applicants came in pretty, we're pretty happy with a lot of applicants that came in and we have 15 of them. So I don't think this necessarily is going to need to be this month long, months long, months long. Thing, and Glenn had told us that he would be willing to go, you know, if, say, we're pushed out to February, if we're pushed out to march, rather than get, you know, starting a whole other search.

Gene Lyons

Just required, but that but Bar Harbor, had 36 applicants, they picked some on bowed out before they took the job, they finally found somebody who would agree to do the job.

Casey Hanson

We're just trying to stay optimistic.

Gene Lyons

No, I'm just saying it's not cut and dry. We went through and pick one before and then he bowed out before. And we had to start the process all over again. And we went through lengthy discussions and everything to come up with the idea of the dual role, which my opinion only worked really well.

Michelle Beal

Can I just make one suggestion, whoever you choose to review those resumes should be the same people that go through the process to the interview process, because it's a confidential process until it becomes like the last couple and get their permission. So if you start them now, and yeah, some people look at the resumes and then it doesn't work out, you're gonna have to have another group that goes back and looks at resumes or has other choices. It's easier if you start with one group and go through the process, the confidential piece of the process.

Dale Hamilton

So that's, that's probably one of the things that the council will need to determine next month is what is the process? The last time it was the council did the interviewing. And then the two finalists met with staff, but there weren't others involved. And so deciding what that's going to look like? I would also because we don't have a consultant working on behalf of the council, that individual kind of prep the council in terms of just hiring procedure and, and getting questions that everybody's being asked, because there are some things you need to be careful about in the process. So you should defer that to the HR in terms of having the lead around helping the counsel develop the question. So the same questions are asked, you can always explore answers, but there's just a lot of things that should happen. So I would just put my two cents in terms of just having that take place with the new new council so that you're really clear We're about what that process is going to look like, after you're in the interview. Yeah, during the interview? Well, if you're going to have it, you know, the selection group, if they're just selecting the resumes, and then the council is taken, and if you're going to have other people involved, whatever that looks like, probably, that should be a Council action, I would think. But the selection can happen before the rest of the processes. So is there a motion?

Casey Hanson

Can I make the motion even though I'm on the committee? move to accept the six members of the ad hoc committee for resume for at least resume review, if not more. And then we will bring that initial review and our suggestion for process going forward to the next meeting.

Dale Hamilton

There a second.

Tammy Mote

Second

Dale Hamilton

motion a second further discussion?

Steven O'Halloran

Does it not have to be an agenda item to have a motion?

Dale Hamilton

It is an appointment of a new committee on the committee

Gene Lyons

I feel it should be a more lengthy process on just picking people. Oh, hey, you want to do it, you want to do it, you want to do it? Have a more variety of people on the committee

Casey Hanson

since those will be people suggested not only by HR committee, but by other members of the council. So you're saying, oh, that's fine.

Gene Lyons

I'm one vote. So if you guys vote, know, where

Casey Hanson

when we find the other people that you're talking about.

Gene Lyons

You can find them as advertised that you're looking for, I never knew about it until till now that there were six people being thought about. I mean, I can think about it and give some names. And I think other people could do different community members from different areas of background and

Steven O'Halloran

Or did the HR committee bring somebody before the council or the candidates before the council? How did that work last time.

Dale Hamilton

Last time, it was the consultant that we hired, did all the vetting of the resumes and then brought to the council, five or six initial resumes, then the council reviewed those and selected agreed which ones to invite for an interview.

Casey Hanson

If we use this subcommittee to process all of the applications, put them through rubric, you kind of digest them and put comments and then all of those move through to the council. The only difference being you know, we can still look at all 15. But we have now another six opinions on them. So you know other councilors can weigh in and say I think we missed the point on this. But it might help move things along more quickly. Otherwise, it sounds like bringing you more people would just add a month waiting to vote the min. Is that would that be more comfortable?

Gene Lyons

All since I'm one person, it doesn't matter that six of you guys agree to do it the way that you feel is right right now. That's fine. I just think that has room for other people to be in there and not like minded people. Oh, great.

Casey Hanson

That would be a way of moving forward today. And then saying we're gonna bring this list back of everybody next time and that way people can and we can have our little chart and it can have kind of items of interest that we all found and then let all seven give input. I just depends on how much work you think should be done by just the three of us versus how much work we all should be doing.

Dale Hamilton

Just remember if you put that that discussion on the agenda will need to be Executive Session. Yes. Yeah. Other discussion? All right, motion and second-all those in favor of, of the six individuals. All those opposed? Motion passes.

Tammy Mote

I attended the initial school Strategic Planning Committee last week, the meeting was just we looked at developing the charge and the norms for the meetings going forward, we identified data that we think would be helpful during the process, created a timeline, review the current mission and vision and determine the next steps. So there'll be more to come lots more to come over the next year. pretty aggressive timeline.

Dale Hamilton

All right. We do have there is a request that's not on our agenda. The Appeals Board has a resignation and appointment. The Appeals Board is scheduled to meet on the 23rd. So this is one of those situations that if we don't take action, then the appeals board will be unable to move forward. Is that correct? So I would defer to the council where it's not on the agenda. Would you prefer to wait till next month?

Jon Stein

Move to add it and address it today.

Jon Stein

Second

Dale Hamilton

for a second. Second. Motion a second. Any discussion? All those in favor of adding those items to the agenda. All those opposed? Motion fails that if we will the council have next month. We do have an appointment of Mark Honey to the historic preservation commission as a volunteer consultant. Is there a motion?

Tammy Mote

Motion?

Gene Lyons

Second.

Dale Hamilton

Motion a second. Any discussion? All those in favor? Unanimous

Dale Hamilton

appointment of Ellerie Ezekiel to the Recreation Committee. Is there a motion?

Casey Hanson

Move to approve

Gene Lyons

Second,

Dale Hamilton

motion a second. Any discussion? All those in favor? Unanimous Any other committee reports? Seeing none.

Dale Hamilton

Item seven citizens comments is an opportunity for citizens to make any comments that they like, just go to the podium, state your name, you'll have three minutes to speak.

Anthony- DEWB

Thank you very much. My name is Anthony Amon. And I'm one of the founding members of the Down East wood bank in Surrey. I have a handout. Mr. Chairman. Right Okay, If you have it, I don't necessarily need to read it to you. I guess I'd like to save enough time for your questions. But a little history of the several years ago, we started a wood bank in Castine. And it's been serving that area and of course, it's way over in the corner of Hancock County. And we needed to spread that around so I approached the Blue Hill Heritage Trust about three years ago. And they loved the idea. They said it fits

right in with their mission statement to provide forestry services to the community and that certainly as firewood so they are providing us with space in Surry at the what do we call it the out here? It's a preserve right there in Surry not far from the park. Meadow view. Yes, thank you. Better view forest. We're right up the hill from the road there. And so we've been working as a totally volunteer on conversation until this year, all the money's come out of our pocket and our gas tanks. But we got a nice grant. There is public money available to promote with banks in the community. Throughout the throughout the nation, actually, there's federal money available, and we got some of that. So we're building a woodshed right now. And we have about 50 cords of firewood, most of it is season. It's all hardwood. And we would accept donations. And we're requesting from the city of Ellsworth \$1,000, if you would consider putting that or any amount would be welcomed into this year's budget so that we can start to serve members of Ellsworth that we have not done much. Until now. Because we, you know, we were small, just starting out, we needed to know who was getting the wood. And it's been tremendously successful, we have a lot of people that are interested in wielding an axe and stacking wood. And being on our small committee. We are not a 501 C three organization. We plan to be in the future. But right now, the Blue Hill Heritage Trust is handling all of the details for us. They're giving us property and providing us with advice and advertising through their organization. So we're very, very grateful to them. But we didn't want to just limited to the few communities that we've been serving, because we know there's a great need out there and will probably be a bigger one. As time goes by. I'd like to entertain your questions.

Casey Hanson

last year last budget season. He said, I'm not looking for appropriations, but next year, we will be because we see the need growing in Ellsworth. Can you talk about how how you see the need or how you know what the need is and what you expect will be the need.

Dale Hamilton

stop because we are going to be taking that up and it's on the agenda item. And that's what that's what we need to do that q&a.

Anthony- DEWB

Yeah. You know, if you can find somebody to answer that question, you let us know. Thank you. You're welcome. Because that all that thank you. Okay. Thank you for your time. Thank you.

Marc Blanchette

Good evening counselors. My name is Marc Blanchette. I'm just here this evening. Speaking on behalf of a lot of local residents, to thank Chairman Hamilton for his six years of service to the city and the city council, the last four years as the chairman unfolds, unfortunately, he picked three of those four years during the COVID pandemic. And it made for a very long and difficult chairmanship I'm sure. He's the only Chairman that I'm aware of that has ever held an emergency meeting on a Sunday afternoon, since the fire of 1933, when one was also held. But Dale, really just here tonight to say thank you very much for your service. Six years is a very long one. You've set the bar much higher than it's ever been for any incoming chairman, whether it's the next council or any, any Council following that. And for that, thank you very much.

Dale Hamilton

I think you can have extra time.

John Linnehan

John Linnehan 157, Shawn Road, Ellsworth. I had a couple of things I was gonna say about the qualifications for the manager. I went on the website this afternoon, and I printed off what was posted a month ago about the qualifications that we're looking for our manager, and I think we need to take a strong Look at what the requirements are, what the qualifications are. I don't want to go into tonight we've got a candidate night for city council tomorrow. I'm going to elaborate on that tomorrow. But I'll just say one thing. When I looked through this, there's an absence of what I saw in here. It was all related to public works to municipalities. And I think one thing that's severely not in this description we're looking for, is somebody's got business expertise. In the city of Ellsworth is just a big business. It's another business that should be run like a business. And I think there's a big difference between how a private business person will be acidic manager and how a a municipality trained personnel, it's always been in government. So I'm gonna have some thoughts on tomorrow night at the meeting over there. But I think we surely should take a strong look at it. The requirements that we have wrongly posted, I looked at it, and I think that we're lacking financial business expertise on that. And I'll have some specifics tomorrow. But I would also like to just add that I've appreciated Dale as the chairman in there, I think he's done a good job. He's very well organized. He'd been fair to both sides. It's been up there in issue. And I think it's he has said I bow to be the chairman. So I'd like to thank him personally as well on that. So thank you very much.

Matt Montgomery

Good evening. I'm not sure if I need permission to speak. Now. The restaurant the bells are. Okay, thanks. So my name is Matt Montgomery. I'm the new director, the new CEO, the Downeast Family Y. And I just want to basically introduce myself, you know, the the wine city have a long history of working together for the community. I met with Dale and Officer Moshier and actually my very first day of taking over a CEO. And Dale thought it would be a good idea if I just came in to introduce myself because planning again, on doing a lot with the city between the Y and, in the in the council here. And one of the things that we're working on right now is improving our communication with the city, making sure that the city understands what it is that we're looking to do. We're going through a strategic plan right now. And one of the things that we're hearing through that strategic plan is that a lot of people aren't really aware of what the what the why is about what it does in unless you're involved in youth sports unless you're coming through our doors, whether that's for childcare, or membership at the Y. So one of the things that we're trying to do is just communicate a little bit better. What we do because we essentially have a contract with the city, we you know, the city provides us with funds every year, but there's some expectations of what we provide back to the city and the residents. So I would ask as well that you all let us know what you want from us as far as what recording is on some of those things. But again, just wanted to introduce myself and look forward to working with you all and happy to take any questions in regards to the Y as well.

Dale Hamilton

Thank you anyone else all right seeing that

Dale Hamilton

items eight presentation of words, Barbie Bailey.

Dale Hamilton

The city of Ellsworth proudly presents the certificate of service to Barbie Bailey in recognition of your 15 years of service as a dispatcher for the city of Ellsworth Police Department, the emotions of duty and loyalty the community contributes to improving the city.

Toni Dyer

Chair Hamilton, I have just one additional presentation to make. This presentation is a certificate of appreciation to Dale Hamilton, in recognition of your six years of service as a city councilor for the city of Ellsworth serving as chair since 2019. Your devotion to duty and loyalty to the community have contributed to the improvement of the city of Ellsworth.

Dale Hamilton

unfinished business there is none. Okay, consent agenda. There are no items

Dale Hamilton

new business public hearing and action on the application following licenses. Han Yee incorporated DBA China Hill restaurant 301 high street for no other city Class B license Victorville liquor and amusement or renewal of a state restaurant class. 1234. Malt Spirituous Vinous Liquor license is a public hearing open the public hearing. Public Hearing is open. Seeing none, close the public area public hearing close.

Casey Hanson

Move to approve.

Gene Lyons

Second,

Dale Hamilton

Any discussion? All those in favor? All those opposed?

Dale Hamilton

Item 10 public hearing and action on amendments to the city of Ellsworth code of ordinances chapter 36 General Assistance ordinance

KaTina Vanadestine

Good evening KaTina Vanadestine, General Assistance administrator. I did forget to put a little information in your packet. So can I just give you guys this handout. And there's just a small difference between year to year and this is an ordinance change that happens every year. So I'm just here for you guys. Any questions you have? I can tell you the exact amount of difference if you'd like to know that. Okay, so there's just three categories where there was a difference. One was just the overall maximums which is per person per household, which is \$75. Same thing with the housing. It increased \$75 per single household member and the food maximums went up dollars. The maximum amount in a month was \$10. Extra. Those were the three changes.

Dale Hamilton

Since it's public hearing, I'll open the public hearing. Public Hearing is open. Public Hearing is closed.

Tammy Mote

Mr. Chair, Move approval.

Gene Lyons

Second

Dale Hamilton

Any discussion? All those in favor? Unanimous. Thank you.

Dale Hamilton

Item 11 Council order number 101600 request of the highway Foreman to award a bid for overhead door replacements.

Adam Wilson

Adam Wilson, Highway Foreman. On September 19, the city announced and sent out RFPs for the removal and replacement of the nine overhead doors for the highway department, which is something we funded through our capital improvement. We received two bids back. One from overhead door one from PDQ overhead door was the less the cheaper bid and the less expensive bid and it is \$7,000 less than what we had projected in cost.

Casey Hanson

We when I looked back at the budget book, it looked like we said it was going to be 125,000 yet

Adam Wilson

there's multiple projects in the garage. They lumped it all into one fund. There was the lock on in there and the bathroom. The overhead door

Michelle Beal

Move approval.

Casey Hanson

Second.

Dale Hamilton

Motion a second discussion. All those in favor. Unanimous. Thank you.

Dale Hamilton

Item 12. Council order number 101601 requested the police department to award a cleaning contract for the police departments.

Shawn Willey

Good evening, Shawn Willey Captain Ellsworth PD I'm here tonight to look to get a bid award and to clean the facility at the police department. I think everything was provided to you. I sought out three

different bids. Only received two back the people that we redid received the bids back are qualified to meet the CEGIS standards, fingerprint backgrounds and things like that to be able to clean the facility. And so I'd be asking you tonight to award the bid to MB services. He would be cleaning three times a week. Each cleaning is four hours.

Casey Hanson

I just had a question. I think maybe more for you, Toni. I was I had my budget book out today. So I was trying to figure out how much we spend to clean this facility. But to kind of figure out where that was leaving

Toni Dyer

I think it was in the facility budget still.

Casey Hanson

believe in the maintenance budget. Maintenance. Yep.

Toni Dyer

City property.

Shawn Willey

it's right around \$175 a cleaning. Something like that feels

Casey Hanson

Okay. Is it is it equivalent in terms of \$40 an hour?

Casey Hanson

Here? We pay more than \$40 an hour for cleaning? Yes.

Toni Dyer

Sorry, that would have been in Section nine of your budget book. not sufficient.

Jon Stein

Is it building maintenance or no? That's different?

Toni Dyer

Yes, the sections called City property and then there's like a maintenance. I think it's in his maintenance line.

Toni Dyer

Yes, under the front of the building maintenance.

Casey Hanson

So that was \$45,000 a year I think this is \$25,000. So will that when we make a decision what budget will that end up coming out of

Toni Dyer

this was budgeted in the police budget. They have a line for utility costs in their cleaning costs.

Shawn Willey

It's under miscellaneous city properties.

Gene Lyons

Move to approve.

Casey Hanson

Second,

Dale Hamilton

motion a second. Any further discussion? All those in favor. Thank you.

Dale Hamilton

Council order number 101602. requested the IT director define an additional year of Tyler Munis maintenance and support

Jason Ingalls

Good evening. IT systems administrator Jason Ingalls. I'm here tonight to request your approval to fund our Munis software maintenance for an additional year because we are behind our plan delimitations schedule on his replacement because out. So we're looking at a February possibly March go live in the new software in our maintenance and Munis is up, essentially right now. So the reason I need your approval is because we did not budget for this we had anticipated being into Caselle. By now. We had delays primarily with getting the chart of accounts for the new software. So essentially, we need to keep the software functioning for another six months or so. They don't do month to month they don't do prorated contracts, they do annual contracts. So we're kind of stuck for another full year. This number \$30,904 reflects only what we still use, we've pulled out payroll HR functions that we have moved to other software already. So this basically is only for financial, the financial functions on the program. Propose to fund it, we would fund it out of my current budget, which would overdraw my account or we're looking at my fiscal year 23 prior year budget. There should be money available to encumber from that prior year to this year to cover this expense. We're not comfortable saying that for sure until we have the audit results for FY 23.

Gene Lyons

any questions? So so if we said no, then there's not much we can do, right? We have to say yes, to

Jason Ingalls

be a problem that you say, Okay.

Gene Lyons

I'm gonna get around it by saying no.

Steven O'Halloran

Could you repeat that answer?

Jason Ingalls

it's going to be a problem. If you say no, because I don't mean that stuff. No.

Steven O'Halloran

I'm just trying to figure out what, what the we're in a corner here, correct? Yeah,

Jason Ingalls

it's the software that the finance office uses data data to track our finances. So without that program, running without support for that program, we when you know, they can't do their job. So

Casey Hanson

are we already paying for the new the caselle system,

Jason Ingalls

we're not, but as soon as we go live, we owe them the second half of the purchase price. So we will be paying them in February or March, if we go live with them.

Casey Hanson

So we're not really saving, maybe like a month or two of money from that payment. Or just,

Jason Ingalls

basically, it's we we pay half, when we purchased the cell, we paid half up front, and then we pay another half that go live. So we're not really saving anything. I mean, we have it covered the same anything, you're paying it all out of this fiscal year anyway. So

Dale Hamilton

I think, unfortunately, is also when the audit is reviewed in terms of 22, there's really to make sure that that system is operational, not just for current, but also to square FY23. And moving things over. So it's

Jason Ingalls

an important point, both will need access to that software as they continue through the their audit process. So there's other reasons to continue having access to it. The primary one is just the day to day function until we're ready and live. And so

Michelle Beal

Jason, is it possible? I mean, I don't mind you overdrawn account, but you can't wait until the audit of 23. Because you can't recover funds once you've had your audit. So is there a way to that will know by the time you pay the that payment in February, March?

Jason Ingalls

It's probably a better question for finance, but me looking at my budget. And what I what I expended last year, the money should be there. There's, there's there's leftover funds in my 23 budget that would cover this.

Tammy Mote

So you can cover this remaining funds in there to cover it from 2023. You're just remaining funds within your technology budget.

Jason Ingalls

Yeah, we had in my contracts line, there was I think, almost 40,000 That was not expended. So

Gene Lyons

Move to approve.

Casey Hanson

Second,

Dale Hamilton

motion a second further discussion. All those in favor. Thank you. Thank you for the question.

Casey Hanson

The authorization of overdrafts and we need to do those separately.

Dale Hamilton

The what right now is that's the only way to do it. They will have to come back to the council to income or any funds and since we don't know what that is, we we can't take action on that until we actually have a definitive so that that can happen. separately. Right now it's just people.

Dale Hamilton

Right, item 14 public hearing discussion and potential action and council order number 101603 resolution to accept a public service Community Development Block Grant. The purpose of the grant application is to help support a new program in partnership with a local public service agency in order to assist low income and homeless persons in Hancock County.

Janna Richards

Good evening counselors I'm Janna Richards, the economic development director for the city of Ellsworth, here tonight with a slew of agenda items pertaining to this community development block grant. I think that Shana Fraser, who's the executive director of families first community center, who is the sub grantee on the application is on the Zoom. If she Okay, perfect. Hi, Shana. Thank you. So I figured I'd give you a little bit of background information and then we could go into each individual request from the council. So the background information as we came in June for a special council meeting, to hold a public hearing to discuss actually submitting the application. There was approval from that from the council. So we move forward with the real application. We were approved conditionally, we have to go through this next phase, which is called the project development phase.

Just a reminder for the council and for the public who may be watching. This is a public service community block grant, we're asking for \$50,000. Again, the city has to apply because municipalities are the only ones that can apply for community development block grants, counties can also apply, but it has to be a local or regional government. And the subgrantee families first Community Center came to us saying that they wanted to create a new program for Ellsworth. And they knew of this grant opportunity, and after looking at it and working with Tina, who runs our General Assistance Program, we worked with families first to look through this program to make sure that there weren't any duplicate efforts of services that would be provided to community members. duplicate efforts on behalf of not only the city's general assistance program, but also other public service agencies that are in Hancock County currently. The program is called the helping our and it provides additional assistance to the homeless and at risk of homeless populations. And again, it does not duplicate but complements current ongoing efforts by other public service agencies in Ellsworth in the city's general assistance program. The application was in your packet, and it was provided back in June as well. So come back to today, we're in the project development phase. This requires numerous as you can tell, approvals of adopting forms and some resolutions. This is federal funding through HUD, which is why there are so many requirements to be able to get those federal funds, you'll see there's, we'll we're going to go through but there's a lot to do with making sure that there is equal opportunity for employment, there's fair housing, which there's an assessment of looking at all city facilities and ensuring that there are some ADA accessibility, things like that, those are all federal requirements, that even if the program that we are submitting the application for don't have to do with city facilities, or housing, or anything of that nature, the city still has to adopt and submit those forms as requirements to be able to accept the funding from the federal government. So that's why there's so many of these. And just speaking with the clerk and with the program director at the state, we felt that it was the cleanest way of doing it was going through item by item and having a separate agenda. Council order for each one of these forms, which is why there's so many. Yeah, I don't think there was anything else I was gonna say. The first one that Chairman Hamilton just brought up is there has to be a public hearing on accepting the funds. And in the motion. There has it has to state the fund that it's coming from. So that's the public service community development block block grant program. And it has to say the in the amount that we're requesting. So there is a suggested motion here. I figured it was probably prudent to put that one first. Because if you do not approve it, then the rest are sort of moot at this point. But I'm hoping that we're hoping that it is approved. And I think we can entertain questions unless you want to open the public hearing first.

Dale Hamilton

So let me open up okay for all the comments. So hearing open the public hearing, if you'd like to speak on this matter, you may do so at this time. Seeing them now close the public hearing. So

Casey Hanson

I just appreciate how much work you had to put in for all of this. And I think these grants and especially these community block grants are the best way that we can improve our community without costing the taxpayer. So I just really, it's a lot of work and I appreciate it. You

Janna Richards

reminded me of what I was going to say thank you and you reminded me that all of these forms that you're about to go through. They have a three year shelf life. So that means that we can apply for additional community development block grant funding and not have to go through these approvals and forms just Go through the regular application process. So that's the good news that the work, you know, could be put toward other things we've leveraged and put toward other grant funds. So thank you.

Casey Hanson

I mean, just looking through the packet is incredible. For motion move to accept the resolution for a public service community development, block grant, to support a new program in partnership with a local public service agency to assist low income and homeless persons in Hancock County. For the amount of \$50,000.

Gene Lyons

second,

Dale Hamilton

second, further discussion. All those in favor? Unanimous.

Dale Hamilton

Item 15 review discussion and potential action on council order number 101604 adoption of the Community Development Block Grant standards of conduct in order to administer the accepted public service Community Development Block Grant.

Janna Richards

Okay, so the code of standards. Since we are the city is going to be a recipient of funding, we have to agree to the code of standards, which were put into your packet. It really has to do with how we use the grant funding, and it has to be utilized toward the program that, that we're saying that it's going to be used for so it's do due diligence and adherence to these code of ethics. Sorry, code of standards.

Casey Hanson

Move to approve standards of conduct.

Gene Lyons

Second,

Dale Hamilton

motion a second discussion? All those in favor? Unanimous.

Dale Hamilton

Item 16. review discussion potential Action Council order number 101605 adoption in the Community Development Block Grant Fair Housing resolution.

Janna Richards

Okay, so, as I said before, this program doesn't have to do with housing, but it's a federal requirement. So each municipality receiving the funds must certify to affirmatively further fair housing. We filled out

the Fair Housing form that you will see in the packet. It's just informational. There's no need to we we reviewed it as city staff, I believe, Lori, myself, manager Moshier, so staff was able to go through that and fill it out on the best of our behalf.

Casey Hanson

In this fair housing, self assessment, and I guess, in really any of the self evaluations Did anything come up as curious? Did you learn anything about the city in that process that needed? Review?

Janna Richards

No. Um, so I did talk to Tina. So the city doesn't, hasn't adopted. So you'll see a number three of the Fair Housing self assessment, it says, Has your community adopted a fair housing program to help local citizens be aware of their rights regarding Fair Housing under federal and state law and in filing a complaint, if discrimination is suspected, the city doesn't provide that service. But we do have other agencies that are located in Hancock County that do provide that service. So I learned that through Tina, so this was definitely a team effort of, you know, getting all of our resources and ducks in a row to be able to fill out some of these forms. So that's what I learned at least.

Casey Hanson

Move to approve the fair housing, self assessment. Fair Housing. Fair Housing resolution resolution.

Gene Lyons

Second.

Dale Hamilton

discussion. All those in favor? Unanimous.

Dale Hamilton

Item 17 reviewed discussion in professional action on Council order number 101606. adoption, the Community Development Block Grant section 504, self evaluation and transition plan?

Janna Richards

Yes. So this was a form that we filled out was a review of how the city conducts hiring. So there's employment section. There's a program accessibility section, the only program that the city provides that is listed here as general assistance through through Tina's department. So she was able to answer a lot of those questions in regard to how we serve disabled persons who are utilizing general assistance. So that's filled out in here. And then you can see we have 18 facilities that needed to be reviewed under the UF A S, which is the Uniform Federal accessibility standards. Lori conducted those assessments for us. They include all the city's buildings and property as well as parks, parking lots. The more community center been the branch Lake public forest and some of our trail systems are are on here. And in the cases that were not in compliance, we just had to explain why. But there's no nothing in here saying that we have to bring it up to a certain standard or anything at this point.

Tammy Mote

You ready for a motion move to adopt the completed section 504 self evaluation transition plan.

Casey Hanson

Second,

Dale Hamilton

motion a second discussion. All those in favor? Unanimous.

Dale Hamilton

Item 18 review discussion and potential action on council order number 101607 adoption of the Community Development Block Grant residential anti displacement and relocation assistance plan. So,

Janna Richards

again, the Department of Housing and Urban Development federal, federal HUD requires all recipients of these funds, regardless of the proposed program and activity to certify that they will not displace people without just cause and will follow federal guidelines on compensating any individuals that may be displaced. This includes communities that do not anticipate displacing persons. And so that plan is included in the packet and the motion that is suggested is to certify that plan.

Casey Hanson

Move to adopt the community development, block grant residential anti displacement and relocation assistance plan. She wants to certify, I mean, to certify it.

Jon Stein

Second,

Dale Hamilton

second discussion. All those in favor? Unanimous

Dale Hamilton

Item 19 review discussion and potential action on council order number 101608 adoption, the Community Development Block Grant Equal Employment Opportunity policy statement.

Janna Richards

So I went to the HR department and we did not know of an active policy statement at this point in time. So we're taking this opportunity to utilize this as our policy statement. I allowed the HR director to review it. The city manager has reviewed it, we don't find any issues with this policy statement. And so and it's a requirement of the grant, so we figured we would bring it forth before the Council for approval. Does

Casey Hanson

it apply just to the grant, you're saying for the whole city it

Janna Richards

can apply to the whole city. Like I said, at this point in time, we're not aware of one in the HR department. And I mean, all of our advertisements for positions at City Hall all say that we are equal

employment opportunity. And those types of things. It's just we don't have a policy statement that was ever adopted by the council that we are aware of.

Gene Lyons

Move to approve adoption of community development block grant equal OPT employment opportunity policy statement.

Casey Hanson

Second,

Dale Hamilton

motion a second discussion. All those in favor. Anything else?

Janna Richards

Thank you. No, this is exciting. much appreciate it. Thank you, Shana.

Gene Lyons

We appreciate the hard work.

Dale Hamilton

Right, item 20 was to be a presentation by RHR Smith for the FY 22 audit. He is unable to be here because of some travel changes. You want to

Michelle Beal

move to table to the November meeting.

Tammy Mote

Second

Dale Hamilton

motion a second. All those in favor? Aye.

Michelle Beal

Yeah, he said he was just he was on an airplane and it got delayed. And so he's in the air so we

Dale Hamilton

Item 21. Public Hearing and action on the charter amendments to the Ellsworth city charter. Did you want to say anything?

Casey Hanson

Just an approval of what we discussed last meeting

Toni Dyer

couple of changes and include it on the June ballot for next year with the July one effective date

Dale Hamilton

has to do with nomination petitions and the ballots to be prepared guidelines.

Casey Hanson

Am I remembering right that it got pushed forward to this month because it hadn't been.

Toni Dyer

We hadn't had proper time to advertise public hearing my deadline for the Ellsworth American got cut off

Casey Hanson

to have this public hearing today.

Dale Hamilton

So this public hearing open the public hearing, public hearing is open. If anybody would like to speak on this, they need to do so at this time. Seeing close the public hearing, public hearing is closed

Jon Stein

move to approve the charter amendments to the Ellsworth city charter as presented

Gene Lyons

second

Dale Hamilton

motion a second discussion.

Michelle Beal

Just so the public knows if we could just it's so the the changes are removed. Call it five, the nomination petitions available 100 days prior to the election rather than 85. And return date 60 days instead of 40. and then there's something the city clerk won't officially did official designate by the city clerk will prepare and furnish the ballots was the only changes. So it was anything substantive, really just to put our charter in line with the state laws, correct. election laws.

Dale Hamilton

All those in favor.

Dale Hamilton

Item 22 presentation by Downeast wood bank for winter services and needs in Ellsworth by Tom Matthews sponsored by councilor Stein. So

Casey Hanson

I think the Tom couldn't make it. And so the gentleman I spoke earlier, opted to present earlier just for three minutes, but I thought I'd leave this agenda item on there as sort of a means of discussing all outside organizations, we talked last budget season about creating an application for outside organizations so that they could actually apply and we would know what they do, they would know from us what we want to hear from them. For example, how many citizens of Ellsworth, are you working

with? What are their current barriers to access? How are the trends are changing? I'm not sure if any city staff has been working on such an application or if it's available now. I'd like to see one I have suggestions I'd be happy to submit or to take from other councilors, I'm not sure who from the staff would be the person to initiate that.

Toni Dyer

It's not been worked on to my knowledge, but I can at least send the council the documents that we've been using. I'm not sure how many years those have been in effect for modification as a starting point.

Casey Hanson

Because when do you when do you ideally want to have those applications? And I can't remember what the deadline is

Toni Dyer

Sent them out last year in November? Yeah.

Casey Hanson

Yeah. And you asked people to get them back to you by

Toni Dyer

Third Friday in January.

Casey Hanson

So maybe you have maybe Toni, you could send that around to us, and we can email back suggestions and discuss

Toni Dyer

then maybe, between your emails finance committee can bring it up to finance committee meeting before those go out. Because they would generally go out before your next council meeting. Unless there's a change in plan.

Tammy Mote

Did we approve a Social Services Committee? Could he get rid of that? New? I can't remember

Dale Hamilton

this last time we did it. Okay. That had been eliminated a while ago. So.

Gene Lyons

What are we currently do if somebody needs wood?

Toni Dyer

Currently, yeah, we have one of our city employees has wood lots that he has a side business doing some wood. So he will bring us we have a source but it's not.

Gene Lyons

like buy it from him and then give it to the people that need it. Yes.

Toni Dyer

And he delivers it for us. We don't. But it's not a formal contract. And it's I think Tina said there was two people last year that needed wood

Jon Stein

And it's just the people who qualify under General Assistance correct.

Michelle Beal

So this this wood bank is above and beyond, it's kind of like our heating fuel heating fuel is the same thing as people that don't qualify for GA they use the word bank.

Casey Hanson

So that means this is just a good example of the questions that we have for this word bank we might have for other outside organizations and to quantify that. So a consistent application so that we have that information when we need it during budget season. I think it'd be really helpful. Just Just like you're asking to have a have them submit that to Yeah, that's good.

Dale Hamilton

Item 23 discussion of possible action to enforce chapter 56 of the Unified development ordinance regarding odor at Maine Organics, it's sponsored by councilor O'Halloran.

Lori Roberts

Lori Roberts code enforcement office. I'm just here in response to the request. Secondly, we did have a meeting with the DEP. On October 5, he submitted a letter I don't know if you found that in your packet. Okay. And then there were items that during that meeting that we went over about, items we went over during the meeting, Josh Wellman was considering purchasing a weather station to monitor the wind weather to discern the conditions when the odor complaints arise, and an N butanol odor testing kit. So he's suggested he may do that. Having seafood shells along with full bodies crushed prior to receiving the shellfish to eliminate the liquid, which would help the odors and both mark and Ed, both from DEP, scheduling a site visit to build a composting pile with the staff just to make sure that they're doing it properly. And Connor Wellman which is the son of the owner, and he also attends to the site out there are the composting facility, he would consider attending composting school making sure that complaints are in received in real time. With Edie, he's given his cell phone number, making sure that a six foot biofilter of finished compost or woodchips over the activity, actively composting Windrose to contain any odors from escaping and continuing to be diligent about sending an odor response form a complaint to myself, which was Ed and to the complainant to provide a better idea of why the odor may have been occurring and what operational practice practices may have been taking place at the time. And then I sent you the email from our attorney suggesting that there are two ways for us as a city, if you suggest to the city manager that we do this, that we would need to file an enforcement action and have the court impose a fine or the city could negotiate an administrative consent agreement with the facility. And that basically is a contract and the city would seek to have the alleged violator agree to pay a lower fine that would be imposed than would be imposed by the court for one or more alleged

violations returning from I'm sorry alleged violations in return from her failing to sue meaning going to take him to court for a fine so those are the options and do whatever you want to do

Gene Lyons

what would a fine do to alleviate the smell number one?

Lori Roberts

I don't have an answer for that

Gene Lyons

Not gonna cure the smell. We need a cure for the smell.

Lori Roberts

And it's inherent that when they dumped sea food, their seafood shells What have you, there's going to be an odor. It takes a while for it to get contained. So

Steven O'Halloran

when I got elected two years ago, I had business owners calling me about the constant smell. And I believe we've talked about the subject three times now. And it seems that we always talk about how can we comply? How can we get them to comply? And we've asked them many times, and my opinion is this. This has been going on for five years, six years. Fair. I'm sorry, five years, okay. And going on for five years. And every time I bring this to the council, I hear about all the new methods that we're doing. And the way I read the uniform development ordinance, it's very clear. Under 801.3 that what's happening there is not allowed.

Lori Roberts

Well, I'm asking you, you can choose from one or two things, we can sign a consent agreement, or you can request that the manager, we take him to court, one or the other, or anything, I don't mind doing anything.

Steven O'Halloran

It just seems like every time this is brought forward, we talk about the last time we were here, we talked about 90 days to try and comply and we continue and I was very soft. In the beginning of this, I don't want to see a business get harmed. But allowing what's going on here is harmful to all of the other businesses. And it seems like we have given this organization many chances. And the DEP says that they're continuing to work on it. But that doesn't avoid 801.3.

Dale Hamilton

in response to that the letter that we received from the DEP. This is a council decision. So if there's a motion to do something different, it should come from the council. It's not city staff. So I just want to be really clear that the council has taken the action that we've taken to date, city staff have not been ignoring it. City staff have been following the direction of votes that have been taken by this this council. And I just think it's important to make that clear distinction, that if there's if there's a motion to be had make the motion. Second thing is we received a letter from the DEP and this is where it conflicts with

with this statement in terms of what you just presented. The DEP has oversight of this facility. And the DEP says that they are operating in compliance. So from a city perspective, I completely understand the issue and the concern from the other businesses. I am not oblivious to that. The challenge for the city is then if we take action that is opposed to what the regulatory body is stating, are we putting the city in a position where we are going to have a lawsuit that's going to drag out because we tried to impose a fine, which is pretty nominal in terms of the amount. That's what I wrestle with in terms of how do we do this? We've had issues with noise complaints, and there's nothing in our ordinances that specify what is a violation of odor. What does that mean? What is the definition of that? So it's a tough issue. And from a legal standpoint, the our attorney city attorney has suggested two possible remedies. And and I guess that's that's where we stand in terms of action that we could take. But that's up to the council to move on that if we choose.

Casey Hanson

Just to clarify for myself. So the DEP has evaluated it, it is within the standards of what the DEP suggests. This is Ellsworth ordinance. And so it could be read as in violation of Ellsworth ordinance. And so these two choices, can you just say them again to remind me what the law says

Lori Roberts

the city would need to file an enforcement action under Mr. Civ, p 80k. And have the court impose a fine, so that means I would file with the attorney an action after I served them notice. Send it to the attorney he would file in a court and then the court would impose was a fine

Casey Hanson

with the court decide whether to impose a fine. They just, they could be like No, this is frivolous forget about it or no, they would,

Lori Roberts

I couldn't say I've never taken this kind of an item to court. But you know, anything's possible. Or we can get into what's called an administrative consent agreement. And I've been I have entered into these for other items such as shoreland zoning violations where they've cut trees down. And these types of things I've entered into a consent agreement, if they don't follow that consent agreement, and then you can go back to court. So it's just an option. Yeah, yeah.

Casey Hanson

I just want to say one more thing, certainly, which is, I think a little bit to what Gene was saying that both of our options, none of our options are going to take away their business, and therefore, there will be no taking away of the smell that comes with it.

Lori Roberts

Well, I don't know that. I

Casey Hanson

I just I mean, unless the fine was onerous. And the business decided to leave

Lori Roberts

the city just doesn't license them. So my I'm so limited as to what I can do.

Casey Hanson

Because you don't license the composting. Who does that DEP?

Gene Lyons

Is there anybody from DEP that could speak on?

Lori Roberts

he sent a letter? Did you see his letter?

Casey Hanson

he said it's fine. It's in compliance.

Casey Hanson

I asked him, I was trying to reconcile our ordinance with what he said. And it kind of came to a crossroads at the actually detecting some objective scale of the odor they have when they use what they call five point odor intensity scale. Yep. Which I haven't researched.

Lori Roberts

It's the N butanol test, and from what I understand, it's a chemical that you're at the plant and or that the site and you smell an odor, and then you smell this stuff. And I am not volunteering for this position, and then take it away and then smell it again.

Casey Hanson

So you're comparing very advanced. There's a similar smokestack, oh, pet, oh, scale, could be hard to do, but you can train it. So he said, Yeah. Some of the staffers in Hampden were trained on it and had used it. Yeah. So that I imagine if we were to go to court and wanted not to lose, we would want some objective data, their staff was trained, they went out they took, like, imagine the amount of staff time and also paying for legal fees and everything.

Lori Roberts

I don't know how much the testing kit is.

Casey Hanson

Yeah, just seems like a hassle.

Toni Dyer

And just a follow up to councilor Hanson's earlier statement, the court can min my experience they can choose to impose a fine or not based on the merits of the case. I've had a couple and previous employments where they recommended the two parties come into a consent agreement and work it out outside of court. So the options are unlimited swirl around in the court system for months.

Casey Hanson

Can I ask just one more question about back when the decision was made that we could have a composting.

Lori Roberts

I didn't attend those planning board

Casey Hanson

those went through planning board and felt it would be I mean, they knew if there was going to be a composting, right.

Lori Roberts

So we have a our transfer station is right next door. And there was a time when we were taking I'm sure you guys remember the shellfish. It was really toxic. I mean, so toxic. And I, I said in a department head meeting that I had never received a complaint about our transfer station, which I felt stunk worse, when it was just they were just being dumped, and sitting there, you know, not properly being composted. And Adam said, I used to get them all the time. So it did stink at one time, even for the people around there. So and that's just by dumping them directly with the liquid and all of this in it with nothing to take care of it other than they did tell them at a later time that they could add this five gallons of this chemical to the hopper where they were dumping all this stuff. And it attached to the I don't know molecules. I don't know too much about chemistry but it reduced the odor but it didn't stop you. But this isn't something you can utilize in a composting situation, because it's killing a lot of the molecules that it needs to heat up and do the right process for composting.

Casey Hanson

I'll just say it has been going on for a while but they've not been doing nothing. I mean some of these tactics that may not work perfectly, are still innovative and impressive. And, yeah, we

Lori Roberts

had a real bed problem with birds. And so they put nets up over the little, I would say, I know bungalows here where they would put different piles in. And instead of the birds being able to fly in and get some of the Jackson lab grain, they stayed away because these nets deterred them to stay away. So there really wasn't anything for them to eat.

Steven O'Halloran

So I get back to 801.3, section B that says no land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their light lines, measured either at the ground, or habitable elevation in and doing nothing is really slapping the other businesses doing something is slapping one business I business that we have asked constantly to comply, I realized that it's a difficult situation for them to control the order. However, the city has this right here. And there's got to be something done for these other businesses. Their property values have plummeted. They couldn't sell that property if they had to. So my view is this. Something has to be done better than we have been doing it read along. And we can say, well, they're trying. Okay, they're trying. Okay, they've been trying since I've been on the council. And bottom line is they're, they're affecting all of the neighbors within a

half mile radius. And I think that's a conservative number, a half mile radius. And I don't think it's fair to the other businesses to do nothing. Or perhaps, if we're going to allow this, maybe the other businesses should get their tax bills cut in half the valuations cut in half, there's got to be something different than talking about how to fix it. The practicing needs to be over.

Dale Hamilton

What was what do you want to recommend to the council?

Steven O'Halloran

would recommend one of the two options. I don't care which one maybe the lighter of the two, to bring this beyond where it is because this just is not fair. What's going on? We I mean? We wouldn't be talking about this, I realized that to heart subject. But we didn't create the subject. They came here to do this. And in my opinion, it's their responsibility to live up to this like the rest of us. And that's not happening. So my suggestion would be the lighter of the two, which to repeat what you said was the consent content, right to try and come up with something in court is an option beyond that. Correct. And what what you're saying is that if you go to court, you may go back to do that anyway. So wouldn't it make sense to try and come up with some plan? That consent agreement to at least elevate this thing to get compliance? I mean, the DEP wrote a beautiful letter about how they're trying. But they're still in violation of this and we they need to get rid of this or make people come into compliance. You know that eep wrote a beautiful letter and says they're trying and and I respect the try. But the trial has been going on for too long this the dress rehearsal is over. My suggestion is a consent agreement that the attorney said that is the lower of the two correct thing going to court. Yeah. Isn't that the lower of the two it's fairness to the contractor. And it's also a step in the right direction for the other businesses.

Lori Roberts

They're gonna have to agree to sign it's a consent agreement between both parties.

Steven O'Halloran

What from what you're saying if we could go to we go to court and we I mean, we'll end up back there anyway. Correct. Possibly. Or we could go to court, one of the two but there is no daily fine that that the city can initiate.

Lori Roberts

Okay, have to go to court. Okay. They can do a daily fun without a court imposing.

Steven O'Halloran

And what would the city suggest?

Lori Roberts

For the fine? I have no idea, I would have to discuss it with the attorney after you gave the manager, the you would need to authorize one or the other through the manager to have me

Casey Hanson

it seems that the two that consent agreement, to me anyway would be the way to go just because the party we're talking about has always been willing to come in and talk and be reasonable. Maybe hasn't solved the problem, but has come to the table. So what if a consent agreement looks like I don't know what this would mean, legally, but an agreement to pay the other businesses affected? I think of places like Alaska where there's drilling and citizens that live there are paid, basically. You can leave some Yeah, nuisance be you know, this is something we can't change, we're gonna be here we're doing it, we realize it affects you, here's some amount of money over some amount of time that we don't have to get involved by finding and relieving property taxes. It's, it's a direct payment. So crazy.

Gene Lyons

I agree with that. I'd still like to see a solution to the smell. I mean, and I'd like to know, back when it all came about, what was the plan to not have any smell that I was just thinking you could do compost in there, and there was never going to be a smell so nobody addressed it.

Lori Roberts

I wasn't there, right. But there is no composting that does not have a smell.

Gene Lyons

There is no I mean, this is a quarter of a mile from main road in less than a mile from houses, other towns, some put it, you know, eight miles back in the woods. And another thing I don't get is I drive through towns where they do it constantly. And I never smell the wrenching. Just gut wrenching smell sometimes. But I also know that it was much worse months ago. And it's somewhere along the line stuff did start to get better. But then it's like taking a downturn again.

Lori Roberts

They don't compost our sludge anymore.

Gene Lyons

But what what are they doing now? That mean? Because before it was the sludge, but so they don't do that anymore? So why does it get worse now?

Lori Roberts

Well, I yeah, I I'm not a scientist. But I hesitate to say. But even when our transfer station stunk, you know that, I guess maybe in the thought process while it's right next to our transfer station out there anyway. I don't know. I don't know what they went through. It's the industrial park. But it was called the industrial park at one time, it's now a business park.

Gene Lyons

They went through a lot of talks in how many months did it take to get it all approved. And nobody brought up. All of this was gonna smell and nobody even thought of that. I mean, a business spent probably in the millions of dollars to get that setup. And that's where I struggled with, you know, I mean, they did put a lot into it. To say that, find them every day. And I want a solution to it like anybody else, but a real solution.

Steven O'Halloran

I went back and and looked at the planning board meetings when this was being proposed. And time and time again, we were told by the contractor in those meetings that are on video, that if it's done right, there won't be any odor. So I would bring this back to it can't be being done right. Well, that's not a true statement, one of the two because that is on video that if it's done right, there'll be no odor. Well, I drive by there every day and I don't care if it smells or not. But I care about the businesses that are there calling and wanting solutions. It's not fair to them. And I talked to Mr. Moser about it when I got elected and he said the city bent over backwards to get them in here. Don't know what that means. But that's what I was told I went with one Watch the videos and bottom line is we've talked Oh, we should talk I would make a motion to. And one of the two, we have to do one of the two. We could try the the court action to enforce it. Or we could try the lower amount of trying to come to some agreement. But something's got to happen. This is these businesses beside they're losing money left and right there. The valuations are cut in half the city, so sending them a big tax bill. We've got to do something.

Gene Lyons

Make a motion.

Steven O'Halloran

You could give me the language.

Lori Roberts

Certainly. Alright, the city could negotiate it an administrative consent agreement with the Violator, which would is which is essentially a contract, the city would seek to have alleged violator agreed to pay a lower fine than would be imposed by a court for one or more of the alleged violations in return for refraining to sue, meaning taking them to court. The administrative consent agreement can include a stipulated penalty for future violations, but there should be a deadline for full compliance or it will appear as a license to violate the ordinance.

Steven O'Halloran

So move.

Dale Hamilton

Is there a second? Is there a second?

Gene Lyons

I would second that

Dale Hamilton

further discussion?

Casey Hanson

I guess I'm a little confused by them. The motion I I think if I was going to vote for something like that, I would need it to come before me in a more complete way. Like what what? What would the consent

agreement look like? How much money would be asking? And I guess I'm still I'm still a little mystified? Like you said that at the planning. Were meetings, they said if the composting was happening correctly, there would be no odor at all if that is true, and that is possible. I guess my other than hearing that my mice, my thought was that there is no way to have a composting operation that's that big that doesn't have an odor. And so if we go with the consent agreement idea, we would have to decide, are we looking for something what like what Councillor Stein said, which is some kind of, we're asking for a nominal for some kind of fee to give to the surrounding businesses to offset the nuisance of it. Or we want to impose a fine that's so large that we actually just want to drive the company out of business, because we don't want to smell that compost.

Lori Roberts

So there are minimums that we can do in our ordinance. Okay, it's \$100 a day, or 20, up to \$2,500 a day. And so there's limits to it. So what does that exactly mean? does that exactly mean I get a call for a complaint at two o'clock in the afternoon, then the smell goes away at four. And so they're fined for that hour and a half or two hours. So I don't know I it's going to be have to be something once you instruct Glenn to tell me I've got to do some research with the attorney and get some ideas.

Casey Hanson

The consent agreement is not appears not what I initially thought it was when I suggest that because it can't be a license to violate rights isn't a go about it, it's going to smell it's going to be fine. We'll give restitution to these other neighbors. But that's not what we're saying. We're saying that we're using the fines to convince them to fix the problems, which I think there's still doing everything they can to fix the problems. I don't know if this is solved, but maybe it will maybe it will be a little bit of extra motivation.

Tammy Mote

I'm just wondering if it'd be best to request the city manager to bring back a consent agreement for us to vote on next month with the information because I think there's a bunch of information that's missing that really needs to I'm not comfortable voting for it if I'm not actually seeing the contract.

Gene Lyons

was days when it was 95 degrees this summer, I went by there and smelled absolutely nothing. So what has happened since it's 40 degrees, you would think the smell would be less what is happening,

Lori Roberts

it has a lot to do with the delivery of when the shellfish comes and how quickly they can attend to it to get it covered, et cetera. I don't know that.

Gene Lyons

I mean, they haven't, like backed off from how much the wood they're using, because of cost or something. I mean, they use the same man, I just don't get why 95 degrees out, and I can smell it. And then all of a sudden, it's just like, nauseating when you go by and it's 45 degrees out. It should smell last. And they did good for a while it was I went by there many times and didn't smell it. I did smell it once in a while. But I don't get it, I hope that there's more they can do to make it right, because finding him \$100 A day for, you know, \$35,000 a year, I don't think that'll make the smell go away.

Dale Hamilton

I guess one of the things about this is the subjective nature of parts of it. I think we Council also has to be careful not to set a precedent in terms of how the council responds to violations of ordinances. It's a slippery slope. So what is a nuisance now of the smell in the future, some other resident might claim a nuisance of some other type and then try to seek the same type of damage that a council set. So I think we have to be very careful in terms of following legal guidance around what we can do what's permissible so that it can be consistently applied for all potential issues in the future. And And again, a situation like this is 100%, in my opinion, 100% Council action and not city staff. And so that's one of the things I understand how why people are frustrated about it. But it's not because city staff are not doing what what they need to do. It's because we as a council have made decisions to this point that have tried to resolve it within the means of trying to find a resolution. That's that's the reality. So whether the council takes action or not, we're ultimately the council is ultimately responsible for whether it's it meets somebody's needs or doesn't. City staff should not be blamed for a situation like this, because they could not impose this either one of those without the endorsement of the council.

Michelle Beal

Can we make a motion?

Dale Hamilton

We have a motion to table the motion? Oh,

Jon Stein

the one consent agreement. So

Michelle Beal

can I make a friendly amendment? that that we authorize like you had said, but it comes back at our November meeting with a draft for the for the council to review like counselor,

Lori Roberts

so you're instructing the manager to have me do that?

Michelle Beal

then bring it back so that we can have something to look at?

Dale Hamilton

So because that's very different than the original motion? We should

Dale Hamilton

We should we should dispose of one way or the other the first motion and then come back. And there's a second motion? Because it's it's really two very different motions. Clear. So further discussion on the original motion.

Dale Hamilton

No. It's not a public hearing. But we have public comments. Somebody wants to speak to our Mr. Wallace, can you just go? Thank you.

Kevin Wallace

I'm a neighbor. I get it the worst, downwind from it. I don't know I'm thoroughly discouraged. I want to see something happen, but I don't see anything happening. But this seems like maybe a direction forward. That would help. Obviously, the DEP rules. What they allow to happen shouldn't be afternoon analysis right now. That smell was horrible. I just like to see a resolution before I decided I'm not going to be analysis anymore. I'm really looking that way. I'm so that's how discouraged I am. I've been here 30 years in this town with my business. It's affecting all the businesses up there. A lot Other businesses and nobody's here, because they're tired and tired of filling out logs and seeing no response. I've talked to a couple other guys today up, they're like, Why? Why are you even doing this? I don't know. Cuz I hope I'm gonna see a result. Thank you

Tim Stone

so I don't think anybody met me besides Laurie, many conversations. I'm Tim stone. So I live at 30 Old Mill Road, which is if you turn at sunrise glass and then make a left immediately, and head down to the river, that's where it's located. It is approximately three fourths of a mile from Maine organics from their property line. I emailed you all at one point about this, this issue. A couple of things. So we realize myself and my partners, were building a business there, I should say what the businesses were put putting in probably we're putting in 16 tree houses that are luxury tree houses for short term rentals year round, not just in the summer. And it's about a \$5 million project. And it's a significant investment in the town of Ellsworth. So this presents a number of problems personally, it presents a problem because I live there It smells really, really bad. In terms of its subjectivity, I've had 19 people come out and work and 19 people have all said, What is that horrible smell. Everybody agrees it's not mean subjectivity, you would have somebody disagreeing. It's bad. When it's bad, it's really bad. This past week, for example, there were four separate days when I filed complaints about the odor. That's an unknown abnormal week. Normally it is two or three times a week. And normally it lasts for for two or three to four hours. But sometimes it can be bad all day. In the wintertime, when it's not windy, and it's cold, the smell will come in and it will sit there for days, not just one day, with two or three or four days in a row. And it's this constant. It's not quite as bad in the winter, at least most of the time, but it will be there more often. So the type of business that we have, and the one that we're putting in one of the things we're doing, we have a field by the rapids there and the river, we're putting in a pavilion and we have these nice little cottage type places that we're building. And we want to have weddings there. And Ellsworth I think needs a place to have weddings, instead of everybody going to the island. But you can imagine if you have a wedding, and it's catered, and you have lots of people there, and everybody shows up, and this horrible smell rolls in, how that wedding is going to go. And what I'm going to have to do as a manager of that. In other words, we would probably never be able to have a wedding there ever again. It'd be that bad. The other thing you can think about is we have guests that get up in the morning to have their coffee and walk out on the deck that's up in the air and they're treehouse. And that smell comes in. It's the only thing they're going to remember it's absolutely atrocious sometimes, like you said it makes you feel sort of gut wrenchingly sick. I do not have a very sensitive nose my wife does. But it still smells terrible, even to me. So we don't see this as a small issue. Again, we're three

fourths of a mile away. It's happening a lot, three to three times a week. It's just too much. And the level of intensity is I think, also too much. We realize that the DEP is the one regulating them. We're not asking you to shut the business down. We're asking you to enforce the ordinance in a way that works for you. Because the ordinance that's been read, I think is actually very clear. Lastly, I think someone will say one more thing. So it's hard to get definitive research on something like this. But so the Journal of real estate research in 2005 did quite an extensive study on odors from landfills and the effect on property values in minor landfills that have a minor odor, it would decrease property values 13.7% in places where there was a major odor, it would increase or decrease property values by 20 to 26%. This is affecting at least a mile area downwind. This is very very significant, I think for the town of Ellsworth, in terms of property values. I guess Lastly, and I would like maybe to your responses to this, I was told by someone that I want to be clear, not any city staff, that I should have chosen a different property. Because this is not a good place to have short term rentals because main organics was there first, and it is going to smell bad period. Thanks.

Dale Hamilton

You have a motion second. Further discussion on that. Everybody knows what we're talking about that the first motion in terms of a consent decree All in favor of that motion. All opposed? Motion fails.

Michelle Beal

So I make a motion to have a city manager, authorize Lori, to create a consent agreement with the organization may inorganics. Come back to us at the November meeting for approval of that consent agreement for discussion and approval.

Tammy Mote

Second,

Dale Hamilton

second discussion?

Casey Hanson

Would that be a meeting Lori with made organics and the city, then talking together to see what works with any other parties to be involved? Well,

Lori Roberts

I would have to speak to the attorney to see how it would work. I mean, typically, when it comes to a consent agreement, both the city as me representing the city and the person that has done wrong, knows about it, I don't think that the Wellman's know anything about this, so I can't say that they will be in agreement to sign it. So and then that would push, you know, going to court. And, you know, we we can try either or I, I'll contact the attorney, have him prepare something, send it to them, if they sign it, or say they'll sign it or agree to sign it after your approval, then we can go forward.

Michelle Beal

So if I remember correctly on these types of things to read, they have to be very specific. So the this is what has to be done in this amount of time. But there also has to be, I think we've made agreements

with them before and they've kind of follow through sorta kinda, but these will be very specific if you have 30 days to do this. And if you don't, then this happens. And then they sign off on that. And it's just a type of enforcement. It's kind of like a mediation before. Yes, the same idea. It's, and then once you've done that, and if they break that you have a little more to go to court with, and you actually I think would have something else to go to the DEP with. That's because they've broken a consent agreement on on what right,

Lori Roberts

but they don't really care what the city does. It's up to us to do that.

Michelle Beal

but if but the DEP as far as enforcement? Well,

Lori Roberts

they say they're doing right. So even though we sign a consent agreement, and they don't abide by it, I can't say that the DEP is going to do anything different. No,

Michelle Beal

I'm not saying that. They absolutely will. I'm just saying it's another tool in your belt when you're trying to deal with the DEP to have them do their enforcement.

Dale Hamilton

It might you're saying is this, this gets up my comment about subjectivity to sort of clear that's kind of language in terms of what is the measure by I can't just I worried that if it's just It smells, that if this goes to court, that's a subjective term, which can be battled versus talking with the DEP, and and saying, Well, what is the measures? What are the standards and putting those in place, because then you have a very objective measure of the owner that will withstand any kind of legal scrutiny or would have a greater chance of withstanding that, if that ends up, that's what I'm referring to when I talk about subjectivity. So build that into the consent agreement. You mentioned a test. So it just makes it clear.

Casey Hanson

did you mention that they were maybe buying one of those

Lori Roberts

considering buying it? I can't say that, but maybe that could

Casey Hanson

be part of this whole consent agreement, possibly that they will buy it or use it or document or something to make it more objective.

Michelle Beal

At the very least they should make them take this more seriously.

Gene Lyons

If they don't want to agree to sign then it just goes and automatically just goes to court, impose the fines and go But we can't impose but go to court and they will impose fines. I mean, there's they've got I want to, they've got to want to resolve it, or they're gonna have to take the harsher step. I just seen improvements. And then I'm not seeing improvements. I don't understand that I think something had gone differently than what was going on.

Steven O'Halloran

To add or suggest, or at least consider, perhaps the city attorney should come and discuss this next meeting. With you add that to your to be presented friendly

Michelle Beal

amendment?

Steven O'Halloran

I'm asking because it seems to be a lot of questions. And I think we need a little direction. And I would think it would make some sense and see one of the the other observation that I have is that the last I want to say three times, we have had the contractor here, and they have made promises I remember as a group saying, you know, 60-90 days, we're not we've done everything we can do to get compliance, and then aren't even here tonight. And I believe that might be a result of us doing nothing. These other times, so it's time we did did something.

Tammy Mote

I just have one other thing. So I know that the birds had been an issue as well. And this is more than the older stuff or bird still an issue because I've seen them fly in and on.

Kevin Wallace

Yes, I'm back there. 100S there again, and waving on all the roofs. I've got \$150,000 worth of solar panels on my building.

Tammy Mote

So I think we'd need to add something in there and mitigate now you had

Lori Roberts

As far as I know, you know, when I go I go once a week, try and get you know, an odor bird thing. You know, for everybody, I drive down the Mariaville Road, sometimes I smell it. Sometimes I don't get all the way onto the site. Sometimes the smell there. Right? When I drive up, sometimes I have to go all the way down into where the facility is to smell it. And sometimes there's birds sometimes there's not. So I really don't know what the difference is. I don't know if it's because the tide is in or out. You know, because these birds are looking for food because the tide is in. I don't know.

Steven O'Halloran

801.3 doesn't discuss anything to do with birds. It does say animals I don't know, I guess that could be considered a bird. But really, you eliminate the odor you eliminate the birds. So the birds in my view. If we get the root cause the bird problem disappears.

Lori Roberts

Well, they are also after the green from Jackson lab. We take again,

Steven O'Halloran

again, if we we address what's going on. I mean again then, you know we can the spirit of this is odors and and I would just like to say we fix the odors we're gonna fix the verbs.

Dale Hamilton

So yeah, motion is second. More discussion. All those in favor. Thank you. Thanks for coming in.

Dale Hamilton

Item 24 Counselor comments and I'll have some time as you head

Gene Lyons

so think about what I'm gonna say. So in light of I would say this go in conjunction with the public executive session that we had about making statements towards an employee that may you know, may or may not be false. What I would like to do is have a Executive Session to discuss the performance of the employee that's been questioned, would like to see any disciplinary actions against this employee any complaints filed against the employee. And then reverse. So the whole thing, any awards or anything like that just to give me an idea of of this employee's background since the since they have been working for the city of Ellsworth. And maybe some HR people would have to show up. Because I have people telling me that they've been told some nasty things about the employee. And I want to know if it's true and

Dale Hamilton

two ways to handle that one is either it can be put on the next council agenda as an agenda item. Or it can, with enough majority could call for a special meeting. And so just by show of hands, would Is there enough individuals that would want a special meeting? Or is it for a future agenda?

Michelle Beal

I personally would hate to have that happen on first meeting of the new council, I

Gene Lyons

would like to get it over before the new council comes. Because we're the ones dealing with it. I would be willing to a meeting and have an executive session, special meeting, special meeting prior to prior to the new council.

Dale Hamilton

I mean, how many individuals are in favor of a special meeting? Okay, then we will schedule a special meeting. I would just like to that was this was going to be my last meeting. But now. I did just for

everyone here and for the community that what I would like to do is I want to recognize all of the city staff, all of the city residents who participate on numerous commissions and committees. They're the ones that lends so much to the city and the development. You know, we sit here, if you're on the council, and you're fortunate enough to be a part of this, you know, we get to make some decisions that impacted the city, but you know, good, bad or otherwise. But all those volunteers that put countless hours in into making the city better. They deserve a lot of recognition for their work. And when I pursued getting on the council, I did so with a lot of enthusiasm, wanting to give back to the city. And I think that's why individuals have seek this is to make the city better. It's a process, it's theirs. We are all different human beings. We have different ideas and different goals. And this, this is an opportunity to make the city better to improve the city. And I would just encourage sometimes I think people think the well, one it's a lot of time it is it's a lot of work. Yes. But it's not complicated in terms of I think people pulled themselves out of pursuing this because they think I could never do that. And I would just encourage people that want to give back to the city that this is a comes up, your opportunity comes up every single year. I think the more people that pursue these types of positions, the better the city is different voices, different opportunities. So I hope other people will will think about that in the future. And I thank every body in the in the city for giving me the opportunity to be here and participate. Thanks.

Casey Hanson

Can I add one more citizen comment? That's more of a question than a comment. Can you just remind me what our meeting dates are after? So the election will happen on the seventh? And then don't we have a special meeting to certify it?

Dale Hamilton

Yes. Yes, we need thank you because we need to, barring any type of recount, if there's a recount, it throws everything about we should pick a date and a time

Dale Hamilton

so those two meetings one we have to this council needs to come back to prove the election results. And we need five of us to make sure that we do that. So we need to commit to that. And then There's the organizational meeting, which is the swearing in of the new council. And then all the rules, selection of the chair. All of that happens very quickly. So and now we have the special meeting, we'll be scheduling.

Gene Lyons

Anybody that wanted to make changes during the organizational meeting is the time to do it. If there's something that wants to be changed,

Michelle Beal

when we want to add something to the rules, yeah,

Gene Lyons

add or subtract, or

Casey Hanson

whatever first year, we changed the first year that

Gene Lyons

there was people that wanted to do it, I think, in the past couple of years, and they didn't realize, or even a new counselor coming may not realize, but that's when it would be changed. Because come June and July, you just can't change it in the middle of summer, we found that out, right?

Casey Hanson

Good advice.

Dale Hamilton

Do you have a date in mind for?

Toni Dyer

Well, I'll be here on November 7, until like 11 o'clock at night, if you're interested in joining.

Casey Hanson

I could do the ninth if we did it at 530. But other it's, there's a school thing at six that I have to look at my calendar.

Toni Dyer

So the ninth, the 10th is a holiday

Dale Hamilton

November 9 at 530. Remember, you can join, you can join by zoom, we have adopted that that rule that allows councillors to vote by zoom. So if you can't be here in person, it literally will be all those five minutes in terms of accepting the results. So it won't take long. And if you're tied up, if you could just zoom in.

Toni Dyer

Do you wish to also set the day of your organizational for the week after that way we can inform the newly elected persons of that day and time? Like the 13th or 14th, maybe.

Michelle Beal

Do we normally do the organizational meeting in the morning or at night? Or does it matter?

Dale Hamilton

It doesn't matter? It doesn't matter. We've changed first few years. We were doing it in the morning, and then it switched to the evening. So it really is the preference of the council.

Toni Dyer

We've been doing it in the evening of last several years.

Casey Hanson

Monday the 13th 6pm. Sounds good. When

Gene Lyons

do we pick a date for having a special meeting?

Dale Hamilton

I will I'll send that out. I'm gonna do some coordination to make sure that all parties can be present. So I'll be sending out I'm sure numerous emails exchanging it will get scheduled.

Michelle Beal

So you said the organization on Monday, Nov 13, at 6pm.

Dale Hamilton

Got it. Anybody else?

Steven O'Halloran

I just have a suggestion. Casey alluded to it last time. When she and I were elected. We had a little refresher from the attorney the next year that wasn't present. I think that was very helpful. And I think it would be good. If there's a new counsel.

Dale Hamilton

I mean, if the attorney is going to be here for the other matter, I would suggest just asking the attorney to put that on the agenda and have

Casey Hanson

for the regular November. Can you put that on the agenda for the regular November?

Dale Hamilton

That way since he'll be here for the other issue we just talked about? He could do a quick overview of that as well as I think the other piece is to talk about MMA what they offer, because there's some really good trainings there as well.

Toni Dyer

And I think there might be one scheduled in December. So I'll try to get that together.

Michelle Beal

Personally, especially with members, where they talk about ethics and statute in some way ordinances and how they you're

Casey Hanson

saying rather than have it be part of it, rather than to help you

Michelle Beal

because they I mean, there's there's quite a bit that he can go over with like how ordinances work and how they're enforced and what our responsibility is for that. There's a lot so then maybe taken off,

Dale Hamilton

so forget the agenda, or just make an agenda to plan a workshop

Michelle Beal

to plan a workshop or something because I think keep the agenda

Tammy Mote

Thank you for absolutely service and I worked with you, as an employee for the city and on the Council on it's been a pleasure to work with you.

Gene Lyons

And I'd say when I first started working with yeah, I've really grown to like, when I first started I had well, so three years ago, I came here I should have been quiet, but I came here with an attitude I guess, towards what I couldn't, couldn't do and better and rarely, in three years time, I've learned a lot. I hope I've done a good job if I'm not here. But I've learned that to work with everybody, no matter who I have different. They are the main and I've really grown to appreciate several people that I never thought I would and I appreciate all you've done a very good speech person. So that's all I got for you.

Lori Roberts

From: Mike Wight <mike@broughmanbuilders.com>
Sent: Friday, October 6, 2023 10:30 AM
To: Lori Roberts
Subject: Re: Resignation letter - City Clerk

Attention: This e-mail message is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.

Here is my official resignation. Thank you for the opportunity to serve.

Have a great day,

Mike

Emails sent or received shall neither constitute acceptance of conducting transactions via electronic means nor shall create a binding contract in the absence of a fully signed written agreement.

On Tue, Oct 3, 2023 at 5:06 PM Lori Roberts <lroberts@ellsworthmaine.gov> wrote:

Hi Mike:

For me to add your vacancy on the Board of Appeals to the City Council agenda, I need your resignation letter (just your response to this email would satisfy). I appreciated you so much for taking this voluntary position and you did a great job!!! 😊

Thank you for everything,

Lori

Loretta "Lori" Roberts

Code Enforcement Officer



Lori Roberts

From: Matthew Welch <flyyou2closing@gmail.com>
Sent: Friday, October 6, 2023 11:49 AM
To: Lori Roberts
Subject: Board of Appeals

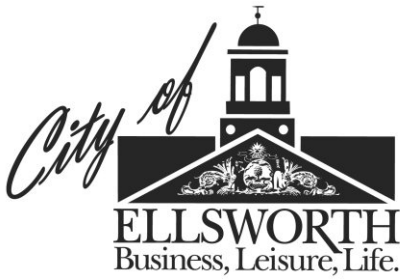
Attention: This e-mail message is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.

Hey Lori,

I recently heard of the open seat on the board of appeals. I'd be interested in filling the seat as a resident of Ellsworth if it's still available.

Look forward to hearing from you,

Matt Welch



City Council

1 City Hall Plaza ▪ Ellsworth, ME 04605-1942
Phone (207) 667-2563 ▪ Fax (207) 669-6618
www.ellsworthmaine.gov

City of Ellsworth Small Business Day Proclamation – November 25, 2023

Whereas, The City of Ellsworth Maine celebrates our local small businesses and the contributions they make to our local economy and community. According to the United States Small Business Administration, there are currently 33.2 million small businesses in the United States, representing 99.9% of all businesses with paid employees in our country; and

Whereas, 32% of these small business owners in the United States say inflation is their biggest business challenge right now, and 20% of new small businesses close within a year, with only 35% of new businesses making it to their 10th anniversary; and

Whereas, 68 cents of every dollar spent in a small business stays in the local community; and further, every dollar spent at a small business creates an additional 48 cents in local business activity; and

Whereas, 72% of consumers report that Small Business Saturday inspires them to shop small and dine at independently-owned restaurants; and up to 65% of small businesses' annual revenue was generated during the holiday season last year; and

Whereas, The City of Ellsworth supports our local businesses that create jobs, boost our local economy, and are critical to the overall health of the United States; and

Whereas, organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday;

Now, Therefore Be It Resolved that the City of Ellsworth hereby proclaims Saturday, November 25, 2023 as Small Business Saturday in Ellsworth, Maine; and

Be It Further Resolved, that the City of Ellsworth urges the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

Ellsworth City Council Chair/Mayor

DATE

For Immediate Release: October 25, 2023

Cara Romano
Executive Director, Heart of Ellsworth
cara@heartofellsworth.org

Manifesting Main - Asset Mapping Downtown Ellsworth Wins Two Prestigious Maine Awards

The project has been recognized by Maine Downtown Center and GrowSmart Maine.

ELLSWORTH, Maine: Ahead of the City of Ellsworth's Comprehensive Planning process, Heart of Ellsworth released *Manifesting Main - Asset Mapping Downtown Ellsworth*, a study of Ellsworth's downtown assets as well as many forward-thinking growth opportunities for the city. Since publishing the report at the start of 2023, *Manifesting Main* has received two prestigious awards from admired Maine organizations — Maine Downtown Center and GrowSmart Maine.



Heart of Ellsworth board & staff with project partners City of Ellsworth and HUB Collective, staff from the Maine Downtown Center, and members of the MDC board of advisors at the 2023 Maine Development Foundation Annual Award Ceremony in Brunswick, Maine.

In April, *Manifesting Main* received the 2022 Downtown Project of the Year Award from Maine Downtown Center, a program of the Maine Development Foundation. Maine Downtown Center's annual awards recognize projects and individuals that make the biggest impacts in downtown communities that are part of their Maine Downtown Center program.



From Left to Right: Heart of Ellsworth Past Board President Phyllis Young, GrowSmart Maine CEO Nancy Smith, and Heart of Ellsworth Executive Director Cara Romano at the GrowSmart Maine Annual Summit.

In October, GrowSmart Maine awarded the project its 2023 Maine Smart Growth Award: Exemplary Smart Growth Planning Initiative. The Smart Growth Awards honor projects that are contributing to a more sustainable and prosperous Maine.

“Heart of Ellsworth is proud to have *Manifesting Main - Asset Mapping Downtown Ellsworth* recognized by these two esteemed organizations. Receiving these awards affirms the project timing and the team's collaborative planning and dedication to the growth of Downtown Ellsworth,” said Cara Romano, Heart of Ellsworth’s Executive Director.

The complete study is available for download on the Heart of Ellsworth website at heartofellsworth.org/asset-mapping. A hard copy of the report is also available to review at the Ellsworth Public Library, or by appointment at the Heart of Ellsworth office on State Street in downtown Ellsworth. This project was a collaborative effort with the [City of Ellsworth](#), sponsored by [Franklin Savings Bank](#) with support from the [Maine Community Foundation](#) and led by [HUB Collective](#).

###

About Heart of Ellsworth

Heart of Ellsworth is a Maine Downtown Center Affiliate Program. The mission of Heart of Ellsworth is to promote economic, artistic, cultural, educational, historical, and environmental activities in the “downtown” area to provide a vibrant community for all residents, businesses, nonprofit organizations, and local government.

**CITY OF ELLSWORTH, MAINE
ADMINISTRATIVE CONSENT AGREEMENT**

In re Matter of:

Maine Organics, LLC, 15 Industrial Road, Ellsworth, Maine

This **ADMINISTRATIVE CONSENT AGREEMENT** (the "Agreement"), is made and entered into this ____ day of _____, 2023, by and the **City of Ellsworth**, a municipal corporation located at One City Hall Plaza, Ellsworth, Hancock County, Maine (the "City") and **Maine Organics, LLC**, Maine limited liability corporation with a place of business located at 15 Industrial Road, Ellsworth, Hancock County, Maine ("Maine Organics").

WHEREAS, Maine Organics is the operator and party in possession of a compost facility located at 15 Industrial Road, Ellsworth, Maine (the "Property"); and

WHEREAS, the Property received site plan approval from the Ellsworth Planning Board to operate the compost facility on July 5, 2017; and

WHEREAS, the Ellsworth Unified Development Ordinance, Chapter 56, Article 8, §801.3(B) provides that "[n]o land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation";

WHEREAS, the Ellsworth Code Enforcement Office has visited the Property on a weekly basis and has verified odors on 15 occasions since January 1, 2023;

WHEREAS, between since August 22, 2023, the City has received twenty-two (22) odor and bird complaints related to operation of the Property from neighbors;

NOW THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement, the City and Maine Organics agree as follows:

1. Maine Organics admits to producing offensive odors perceptible beyond its lot lines in violation of Ellsworth Unified Development Ordinance, Chapter 56, Article 8, §801.3(B) on 22 occasions between August 22, 2023, and the date the date of this ACA.
2. Maine Organics agrees to institute immediate changes to its operating procedures to ensure that it does not produce offensive or harmful odors perceptible beyond its lot lines in the future.
3. Maine Organics agrees to pay to the City a total of \$500.00, to cover the City's legal fees within thirty (30) days.
4. Providing Maine Organics complies with the terms of this Agreement, the City will not file a land use enforcement action regarding the above-referenced violations and will waive penalties that would normally be levied on such violations except as provided herein.

5. In the event that Maine Organics fails to comply with the terms of this Agreement, it shall be liable to the City for penalties of \$100 per violation for 15 violations occurring prior to the execution of this ACA, plus penalties of \$100 per violation for violations occurring after the date of execution of this ACA, plus any additional attorney fees and costs incurred in enforcing this Agreement;

6. In addition to the monetary penalties stated in Paragraph 5, the City may file a land use enforcement action seeking an order to enjoin the facility from operating.

7. Nothing herein shall be construed to limit the City's authority to enforce any other land use or permitting requirements related to Maine Organic's use and occupancy of the Property.

8. This Agreement shall be interpreted in accordance with the laws of the State of Maine.

9. This Agreement constitutes the entire Agreement between the parties and supersedes all prior oral or written representations and statements between the parties.

10. This Agreement may only be amended by mutual agreement of the parties, provided that said amendment or modification shall have been reduced to writing and signed by both parties.

11. Neither the failure by the parties to insist upon strict performance of any provision of this Agreement, nor to exercise a remedy consequent upon a breach thereof, nor the acceptance of full or partial performance during the continuance of any breach by the other, shall constitute a waiver of any such breach.

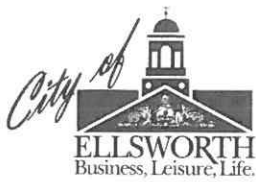
IN WITNESS WHEREOF, the City and Maine Organics have caused this Agreement to be executed as an Agreement under seal as of the day and year first above written.

**CITY OF ELLSWORTH, MAINE
MANAGEMENT**

MAINE ORGANICS, LLC

By: Glenn Moshier
Its: City Manager

By:
Its:



City Clerk
1 City Hall Plaza ▪ Ellsworth, ME 04605-1942
Phone (207) 669-6604 ▪ Fax (207) 667-4908
clerksoffice@ellsworthmaine.gov

BUSINESS LICENSE APPLICATION

CUSTOMER #398

APPLICANT: STEAMY BUDDHA CAFE

MAILING ADDRESS: CURTIN STEPHEN 50 CHURCH STREET ELLSWORTH, ME 04605

MAP LOT: 136166000000

BUSINESS TELEPHONE: 207-322-5777

FAX NUMBER:

EMAIL ADDRESS: NATASH@STEAMYBUDDHA.COM

NAME OF BUSINESS (DBA): STEAMY BUDDHA CAFE

LOCATION OF BUSINESS: 50 CHURCH STREET

NUMBER OF EMPLOYEES:

NATURE OF BUSINESS: CLASS C

DESCRIPTION: Public Hearing Notice Fee FOOD ALCOHOL MOBILE VENDING

PROPERTY OWNER: 50 CHURCH STREET LLC

BUSINESS OWNER: CURTIN STEPHEN PHONE NUMBER: 207-240-1373

PARTNER:

NATASHA SIDHU: 207-322-5777

EMERGENCY CONTACT:

NATASHA SIDHU: 207-322-5777

MANAGER:

STEPHEN CURTIN: 207-240-1373

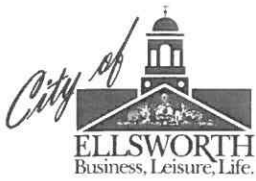
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SIGNATURE:

DATE:

LICENSE EFFECTIVE FROM:

EXPIRES: 10/27/2024



City Clerk
1 City Hall Plaza ▪ Ellsworth, ME 04605-1942
Phone (207) 669-6604 ▪ Fax (207) 667-4908
clerksoffice@ellsworthmaine.gov

BUSINESS LICENSE APPLICATION

CUSTOMER #573

APPLICANT: STRIKE N SLICE

MAILING ADDRESS: RYAN LOUNDER 25 EASTWARD LANE SUITE #6 ELLSWORTH, ME 04605

MAP LOT: 129010000000

BUSINESS TELEPHONE:

FAX NUMBER:

EMAIL ADDRESS:

NAME OF BUSINESS (DBA): STRIKE N SLICE

LOCATION OF BUSINESS: 25 EASTWARD LANE

NUMBER OF EMPLOYEES:

NATURE OF BUSINESS: CLASS C

DESCRIPTION: Public Hearing Notice Fee FOOD ALCOHOL

PROPERTY OWNER: GASPAR ADELBERT W

BUSINESS OWNER: RYAN LOUNDER PHONE NUMBER:

MANAGER:

RYAN LOUNDER: 2072664548

:

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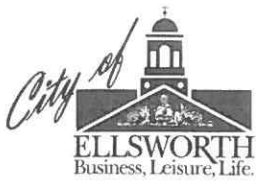
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SIGNATURE:

DATE:

LICENSE EFFECTIVE FROM:

EXPIRES: 10/20/2024



City Clerk
1 City Hall Plaza ▪ Ellsworth, ME 04605-1942
Phone (207) 669-6604 ▪ Fax (207) 667-4908
clerksoffice@ellsworthmaine.gov

BUSINESS LICENSE APPLICATION

CUSTOMER #81

APPLICANT: DYON'S

MAILING ADDRESS: ETC LLC SUSAN SCHERBEL 35 EASTWARD LANE ELLSWORTH, ME 04605

MAP LOT: 129008000000

BUSINESS TELEPHONE: 207-422-6286

FAX NUMBER:

EMAIL ADDRESS:

NAME OF BUSINESS (DBA): DYON'S

LOCATION OF BUSINESS: 35 EASTWARD LANE

NUMBER OF EMPLOYEES:

NATURE OF BUSINESS: CLASS C

DESCRIPTION: FOOD ALCOHOL Public Hearing Notice Fee

PROPERTY OWNER: EURC REALTY LLC

BUSINESS OWNER: ETC LLC PHONE NUMBER:

PARTNER:

GEORGE PETERS III: 207-790-1132

PARTNER:

SUSAN SCHERBEL: 207-422-6286

EMERGENCY CONTACT:

SUSAN SCHERBEL: 207-664-9440

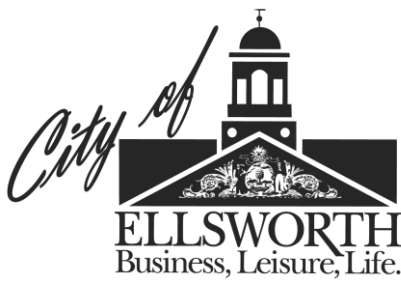
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DATE:

LICENSE EFFECTIVE FROM:

EXPIRES: 01/31/2025



MEMORANDUM

To: City Council
From: Matthew Williams, City Planner
CC: City Manager Moshier, Lori Roberts Code Enforcement Officer
Date: November 13, 2023
RE: Ellsworth Code of Ordinances Amendments to Chapter 56 Unified Development Ordinance, Article 4 Shoreland Zoning, Article 8 Performance Standards, Article 11 Parking Standards, and Article 14 Definitions

Background

The Planning Office has been tasked with developing amendments to Chapter 56 Unified Development Ordinance (“UDO”) to come into compliance with the State’s passing of LD 2003 and accompanying legislation.

Draft Ordinance Amendments

The proposed ordinance amendments are included within this Council packet.

In drafting and considering the proposed amendments, Staff and the Planning Board worked to implement the State requirements and update some existing definitions to provide more clarity to lodging uses within the City. Staff and Planning Board members took feedback at a joint workshop with the City Council on August 14, 2023 and two public hearings on September 6, 2023 and October 4, 2023.

The proposed amendments are outlined as follows:

UDO Article 4 Shoreland Zoning: The Table of Uses (Chapter 56, Article 4, Section 408.8) was changed to remove the outright ban on two-family residential structures within the Resource Protection Zone and Drinking Water Protection Zone. All other dimensional and density requirements remain unchanged.

Rationale: The new law requires that Ellsworth does not outright bar two-family households in any zone.

UDO Article 8 Performance Standards: There are several major changes to the Performance Standards including the allowance of new types of accessory dwelling units (“ADUs”), exemptions for dwelling units from other UDO requirements, and new guidelines and development bonuses for affordable housing projects.

1. In UDO Article 8, Section 805, the first substantive change is setting a clear maximum size for ADUs, as either 50% of the sq. ft. of the primary dwelling's floor area or 750 sq. ft., whichever is more restrictive, and a new minimum size at 190 sq. ft.
2. Next, accessory dwelling units that are: 1) Constructed on a lot where single family dwelling units are allowed, a single family dwellings exists, and no other accessory dwelling units currently exist; and 2) Would not be allowed to be constructed on the lot due to dimensional or density requirements of the applicable zone received certain bonuses and exemptions.

These bonuses include: 1) Being exempt from density and lot size requirements for the applicable zone beyond what would be required for the primary dwelling unit; 2) Accessory dwelling units do not need additional parking spaces beyond what is required for the primary dwelling unit; and 3) An accessory dwelling unit built within the same structure as the single family home or attached to an existing single family home shall have the same setback requirements and dimensional requirements as the single family home.

Rationale: These changes are in line with requirements from the State. The additions make the construction of ADUs more likely on lots with existing single family homes to help homeowners diversify the housing stock or down size on their own property.

3. Article 8, Section 805.7 is a short term rental regulation regarding ADUs that are only able to be built due to the bonuses provided by LD 2003. If an ADU is allowed to be constructed due to the bonuses provided by the above ordinance updates, the ADU cannot be used for Short Term Rental ("STR") for ten years after the date of the Certificate of Occupancy ("CO"). See the attached sample CO. For the purposes of this change STR is defined as a dwelling unit rented for a period of less than 28 consecutive days.

Rationale: Ellsworth is already very permissive in allowing the construction of ADUs, having it be a permissible use in all zones except the Commerce Park and Industrial zones. Ellsworth also has no density requirements in most growth area zones, the exception being the Neighborhood zone which still allows for a robust 10 units per acre. This means ADUs can be freely built in all areas of the City where housing growth is encouraged so long as there is enough space to fit the ADU on the lot.

To avoid a significant increase of ADUs in areas of the City where growth is not currently encouraged/City infrastructure such as water and sewer do not exist, the bar on STRs will not penalize those seeking to provide longer term housing, while helping to keep Ellsworth's total stock of STRs at current levels.

4. In UDO Article 8, Section 826 has been created to accommodate requirements for setting standards for determining income levels for affordable housing units and attendant bonuses granted to development projects providing affordable housing. Affordable Housing: Decent, safe, and sanitary dwelling units that meet the following criteria:

A. For rental housing, a development in which a household whose income does not exceed eighty percent (80%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than thirty percent (30%) of the household's monthly income on housing costs (including, but not limited to, rent and utilities that are paid separately from the rent, e.g. electric, water, heat, sewer, trash, etc.).

B. For owned housing, a development in which a household whose income does not exceed one hundred twenty percent (120%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than thirty percent (30%) of the household's monthly income on housing costs (including, but not limited to, mortgage, mortgage and homeowner's insurance, real estate taxes, and homeowner association fees).

For the purposes of this definition, "majority" means 51% or more of available units within a development or on the same lot.

For the purposes of this definition, "area median income" means income that is at the midpoint of the Hancock County Area excluding HMFA income distribution calculated on an annual basis by the U.S. Department of Housing and Urban Development.

To meet the requirements of Affordable Housing, a project must: 1) Include a deed restriction stating affordable units within the development are restricted by covenant, are properly recorded in the Hancock County Registry of Deeds, to remain Affordable Housing for at least 30 years from the date of completed construction; 2) Are within designated growth areas where multifamily housing is an allowed use; and 3) Meet shoreland zoning requirements, meet minimum lot sizes if using subsurface waste disposal, and prove that water and sewer capacity is adequate for the development.

These bonuses include: 1) The number of units will be 2.5 times greater than the base density allowed for a development not designated as Affordable Housing within the same zone; and 2) The off-street parking requirements will allow for two parking spaces for every three dwelling units within the development.

Rationale: The State's purpose in providing these bonuses is to incentive affordable housing across Maine. By increasing density and reducing parking requirements, a developer can further maximize their developable space and spread costs to more units to decrease single unit costs.

5. In UDO Article 11 Parking Standards, a reference has been added to the parking bonuses for affordable housing units in Article 8.

Rationale: To point a developer to the location of their parking bonuses in the event they looked for them in the Parking Standards section of the UDO.

6. In UDO Article 14 Definitions several definitions have been changed as discussed above. A note to explain that if a term is not defined within the ordinance it shall follow the definition of Merriam Webster's dictionary. Several definitions for lodging types have been changed to add clarity such as: 1) Setting a cap for how many rooms can be in a Bed and Breakfast; 2) Allowing Boarding Houses to be mixed-use facilities, but disallowing them from being short-term rentals; 3) Adding a definition for Cooking Facilities to further clarify when a project involves dwelling units versus lodging units; and 4) Separating out the definition of Hotel and Motel to differentiate between the two uses.

There have also been additional changes to remove redundant definitions and clarity to dwelling unit types.

Rationale: Small changes that will help provide clarity to developers on what their project actually is when it comes to Code Enforcement or Planning Board for review. The STR landscape has caused there to be a gray area on when something moves from a dwelling to lodging and these definitions begin to assist in sorting that out.

Suggested Motion

Move to approve the proposed amendments to Chapter 56 Unified Development Ordinance, Article 4 Shoreland Zoning, Article 8 Performance Standards, Article 11 Parking Standards, and Article 14 Definitions.

City of Ellsworth

Chapter 56

Unified Development Ordinance

Article 4

Shoreland Zoning

Adopted June 15, 2009 – Effective July 1, 2009

Amended August 17, 2009

Incorporated into Ch. 56 Unified Development Ordinance on June 18, 2012

Amended November 19, 2012

Amended XXXX XX, XXXX

Attest:

City Clerk
Heidi-Noel Grindle

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- 410.4 Commercial and Industrial Uses
- 410.5 Parking lots
- 410.6 Accessways
- 410.7 Signs
- 410.8 Stormwater Runoff
- 410.9 Septic Waste Disposal
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- 410.11 Mineral exploration and extraction
- 410.12 Agricultural, Activities
- 410.13 Timber Harvesting
- 410.13-1 Timber Harvesting Statewide Standards
- 410.14 Clearing or removal of vegetation for activities other than timber harvesting
- 410.15 Erosion and sedimentation control
- 410.16 Soils
- 410.17 Water Quality
- 410.18 Archaeological Site
- 410.19 Phosphorus Control

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Field Code Changed

ARTICLE 4 SHORELAND ZONING

401 Shoreland Zoning Purposes and Applicability

401.1 Purposes. The purposes of this Article are to:

- A. Further the maintenance of safe and healthful conditions;
- B. Prevent and control water pollution;
- C. Protect fish spawning grounds, aquatic life, bird and other wildlife habitat;
- D. Protect buildings and lands from flooding and accelerated erosion;
- E. Protect archaeological and historic resources;
- F. Protect commercial fishing and maritime industries;
- G. Protect freshwater and coastal wetlands;
- H. Control building sites, placement of structures and land uses;
- I. Conserve shore cover, and visual and actual points of access to inland and coastal waters;
- J. Conserve natural beauty and open space; and
- K. Anticipate and respond to the impacts of development in shoreland areas.

401.2 Authority.

This Article has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

401.3 Applicability.

- A. Within the City of Ellsworth, this Article applies to all land areas within 250 feet, horizontal distance, of:
 - i. The normal high-water line of any great pond or river;
 - ii. The upland edge of a coastal wetland, including all areas affected by tidal action;
or
 - iii. The upland edge of a freshwater wetland; and
- B. This Article also applies to all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream as defined and/or as identified on the Official Land Use Map for the City of Ellsworth.
- C. This Article also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

402 AUTHORITY, ADMINISTRATION AND LEGAL PROVISIONS

402.1 Effective Date.

- A. This Article and future amendments, which are adopted by the Ellsworth City Council on May 17, 2009, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection (DEP). A certified copy of the Article, or Amendment, attested and signed by the City Clerk, shall be forwarded to the Maine DEP Commissioner for approval. If the Commissioner fails to act on this Article or Amendment, within 45 days of the DEP Commissioner's receipt of the Article, or Amendment, it shall be automatically approved.

Any application for a permit submitted to the City of Ellsworth within the above mentioned 45-day period shall be governed by the terms of this Article, or Article Amendment, if the Article, or Article Amendment, is approved by the Commissioner.

- B. Section 410.13. Section 410.13 is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time 410.13-1 shall become effective. Until such time as Section 410.13 is repealed, 410.13-1 is not in effect.

NOTE: The statutory date established under 38 M.R.S.A. section 438-B(5) is the effective date of statewide timber harvesting standards. That date is "the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activity on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the statewide standards." 38 M.R.S.A. section 438-B(5) further provides that "the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the statewide standards."

402.2 Availability.

A certified copy of this Article shall be filed with the City Clerk and shall be accessible to any member of the public. This Article shall also be posted on the City of Ellsworth web site. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Article shall be posted.

402.3 Severability.

Should any section or provision of this Article be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Article.

402.4 Conflicts with Other Ordinances.

Whenever a provision of this Article conflicts with or is inconsistent with another provision of this Article or of any other ordinance, regulation or statute administered by the City of Ellsworth, the more restrictive provision shall control.

402.5 Amendments. Refer to and use City of Ellsworth Code of Ordinance, Chapter 19 – Land Use Ordinance, Article VIII Amendments Procedures. In addition to the procedures set forth in Chapter 19, copies of amendments, attested and signed by the Ellsworth City Clerk, shall be submitted to the DEP Commissioner of the Department of Environmental Protection following adoption by the Ellsworth City Council and shall not be effective unless approved by the DEP Commissioner. If the DEP Commissioner fails to act on any amendment within 45 days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the City of Ellsworth within the 45 day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

403 SHORELAND ZONING ADMINISTRATION

403.1 Administration. This Article shall be administered in general by the Planning Board or the Code Enforcement Officer, referred herein as **the Administrator** and described below:

A. **The Code Enforcement Officer (CEO)** shall administer projects requiring CEO or LPI approval per Table 408.8 - Land Uses in the Shoreland Zone. A CEO shall be appointed or reappointed annually by July 1st.

B. **The Planning Board (PB)** shall administer projects requiring PB approval per Table 408.8 - Land Uses in the Shoreland Zone. The PB shall operate in accordance with the provisions of Ellsworth Code of Ordinances Chapter 18 and State law.

The City Planner and its designee(s) represent the Planning Board and are responsible to provide guidance to the applicant whose project requires Planning Board Review.

C. **The Board of Appeals (BOA)** operates in accordance with the provisions of Ellsworth Code of Ordinances Chapter 38 and 30-A M.R.S.A. section 2691.

403.2 Permits Required. After the effective date of this Article, no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Article shall have a copy of the permit on site while the work authorized by the permit is performed.

Any permit required by this Article shall be in addition to any other permit required by other law or ordinance.

A. **Culverts Exemption.** A permit is not required for the replacement of an existing private accessway culvert if the conditions listed below are met. However, the CEO shall be notified before the replacement of any culvert. The CEO will notify the Water Dept. of any projects in the Branch Lake watershed:

- i. The replacement culvert is not more than 25% longer than the culvert being replaced;
- ii. The replacement culvert is not longer than 75 feet; and

iii. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse. See 409.18 for standards.

- B. Archaeological Excavation Exemption. A permit is not required for an archaeological excavation as long as it is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved lists, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

403.3 Permit Application Requirements.

- A. Application Form. Every applicant for a permit shall submit a written application on a form provided by the City of Ellsworth, with a scaled site plan, to the Administrator per Table 408.8 - Land Uses in the Shoreland Zone.
- B. Right, Title and Interest. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- C. Date. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- D. Sewage Disposal Provisions. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

403.4 Procedure for Administering Permits.

Application Receipt. Within 35 days of the date of receiving a written application, the Administrator or designee shall notify the applicant in writing either that the application is a complete application; or if the application is incomplete, shall specify additional material that is needed to make the application complete.

Application Period. The Administrator shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Article.

Planning Board Applications. Applications that require Planning Board Review per this Article shall follow the general procedures in the City of Ellsworth Land Use Ordinance and/or UDO Section 208.

Burden of Proof. The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Article.

Decision/Findings. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover, visual and actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 409, Land Use Standards and Section 410 Performance Standards in the Shoreland Zone.

Conditions in Writing. If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing.

Other Provisions May Apply. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other Ordinance, or regulation or statute administered by the City of Ellsworth.

403.5 Special Resource Protection Zoning Districts (RP) Exceptions. In addition to the criteria specified in Section 403.4 above, excepting structure shoreline setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection Zoning District (RP) provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the RP, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the Hancock County Registry of Deeds before the adoption of the RP encompassing the lot.

(3) All proposed buildings, sewage disposal systems and other improvements are:

- (a) Located on natural ground slopes of less than 20%; and
- (b) Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps for the City of Ellsworth; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development is otherwise in compliance with any applicable Ellsworth Floodplain Ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year floodplain.

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 100 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

403.6 Expiration of Permit. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

403.7 Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all City permits required under this Article, any other Ordinance, or any previous Ordinance of the City of Ellsworth has been issued by the CEO or other written arrangements have been made between City of Ellsworth officials and the utility.

404 Shoreland Zoning Appeals

404.1 The Board of Appeals (BOA): The BOA shall have the following powers and duties:

- A. **Administrative Appeals:** To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Article; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement,

decision or determination made by, or failure to act by, the Code Enforcement Officer in his/her review of and action on a permit application under this Article. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this Article is not appealable to the BOA.

- B. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Article.

404.2 Variance Appeals. Variances may be granted only under the following conditions:

- A. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- B. Variances shall not be granted for establishment of any uses otherwise prohibited by this Article.
- C. The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Sections 409 and 410 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (ii) The strict application of the terms of this Article would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- D. Notwithstanding Section 404.2 C(ii) above, the BOA may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The BOA shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The BOA may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- E. The BOA shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Article to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- F. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the CEO to the Commissioner of the Department of Environmental Protection at least 20 days prior to action by the BOA. Any

comments received from the Commissioner prior to the action by the BOA shall be made part of the record and shall be taken into consideration by the BOA.

404.3 **Administrative Appeals**

When the BOA reviews a decision of the Code Enforcement Officer the BOA shall hold a “de novo” hearing. At this time the BOA may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the BOA shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the BOA hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Article or contrary to the facts presented to the Planning Board. The BOA may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the BOA may receive and consider written or oral arguments. If the BOA determines that the record of the Planning Board proceedings is inadequate, the BOA may remand the matter to the Planning Board for additional fact finding.

404.4 **Appeal Procedure**

A. **Making an Appeal:**

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 404.1(A) above. Such an appeal shall be taken within 30 days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the 30-day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or City Planner on behalf of the Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within 35 days of its receipt of a complete written application, unless this time period is extended by the parties.

B. Decision by Board of Appeals

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
- (ii) The person filing the appeal shall have the burden of proof.
- (iii) The Board shall decide all administrative appeals and variance appeals within 35 days after the close of the hearing, and shall issue a written decision on all appeals.
- (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within 7 days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the City Council.

404.5 Appeal to Superior Court.

Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within 45 days from the date of any decision of the Board of Appeals.

404.6 Reconsideration of Appeals.

In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within 45 days of its prior decision. A request to the Board to reconsider a decision must be filed within 10 days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision.

Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within 15 days after the decision on reconsideration.

405Shoreland Zoning Enforcement

405.1 **Nuisances.** Any violation of this Article shall be deemed to be a nuisance.

405.2 **Code Enforcement Officer (CEO).** The CEO shall have the following powers and duties:

- A. **Enforcement.** It shall be the duty of the CEO to enforce the provisions of this Article.
- B. **On-Site Inspections.** The CEO shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of this Article.
- C. **Notice of Violation** If the CEO shall find that any provision of this Article is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the City Manager and City Council and be maintained as a permanent record.
- D. **Records Kept.** The CEO shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

405.3 **Legal Actions.**

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Ellsworth City Council, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Article in the name of the City of Ellsworth.

The City Council, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Article and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Ellsworth official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

405.4 **Fines.**

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Article shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

406 Non-conformance in the Shoreland Zone.

406.1 **Purpose.** It is the intent of this Article to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Article or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 406. Except as otherwise provided in this Article, a non-conforming condition shall not be permitted to become more non-conforming.

406.2 **Non-conformance, General.**

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Article.
- (2) **Repair and Maintenance.** This Article allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or City building and safety codes may require.

406.3 **Non-conforming Structures**

- (1) **Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a), and (b) below.
 - (a) Legally existing non-conforming principal and accessory structures that do not meet the shoreline setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Article are met.
 - i. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the shoreline setback requirement.
 - ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the shoreline setback requirement.
 - iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a

structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.

- iv. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond or a river flowing to a great pond, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 406.3(1)(a), a basement is not counted toward floor area.

- (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the shoreline setback requirement is met to the greatest practical extent as determined by the Code Enforcement Officer, basing his/her decision on the criteria specified in Section 406.3(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than 3 additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.

(1-A) Special expansion allowance. Existing principal and accessory structures that exceed the floor area or height limits set in Section 406.3(1)(a)(iii) and Section 406.3(1)(a)(iv) above, may not be expanded, except that the limits may be exceeded by not more than 500 square feet provided that all of the following requirements are met.

- (a) The principal structure is set back at least 50 feet, horizontal distance, from the normal high-water line of a water body, tributary stream or upland edge of a wetland.
- (b) A well-distributed stand of trees and other natural vegetation as defined in Section 410.14(2)(b), extends at least 50 feet, horizontal distance, in depth as measured from the normal high-water line or upland edge for the entire width of the property.

If a well-distributed stand of trees and other vegetation meeting the requirements of Section 410.14(2)(b) is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, by the property owner, and approved by the Planning Board or the Code Enforcement Officer, to reestablish a buffer of trees, shrubs, and other ground cover within 50 feet, horizontal distance, of the shoreline or tributary stream.

- (c) Adjacent to great ponds and rivers flowing to great ponds, except for the allowable footpath, there exist complete natural ground cover, consisting of forest duff, shrubs

and other woody and herbaceous vegetation within 50 feet, horizontal distance, of the normal high-water line. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch and plantings of native shrubs, and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of stormwater.

- (d) A written plan by the property owner, including a scaled site drawing, is approved by the Planning Board and is developed, implemented, and maintained to address the following mitigation measures for the property within the shoreland zone.
 - (i) Unstabilized areas resulting in soil erosion must be mulched, seeded, or otherwise stabilized and maintained to prevent further erosion and sedimentation to water bodies, tributary streams, and wetlands.
 - (ii) Roofs and associated drainage systems, driveways, parking areas, and other nonvegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow of storm water runoff from reaching a water body, tributary stream or wetland. Where possible, runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or similar device.
- (1-B) Planting requirements. Any planting or revegetation required as a condition to the Special Expansion Allowance must be in accordance with a written plan drafted by a qualified professional, be implemented at the time of construction, and be designed to meet the rating scores contained in paragraph (b) and the ground cover requirements of paragraph (c) when the vegetation matures within the 50-foot strip. At a minimum, the plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one sapling per 80 square feet of newly established buffer. Planted saplings may be no less than 3 feet tall for coniferous species and no less than six feet tall for deciduous species. The planting plan must include a mix of at least three native tree species found growing in adjacent areas, with no one species making up more than 50% of the number of saplings planted unless otherwise approved by the Planning Board or the Code Enforcement Officer, based on adjacent stand comparison. All aspects of the implemented plan must be maintained by the applicant and future owners.
- (2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all shoreline setback requirements to the greatest practical extent as determined by the Code Enforcement Officer, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the shoreline setback to the greatest practical extent, the CEO shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the shoreline setback area in order to relocate a structure, the CEO may require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, 3 feet in height, for every tree removed. If more than 5 trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the shoreline setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required shoreline setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 18 months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the shoreline setback requirement to the greatest practical extent as determined by the Code Enforcement Officer in accordance with the purposes of this Article. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required shoreline setback it shall not be any larger than the original structure, except as allowed pursuant to Section 406.3(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required shoreline setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the shoreline setback requirement for a new structure. When it is necessary to remove

vegetation in order to replace or reconstruct a structure, vegetation may be replanted in accordance with Section 406.3(2) above.

Any non-conforming structure which is located less than the required shoreline setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the CEO within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the shoreline setback to the greatest practical extent the CEO shall consider, in addition to the criteria in Section 406.3(2) above, the physical condition and type of foundation present, if any.

- (4) Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

406.4 Non-conforming Uses.

- (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 406.3(1) above.
- (2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding 5 year period.
- (3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the

subject and adjacent properties and resources, including water dependent uses, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 406.3(4) above.

406.5 **Non-conforming Lots**

- (1) **Non-conforming Lots**: A non-conforming lot of record as of the effective date of this Article or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Article except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) **Contiguous Built Lots**: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Article, if all or part of the lots do not meet the dimensional requirements of this Article, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Article, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Article.

- (3) **Contiguous Lots - Vacant or Partially Built**: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Article, if any of these lots do not individually meet the dimensional requirements of this Article or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on December 12, 1992 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

- (b) Any lots that do not meet the frontage and lot size requirements of Section 406.5(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

407 Shoreland Zoning Districts and the Land Use Map

- 407.1 **Official Land Use Map.** The areas to which this Article is applicable are hereby divided into the following districts as shown on the Official Land Use Map which is made a part of this Article:
- | | |
|----------------------------------|-----------------------------|
| A. Resource Protection (RP) | D. Limited Residential (LR) |
| B. Drinkingwater Protection (DP) | E. Limited Commercial (LC) |
| C. Stream Protection (SP) | F. General Development (GD) |
- 407.2 **Scale of Map.** The Official Land Use Map shall be available at a scale of not less than one inch equals 2000 feet (1" = 2000'). Zoning district boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
- 407.3 **Certification of Official Land Use Map.** A one inch equals 2000 feet (1" = 2000') copy of the Official Land Use Map shall be certified by the attested signature of the Ellsworth City Clerk and shall be located in the Code Enforcement Office and in the City Planner's Office.
- 407.4 **Changes to the Official Land Use Map.** If amendments, in accordance with this Article, are made in the boundaries of the Shoreland Zone or other shoreland zoning matter portrayed on the Official Land Use Map, such changes shall be made on the Official Land Use Map within 30 days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

407.5 **Interpretation of Shoreland Zoning District Boundaries.** Unless otherwise set forth on the Official Land Use Map, district boundary lines are property lines, the centerlines of accessways, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location, except, when applicable, a landowner complies with Section 407.6 Verification of Habitat Value.

407.6 **Verification of IF&W Determination of Waterfowl and Wading Bird Habitat Value.**

(1) Following the review of existing Maine Department of Inland Fisheries and Wildlife (IF&W) data and/or new documentation submitted to the IF&W regarding a moderate or high value habitat, the IF&W may modify the rating or boundary of the habitat. A landowner submitting documentation will receive a written determination from either the IF&W or the Maine Department of Environmental Protection (DEP). Upon determination that the habitat rating or boundary has changed, the landowner may then proceed to request an amendment to the Land Use Map by contacting the City Planner. Determination of habitat rating or boundary may be done by any of the following methods:

- (a) **Desktop Review.** A re-examination by the DEP of the aerial photography and other GIS data available may be sufficient documentation for determination. Should DEP find evidence that the habitat rating or boundary should be change, DEP will submit documentation to IF&W for determination.
- (b) **Field Verification by Department of Environmental Protection (DEP).** A landowner may submit to the DEP evidence that the wetland rating or boundary is incorrect, such as photographs showing that the wetland is either not a wetland as defined by this Article or is an altered wetland. Should the evidence be convincing that the rating or boundary may be incorrect, the DEP may then conduct a field visit using the criteria in Section 407.6(1)(d). Following a field visit, DEP will write an advisory opinion regarding the presence or absence of a wetland with a moderate or high value to the IF&W for determination
- (c) **Field Verification by a professional.** A landowner may submit documentation regarding the presence or absence of a wetland with a moderate or high value to the IF&W for determination. Such Documentation must be completed by an individual who has experience and training in either wetland ecology or wildlife ecology and therefore has qualifications sufficient to identify and document a moderate or high value habitat based on the criteria in Section 407.6(1)(d).

- (d) **Moderate and high value habitat criteria.** A moderate or high value inland habitat is an inland wetland complex, and a 250-foot wide zone surrounding the wetland complex, that through a combination of dominant wetland type, wetland diversity, wetland size, wetland type interspersions, and percent open water, meets the IF&W guidelines or is an inland wetland complex that has documented outstanding use of waterfowl or wading birds. Determination of moderate or high value habitat is based on the following:
- i. Dominant wetland type is rated by the assigned score for the wetland type of greatest area in the wetland. Wetland type is determined using the classification system published by IF&W based on McCall, 1972, for waterfowl and wading bird habitat rating. A score for the value to waterfowl and wading birds is assigned to each type using the IF&W rating procedure; and/or
 - ii. Wetland diversity is rated by assigning the wetland to one of the diversity categories based on the number of wetland types present in the wetland using the IF&W rating procedure; and/or
 - iii. Wetland size is rated by assigning the wetland to one of three size categories based on the total area of the wetland using the IF&W rating procedure; and/or
 - iv. Wetland type interspersions is rated by assigning the wetland to one of three interspersions categories using the Golet (1974) system, as modified for Maine in the IF&W rating procedure; and/or
 - v. Percent open water is rated by assigning the wetland one of four categories, based on the percent of the wetland in open water using the IF&W rating procedure.

NOTE: The following are literature citations as referenced above:

McCall, C.A. 1972. Manual for Maine wetlands inventory. Maine Department of Inland Fisheries and Game, Augusta, Maine. 38pp.

Golet, F.C., and J.S. Larson. 1974. Classification of freshwater wetlands in the glaciated northeast. Resource Publication 116. U.S. Department of the Interior, Washington, D.C. 56pp.

408 Establishment of Shoreland Zoning Districts

408.1 **The Resource Protection District (RP)** includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed or in the General Development District need not be included within the Resource Protection District.

- (1) **Rated Wetlands**. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (IF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either IF&W or the DEP as of January 1, 1973 for Coastal Wetlands and as of December 31, 2008 for Freshwater Wetlands. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.
- (2) **Floodplains** along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps for the City of Ellsworth, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100-year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (3) **Steep Slopes**. Areas of 2 or more contiguous acres with sustained slopes of 20% or greater.
- (4) **Hydric Soils**. Areas of 2 or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (5) **Erodable Areas**. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
- (6) **Significant Natural Areas**. Areas designated by federal or state government or the City of Ellsworth as natural areas of significance to be protected from development; and
- (7) **Other significant areas** which should be included in this district to fulfill the purposes of this Article, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the City of Ellsworth after consultation with the Maine Historic Preservation Commission.

408.2 **The Drinkingwater Protection District (DP)** includes all areas that lie within the Shoreland Zone of the watershed of Branch Lake that are not zoned Resource Protection. The DP zoning district has lot size, frontage and other environmental standards designed to protect Ellsworth's public drinking water supply. For regulation of surface water activities on Branch Lake, refer to the Ellsworth Code of Ordinances Chapter 55 Public Water Supply Protection Ordinance.

408.3 **The Stream Protection District (SP)** includes all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within 250 feet, horizontal distance, of the normal high-water line of a great pond, or river, or within 250 feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within 250 feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

In addition to streams as defined, all perennial and intermittent streams within the watershed of Branch Lake have a 75-foot shoreland zone and are designated Stream Protection District as shown on the Official Land Use Map.

408.4 **The Limited Residential District (LR)** includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the General Development District and Limited Commercial District.

408.5 **The Limited Commercial District (LC)** includes areas of mixed, light commercial and residential uses exclusive of the Stream Protection District, which should not be developed as intensely as the General Development District. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses.

408.6 **The General Development District (GD)** includes the following types of existing, intensively developed areas:

- (1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - (a) Areas devoted to manufacturing, fabricating or other industrial activities;
 - (b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - (c) Areas devoted to intensive recreational development consistent with the Ellsworth Waterfront Master Plan and Waterfront Redevelopment Plan.
- (2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

408.7 **The Shoreland Zoning Table of Land Uses.** All land use activities, as indicated in Table 408.8 Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Sections 409 and 410. The district designation for a particular site shall be determined from the Official Land Use Map.

Key to Table 408.8 Land Uses in the Shoreland Zone:

- Yes** - Allowed (no permit required but the use must comply with all applicable land use standards.)
- No** - Prohibited.
- PB** - Allowed with Planning Board approval, followed by CEO permit if applicable.
- CEO** - Allowed with permit issued by the Code Enforcement Officer.
- LPI** - Allowed with permit issued by the City Plumbing Inspector.

District Abbreviations on Table 408.8 – Land Uses in the Shoreland Zone:

- RP** - Resource Protection
- DP** - Drinkingwater Protection
- SP** - Stream Protection

- GD** - General Development
- LR** - Limited Residential

TABLE 408.8 LAND USES IN THE SHORELAND ZONE	More RESTRICTIVE less					
	DISTRICT					
	RP	DP	SP	LR	LC	GD
SUMMARY OF DIMENSIONAL REQUIREMENTS						
Depth of Shoreland Zone (in feet)	250	250	75	250	250	250
LAND USE CATEGORY						
1. Non-intensive recreational uses w/o structures such as hunting, fishing and hiking	YES	YES	YES	YES	YES	YES
2. Motorized vehicular traffic on existing accessways/trails	YES	YES	YES	YES	YES	YES
3. Forest management activities except for timber harvesting & land mgmt. roads	YES	YES	YES	YES	YES	YES
4. Timber harvesting	CEO	YES	YES	YES	YES	YES
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO ¹	CEO	CEO	CEO	CEO	CEO
¹ In RP not allowed within 75 feet horizontal distance, of the normal high-water line of Great Ponds, except to remove safety hazards.						
6. Fire prevention activities	YES	YES	YES	YES	YES	YES
7. Wildlife management practices	YES	YES	YES	YES	YES	YES
8. Soil and water conservation practices	YES	YES	YES	YES	YES	YES
9. Mineral exploration	NO	NO	NO	CEO	CEO	CEO
10. Mineral extraction (including sand and gravel extract.)	NO	NO	NO	PB	PB	PB
11. Surveying and resource analysis	YES	YES	YES	YES	YES	YES
12. Emergency operations	YES	YES	YES	YES	YES	YES
13. Agricultural, Activities (as defined)	PB	NO	CEO	CEO	NO	NO
14. Agricultural, Gardening	CEO	CEO	CEO	CEO	CEO	CEO
15. Agricultural, Feed Lot	NO	NO	NO	NO	NO	NO
16. Agricultural Activity and Processing, Major	NO	NO	NO	NO	NO	NO
17. Agricultural Processing, Minor	NO	NO	NO	NO	PB	PB
LAND USES IN THE SHORELAND ZONE						
18. Processing, Fish Wholesale	NO	NO	NO	NO	PB	PB
19. Principal structures and uses						
19.1. One & two family residential and driveways	PB ²	CEO /PB ³	PB ⁴	CEO	NO	NO
² Single family structures may be allowed by special exception only according to the provisions of Section 403.5, Special RP Exceptions. ~~Two family residential structures are prohibited.~~						
³ New structures with a footprint greater than 3,000 s. f. must be approved by the Planning Board.						
⁴ Provided that a variance from the shoreline setback requirement is obtained from the Board of Appeals.						
19.2. Multi-unit residential	NO	NO	NO	PB	NO	PB

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LAND USES IN THE SHORELAND ZONE	RP	DP	SP	LR	LC	GD
19.3. Commercial ⁵ Except for commercial uses otherwise listed in this Table, such as, but not limited to, marinas and campgrounds, that are allowed in the respective district. ⁶ Allowed commercial uses are limited to the ones allowed in land use zoning districts for adjacent upland with the exception of the uses, as listed and described in 410.4.	NO ⁵	NO ⁵	NO	NO ⁵	CEO ⁶	CEO ⁶
19.4 Industrial ⁷ Allowed industrial uses are limited to the ones allowed in land use zoning districts for adjacent upland with the exception of the uses, as listed and described in 410.4.	NO	NO	NO	NO	NO	CEO ⁷
19.5 Special Uses , except as otherwise prohibited by this article	PB	PB	PB	PB	PB	PB
19.6 Government and Institutional	NO	PB	NO	PB	PB	PB
19.7. Small non-residential facilities for educational, scientific, or nature interpretation ⁴ Provided that a variance from the shoreline setback requirement is obtained from the Board of Appeals.	PB	PB	PB ⁴	CEO	CEO	CEO
20. Structures accessory to allowed uses ² Single family structures may be allowed by special exception only according to the provisions of Section 403.5, Special RP Exceptions. ~~Two family residential structures are prohibited.~~ ³ New structures with a footprint greater than 3,000 s. f. must be approved by the Planning Board. ⁴ Provided that a variance from the shoreline setback requirement is obtained from the Board of Appeals.	PB ²	CEO /PB ³	PB ⁴	CEO	CEO	CEO
21. Piers, docks, wharfs, bridges, boat launching facilities and other structures and uses extending over or below the normal high-water line or within a wetland						
21.1. Temporary	CEO	CEO	CEO	CEO	CEO	CEO
21.2. Permanent, private - ⁸ See 410.1	PB ⁸	PB ⁸	PB ⁸	PB ⁸	PB ⁸	PB ⁸
21.3. Permanent, commercial - ⁸ See 410.1	NO	NO	PB ⁸	PB ⁸	PB ⁸	PB ⁸
21.4. Permanent, public facility - ⁸ See 410.1	NO	PB ⁸	PB ⁸	PB ⁸	PB ⁸	PB ⁸
22. Conversions of seasonal residences to year-round	LPI	LPI	LPI	LPI	LPI	LPI
23. Home occupations	PB	PB	PB	PB	CEO	CEO
24. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI	LPI

LAND USES IN THE SHORELAND ZONE	RP	DP	SP	LR	LC	GD
25. Essential services						
25.1. Distribution	CEO ⁹	YES ¹⁰	CEO ⁹	YES ¹⁰	YES ¹⁰	YES ¹⁰
25.2. Transmission	PB ⁹	PB	PB ⁹	PB	PB	PB
25.3. Facilities	PB ⁹	NO	PB ⁹	PB	PB	PB
⁹ Except buildings which shall not be permitted in the RP or SP unless a variance from shoreline setback is granted. See further restrictions in Section 410.10.						
¹⁰ Permit not required but must file a written "Notice of Intent to Construct" with CEO.						
26. Service drops, as defined, to allowed uses	YES	YES	YES	YES	YES	YES
27. Public and private recreational areas involving minimal structural development	PB	PB	PB	PB	CEO	CEO
LAND USES IN THE SHORELAND ZONE	RP	DP	SP	LR	LC	GD
28. Campgrounds	NO	NO	NO	PB	NO	NO
29. Campsite, private individual. See 410.3	PB	PB	CEO	CEO	NO	NO
30. Accessway, consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles						
30.1. Construction of an accessway of more than 500 ft.	NO ¹¹	PB	PB	PB	PB	PB
¹¹ Except as provided in Section 410.6.						
30.2. Construction of an accessway of less than 500 ft.	PB	CEO	PB	CEO	CEO	CEO
31. Land management roads	PB	YES	YES	YES	YES	YES
32. Parking Lot	NO	PB	PB	PB	PB	PB
33. Marinas	NO	NO	NO	PB	NO	PB
34. Filling and earth moving of <10 cubic yards	CEO	CEO	CEO	YES	YES	YES
35. Filling and earth moving of >10 cubic yards	PB	CEO	PB	CEO	CEO	CEO
36. Creation of more than 20,000 s. f. of shoreland lot coverage area (in the aggregate) on one lot.	PB	PB	PB	CEO	CEO	CEO
37. Signs	CEO	CEO	CEO	CEO	CEO	CEO
38. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
39. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB
40. Uses similar to allowed uses	CEO to determine level of review needed					

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to a natural resource including but not limited to freshwater or coastal wetland, great pond, river, stream or tributary stream and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

409 Land Use Standards in the Shoreland Zone

All land use activities within the shoreland zone shall conform to the following provisions, where applicable.

- 409.1 **General Land Use Requirements.** No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created, except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.
- 409.2 **Minimum Lot Standards:** All land use activities within the shoreland zone shall conform with the following provisions when applicable:

TABLE 409.2 Minimum Lot Area and Shore Frontage within the Shoreland Zone (SZ)

Residential Uses in SZ Adjacent to:	Min. Lot Area (sq. ft.)	Min. Shore Frontage (ft.)
Tidal Areas in the GD Zoning District	10,000 per dwelling unit	100 per dwelling unit
Tidal Areas in the LR Zoning District	40,000 per dwelling unit	150 per dwelling unit
Non-Tidal Areas except DP, SP & RP Zoning Districts	40,000 per dwelling unit	200 per dwelling unit
Governmental, Institutional, Commercial or Industrial Uses in SZ Adjacent to:	Min. Lot Area (sq. ft.)	Min. Shore Frontage (ft.)
Tidal Areas in the GD Zoning District	10,000 per principal structure	100 per principal structure
Tidal Areas in the LR Zoning District	40,000 per principal structure	200 per principal structure
Non-tidal areas except DP, SP & RP Zoning District	60,000 per principal structure	300 per principal structure
Public or Private Recreational Facilities:	Min. Lot Area (sq. ft.)	Min.Shore Frontage (ft.)
All SZ Areas except the DP & RP Zoning District	40,000 per principal structure	200 per principal structure
All Uses in:	Min. Lot Area (sq. ft.)	Min.Shore Frontage (ft.)
All Areas of DP Zoning District	90,000/unit or princ. structure	300/unit or princ. structure
All Areas of SP* & RP* Zoning District	Apply lot and structure requirements of the most restrictive adjacent zoning district.	

*Structure permitting in RP and SP is very limited. See provisions in Sections 408, 409 and 410.

- Minimum Lot Area.** Land below the normal high-water line of a water body or upland edge of a wetland and land beneath accessways serving more than 2 lots shall not be included toward calculating minimum lot area.
- Lots Split by Accessways.** Lots located on opposite sides of a public or private accessway shall be considered each a separate tract or parcel of land unless such accessway was established by the owner of land on both sides thereof after September 22, 1971.
- The Minimum Width** of any portion of any lot within 100 feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- Multiple Uses.** If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a

single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

409.3 **Structure Standards:**

- A. General Structure Setback. All new principal and accessory structures shall be constructed according to the requirements specified in Table 409.3 Structure and Lot Standards within the Shoreland Zone below.
- B. Resource Protection District Shoreline Setback requirements shall be 250 feet, horizontal distance from the shoreline, except for structures, accessways, or other regulated objects specifically allowed in that district in which case the setback requirements specified in Table 409.3 Structure and Lot Standards within the Shoreland Zone below shall apply.

TABLE 409.3 Structure and Lot Standards within the Shoreland Zone

STANDARD	Shoreland Zoning Districts – Dimensions in feet					
	RP*	DP	SP*	LR	LC	GD
Minimum structure shoreline setback from the normal high-water line of great ponds and rivers, as defined.	100*	100	n/a	100	100	25
Minimum structure shoreline setback from fresh water bodies (other than above) tributary streams, tidal water bodies or the upland edge of a wetland, as defined.	75*	75	75*	75	75	25
Minimum structure setback from the edge of a right-of-way.	20*	20	20*	20	20	20
Minimum structure setback from a property line, as defined.	25*	25	25*	15	10	10
Minimum lot frontage along the edge of a right-of-way	200	200	200	150	200	100
Maximum height of a structure, as defined.	35*	35	35*	35	35	45
Maximum shoreland lot coverage as defined below.	20%	20%	20%	20%	20%	70%

*Structure permitting in RP and SP is very limited. See provisions in Sections 408, 409, and 410.

- C. Structure Shoreline Setback Exceptions. The shoreline setback provision shall not apply to structures of functionally water-dependent uses, as defined.
- D. Structure Shoreline Setbacks near Coastal Bluffs. For principal structures, shoreline setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map a copy of which is available in the Ellsworth Code Office. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
- E. Structure Height. Principal or accessory structures and expansions of existing structures shall not exceed the heights listed in Table 409.3 Structure and Lot Standards within the Shoreland Zone. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

- F. Floodplain Elevation. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. However, accessory structures, as defined, may be placed in accordance with the standards of the Ellsworth Floodplain Management Ordinance even if they do not meet the elevation requirements of this paragraph.
- G. Shoreland Lot Coverage: The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed the requirements specified in Table 409.3 Structure and Lot Standards within the Shoreland Zone above for the lot or for a portion thereof that is located within the shoreland zone, including land area previously developed.
- H. Retaining Walls that are not necessary for erosion control shall meet the structure shoreline setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall is at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, is no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps for the City of Ellsworth, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the shoreline setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - iii. Only native species may be used to establish the buffer area;
 - iv. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - v. A footpath not to exceed the standards in Section 410.14(2)(a) may traverse the buffer;
- I. Shoreline Access. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the

Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

410 *Performance Standards in the Shoreland Zone*

410.1 **Piers, Docks, Wharves, Bridges, Boat Launching Facilities, and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland.**

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than 6 feet for non-commercial uses.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Except in the General Development Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed 20 feet in height above the pier, wharf, dock or other structure.
- (9) Boat launches and ramps shall only be permitted as permanent public facilities.

410.2 **Campgrounds.** Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- (1) Campgrounds shall contain a minimum of 5,000 square feet of land for each site, not including accessways and driveways. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of 100 feet, horizontal distance, from the normal high-

water line of a great pond or a river flowing to a great pond, and 100 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

410.3 **Campsites, Individual Private.** Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- A. One campsite per lot existing on the effective date of this Article, or one campsite per 30,000 square feet of lot area within the shoreland zone, whichever is less, may be permitted. A maximum of four campsites not to exceed a combined total of 20 individuals may be permitted on any one lot. If there is more than one campsite per lot each campsite shall have a minimum of 30,000 square feet.
- B. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back 100 feet, horizontal distance, from the normal high-water line of a great pond or river flowing to a great pond, and 75 feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- C. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- D. The clearing of vegetation for the siting of a recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.
- E. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the City Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- F. When a recreational vehicle, tent or similar shelter is placed on-site for more than 120 days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

410.4 **Commercial and Industrial Uses.** The following new commercial and industrial uses, and similar uses, are prohibited within the shoreland zone adjacent to great ponds and rivers and streams which flow to great ponds:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas

(11) Photographic processing

(12) Printing

410.5 **Parking Lots**

(1) Parking lots shall meet the shoreline setback requirements for structures for the district in which such lots are located. The shoreline setback requirement for parking lots serving public boat launching facilities in Districts other than the General Development District shall be no less than 50 feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

(2) Parking lots shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

(3) In determining the appropriate size of proposed parking lots, parking and loading provisions of the Ellsworth Land Use Ordinance shall be applied.

410.6 **Accessways.** See Ellsworth Code of Ordinances Chapter 56 Article 9 Street Design and Construction Standards and Article 10 Storm Water Management, Design and Construction Standards for standards that apply to the construction of accessways and drainage systems, culverts and other related features.

410.7 **Signs.** See Ellsworth Code of Ordinances Chapter 9 *Sign Ordinance* for standards to apply to the erection signs. Where a Shoreland Zone is not mentioned, provisions for the adjacent upland zone shall apply.

410.8 **Storm Water Runoff** See Ellsworth Code of Ordinances Chapter 56 Article 10 Storm Water Management, Design and Construction Standards for standards to apply all new construction and development to minimize storm water runoff from the site.

410.9 **Septic Waste Disposal**

All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

(1) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than 75 feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and

(2) a holding tank is not allowed for a first-time residential use in the shoreland zone.

410.10 **Essential Services**

(1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

(2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

(3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

(4) Essential services structures must meet the shoreline setback requirements in the shoreland zoning district in which they are located.

410.11 **Mineral Exploration and Extraction.** Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than 100 square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

(1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 410.11(3) below.

(2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one 100 feet, horizontal distance, of the normal high-water line of a great pond or a river, and within 75 feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within 50 feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

(3) Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of materials are removed in any consecutive 12 month period, ground levels and grades shall be established in accordance with the following:

(a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

(b) The final graded slope shall be two and one-half to one (2½: 1) slope or flatter.

(c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

(4) In keeping with the purposes of this Article, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

410.12 **Agricultural Activities**

(1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* (latest version) published by the Maine Department of Agriculture and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

(2) Manure shall not be stored or stockpiled within 100 feet, horizontal distance, of a great pond or a river, or within 75 feet horizontal distance, of other water bodies, tributary streams, or

wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

- (3) Agricultural activities involving tillage of soil greater than 40,000 square feet in surface area, within the shoreland zone shall require a Conservation Plan as defined to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Article.
- (4) There shall be no new tilling of soil within 100 feet, horizontal distance, of the normal high-water line of a great pond; within 75 feet, horizontal distance, from other water bodies and coastal wetlands; nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this Article and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond; within 75 feet, horizontal distance, of other water bodies and coastal wetlands; nor within 25 feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above shoreline setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan as defined.

410.13 Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
 - (1) The ground is frozen;
 - (2) There is no resultant soil disturbance;
 - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
 - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
 - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
 - (b) Beyond the 75 foot strip referred to in Section 410.13(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 ½ feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 410.13(1) above, timber harvesting shall conform with the following provisions:

- (a) Selective cutting of no more than 40 % of the total volume of trees 4 inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any 10-year period is permitted. In addition:
- (i) Within 100 feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond, and within 75 feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than 100 feet, horizontal distance, of a great pond or a river flowing to a great pond, and greater than 75 feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at least 100 feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
- (b) Timber harvesting operations exceeding the 40% limitation in Section 410.13(2)(a) above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Article. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within 14 days of the Planning Board's decision.
- (c) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than 4 feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
- (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil re-vegetated.
- (h) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least 75 feet, horizontal distance, in width for slopes up to 10% shall be retained between the

exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each 10% increase in slope, the unscarified strip shall be increased by 20 feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than 25 feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

410.13-1. Timber Harvesting – Statewide Standards [Effective on effective date established in Section 402.1.B]

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. This section [410.13-1(2)] does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
 - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
 - (b) Adjacent to great ponds, rivers and wetlands:
 - (i) No accumulation of slash shall be left within 100 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
 - (ii) Between 100 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted per one of the three options presented below so that a well-distributed stand of trees is retained.
 - (a) Option #1 - 40% Volume Removal, as follows:
 - (i) Harvesting of no more than 40% of the total volume on each acre of trees 4.5 inches DBH or greater in any 10-year period is allowed. Volume may be considered to be equivalent to basal area;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(b) Option # 2 (60 square foot basal area retention), as follows:

(i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;

(ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,

(iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.

(c) Option #3 (Outcome based), which requires: an alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option #1 or Option #2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau of Forestry may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

(4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.

- (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
- (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
- (c) Setbacks:
 - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10% or greater, the shoreline setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5% increase in slope above 10%. Where slopes fall away from the resource, no increase in the 25-foot shoreline setback is required.
 - (ii) Where such shoreline setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the shoreline setback requirements in Section 410.13-1(7) of this rule.
 - (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
 - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
 - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams

- (b) The minimum 100-foot shoreline setback specified in Section 410.13-1(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50-foot shoreline setback specified in Section 410.13-1(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (c) On slopes of 10% or greater, the land management road shoreline setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5% increase in slope above 10%.
- (d) New land management roads are not allowed in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the shoreline setback requirements in Section 410.13-1(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 410.13-1(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 410.13-1. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- (h) Exception. Extension or enlargement of presently existing roads need not conform to the shoreline setback requirements of Section 410.13-1(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body,

tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 410.13-1: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
 - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 410.13-1. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 410.13-1.
 - (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
 - (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
 - (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
 - (i) a map showing the location of all proposed permanent crossings;
 - (ii) the GPS location of all proposed permanent crossings;
 - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
 - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
 - (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 410.13-16(g) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

- (i) concentrated water runoff does not enter the stream or tributary stream;
- (ii) sedimentation of surface waters is reasonably avoided;
- (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
- (iv) fish passage is not impeded; and,
- (v) water flow is not unreasonably impeded.

Subject to Section 410.13-1(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10-year frequency water flows or with a cross-sectional area at least equal to 2 ½ times the cross-sectional area of the river, stream, or tributary stream channel.

- (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 410.13-1(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

- (iii) Culverts utilized in river, stream and tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

- (iv) River, stream and tributary stream crossings allowed under Section 410.13-1, but located in flood hazard areas (i.e. A zones) as identified on a the Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM) for Ellsworth, must be designed and constructed under the stricter standards contained in the National Flood Insurance Program (NFIP) for Ellsworth. For example, a water crossing may be required to pass a 100-year flood event.

- (v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the

requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

(h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

- (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 410.13-1(6)(i) below.
- (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
- (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:

- (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
- (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

- 1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
- 2. it shall be designed to provide an opening with a cross-sectional area at least 3 ½ times the cross-sectional area of the river, stream or tributary stream channel; or
- 3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail shoreline setbacks, and land management road shoreline setbacks must be maintained as specified in Section 410.13-1, but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent)	Width of strip between exposed mineral soil and shoreline (feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

410.14 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) Vegetation Cutting in the RP. In a Resource Protection District (RP) abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Buffer Strip Preservation. Except in areas as described in Section 410.14(1), above, and except to allow for the development of permitted uses, within a strip of land extending 100 feet, horizontal distance, inland from the normal high-water line of a great pond or a river, and 75 feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed 6 feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of this section 410.14(2)(b) a "well-distributed stand of trees" adjacent to a great pond or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4 ½ feet Above Ground Level (inches)	Points

2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

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

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Article;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Article;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 410.14(2)(b) "other natural vegetation" is defined as retaining existing vegetation under 3 feet in height and other ground cover and retaining at least 5 saplings less than 2 inches in diameter at 4½ feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than 2 inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees 4 inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any 10-year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under 3 feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 410.14 paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 410.14(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) Selective Cutting. At distances greater than 100 feet, horizontal distance, from a great pond or a river, and 75 feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any 10-year period, selective cutting of not more than 40% of the volume of trees 4 inches or

more in diameter, measured 4½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the 40% calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or 10,000 square feet, whichever is greater, including land previously cleared. This provision shall not apply to the General Development Districts.

- (4) Cleared Openings. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Article.
- (5) Reverted Openings. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 410.14.

410.15 Erosion and Sedimentation Control

Acceptable measures shall be those specified in the Maine Erosion and Sediment Control Best Management Practices Manual (latest revision) by the DEP Bureau of Land and Water Quality and the following:

- A. Applicability. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (i) Mulching and revegetation of disturbed soil.
 - (ii) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - (iii) Permanent stabilization structures such as retaining walls or riprap.
- B. Design Provisions. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- C. All Construction Phases. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- D. Stabilization. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within 9 months of the initial date of exposure. In addition:
 - (i) Where mulch is used, it shall be applied at a rate of at least one (1) 30-pound bale per 300 square feet and shall be maintained until a catch of vegetation is established.

(ii) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(iii) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

E. Drainageways. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a 25-year storm or greater, and shall be stabilized with vegetation or lined with riprap.

410.16 Soils. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

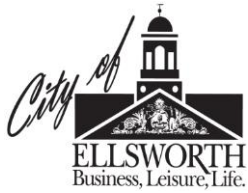
410.17 Water Quality. No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

410.18 Archaeological Site. Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

410.19 Phosphorus Control. Refer to City of Ellsworth Code of Ordinance, Chapter 56, Unified Development Ordinance, Article 10. Stormwater Management Design and Construction Standards.

City of Ellsworth
Chapter 56
Unified Development Ordinance

Article 8
Performance Standards



Amended November 19, 2012

Amended March 17, 2014

Amended April 19, 2016

Amended May 21, 2018

Amended April 20, 2020

Amended March 20, 2023

[Amended XXXX XX, XXXX](#)

ARTICLE 8 PERFORMANCE STANDARDS

801 GENERAL PERFORMANCE STANDARDS

801.1 Applicability. Notwithstanding any other requirements, all development must meet the minimum performance standards set forth in this section.

801.2 Site Conditions.

- A. During construction, the site shall be maintained and left each day in a safe and sanitary manner, and any condition, which could lead to personal injury, or property damage shall be immediately corrected by the developer upon an order by the Code Enforcement Officer or other authorized personnel. The developer shall make provisions for disposal of oil and grease from equipment, and the site area should be regularly treated to control dust from construction activity.
- B. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the Code Enforcement Officer prior to issuing an occupancy permit.
- C. No change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on an approved site development plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval of the Code Enforcement Officer.

801.3 Dust, Fumes, Vapors, Gases, Odors, Glare, and Explosive Materials.

- A. Emission of dust, dirt, fly ash, fumes, vapors or gases, which could damage human health, animals, vegetation or property or which could soil or stain person or property, at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited.
- B. No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation.

801.4 Oil and Chemical Storage. All above ground outdoor storage facilities for fuel, chemicals, chemical or industrial wastes and potentially harmful raw materials shall be located on reinforced cement and shall be completely enclosed by an impervious dike monolithically poured, which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 50-year storm event, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for home heating fuel and diesel fuel shall be exempted from this requirement.

801.5 Buffers and Screening Standards.

- A. Buffers in the form of fences, landscaping, berms and mounds shall be required to minimize any adverse impacts or nuisance on the site or on adjacent properties.
- B. Buffers shall be considered in the following areas and for the following purposes:
 - i. Along property lines, to shield various uses from each other;
 - ii. Along service or site roads running parallel to roads exterior to the site, to prevent confusion, particularly at night;
 - iii. Parking lot, garbage collection areas, and loading and unloading areas; and
 - iv. To block prevailing wind patterns and to stop wind-borne debris from leaving the site.
- C. Buffers shall be sufficient to shield structures and uses from the view of incompatible abutting properties and public roadway, and to otherwise prevent any nuisances.
- D. Exposed storage areas, service areas, exposed machinery installation, sand and gravel extraction operations, truck-loading areas, utility buildings and structures, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, and similar accessory areas and structures, shall have sufficient setbacks and screening to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses within the development site and surrounding properties, such as a stockade fence or a dense evergreen hedge 6 feet or more in height.
- E. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and shall be maintained in good condition.

- F. Natural features shall be maintained wherever possible to provide a buffer between the proposed development and incompatible abutting properties and public roadways. When natural features such as topography, gullies, stands of trees, shrubbery, rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be considered.
- G. Evergreens can be used as buffers, provided they are planted properly. An evergreen buffer requires 3 rows of staggered plantings. The rows should be 5 feet apart and the evergreens planted 4 feet on center.
- H. Fencing and screening shall be durable and properly maintained at all times by the owner.
- I. Fencing and screening shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties.
- J. All buffer areas shall be maintained in a neat and sanitary condition by the owner.
- K. Buffers shall not obstruct or conceal Fire Department access to sprinkler and/or standpipe connections for fire protection.

801.6. Stormwater Runoff.

- A. All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural pre-development conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.
- B. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

802 BACKYARD LIVESTOCK

802.1 Purpose. Ensure that non-commercial housing of livestock in urban backyards and on small lots does not create a nuisance to neighbors and the animals remain healthy. Livestock are generally accepted outdoor farm animals (i.e. cows, goats, horses, pigs, barnyard fowl, etc.) not to include cats and dogs, and other house pets.

802.2 Applicability. As defined for each type of animal. All housing of animals is prohibited from the Business Park and the Commerce Park zoning districts.

802.3 General.

- A. No owner shall allow or permit livestock to be at large meaning to be found in any place other than the property of the owner of the animals.
- B. Removal of feces should be hygienic and prompt.
- C. All animal open enclosure must be at least 50 feet from water bodies.

802.4 Standards for Chickens and Other Poultry.

- A. Roosters are prohibited from the Ellsworth Urban Core Area.
- B. Within the Downtown Zoning Districts chickens must be kept in a chicken coop and/or run.
- C. All chicken coops and run shall be located at least 20 feet from any side and rear lot line of the lot on which it is located, and 50 feet from all windows and doors of dwellings that are located on an abutting property.

802.5 Standards for Pigs, Horses, Cows, and Others.

- A. It shall be unlawful for any person to keep or maintain any horse, cow, goat, sheep, or other livestock unless such animal is kept within an enclosure located within a minimum of 200 feet of any dwelling, except the dwelling of the owner of such animals.
- B. All livestock pens, stables, and enclosures shall be kept in a clean and sanitary condition, shall provide enough space for the number of animals is houses and shall be open to inspection by the Code Enforcement Officer.
- C. No person shall allow the livestock to run at large.

803 SHOPPING CENTER - BIG BOX

803.1 Applicability. This section shall apply to Big Box Stores as defined.

803.2 Facade. Developments with facade over 100 feet in linear length shall incorporate wall projections or recesses a minimum of 3 foot depth and a minimum of 20 contiguous feet within each 100 feet of facade lengths and shall extend over 20% of the facade. Display windows, entry areas, awning, etc. shall be used along at least 60% for the facade.

803.3 Roof. Roof lines shall be varied with a change in height every 100 linear feet in the building length. Parapets, mansard roofs, gable roof, hip roofs, dormers, etc. shall be used to conceal flat roofs and roof top equipment from public view. Alternating lengths and designs may be acceptable.

803.4 Pedestrian flows.

- A. Walkways shall be provided from the public sidewalk or right-of-way to the principal entrance(s) of all principal buildings on the site.
- B. At a minimum, walkways shall connect focal point of pedestrian activity such as, but not limited to, street crossing, building and store entry points.
- C. Walkways shall be provided along the full length of the building along any facade featuring a customer entrance.

804 ACCESSORY USES AND STRUCTURES (NON-RESIDENTIAL)

804.1 Purpose. To provide standards for the establishment of non-residential accessory uses and structures.

804.2 Applicability. This article applies to any subordinate use of a building or other structure, or use of land that is:

- A. Conducted on the same lot as the principal use to which it is related; and
- B. Clearly incidental to, and customarily found in connection with, the principal use or structure.

804.3 Standards and requirements. The location of permitted accessory uses or structures is governed by the same dimensional regulations as set forth for the principal uses or principal structure(s) in Article 3 Zoning Districts.

805 ACCESSORY DWELLING UNIT

805.1 Purpose. To provide the [community with expanded and more diverse year-round housing options and to provide an](#) opportunity for owners of single family detached dwellings to develop [an small detached accessory](#) dwelling unit without having to meet the minimum lot area [or density](#) requirements [of the applicable zone](#).

805.2 Applicability. This Article applies to any accessory dwelling unit ~~that~~
[is located in a building that is not attached to the principal dwelling.](#)

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805.3 Number Permitted. Only one accessory dwelling unit is permitted per lot.

805.4 Size.

- A. The gross floor areas of an accessory dwelling unit shall not exceed 50% of the principal building's floor area or be no larger than 750 sq. ft., whichever is more restrictive.
- B. ~~Each dwelling unit shall be a minimum of 500 square feet.~~ Each accessory dwelling unit shall have a minimum size of 190 square feet.

805.5 Types of Accessory Dwelling Units. An accessory dwelling unit may be constructed only:

- 1) Within an existing dwelling unit;
- 2) Attached to a single family dwelling unit; or
- 3) As a new structure on the lot or the conversion of an existing accessory structure for the primary purpose of creating an accessory dwelling unit. An accessory dwelling unit may be constructed or established within an accessory structure (e.g. a garage), subject to accessory structure setbacks.

805.6 Accessory Dwelling Unit Requirements and Exemptions.

1) This section applies to an accessory dwelling unit that:

- A. Is constructed on a lot where single family dwelling units are allowed, a single family dwelling unit exists, and no other accessory dwelling unit currently exists; and
- B. Would not be allowed to be constructed on the lot due to dimensional or density requirements of the applicable zone.

2) If the above criteria are met the accessory dwelling unit is exempt from the following:

- A. Density and Lot Size. An accessory dwelling unit is exempt from the applicable zoning density and lot size requirements that are in addition to the requirements for the single family dwelling on the lot.
- B. Parking. An accessory dwelling unit shall not be subject to any additional automobile parking requirements beyond those required for the single family dwelling unit on the same lot.
- C. Setbacks. An accessory dwelling unit that is built within the same structure as the single family dwelling unit or attached to a single family dwelling unit shall have the same setback requirements and dimensional requirements of the single family dwelling unit.

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For an accessory dwelling unit constructed within an existing accessory structure, existing as of January 1, 2024, the required setback requirements for an accessory structure shall apply.

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805.7 Short Term Rental Restrictions

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An accessory dwelling unit constructed using the density or lot size exemptions of this Article shall not be used for a Short Term Rental for ten years after the date of the Certificate of Occupancy. As part of the Certificate of Occupancy, the land owner shall indicate their agreement to these terms.

Violations of Section 805.7 shall be enforced in the District Court under 30-A M.R.S.A. § 4452 and M.R. Civ. P. 80K. A violation of this ordinance shall be a civil violation punishable by a fine as set out in 30-A M.R.S.A. § 4452. Every night rented as a Short Term Rental constitutes a separate offense. All fines shall inure to the benefit of the City of Ellsworth.

806 CAMPGROUNDS

806.1 Purpose and Applicability. This Section is to establish standards for campground construction and maintenance that promote public health, safety and welfare and shall apply to all campground construction in the City of Ellsworth.

806.2 Administration. This Section shall be administered according to all administrative and legal provisions of the City of Ellsworth Chapter 56 Unified Development Ordinance.

806.3 Date. This Section shall be effective immediately after passage by the City Council.

806.4 Application. Permits required for development under this Section shall be administered according to provisions of the Ellsworth Chapter 56 Unified Development Ordinance.

806.5 Management. The management of the campground shall be responsible for operating the premises in accordance with all City and State regulations. The maintenance of all open space areas, roads, and utilities in a park shall be the responsibility of its management.

806.6 Occupancy No campsite shall be used as a permanent dwelling place. Permanent occupancy of a dwelling in the campground shall only be allowed for the purpose of housing the owner and/or caretaker of the campground.

806.7 General Design Standards. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and those following in this Section. In cases of conflict, the stricter rules shall apply.

806.8 Location and Size. All campgrounds shall be located on a well drained site properly graded to insure rapid drainage and freedom from stagnant pools of water. Campgrounds shall be located on a parcel not less than 2 acres in size.

806.9 Recreation Area. No less than 10% of the total developed area of any campground shall be devoted to common recreational areas with facilities, such as playgrounds, trails, swimming pools or community buildings on suitable land for the stated purpose. Areas designated as vegetated buffers do not count toward the minimum recreation area.

806.10 Accessways. Campground accessways serving fewer than ten camp sites are exempt from City of Ellsworth Chapter 56, Article 9 Street Design and Construction Standards. All accessways shall be constructed to allow safe vehicular access and to minimize erosion.

806.11 Landscaping. Wooded areas and individual trees shall be preserved where practical. Vegetative cover such as grass shall be provided for land area not paved, graveled or occupied by a structure. Other planting shall be established to create an attractive setting for campsites, promote privacy, minimize glare, and provide shade.

806.12 Buffer Strips. Campgrounds shall be designed to provide a vegetated buffer of at least 50 feet deep between the front boundary of the park and campsites and 25 feet deep between campsites and the side and rear boundaries of the park.

806.13 Screening. Fuel tanks, bottled gas, dumpsters and other utility structures shall be placed in such a way that they are screened and protected from roadways.

806.14 Utilities. All utilities shall be designed by a licensed civil engineer in the State of Maine to applicable state and local codes, installed and maintained by the campground owner.

806.15 Water Supply. Water supply to campgrounds shall conform to the rules of the Department of Human Services, relating to tent and recreational vehicle parks and wilderness recreational parks. A Campground located within 200 feet of a public water main shall provide a water system connected into the public system.

806.16 Fire Protection. Water supplies for firefighting shall comply Chapter 4 Fire Prevention and Protection Ordinance Section 7.

806.17 Toilet Facilities. Campgrounds serving primitive campsites (those without self-contained camper units with sanitary hook-ups) shall have adequate toilet facilities in compliance with applicable State plumbing Codes.

806.18 Wastewater Disposal. Sewage disposal plans shall be designed by a licensed civil engineer in full compliance with the requirements of the Maine Subsurface Wastewater Disposal Rules. A campground located within 500 feet of a public sewer system shall connect into the public system, per Ellsworth Chapter 5 Sewer Ordinance.

806.19 Stormwater. A campground shall provide a surface water drainage system conforming to applicable provisions of City of Ellsworth Code of Ordinance, Article 10 Stormwater Management Design and Construction Standards.

806.20 Campfires. Open fires shall be permitted only in areas designated on the plan of said park as cooking areas. Facilities for such fires must meet the approval of the City Fire Chief with respect to their location and construction.

806.21 Rubbish Disposal. Adequate containers with tight fitting covers shall be provided by the campground operator or other means approved by the Code Enforcement Officer.

807 SITING FACILITIES POSING RISKS TO DRINKING WATER

Siting of aboveground and underground oil storage tanks and other facilities that pose a significant risk to drinking water shall comply with 38 MRSA §1391 through §1399 - An Act to Prevent Contamination of Drinking Water Supplies and Maine DEP Chapter 692 (Siting of Oil Storage Facilities) and Chapter 700 (Siting of Facilities that Poses a Significant Threat to Drinking Water).

The State of Maine prohibits the installation of new aboveground oil storage tanks (AST) facilities, such as motor fuel storage facilities and bulk fuel plants, in areas where an installation is likely to pose a threat to drinking water. The State specifically prohibits: new ASTs within the source protection area of a public drinking water well, or within 1000 feet of the public water well (whichever is greater) and new ASTs within 300 feet of a private well (except for a private water supply well located on the same property as a facility and serving only that facility); and new ASTs within a significant sand and gravel aquifer mapped by the Maine Geological Survey. Both AST and underground storage tank (UST) facilities have to comply with the same siting requirements. These siting restrictions also apply to new automotive graveyards, automobile body and maintenance repair shops, dry cleaners using perchloroethylene, metal finishing or plating facilities and commercial hazardous waste facilities located in wellhead protection zones.

808 SEWER AND WATER CONNECTIONS

808.1 Sewer. Comply with Chapter 5 Sewer Ordinance.

808.2 Water. After the effective date of adoption of this ordinance, any property which is developed for commercial, institutional or industrial use or any existing commercial, institutional or industrial building which is enlarged more than fifty percent (50%) and

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which contains any plumbing fixtures, as that term is defined in the Maine State Plumbing Rules, is required to connect all such fixtures to the public supply, provided that said public supply is located within 500 feet of the developed property. All properties which connect to a public system pursuant to this section shall within thirty (30) days of said connection be disconnected from any private system, and no subsequent connection to a private system shall be made.

809 ESSENTIAL SERVICES FACILITIES

809.1 Setbacks: Minimum building setback is 50 feet.

809.2 Outdoor storage. Prohibited in the Downtown (D) and Neighborhood (N) zoning districts.

809.3 Landscaping Buffer. The lot is suitably landscaped to provide an adequate buffer and soften the appearance. The landscaped buffer shall be 160 plant units per 100 linear feet of frontage; one shade tree equals five plant units, one evergreen or ornamental tree equals five plant units, and each shrub equals one plant unit. The landscape buffer may be comprised in all or in part of natural vegetation. This section applies to all zoning districts with the exception of the Industrial (I) zoning district.

810 OPIOID TREATMENT PROGRAM (i.e. METHADONE CLINICS)

810.1 Applicability. Any opioid treatment program (OTP) registered under 21 U.S.C. 823(g) shall comply with following requirements:

1. Approved by the Planning Board as a Conditional Use regardless of size;
2. Be part of an acute care hospital's main campus (hospital based clinic);
3. Be only one OTP per acute care hospital;
4. Be restricted to a maximum of 30 patients - active case load at any one time for the entire OTP; and
5. OTP cannot operate in part of in whole out of a mobile unit.

811 HEIGHT LIMITS

The height limits required by this ordinance shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, transmission towers, chimneys, conveyors, derricks, radio and television towers, and similar structures not intended for human occupancy.

812 EXTERIOR LIGHTING

812.1 Purpose. The purpose of this Article is to provide for outdoor lighting that will:

Allow appropriate outdoor lighting levels for nighttime safety, security, productivity, and enjoyment of property; and

Control glare, promote dark sky initiatives, and reduce light trespass by limiting outdoor lighting that is misdirected, excessive or unnecessary.

812.2 Applicability.

A. All new outdoor lighting fixtures shall meet the requirements of this Article with the exception of maintenance work.

B. Some types of outdoor lighting are exempt from meeting the requirements of this Article per section 812.7.

812.3 Lighting Plan Submittal Contents. When outdoor lighting is part of an application to the Ellsworth Planning Board or part of a project located within the Business and Technology Park Zone the applicant shall submit a Lighting Plan for all proposed outdoor lighting to include the following items:

A. General information including: title block; north arrow; area in square footage specified for each lot, structure and large feature; property lines; scale; topography; and types of abutting uses.

The location of all existing and proposed outdoor lighting fixtures.

The location of all proposed outdoor lighting fixtures in relation to other existing or proposed site features to include, but not limited to, parking lots, walkways, buildings and structures, signs, trees and shrubbery.

Lighting details for each style of lighting fixture including full model number, reflectors, poles, lamp type, optics selected and mounting shown on the side of the Lighting Plan or submitted as "marked up cut sheets."

A photometric plan that indicates the initial light intensity in foot-candles every 5 feet minimum for the site property out to 10 feet beyond the property line for operational hours and in contour lines showing the contribution of light fixtures. Also submit a table of foot-candle data to include minimum, maximum, and averages for the calculated areas as identified in Table 812.5 Maintained Illumination Levels Measured in Foot Candles at Grade.

Other information, as deemed necessary by the Administrator.

812.4 Required Number of Submittal Copies:

- A. **CEO-Approved project.** The applicant shall submit two copies of all material to the Code Enforcement Office.
- B. **For Planning Board-approved project.** The applicant shall submit 13 copies of all material to the City Planner or designee.

812.5 Lighting Standards

- A. **Light Nuisance.** All outdoor lighting shall be located, shielded, and maintained so as not to constitute a hazard or nuisance to the traveling public or neighbors. Glare shall be avoided and light trespass minimized to less than 0.1 foot-candles.
- B. **Contrast.** Employ evenly distributed transitional light levels which are consistent with the surrounding area to minimize contrast between lit areas and dark surroundings.
- C. **Fixture Cut-Off.** Full cut-off lighting fixtures are required for all outdoor walkways, parking lots, canopy and building/wall mounted lighting, and all lighting fixtures located within those portions of structures which contain exterior walls that are not fully enclosed between the floor and ceiling. Full cut-off lighting fixtures emit no light at or above the horizontal plane as measured at the light source. Fixtures meeting the full cutoff requirement, as defined by the Illumination Engineering Society (IES), shall be indicated on the cut sheet or lighting plan submitted.

Foot-candle: A measure of light falling on a surface. One foot-candle is equal to the amount of light generated by one candle shining on one square foot surface located one foot away. Foot-candle measurements shall be made with a photometric light meter three feet above the ground.

Table 812.5				
Maintained Illumination Measured in Foot-Candles				
Areas/Uses-Activities		Maximum At Any Point*	Average Maximum At Any Point*	Minimum at Any Point*
Inside the Urban Core Area	Parking Lots	10	2	0.5
	Active Building Entrance	20	15	10
	Walkways/sidewalks on private land	10	2	0.5
	Under Service Station Canopies	20	10	5
	Vehicular Sale Display	20	10	5
	Externally Illuminated Sign Surface	10	2	NA
Inside the Growth Area but outside the Urban Core Area	Parking Lots	5	1	0.2
	Active Building Entrance	15	12	8
	Walkways/sidewalks on private land	5	1	0.2
	Under Service Station Canopies	15	8	3
	Vehicular Sale Display	15	8	3
	Externally Illuminated Sign Surface	5	1	NA

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Inside the Rural Area but outside the Growth Area	Parking Lots	4	0.5	0.1
	Active Building Entrance	12	8	5
	Walkways/sidewalks on private land	4	0.5	0.1
	Under Service Station Canopies	10	5	2
	Vehicular Sale Display	10	5	2
	Externally Illuminated Sign Surface	3	1	NA
*In instances, where it is difficult for a development to meet the Minimum at Any Point or the Average Maximum at Any Point standards, the following illumination contrast ratios, in foot-candles, will be allowed: 1) the contrast ratio of the Maximum at Any Point to the Minimum at Any Point shall be 20:1 or less, and 2) the contrast ratio of the Maximum at Any Point to the Average Maximum at Any Point shall be 4:1 or less.				

- D. **Maintained Illumination Levels.** In order to minimize glare, potential hazardous conditions, provide for security and safety outdoor lighting illumination levels shall meet the requirements set forth in Table 812.5 for any use permitted in this Article.

812.6 HEIGHT LIMITS

A. Pole-Mounting Limit

Lighting mounted onto poles or any structures intended primarily for mounting of lighting shall not exceed the following height as measured from the finish grade:

- i. 35 feet for driveways, parking and transit areas.
- ii. 20 feet for walkways, plazas, and other pedestrian areas.
- iii. 15 feet for all other lighting.

B. Building/Structure-Mounted Limit

Light mounted onto buildings or other structures shall not exceed a mounting height greater than 4 feet higher than the tallest part of the building or structure at the place where the lighting is installed. With the following exceptions:

- i. Lighting for facades may be mounted at any height equal to, or less than the total height of the structure being illuminated.
- ii. For buildings, canopies, or overhang located less than 40 feet from the property line or the sidewalk or public right-of-way, outdoor lighting fixtures shall be mounted to the vertical façade or underside of canopies at 16 feet or less.

812.7 EXEMPT LIGHTING. The following types of outdoor lighting are exempt from the provisions of this Article.

Internally illuminated signs. However, it is required that all such signs should have “dark” backgrounds (opaque or colored) and “light” lettering (white or lighter colored than the background) so as to minimize glare or luminous overload.

Temporary lighting. Includes, but is not limited to, temporary lighting for theatrical, television, and performance areas; temporary holiday lighting provided that individual lamps are 10 watts or less; and temporary construction lighting used by government-funded projects to perform emergency or construction repair work, or to perform nighttime road construction on major thoroughfares. Temporary lighting per the National Electric Code shall not be in place for greater than 90 days otherwise is to be considered permanent and therefore meet the code requirements as set forth herein.

Safety. Exit signs, and lighting for egress pathway stairs and ramps.

Federal/State Required Lighting. Lighting required and regulated by the Federal Aviation Administration, U. S. Coast Guard, or other federal or state agency.

Street and Sidewalk Lights. Street lights within the public right-of-way and bridges.

Single- and Two-Family Residential Properties. Obtrusive light (spill light) that creates glare, annoyance or obstructs visual ability is prohibited. There shall be no light trespass beyond the property line.

812.8 SPECIAL LIGHTING. Upon review and determination by the Administrator that the proposed outdoor lighting will not create unwarranted glare, glow, or light trespass, outdoor lighting not complying with the technical requirements of this Article may be installed for the following applications:

Recreation. Sport fields, stadiums, and specialized theme parks.

Water Features. Lighting in swimming pools, fountains, and other water features.

Church and Government. Public monuments, public buildings, and houses of worship.

Pole Mounting Height. Industrial areas where higher pole heights are required to avoid interference of vehicle with the pole assembly.

National and State Flags. The type of lighting fixture to illuminate National and State flags should be a narrow beam focused. Flag lighting within the Growth Area should be done with spot lights greater than 70 watts but less than 250 watts and within the Rural Area flag with a spot light greater than 40 watts but less than 100 watts.

Confinement of Light to Object. Outdoor lighting used to illuminate flags, statues, signs or other objects mounted on a pole, pedestal or platform, spotlighting or floodlighting used for architectural or landscape purposes, must use fully shielded or directionally shielded lighting fixtures that are aimed and controlled so that the directed light is substantially confined to the object intended to be illuminated.

812.9 PROHIBITED LIGHTING

Mercury-Vapor Fixture and Lamps. The installation of any mercury-vapor fixture or lamp for use as outdoor lighting is prohibited.

Laser Source Light. The operation of laser source light or any similar high-intensity light for outdoor advertising is prohibited.

Searchlights. The operation of searchlights for advertising purposes is prohibited.

813 BUFFERS, SCREENING, AND LANDSCAPING STANDARDS

813.1 Purpose.

- A. Protect existing trees, natural areas and features.
- B. Support visual screening and creation of privacy.

813.2 Applicability. In general this section applies to any of the following activities:

- A. The construction or erection of any new building or structure for which a development approval (building permit, Planning Board approval, etc.) is required.
- B. The enlargement of the exterior dimensions of an existing building or structure for which a development approval is required.
- C. The construction of a new parking lot or expansion of an existing parking lot.
- D. Unless otherwise stipulated the landscaping standards are not cumulative. For example, if both the yard buffer and parking buffer apply then the more stringent of the two shall apply.

813.3 Expansion. When a building, structure, or parking lot is enlarged, the buffer and landscape requirements apply on an incremental basis. This means that landscaping is required in the same proportion that the enlarged building area or off-street parking area has to the existing development (e.g., a 10% increase requires 10% of the required landscaping).

813.4 Exemptions. Unless otherwise specified, this section does not apply to the following uses:

- A. Single family attached or detached dwelling units.
- B. Agricultural and forestry uses taking place in the Industrial (I), Rural (R), and Drinking Water (DW) zoning districts.
- C. Commercial and industrial uses that abut other similar uses, respectively.
- D. Contiguous commercial or industrial parcels or land areas under common ownership.

813.5 Acceptable Landscape Materials.

- A. Plant materials shall comply with the minimum size requirements at the time of installation. Plant height shall be measured from the average grade level of the immediate planting area to the top horizontal plane of the shrub at planting.
- B. Planting areas should consist of permeable surface areas only.
- C. Each tree or shrub shall be planted at least 30 inches from the edge of any paved or impervious surface.

813.6 Minimum Planting Specifications Unless Otherwise Specified.

Design. Plant materials may be arranged in a way to simulate natural growth pattern rather than spaced at regular intervals.

813.8

Table 813.6 Minimum Planting Specifications	
Landscape Features	Minimum Caliper/Height at the Time of Planting
Deciduous Trees	• Single-trunk trees: minimum of 1.5 inches measured at 6 inches above grade. • Multi-trunk: minimum of 6 feet in height at the time of planting.
Coniferous trees	Minimum of 6 feet in height at the time of planting.
Shrubs	1 foot

Fire Suppression.

- A. Landscaping, including but not limited to fences, screenings berms, trees, shrubs, and other plantings shall not visually or physically obstruct emergency equipment and personnel access to any sprinkler and standpipe connections and control valves, public and private fire hydrants and Knox Boxes.
- B. Landscaping shall be kept off to a minimum of 10 feet from compressed gas containers, cylinders, tanks, and systems.

813.9 Permitted Uses Within the Buffers. No active recreation area, storage of materials, parking or structure, except for necessary utility boxes and equipment, shall be located within the side and rear buffer yards. The buffer yard may be included in the required setback. For the purpose of this article berms are not structures.

813.10 Maintenance. Landscaping shall be maintained intensively for a minimum of two years to ensure the survival and establishment of all plant materials. The applicant will continue to

maintain all landscaping in accordance with the approved plan for the life of the project. Dead and dying plantings shall be replaced as needed.

813.11 Waivers. The administrator may reduce or waive the standards, require keeping an existing stand of trees and/or require a fence, wall, or berm or any combination thereof, if the administrator finds that there would be no adverse impacts upon the neighboring properties resulting from the reduction of substitution.

813.12 Line of Sight. Landscaping shall not obstruct drivers' line of sight.

813.13 LOT LANDSCAPING STANDARD - DT AND U ZONING DISTRICTS

A. **Applicability.** This section applies to all commercial, industrial, and multi-family buildings and structures within the Downtown (DT) and the Urban (U) zoning districts. Lot landscaping should provide screening to mechanical equipment and stormwater relief, and complement streetscape design.

B. **Exempt from this Standard.**

- i. Buildings fronting on Main Street between the Union River and High Street.
- ii. If the total footprint of the building is less than 1,000 square feet.
- iii. If the front setback is less than 20 feet for buildings in the Downtown (DT) zoning district.
- iv. If the front setback is less than 30 feet for buildings in the Urban (U) zoning district.

C. **Standard.**

- i. The percentage of required landscaping area is calculated based on the size of the lot or parcel.
- ii. Downtown (DT) zoning district – if the front setback is more than 20 feet then the developer shall provide a minimum of 15% of landscaping area and/or low impact development cover excluding green roofs.
- iii. Urban (U) zoning district – if the front setback is more than 30 feet then the developer shall provide a minimum of 20% of landscaping area and/or low impact development cover excluding green roofs.

813.14 PARKING AREA BUFFER – ROAD, RESIDENTIAL USE AND LOADING AREAS

A. **Applicability.**

- i. For any parking lot located within the front yard and having 20 parking spaces or more.
- ii. For any parking lot abutting an existing residential use and having 20 parking spaces or more.
- iii. For any area used exclusively for the display of 20 or more motor vehicles for sale as part of an automobile dealership having a side or rear property line directly abutting an existing residential use.
- iv. For any type of vehicle fleet, automobile service establishment, vehicle storage, etc., having the ability to accommodate 20 cars or more and directly abutting an existing residential use.
- v. Loading areas abutting a road or an existing residential use.

B. Exemptions.

- i. Downtown (DT) zoning district.
- ii. For uses within the Industrial (I) zoning district except when having a side or rear property line directly abutting an existing residential use.
- iii. For any area used exclusively for the display of motor vehicles for sale as part of an automobile dealership fronting the road.

C. Standard. Between the street and existing residential uses and parking areas meeting the applicability threshold, the applicant shall have the following options:

- i. A 10-foot-wide minimum landscaped strip between a street and the parking lot, planted with a minimum of three trees and 25 shrubs for every 100 feet of road frontage, excluding driveway openings;
- ii. A berm that is at least two-and-a-half feet higher than the finished elevation of the parking lot with a maximum of a 3:1 slope planted with a minimum of 15 shrubs for every 100 linear feet of frontage; or
- iii. If existing woodlands are available, the applicant can preserve a 20-foot wide strip in lieu of the landscaping requirement along the frontage.

813.15 INTERIOR PARKING LOT.

A. **Applicability.** To provide visual breaks, shade, and stormwater management (low impact design) to parking lots with more than 25 parking spaces, as well as assist in defining circulation.

B. **Standard.**

- i. Interior islands shall contain shade trees based on a minimum ratio 1 tree and 3 shrubs for every 5,000 square feet of parking area. A minimum of 100 square feet of planting area shall be provided per every tree and three shrubs.
- ii. Parking lot island curbing shall have cuts to facilitate stormwater infiltration.
- iii. These landscape islands should be used to assist in defining circulation routes and separating traffic on site for safety as well as for aesthetic purposes.

813.16 REAR AND SIDE BUFFER – BETWEEN RESIDENTIAL AND NON-RESIDENTIAL USES.

A. **Applicability Rear and Side Buffers.** To provide landscaped and screening separation between existing residential and non-residential uses along the side or rear lot lines.

B. **Standard.** Existing trees and shrubs may contribute to achieving compliance with this standard when their existing locations, species, and sizes are indicated on the site plan, demonstrating that the minimum planting specifications of this Section are met.

- i. Within the Urban Core:
 - a. Minimum buffer width of 10 feet.
 - b. Minimum of 8 trees per 100 linear feet of buffer.
 - c. Minimum of 13 shrubs per 100 linear feet of buffer
- ii. Outside of the Urban Core:
 - a. Minimum buffer width of 50 feet.
 - b. Minimum of 20 trees per 100 linear feet of buffer.
 - c. Minimum of 20 shrubs per 100 linear feet of buffer.

813.17 ROAD BUFFER – MANUFACTURING, INDUSTRIAL, AND HEAVY COMMERCIAL.

A. **Applicability.** To provide landscaped and screening separation between the road and heavy manufacturing, industrial, and heavy commercial uses as deemed needed by the

Administrator for uses such as, but not limited to the manufacturing of asphalt, petroleum or lubricants; chemical products or hazardous substances; glass, clay, cement, concrete or gypsum products; rubber or plastic; leather, textiles or fabric; timber or wood products; fueling and maintenance facilities; road salt storage and loading area, large vehicle fleet storage; auto salvage or recycling; electricity generation or storage; hazardous waste treatment, storage or disposal; landfill; recycling facility; sewage treatment works; warehousing and mineral extraction.

B. **Standard.** Existing trees and shrubs may contribute to achieving compliance with this standard when their existing locations, species, and sizes are indicated on the site plan, demonstrating that the minimum planting specifications of this Section are met. The developer may use plantings, fences/wall, berms or a combination thereof.

i. Plantings.

- a. Minimum buffer width of 50 feet.
- b. Minimum of 20 trees per 100 linear feet of buffer.
- c. Minimum of 20 shrubs per 100 linear feet of buffer.

ii. Fences and Walls.

- a. Fences or walls may only be used outside the Ellsworth Urban Core Area.
- b. Fences or walls shall be 6 feet high when used to meet the buffer yard requirements.
- c. No fence or wall is required if an existing fence or wall on an abutting property meets the requirements of this section.
- d. The fence or wall shall be solid and 100% opaque. Corrugated and galvanized steel or metal sheets are not permitted.
- e. Walls may be concrete, concrete blocks, masonry, stone or a combination of these materials. The support posts shall be placed on and faced toward the inside of the developing property so that the surface of the wall or fence is smooth on the abutting property side.

iii. Berms.

- a. Berms shall have a slope not greater than the slope created in 3 horizontal feet with 1-foot vertical rise (3:1 slope).
- b. The berm shall be no greater than 6 feet in height above natural grade.
- c. Berms shall be constructed solely of soil, and shall not contain concrete, brick, tires, or other similar materials.
- d. To provide visual relief, any berms exceeding 10 feet in length shall be curvilinear and shall vary in height.
- e. For every 100 linear feet, there shall be planted at least three trees and 30 shrubs. Required trees and shrubs may be exchanged for one another with one tree equaling five shrubs.

- f. The surface of the berm that is not planted with trees and shrubs shall be covered with grass, perennial ground cover, vines, and woody and herbaceous perennial, with mulch.

813.18 SCREENING OF TRASH RECEPTACLES.

Trash receptacles should be enclosed on all four sides by a continuous visual screen that matches or complements the principal use and surroundings. The screening shall be a minimum of 6 feet or the height of the receptacle, whichever is greater.

814 PUBLIC AND QUASI-GOVERNMENTAL TRAILER-ABLE BOAT LAUNCHING FACILITIES FOR THE DRINKING WATER ZONING DISTRICT.

814.1 All public and quasi-governmental trailer-able boat launching facilities providing access to Branch Lake shall comply with the following requirements:

- A. The facility shall be gated and locked during off-hours.
- B. The facility shall be supervised by an attendant during hours of operation.
- C. The facility shall be equipped with a boat wash-down facility for the sole purpose of washing down boats.
- D. The facility attendant shall conduct a boat inspection on all watercraft prior to entering Branch Lake.
- E. A boat inspection includes: a) a visual inspection of a boat, motor vehicle, trailer, marine engine, live well, bilge, bait bucket and all other related equipment to ensure that no aquatic invasive plants or animals are introduced into Branch Lake and b) a boat wash down.

STREET NAMING AND PROPERTY NUMBERING

815.1 Purpose. The Assessor shall establish and maintain a street naming and property numbering system. This is intended to minimize problems of identification for emergency management services and other public services and shall be subject to the requirements set forth in this section.

- A. All streets and properties shall bear a distinctive name and number in accordance with and as designated upon a Street Name and Property Number Designation Map on file with the City's Assessing Office. The Assessor or designee shall establish, maintain and keep current said map.
- B. The Assessor shall assign all such names and numbers as are necessary to maintain the system.
- C. In naming streets, the Assessor should avoid the use of the following:
 - i. Duplicate and similar-sounding names.
 - ii. Alphabetical letters.
- D. The Assessor shall assign numbers that are consistent with the United States Postal Services practices (i.e., even numbers on the left and odd numbers on the right).
- E. Numbers shall be affixed to the principal structures.
- F. Numbers shall be located on structures so as to be readily visible from and oriented toward the street from which the address is taken.
- G. For principal structures more than 50 feet from the street or otherwise not readily visible from the street due to trees, fences or other similar obstructions, there shall be placed and maintained a secure post at the structure's entrance upon which shall be affixed the designated number. Said post must also be readily visible but must not be placed in the right-of-way, and said post must be at least 4 feet in height. In lieu of said post, the number may be affixed to a mailbox.
- H. For multi-family or apartment complexes, the number shall be consistent with and displayed as outlined in sections E through G above. Each individual unit will be identified by a sub letter (i.e., Apartment A).
- I. Numbers shall be no less than 3 inches in height. Standard numbers shall be provided by the City upon the request of the homeowner.
- J. No person shall erect any street name sign or affix any street number different than those approved by the Assessor's Office.

816 WASTE MATERIAL ACCUMULATIONS REGULATED.

Deposits or accumulations of rubbish, junk, junk automobiles and parts thereof, discarded articles of any kind, household, industrial or commercial wastes shall not be made in any zoning district except at a dumping place or places designated as such by the City Council, provided, however, that nothing in this Article shall be construed to prohibit the establishment or operation of commercial junk yards and automobile graveyards as permitted under the terms of this ordinance.

817 MEDICAL MARIJUANA DISPENSARY

817.1 Purpose and Applicability. This Section is to establish standards for medical marijuana dispensaries and to regulate the cultivation and retailing of medical marijuana in a manner that protects the health, safety and welfare of the residents, merchants, and customers.

817.2 Authority. This section has been prepared in accordance with the provisions of Title 22, Chapter 558-C § 2421-2429 of the Maine Revised Statutes Annotated (M.R.S.A.), Title 30-A §3001, and the Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122).

817.3 Administration. This Section shall be administered according to all administrative and legal provisions of this ordinance with the following exception:

A. For the establishment of a new dispensary, the re-location of an existing Ellsworth dispensary to a new location within the City of Ellsworth, or a change from cultivation facility to retail facility or vice versa, the project shall be reviewed by the Planning Board as a major use site development plan regardless of threshold factors such as but not limited to size or change of use that would ordinarily bring the review to the Code Enforcement level.

Approval of subsequent project phases by the Administrator shall only be given upon satisfactory completion of all approvals/permits pertaining to previous phases having been met.

817.4 Limit on Number of Dispensaries. There shall only be one dispensary within the City of Ellsworth and it shall operate from only one physical location.

817.5 Not-for-profit Corporation. A dispensary must operate on a not-for-profit basis.

817.6 Location.

A. A dispensary shall not locate within 500 feet of the property line of the following pre-existing uses located within or outside the City of Ellsworth:

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- i. Public or private schools;
 - ii. Public facilities such as playgrounds, pools, parks, recreation facilities, and libraries;
 - iii. Substance abuse rehabilitation centers, correctional facilities, and homeless shelters;
 - iv. Places of worship; and
 - v. Day care.
- B. A dispensary may be located in a multi-occupant building unless one or more of the units are housing units.
 - C. It is prohibited to co-locate an office that can issue a physician's written certification from the same premise as a dispensary.
 - D. A dispensary shall not adversely affect health and safety of the nearby residents or businesses by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
 - E. A dispensary shall not have on-site display of marijuana plants.
 - F. Only medical marijuana retail facilities shall sell paraphernalia used for the use or consumption of medical marijuana to registered patients or registered primary caregivers, as defined in the Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122).
 - G. There shall be no window display.
 - H. A dispensary shall be operated from a permanent location and shall not be permitted to operate from a moveable, mobile, or transitory location.

817.7 Zone. A dispensary is allowed only within the Urban (U), Industrial (I), and Commercial (C), zoning districts. A dispensary is strictly prohibited from all other zoning districts.

817.8 Cultivation. All cultivation of marijuana shall take place in a non-transparent secured building.

817.9 Parking. Dispensaries shall be prohibited from having off-site parking or satellite parking.

818. MEDICAL MARIJUANA PRIMARY CAREGIVER OPERATIONS

818.1 Applicability.

- A. Medical marijuana primary caregiver operations (cultivation, production, dispensing, and all related activities) outside the primary residence of the primary caregiver and collectives are prohibited in all zoning districts.

- B. Medical marijuana primary caregiver operations (cultivation, production, dispensing, and all related activities) at the primary residence of the primary caregiver are allowed in all zoning districts and shall comply with the Home Occupations section below.

818.2 Authority. This section and the terms used are in accordance with the provisions of and as defined in Title 22, Chapter 558-C § 2421-2429 of the Maine Revised Statutes Annotated (M.R.S.A.), Title 30-A §3001, and the Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122).

819 HOME OCCUPATIONS

819.1 Purpose and Findings.

- A. Established criteria for operation of home occupations in dwelling units;
- B. Ensures that such home occupations are compatible with adjacent and nearby residential properties and uses; and
- C. Allows residents of Ellsworth to use their residences as places to enhance or fulfill personal economic goals.

819.2 Applicability.

- A. Applies to any occupations, profession, or business activity customarily conducted entirely within a dwelling unit and carried on by a member of the family residing in the dwelling unit, and which occupation or profession is clearly incidental and subordinate to the use of the dwelling unit for dwelling purposes and does not change the character of the dwelling unit. A home occupation is an accessory use to a dwelling unit.
- B. No home occupation, except as otherwise provided in this section, may be initiated, established, or maintained in the unit except in conformance with the regulations and performance standards set forth in this section. A home occupation shall be incidental and secondary to the use of a dwelling unit for residential purposes.

819.3 Exempt Home Occupations.

The activities listed below are not subject to this section, provided that all persons engaged in such activities reside on the premises:

- A. Artists, sculptors, and composers not selling their artistic product to the public on the premises;

- B. Craft work, such as, but not limited to, jewelry-making and pottery, with no sales permitted on the premises;
- C. Home offices with no client visits to the home permitted; and
- D. Telephone answering and message services.

819.4 Permitted Home Occupations in the Downtown, Industrial, Urban Neighborhood, and

Commercial Zoning Districts.

The following home occupations are permitted subject to the performance standards established in table 819.7 Home Occupation Performance Standards by Zoning Districts:

- A. Accounting, tax preparations, bookkeeping, and payroll services.
- B. Baking and cooking.
- C. Catering.
- D. Child Care.
- E. Computer repair, systems design, and related services.
- F. Drafting services.
- G. Engineering, architecture, and landscape architecture.
- H. Financial planning and investment services.
- I. Fine arts studios.
- J. Hair salon, barbering, hairdressing, and other personal care services.
- K. Legal services.
- L. Musical instruction.
- M. Offices for professional, scientific, or technical services or administrative services.
- N. Photographic services.
- O. Professional services including the practice of law.
- P. Real estate services and appraisal.
- Q. Teaching of crafts.
- R. Tutoring.

819.5 Permitted Home Occupations in the Drinking Water and Rural zoning Districts.

The following home occupations are permitted subject to the performance standards established in table 819.7 Home Occupation Performance Standards by Zoning Districts:

- A. Accounting, tax preparations, bookkeeping, and payroll services.
- B. Baking and cooking.
- C. Catering.
- D. Child Care.
- E. Computer repair, systems design, and related services.

- F. Drafting services.
- G. Engineering, architecture, and landscape architecture.
- H. Financial planning and investment services.
- I. Fine arts studios.
- J. Hair salon, barbering, hairdressing, and other personal care services.
- K. Legal services.
- L. Musical instruction.
- M. Offices for professional, scientific, or technical services or administrative services.
- N. Photographic services.
- O. Professional services including the practice of law.
- P. Real estate services and appraisal.
- Q. Teaching of crafts.
- R. Tutoring.
- S. Medical/dental offices.
- T. Motor vehicle and engine repair.
- U. Furniture refinishing.
- V. Recording Studios.
- W. Animal grooming.
- X. Machine shop/metal working.
- Y. Retail sales.
- Z. Contractor and Trade shops.

819.6 Permitted Home Occupations in All Zoning Districts.

The following home occupations are permitted, subject to the performance standards established in table 819.7 Home Occupation Performance Standards, in all Zoning Districts:

- A. Medical marijuana primary caregiver operations (production, cultivation, dispensing, and all related activities).

In some cases, a home-occupation may have to comply with the Ellsworth Code of Ordinances Chapter 4, Fire Protection and Prevention. For more information, please contact the Ellsworth Fire Inspector at 669-6612.

819.7 Performance Standards.

All permitted home occupations shall comply with the criteria of Table 819.7 Home Occupation Performance Standards.

Table 819.7 Applicable Home Occupation Performance Standards by Zoning Districts and for Medical Marijuana (MJ)			
Primary Caregiver Operations*			
Performance Standards	DW and R	All Other zoning districts	MJ Primary Caregiver Operations
The use shall be clearly incidental and secondary to residential occupancy.	✓	✓	✓
The use shall be conducted entirely within the interior of the residence.	✓	✓	NA
Not more than 6 clients per day. Hours for visits shall be between 8:00 AM and 8:00 PM.	✓	✓	✓
Not more than 25% of the gross floor area of the principal dwelling structure shall be utilized for the home occupation.	✓	✓	✓
Music, art, craft, or similar lessons are permitted (12 or few clients per day).	✓	✓	NA
Child care (maximum of 6 children) is permitted.	✓	✓	NA
Storage of goods and materials shall be inside and shall not include flammable, combustible, or explosive materials.	✓	✓	✓
Off-street parking shall be provided.	✓	✓	✓
Outside storage of heavy equipment or material shall be prohibited.		✓	✓
Mechanized equipment shall be used only in a completely enclosed building.		✓	✓
Electronically amplified sounds shall not be audible from adjacent properties or public streets.	✓	✓	✓
No generation of dust, odors, noise, vibration, or electrical interference or fluctuation shall be perceptible beyond the property line.	✓	✓	✓
Deliveries and pickups shall be those normally associated with residential services, shall not block traffic circulation, and shall occur between 8:00AM and 8:00 PM.	✓	✓	✓
*Medical marijuana primary caregiver operations are allowed, as home occupations, in all zoning districts.			

819.8 Outdoor Storage

- A. Storage shall be limited to materials related to the business.
- B. Materials shall not be stacked to a height exceeding 4 feet and shall not be visible from the public right-of-way or adjacent lot or parcel occupied by a residence. Any screening required to comply with this subsection shall use wood or masonry fencing or a vegetative hedge;
- C. The storage shall not create any smoke, odors, dust, or noise at a level discernible at any of its lot lines; and

D. The minimum lot size for outdoor storage shall be 2 acres. In no event shall a home occupation be established on a lot that is nonconforming as to the minimum lot size.

819.9 Accessory Buildings. Where a home occupation is conducted in an accessory building, such accessory building shall not exceed the square footage of the footprint of the dwelling.

819.10 Employees. The family member conducting the home occupation may employ at the dwelling a maximum of two nonresident employees to assist in the home occupation. There shall be a maximum of 5 workers including family members.

819.11 Unsafe Home Occupations. If any home occupation has become dangerous or unsafe; presents a safety hazard to the public, pedestrians on public sidewalks, or motorists on a public right-of-way; or presents a safety hazard to adjacent or nearby properties, residents, or businesses, the Code Enforcement Office shall issue an order to the dwelling owner and/or tenant on the property on which the home occupation is being undertaken, directing that the home occupation immediately be made safe or terminated. In the event of a failure to do so by the owner and/or tenant, after notice and a reasonable period of time, the Code Enforcement Officer may take any and all available enforcement actions to render the home occupation and dwelling safe. Costs incurred by the Code Enforcement Officer, if forced to take enforcement actions, shall be borne by the property owner and shall be treated as a zoning violation. Safety concerns pertaining to medical marijuana caregiver operations are outside the jurisdiction of the Ellsworth Code Enforcement officer and shall be reported to the Ellsworth Police Department and/or the Maine Department of Health and Human Services, Maine Center for Disease Control and Prevention.

820 MOBILE HOME PARK STANDARDS

820.1 Purpose. This Section is intended to promote public health, safety and welfare; to establish standards for Mobile Home Park construction and maintenance; to create construction standards and other regulations of Emergency Mobile Home Parks; and to provide a wholesome community environment. This section is supplementary to the Ellsworth *Subdivision Ordinance*.

820.2 Applicability. This Section shall apply to all Mobile Home Parks in the City of Ellsworth, Maine. The term “Park” when used herein refers to Mobile Home Parks, as defined. The term “Site” when used herein refers to a Mobile Home Site, as defined.

820.3 Zoning Districts. ~~Mobile Home Parks are allowed only in the Rural (R) zoning districts.~~ Emergency Mobile Home Parks are allowed within any Land Use District other than districts within the Shoreland Zone.

820.4 Authority. This Section is enacted pursuant to 30-A M.R.S.A., Section 4358 Regulation of Mobile Home, et. Seq.

820.5 Supplementary Document. Except as stipulated in this Section, Mobile Home Parks must meet all of the applicable requirements for a residential subdivision, and must conform to all applicable state laws and city ordinances. Where the provisions of this Section conflict with specific provisions of the Ellsworth Subdivision Ordinance provisions of this Section prevail. In particular, Subdivision “Lot” design requirements do not directly apply as Mobile Home “Site” design requirements, which are specified herein and Mobile Home Parks are not reviewed as “cluster” subdivisions.

820.6 Administration. This Section shall be administered according to all applicable procedures, penalties, remedies and legal provisions stated in the Ellsworth Subdivision Ordinance and the supplementary provisions stated in this Section.

820.7 Planning Board Review. Proposed Mobile Home Parks, expansions of the number of home sites within a Park or any proposal classified by the Code Enforcement Officer as a major use site development must first be reviewed and approved by the Ellsworth Planning Board in accordance with this Section, the Subdivision Ordinance and any other applicable City ordinances.

820.8 Submittal. A signed Land Development Permit application to construct a Mobile Home Park shall be submitted to the City Planner with the fee and applicable documentation required by the Ellsworth Subdivision Ordinance. Plans for review shall conform to applicable requirements of the Ellsworth Subdivision Ordinance. Number of copies shall conform to Article 6 Site Development Review Section 602.7.

820.9 Fee. To defray administrative expenses, plans shall be accompanied by a fee in the form of a check payable to the City of Ellsworth. Mobile Home Sites shall be considered subdivision lots for calculating these fees per the Ellsworth Subdivision Ordinance. No fee is required for an Emergency Mobile Home Park.

820.10 The Final Plan shall be certified by a design professional registered in the State of Maine and shall comply with all applicable City Ordinances. The approved, signed park

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plan must be filed with the City and recorded at the Registry of Deeds within 90 days of signing. It must include notes or conditions of approval as well as a description of the type of ownership and provisions for management and maintenance of the Park.

820.11 Building Permits. Following Planning Board approval, building, plumbing and electrical permits may be issued by the Ellsworth Code Enforcement Officer.

820.12 Occupancy Permit. No Mobile Home Park hereafter constructed or expanded shall be used or occupied until a Certificate of Occupancy has been issued by the Code Enforcement Officer certifying that the Park complies with this Section.

820.13 Conversion. No Mobile Home Park may be converted to another use without the approval of the Planning Board.

820.14 Mobile Home Park Management.

- A. **Compliance.** A Mobile Home Park shall conform to City ordinances and to the rules and regulations of the State of Maine Department of Health and Human Services relating to mobile homes.
- B. **Responsibility.** The Mobile Home Park management shall inform park occupants about DHHS rules and clearly indicate the occupants' responsibilities under them.
- C. **Registration.** Mobile Home Park management shall maintain a register of Park occupants containing names, site numbers and E-911 street numbers. The register shall be available for inspection by Federal, State and City authorities upon request during normal business hours.
- D. **Utilities.** Park management shall supply utility connections to mobile home sites. Homes shall be hooked up by professionals with proper City permitting.

820.15 Mobile Home Park General Design Standards.

- A. **Applicability.** The construction or expansion of a Mobile Home Park and its facilities shall conform to the design standards of this section and other applicable regulations.
- B. **State Regulations.** A Mobile Home Park shall conform to 30-A M.R.S.A., Section 4358 Regulation of mobile homes.
- C. **Park Boundaries.** A Park shall consist of a single parcel of land meeting the minimum lot size requirements in the Rural (R) zoning district and all standards set forth in this section.
- D. **Site Layout.** Each mobile home shall be placed on its own site with accessways and other amenities shown on the approved Mobile Home Park Plan meeting all standards to follow in this section. Mobile home sites shall be oriented in regard to natural features where practical.

- E. **Site Identification.** Each mobile home site shall prominently display a street number supplied by the City's E-911 Coordinator.
- F. **Density.** Mobile Home Park shall be allowed to exceed the maximum Net Residential Density permitted in its zoning district per Article 3 Zoning Districts as long as the provisions of this Section are met.
- G. **Landscaping.** Wooded areas and individual trees shall be preserved where practical. Vegetative cover such as grass shall be provided for land area not paved, graveled or occupied by a structure. Other planting shall be established to create an attractive setting for mobile home, promote privacy, minimize glare, and provide shade.
- H. **Buffering.** Vegetative screen shall be used to create a dense visual barrier around the park perimeter and around areas such as refuse storage enclosures and nonresidential areas. Screens should be coniferous trees or shrubs such as white cedar, balsam fir and spruce, since these provide a year-round buffer. If conditions are not suitable for planting coniferous screens, solid fencing not less than 6 feet high may be used.
- I. **Buffer Strip.** A fifty-foot wide vegetated buffer strip (minimum) shall be provided along all property boundaries that abut residential land with a zoned density of less than half of the proposed Mobile Home Park density. No structures, buildings or utilities may be placed in the buffer strip, except that utilities may cross a buffer strip to provide services to a Mobile Home Park.
- J. **Open Space.** Mobile Home Parks shall provide a suitable, accessible common space for recreation equal to 10% of the total space for individual sites. The area required for a common wastewater disposal system may be counted only if it will be suitably landscaped for recreational purposes.
- K. **Infrastructure.** See 820.18 Mobile Home Park Infrastructure Standards.

820.16 Mobile Home Site Standards

- A. **Dimensions.** Mobile Home Sites shall meet the minimum requirements as described in Table 820.16A Mobile Home Site Standards.

820.16A Mobile Home Site Standards		
Type of Mobile Home Site	Minimum Area*	Minimum Width
Site contains no well or septic system	6,500 square feet	50 feet
Site contains drinking water well	12,000 square feet	75 feet
Site contains septic system	20,000 square feet	100 feet
Note: To be included in a Mobile Home Park, a Mobile Home Site shall be served by either a centralized domestic water system or a centralized sewer system or by both.		
*Land within wetlands, flood plains or easements shall not count toward the Minimum Area of a Mobile Home Site.		

- B. **Site coverage.** Enclosed buildings on a site shall not exceed 30% of the site area.
- C. **Depth.** A home site shall be deep enough to provide for minimum structure setbacks and for minimum area requirements in this Section.

- D. **Structure Setbacks.** Minimum setback distances for structures within Mobile Home Parks shall comply with the requirements in Table 820.16B Mobile Home Park Structure Setbacks.

820.16 B Mobile Home Park Structure Setbacks	
Location	Structure Setback Minimum Distance
Park accessway right-of-way line	20 feet (front yard setback)
Side or rear Mobile Home Site line	15 feet (side or rear yard setback)
Mobile Home Park boundary line or street right-of-way line (same as required for the Rural (R) zoning district)	40 feet (front yard setback)
	15 feet (side yard setback)
	30 feet (rear yard setback)

820.17 Mobile Home and Accessory Structure Standards.

- A. **Building Permits.** A building permit is required prior to construction or home installation in a Mobile Home Park. Plumbing or electrical permits are also needed. A written permit is also required for removing an installed mobile home from a Mobile Home Park.
- B. **Tax Certificates.** A mobile home shall not be removed from a site until a written certificate is obtained from the tax collector of the City of Ellsworth identifying the mobile home and stating that all property taxes applicable to the mobile home, including those for the current tax year, have been paid or that the mobile home is exempt from such taxation.
- C. **Home Standards.** At a minimum, homes shall conform to the Mobile Home Standards of the State of Maine. Mobile homes shall have a minimum living space of 500 square feet.
- D. **Home Pads.** A mobile home shall be set upon a mobile home pad consisting of at least a 12 inch thickness of gravel base material. Concrete or other durable pads approved by the Planning Board may be used. The width and length of the mobile home pad shall at least match the dimensions of the mobile home placed upon it.
- E. **Skirting.** The vertical space from the mobile home pad to the mobile home frame shall be enclosed with a durable material.
- F. **Accessory structures** such as a garage shall be allowed upon mobile home sites provided the structure meets the provisions of these ordinances and all other applicable regulations.
- G. **Utility Buildings.** Each occupied mobile home site shall be provided with an accessory building with a minimum size of 64 square feet.
- H. **Screening.** Fuel tanks, bottled gas, dumpsters and other utility structures shall be placed in such a way that they are screened and protected from roadways.
- I. **Ruins.** Ruins caused by fire or other causes are not allowed within a Mobile Home Park. If ruins are created, such ruins shall be removed within 60 consecutive calendar days from the time of their creation.

820.18 Mobile Home Park Infrastructure Standards.

A. Accessways.

- i. Responsibility. Accessways within the Park shall be constructed, maintained and serviced by the Mobile Home Park management, including snow removal.
- ii. Design Standards. Accessways serving home sites within the Park shall, at a minimum, conform to Site Road provisions of City of Ellsworth Chapter 56, Article 9 Street Design and Construction Standards. Accessways serving other uses shall conform to the appropriate Street Type classification in Article 9.
- iii. Connections. Any park, proposed to generate average daily traffic of 200 trips per day or more must have at least two emergency access connections to public streets.

B. Lighting. Streets and intersections shall be illuminated consistent with section 812 Exterior Lighting Standards exterior lighting standards.

C. Electric Supply

- i. Design. A Mobile Home Park shall contain an electrical system designed by an Electrical Engineer registered in the State of Maine. The system shall be installed and maintained in accordance with applicable State and City regulations. Electric substations, transformers, transmission lines, distribution line and meters shall be located or screened in such manner that they are not unsightly or hazardous.
- ii. Distribution. Electrical distribution lines within the Mobile Home Park may be installed overhead or underground. All underground lines shall be protected by a rigid conduit or encased in concrete.
- iii. Services. Electric service lines to each mobile home, accessory buildings, and Mobile Home Park service buildings shall be underground. The service lines shall be enclosed in a rigid conduit or encased in concrete.

D. Exterior Lighting. Exterior lighting installed on a mobile home or mobile home site shall be installed such that it is not directed toward surrounding property, streets or other mobile home sites or the sky. It shall be consistent with section 812 Exterior Lighting Standards.

E. Fire Protection. Water supplies for firefighting shall comply with Chapter 4 Fire Prevention and Protection Ordinance.

F. Parking. At least two off-street parking spaces shall be provided for each mobile home site at a distance less than 100 feet from the home it serves. Off-street parking spaces shall be constructed with a minimum thickness of six inches of gravel base material. Such parking space shall have a minimum dimension of 9 feet width by 20 feet length.

G. Refuse.

- i. The park management shall provide occupied mobile home sites with a conveniently located, watertight, vermin-resistant enclosure for refuse storage.
- ii. Storage of refuse shall be enclosed to prohibit access by animals and to minimize health hazards, rodent harborage, insect breeding areas, accidents, wild fire, obnoxious odors or air pollution.
- iii. Collection of refuse at regular intervals shall be the responsibility of the park management and shall be according to State of Maine and City regulations.

H. Signs. Signs shall be consistent with the City of Ellsworth Sign Ordinance.

- I. **Stormwater.** A Mobile Home Park shall provide a surface water drainage system conforming to applicable provisions of Article 10 Stormwater Design and Construction Standards.
- J. **Wastewater Disposal.**
 - i. Wastewater disposal systems shall comply with the Maine State Plumbing Code and be designed and installed under the direction of a Maine licensed professional.
 - ii. A Mobile Home Park located within 500 feet of a public sewer system shall provide an internal sewer system connected into the public system, per the Ellsworth Code of Ordinance Chapter 5 Sewer Ordinance. Any and all expenses incurred will be borne by the developer.
 - iii. Where public sewer is not available, a sanitary sewer system designed by an engineer or septic systems designed by a Licensed Site Evaluator shall be provided.
 - iv. Wastewater disposal systems serving the Mobile Home Park shall be constructed and maintained under the responsibility of the park management.
- K. **Water Supply.**
 - i. Each mobile home shall be provided with an adequate, safe, potable water supply of at least of 90 gallons per day per bedroom.
 - ii. Water supply systems shall be installed and maintained in accordance with the State of Maine Plumbing Code.
 - iii. The Administrator may require a hydrogeologic assessment in cases where site considerations or development design indicate potential of adverse impacts on ground water quality or supply.
 - iv. A Mobile Home Park located within 200 feet of a public water main shall provide a water system connected into the public system. Any and all expenses incurred will be borne by the developer.

820.19 Emergency Mobile Home Parks.

- A. **Purpose.** Emergency Mobile Home Parks may be constructed for mass emergency housing in the event of a natural or man-made disaster.
- B. **Permitting.** An Emergency Mobile Home Park construction permit shall be issued for one year and may be extended for terms of six months as needed. The Ellsworth Code Enforcement Officer shall be responsible for granting or denying the permit.
- C. **Plan Submittal.** A plan drawing showing the Emergency Mobile Home Park shall be submitted to the Ellsworth Planning Board within 60 calendar days after issuance of the Emergency Mobile Home Park Construction Permit.
- D. **Standards.** Maximum effort must be made to adhere to all Design Standards of this Section and all City Ordinances. However, since time is important in establishing an Emergency Mobile Home Park, facilities may be installed in a temporary manner provided that the public health and safety is not imperiled.
- E. **Location.** Emergency Mobile Home Parks are allowed within any zoning district other than districts within the Shoreland Zone (Article 4).

- F. **Temporary Use.** An Emergency Mobile Home Park shall not be converted to a permanent Mobile Home Park unless all provisions of this ordinance are met.

821 YARD SALES

For purposes of this section, a yard sale means a public sale at a dwelling at which personal items belonging to the residents of the dwelling are sold. Yard sale includes garage sales, porch sales, tag sales, and the like. Items purchased elsewhere expressly for resale at a yard sale are prohibited. Commercial outdoor sales activities are prohibited. Yard sales exceeding three consecutive days or held more frequently than three times in a calendar year will be considered a commercial use and require a Site Development Plan review.

822. VISIBILITY TRIANGLE

822.1 Visibility Triangle. In all zoning districts, with the exception of Downtown, no obstruction taller than 3 feet which obscure the view of automobile drivers shall be placed on any corner lot within a visibility triangle area as defined below in section 822.2.

822.2 Measuring the Visibility Triangle. The visibility Triangle is a triangular area of land on a lot formed by drawing from the edge of the travel way one line perpendicular to and one line parallel to the property line or accessway for a specified length and one line diagonally joining the other two lines per the illustration below using as an example the intersection of a residential street with a commercial road. The specified length of the perpendicular and parallel lines is dependent on the types of intersecting accessways as shown in Table 822.2 below.

Table 822.2 Length of Visibility Triangle Perpendicular and Parallel lines in feet per intersecting Accessway Types (per Article 9 Street Design and Construction Standards)										
	Transit and Regional	Rural	Retail	Mixed Use & In town	Commercial	Alley	Residential	Private Residential	Site	Commercial driveway
Transit and Regional	25*	25*	25*	25*	25*	10	25*	10	10	10
Rural	25*	25*	25*	25*	25*	10	25*	10	10	10
Retail	25*	25*	25*	25*	25*	10	25*	10	10	10
Mixed Use & In-town	25*	25*	25*	25*	25*	10	25*	10	10	10
Commercial	25*	25*	25*	25*	25*	10	25*	10	10	10
Alley	10	10	10	10	10	10	10	10	10	10
Residential	25*	25*	25*	25*	25*	10	25*	10	10	10
Private Residential	10	10	10	10	10	10	10	10	10	10
Site Road	10	10	10	10	10	10	10	10	10	10
Commercial Driveway	10	10	10	10	10	10	10	10	10	10
Residential Driveway	10	10	10	10	10	10	10	10	10	10

*In the Urban, Industrial, Business Park, and Commercial zoning districts, that measurement is 15 feet.

822.3 Exception. In certain situations such as, but not limited to, a signalized intersection or if the slope allows for adequate visibility, the administrator may allow an obstruction taller than three feet to be located within the visibility triangle if it is demonstrated that safety is not impacted.



823 Solar Energy Systems (SES).

Solar Energy Systems, whether stand-alone or accessory, are energy-collecting structures composed of impervious components and are subject to all applicable regulations as such, except as otherwise provided for below. Applicants shall describe how their systems are designed to perform in order to satisfy the intent of applicable regulations.

823.1 Level of Review, Application, and Fees.

- A. **Level of Review.** Classification of projects and level of review shall be as required by Article 6, Site Development Plan Review. The amount of impervious surface created by a SES shall be determined as described in this section.
- B. **Application and Submission Requirements.** Applications for SES shall follow the procedures established by Article 2, Plan Approval and Permitting Procedures, and Article 6, Site Development Plan Review. All information required to ensure the performance standards of this section are met shall be depicted on the plan, supported with plan notes or narrative materials as needed. Application fees shall be based on the total area of the solar panels calculated for lot coverage as described below, plus the floor area of any proposed buildings. Site disturbance fees are calculated separately as usual.

823.2 Dimensional Requirements. Dimensional requirements, including but not limited to front, rear, and side property line setbacks, apply to all structural components of SES.

- A. **Height.** For the purposes of determining building height when SES are mounted on a building roof, the first three feet of additional height contributed by the SES shall be excluded.
- B. **Lot Coverage.** Portions of SES may be exempted from lot coverage standards as follows. If SES are located over live ground cover with sufficient space between the panels and above the ground to allow sunlight for vegetation to

grow, half the area of the panels shall be considered structure area for the purpose of calculating lot coverage.

823.3 Buffers, Screening, and Landscaping. Buffer, screening, and landscaping standards of Sections 801 and 813 apply. Existing vegetation shall be preserved to meet buffering, screening, and landscaping standards insofar as is practicable. SES components shall be located far enough from all buffers, screening, and landscaping to ensure that existing and/or proposed trees and shrubs will not shade the SES upon reaching maturity.

- A. **Fencing.** Where fencing is desired or required by other codes, fences shall maximize the ability of small wildlife to pass through. At a minimum, this shall mean that perimeter fencing is elevated at least five inches above the ground, and in at least two corners of the enclosed area, wooden poles of at least five inches in diameter will be installed to provide a means for wildlife to escape the enclosed area.

823.4 Establishment and Maintenance of Vegetation. The establishment and maintenance of new vegetation is of particular concern where SES are proposed on previously undeveloped land or in close proximity to a waterbody. SES proposed to be located entirely over existing impervious surface shall be exempt from the below standards. Those to be located over new impervious surface, or proposed to share space in conjunction with an agricultural use, may be found exempt from some or all of the below standards at the discretion of the Administrator.

- A. All disturbed areas that are not developed with impervious surfaces or planted to meet buffer, screening, and landscaping standards shall be revegetated with seed mixes or plantings appropriate to the soil types and environments found throughout the site, emphasizing a range of native perennial grasses, sedges, legumes, and/or wildflowers, and providing for erosion and sedimentation control as well as heat/drought tolerance and wildlife habitat value. If vegetation requires fertilizing at the time of seeding or at any time thereafter, only non-phosphorous fertilizers shall be used.
- B. Applicants shall consult with the City of Ellsworth Watershed Steward and Code Enforcement Officer during the Technical Review process to establish a timeline of inspections to ensure proper grading, erosion and sedimentation, and seeding procedures as well as the successful establishment of vegetation. The agreed-upon inspection timeline shall cover a period of no fewer than two years post-construction and shall be noted on the final site plan.
- C. Vegetation management, if necessary, shall be accomplished only by mechanical means. The application of herbicides is prohibited, and may be subject to additional penalties if occurring within the Public Water Supply Protection Area.

823.5 Stormwater. Article 10, Stormwater Management Design and Construction Standards may apply. If SES are constructed over a pervious surface with sufficient

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space between the panels to allow rainwater to flow through with provision for dispersion of the water on the ground without channeling, only the surface area of racking foundations, roads, and other non-SES structures will be considered impervious for stormwater calculations.

823.6 Safety. Solar Energy System installations are regulated through the National Fire Protection Association NFPA 850 and NFPA 70 Electrical Code. For example, fencing is required for larger ground systems and dead load structural analysis is required for rooftop systems. The locations of emergency access ways and of all means of shutting down the system shall be clearly marked on the site plan.

823.7 Signage. Stand-alone SES shall provide signage identifying the system's owner and a 24-hour emergency contact phone number.

823.8 Operations, Maintenance, and Decommissioning Plan. Applicants for stand-alone SES requiring major use site development plan review shall submit a plan pursuant to Section 825.

824 Energy Storage System (ESS). There are many types of ESS technologies, which may be accessory or stand-alone installations. They are regulated by State and Federal authorities. For example; batteries, which are filled with hazardous materials are regulated through the National Fire Protection Association NFPA 111, NFPA 855, NFPA 1 Fire Code Chapters 11 and 52, and NFPA 70 Electrical Code. Site plans shall clearly indicate locations of ESS, access ways and signage identifying the owner and a 24-hour emergency contact phone number. Applications shall include all means of disabling the system in the event of an emergency. Stand-alone systems shall submit an Operations, Maintenance and Decommissioning Plan per Section 825.

825 Facility Operations, Maintenance, Decommissioning and Abandonment.

825.1 Applicability: This section outlines plans for facility operations, maintenance and decommissioning. These plans shall be provided for all SES requiring major use site development plan review. The Administrator may also require these plans to be provided for approval of facilities serving specialized industries with limited re-use potential for improvements, those with known substantial obsolescence, and/or those where significant amounts of hazardous materials will be present. Abandonment procedures are activated by conditions described below.

825.2 Operations, Maintenance and Decommissioning Plans shall include:

- A. 24-hour emergency contact name, title, and phone number.
- B. Procedures for safe access and shut down by emergency responders.
- C. General maintenance schedule for the facility, including a removal/replacement plan for major components during the lifespan of the facility.

- D. **Decommissioning Plan.** All SES or ESS requiring major use site development plan review, except for SES subject to the solar energy development decommissioning requirements of Title 35-A MRSA Chapter 34-D, shall submit a decommissioning plan that includes the following elements. SES subject to the solar energy development decommissioning requirements of Title 35-A MRSA Chapter 34-D shall provide copies of the decommissioning plan submitted to the environmental permitting agency. For those projects not subject to the requirements of Chapter 34-D, a decommissioning plan following the best practices for solar decommissioning as set forth by the U.S. Department of Energy, Office of Energy Efficiency & Renewable Energy, with respect to scope of work and cost estimates shall be considered sufficient to meet the requirements of items ii through v below.
- i. An estimated date of decommissioning of the proposed facility based on the average life span of the major components that would need to be removed per below.
 - ii. Provisions for the removal from the site of all structures, equipment and systems that are not demonstrated to have potential continued use.
 - iii. Provisions for the disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - iv. Provisions for the stabilization and re-vegetation of the site as necessary to minimize erosion.
 - v. An estimated cost to implement the decommissioning plan at the estimated date of decommissioning, along with narrative explanation of the methods used to calculate all estimates.
 - vi. Financial Assurance of Performance. Based on the estimated cost to implement the decommissioning plan at the estimated date of decommissioning, the Applicant shall demonstrate in the form of a performance bond, surety bond, letter of credit, parent company guarantee or other form of financial assurance as may be acceptable to the Administrator that upon the end of the useful life of the facility, the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning. The funds for decommissioning must also be securely made available for use by the City of Ellsworth in the event of abandonment per below. Financial assurance provisions must be noted on the final site plan and must be transferred with the development if it is sold.

825.3 Abandonment Provisions:

- A. A facility subject to the decommissioning plan requirement shall be considered abandoned after it ceases to function according to its intended use for more than one year. Determination of abandonment shall be made in writing by the Code Enforcement Officer.

- B. If the owner or operator of the Facility fails to carry out the decommissioning plan within one year of a written determination of abandonment or the proposed date of decommissioning, whichever occurs first, the City retains the right to use any and all legal and available means necessary to decommission the system(s) at the owner/operator's expense.

826 Affordable Housing Development Bonuses

826.1 Description and Purpose. The purpose of this section is to promote the development of safe, sanitary, and high quality Affordable Housing as defined in Chapter 56, Article 14. The intent is to allow for greater density bonuses and lower parking requirements to assist in achieving high quality, yet affordable dwelling units within the development. Developments constructed using this Section must comply with all other Ordinances and State regulations.

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a. The provisions set forth in this Ordinance shall apply to Affordable Housing projects in the designated growth areas as defined in the most recently adopted City of Ellsworth Comprehensive Plan or an area that is served by public water and sewer or a comparable centrally managed water system and comparable sewer system.

b. These provisions are only applicable to Affordable Housing projects that:

- 1) Are approved on or after January 1, 2024;
- 2) Designate 51% of units or more within the development as Affordable Housing;
- 3) Affordable units within the development are restricted by covenant, properly recorded in the Hancock County Registry of Deeds, to remain Affordable Housing for at least 30 years from the date of completed construction;
- 4) Are within designated growth areas where multifamily housing is an allowed use; and
- 5) Meet shoreland zoning requirements, meet minimum lot sizes if using subsurface waste disposal, and prove that water and sewer capacity is adequate for the development.

826.3 Development Bonuses. If applicability requirements are determined to be met by the Planning Board, the affordable housing development qualifies for the following exceptions to zoning requirements:

- 1) The number of units will be 2.5 times greater than the base density allowed for a development not designated as Affordable Housing within the same zone; and
- 2) The off-street parking requirements will allow for two parking spaces for every three dwelling units within the development.

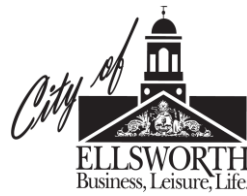
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**City of Ellsworth
Chapter 56
Unified Development Ordinance**

**Article 11
Parking Standards**

Amended August 20, 2012



ARTICLE 11 PARKING STANDARDS

1100 PURPOSE AND APPLICABILITY

1100.1 Purpose. The purpose of this Article is to ensure a minimum level of off-street parking to avoid congestion on surrounding streets while avoiding excessive parking and driving up the cost of development. This article also regulates loading space, traffic circulation, and pedestrian access.

1100.2 Applicability. This Article shall apply to new and existing development as follows:

- A. **Single and Two-Family Dwellings** are exempt from this Article with the exception of mobile homes in mobile home parks per **Article 8 Performance Standards 819.18**.
- B. **Existing Developments** are exempt from this Article unless the development is physically expanded or changed resulting in more intensive parking needs per **Section 1105.1** or unless the existing parking supply is reduced per **section E** below.
- C. **Development Expansion.** When a development, with a non-compliant number of parking spaces is expanded, additional parking spaces shall be provided only for the area of expansion in conformance with **Table 1105.1**, except as specifically noted in **Section 1102.1** for Downtown Parking.
- D. **Change of Use Requiring More Parking Spaces.** When the use of a development is changed to another use that requires more parking spaces or, if the development is vacant, the use that existed immediately prior to such vacancy, parking spaces shall be provided for the proposed use in the amount necessary to conform to this Article, except as specifically noted in **Section 1102.1 for Downtown Parking**.
- E. **Change of Use Requiring Fewer Parking Spaces.** When the use of a development is changed to another use that requires fewer parking spaces per **Section 1106**, the proposed change of use is a permissible change to a non-conforming parking situation provided that parking space requirements will be met to the greatest extent possible.
- F. **Parking Lot Expansion.** If an off-street parking lot is being expanded, only the new portion of the parking lot must conform to this Article unless there are safety issues related to, queuing, egress/ingress, internal vehicular circulation, and loading. In such case, the Administrator may require that part of or the entire existing parking lot be brought into compliance with this Article.

1101 GENERAL PROVISIONS

1101.1 Prohibited Use of Parking. Parking that is required for a specific use shall not be dedicated to other uses, including commercial parking or be utilized for non-parking uses.

1101.2 Ingress and Egress. All access to parking lots and loading areas from an accessway shall be designed to ensure the smooth and safe circulation of vehicles to and from the accessway, per [Article 9 - Street Design and Construction Standards section 901..](#)

1101.3 Backing Out of Vehicles into Road. In general, parking and loading areas shall be provided in a manner that does not require the backing out of vehicles onto a road.

1101.4 Off-site Parking Lots.

A. **Satellite Parking.** If required parking cannot be entirely located on the same lot as the use which it serves, then parking may be located within reasonable walking distance of the entrance to the use as satellite parking. The acceptable walking distance between the satellite parking and the use it serves depends on the type of land use and the type of users. The Administrator shall determine whether the satellite parking is convenient, safe, and accessible at the location proposed, based on the quality of the pedestrian environment including, but not limited to, sidewalks, crosswalks, topography, lighting, line of site (longer distance are acceptable if people can see their destination), and pedestrian barriers found along the way such as, but not limited to, crossing busy traffic.

B. **Valet parking** or other comparable service shall be provided for satellite parking located beyond what the Administrator determines to be a reasonable walking distance.

1101.5 Parking Lot Location. In pedestrian-oriented areas, highly visible areas, and/or in the Commerce Park (CP) of the City of Ellsworth, developers shall strive to locate parking away from the front yard of the use it serves. These areas are: 1) Ellsworth Downtown Area, 2) along high traffic areas in the Urban Core such as, but not limited, to State-owned roads and the Beechland Road, 3) along State-owned roads within the Growth Area, and 4) the BTP.

1101.6 Lease Records. Parking not in the same ownership for the use which it serves shall be under a written use agreement. To avoid the possibility of owner “double leasing” spaces, lease records and agreements shall be provided to the City Planner or designee. To allow for coordination between leases, all leases shall have an opt-out provision on December 31 of each year.

1101.7 Structured Parking. All garages or other structured space allocated for the parking of vehicles may be considered part of the required parking.

1101.8 Layout and Design. Parking shall be arranged and marked to provide for orderly and safe loading/unloading and parking. For parking located within the Ellsworth Urban Core Area, individual parking spaces shall be clearly defined and directional arrows and traffic signs shall be provided as necessary for traffic control.

1101.9 Recreational Vehicle and Oversize Parking. The Administrator may require that some developments provide designated parking spaces for R.V. campers and other oversized passenger vehicles. These spaces cannot be substituted for regular or passenger car spaces.

1101.10 Handicapped Parking. All handicap parking spaces must be provided in accordance with the most current state and federal regulations.

1101.11 Snow Storage. The parking lot design shall provide an adequately sized location for snow storage.

1101.12 Parking Lot Setback. *RESERVED*

1102 DOWNTOWN PROVISIONS

The City of Ellsworth parking provisions for the Downtown Areas aim to support the vitality and appearance of the Ellsworth Downtown. They are prescribed according to three sub-areas known as Downtown A, B and C per the City of Ellsworth Downtown Parking Sectors Map. Development shall provide parking, to a minimum, per the requirements of the Downtown sub-area it is in, even if such parking is provided in a different area than the use it serves.

1102.1 Downtown A.

A. **Area.** Downtown A consists of a portion of Main Street and the abutting areas typified by parking constraints consistent with the distinctive historic construction patterns with structures built to, or very close to, property lines. This type of intense lot coverage makes the addition of on-site parking difficult and may have a negative impact on the historic character of the neighborhood.

B. Requirements.

- i. A change of use taking place within the confines of a building shall not require more parking than required for the use existing immediately prior to such change unless there is a cumulative addition of GFA such as, but not limited to, an entry way, shed, or the use of a rooftop and/or there are 10 or more employees added on the day shift.
- ii. The creation of additional GFA will require parking to be created at a flat rate of 3 parking spaces per 1,000 square feet of GFA, 1 space per dwelling unit, and 0.8 parking spaces for every additional employee over 9 new employees on the day shift.

- iii. A change of use without the creation of additional square footage but resulting in the creation of 10 or more jobs will require 0.8 parking spaces for every additional employee over 9 new employees on the day shift.

- C. **Parking Reduction** per **section 1105**, shall not apply for Downtown A.
- D. **Private Parking, Provided as Free Public Parking**, shall supply parking consistent with **Section 1102.1.B.i and Section 1102.1.B.ii** with the exception that the flat rate will be reduced to 2 parking spaces per 1,000 square feet of GFA.
- E. **Satellite Parking** serving Downtown A, shall be located within reasonable walking distance of the use it is serving, **per Section 1101.4.A** and be well signed per **Section F** below.
- F. **Signing of Free Public Parking**. Way-finding signs, consistent with municipal signage design, should clearly indicate where free public parking is available. The signs should be placed in key locations such as, but not limited to, at the business, at the street access point, and inside the lot.
- G. **Loss of On-site Parking Spaces** in Downtown A, to a structure expansion for example, shall be re-created at a 1:1 ratio (cannot benefit from any of the above parking reduction provisions) and shall be within reasonable walking distance of Downtown A, per **Section 1101.4.A**.
- H. **Parking Earmarked for Dwelling Units** must be posted as reserved.
- I. **Leasing of Parking** existing at the time of the adoption of this Article is prohibited in Downtown A.
- J. **Commercial Parking Lots** are prohibited in Downtown A.

1102.2 Downtown B.

- A. **Area**. Downtown B encompasses the area located around Downtown A. For the most part this area is typified by sufficient onsite parking.
- B. **New Use or a Change of Use** shall be subject to the parking requirements **in Section 1105**.
- C. **Private Parking, Provided as Free Public Parking**, shall supply parking consistent with **Section 1105** with a 25% benefit reduction.
- D. **Satellite Parking** serving Downtown B, shall be located within reasonable walking distance of the use it is serving, per **Section 1101.4.A** and be well signed per **Section E** below.
- E. **Signing of Free Public Parking**. Way-finding signs, consistent with municipal signage design, should clearly indicate where free public parking is available. The signs should be placed in key locations such as, but not limited to, at the business, at the street access point, and inside the lot.

- F. **Parking Earmarked for Dwelling Units** must be posted as reserved.
- G. **Leasing of Parking** existing at the time of the adoption of this Article is allowed.
- H. **Commercial Parking Lots** are allowed.
- I. **Existing Parking** (in existence at the time of the adoption of this Article) can benefit from the above parking reduction provisions.

1102.3 Downtown C.

- A. **Area.** Downtown C encompasses the area outside Downtown A and B and it is typified by having, in general, adequate parking.
- B. **New Use or a Change of Use** shall be subject to the parking requirements in **Section 1105.1**.
- C. **Private Parking, Provided as Free Public Parking**, shall supply parking consistent with **Section 1105** with a 20% benefit reduction.
- D. **Satellite Parking** serving Downtown C, shall be located within reasonable walking distance of the use it is serving, per **Section 1101.4.A** and be well signed per **Section E** below.
- E. **Signing of Free Public Parking.** Way-finding signs, consistent with municipal signage design, should clearly indicate where free public parking is available. The signs should be placed in key locations such as, but not limited to, at the business, at the street access point, and inside the lot.
- F. **Parking Earmarked for Dwelling Units** must be posted as reserved.
- G. **Leasing of Parking** existing at the time of the adoption of this Article is allowed.
- H. **Commercial Parking Lots** are allowed.
- I. **Existing Parking** (in existence at the time of the adoption of this Article) can benefit from the above parking reduction provisions.

1103 ACCESS AND CIRCULATION

- 1103.1 **Interconnection.** Developers shall strive to interconnect adjacent commercial uses unless it is determined by the administrator that it is unsafe, that physical barriers exist, or that it will result in an adverse traffic impact. Developments that provide for shared access to commercial uses shall benefit from a 5% reduction in parking and developments that provide cross access between commercial uses shall benefit 5% reduction in parking. The total maximum combined reduction in parking shall not exceed 7%. The administrator shall determine that the reduction(s) will not result in insufficient parking.
- 1103.2 **Access.** Each parking lot shall be connected to a street or right-of-way via an accessway meeting **Article 9 - Street Design and Construction Standards**.
- 1103.3 **Walkways.** Safe pedestrian routes shall be provided in off-street parking lots.

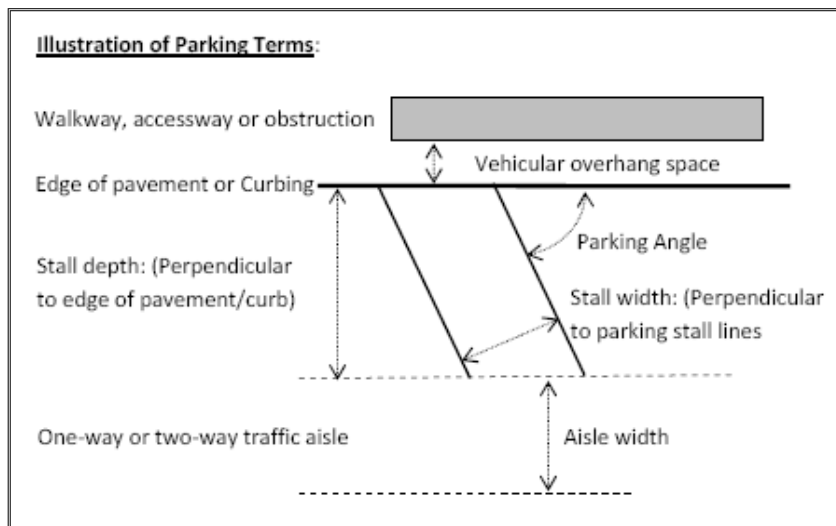
1103.4 Separation of Street from Parking Spaces. Accesses, walkways, sidewalks and other public rights-of-way shall be protected from vehicular overhang by wheel stops, curbs, or other method approved by the Administrator.

1104 PARKING SPACE DIMENSIONS

Parking shall be designed in conformance with the dimensions presented in adjacent Table 1104 Off-Parking Standards and the illustration below.

Table 1104 Off-street Parking Standards				
Parking Angle	Stall Width	Stall Depth*	One-Way Aisle Width	Two-Way Aisle Width
0° (parallel)	9.0'	23.0'	12.0'	20.0'
45°	10.0'	18.5'	16.0'	22.0'
60°	10.0'	18.5'	18.0'	22.0'
75°	10.0'	18.5'	18.0'	22.0'
90°	9.0'	18.5'	20.0'	24.0'

* If a parking lot is designed with a 6-inch curb, then the minimum stall depth may be reduced by 1.5 feet for angled parking and 2 feet for 90° parking, as long as it complies with 1104.4 Separation of Street from Parking Space above.



1105 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

1105.1 Minimum Amount. The minimum amount of required off-street parking spaces shall be determined in accordance with Table 1105.1 Parking Requirements.:

Table 1105.1 PARKING REQUIREMENTS	
LAND USE	NUMBER OF SPACES
RESIDENTIAL/LODGING	
Hotel place of lodging that provide sleeping accommodations and supporting facilities such as restaurants, cocktails lounges, limited recreational facilities (pool and fitness room) and/or retail and service shops, and meeting and banquet rooms able to accommodate a maximum of 200 people.	1.31 spaces/room, plus 0.2 employee spaces/ sleeping room
Hotel with meeting space and banquet rooms able to accommodate more than 200 people.	1.31 spaces/room, plus 0.2 employee spaces/ sleeping room, plus 15 spaces/1,000 SF GFA for all meeting space /banquet/convention space.
Business Hotel – place of lodging aimed toward the business traveler. These hotels provide sleeping accommodations and other limited facilities, such as a breakfast buffet bar and afternoon beverage bar (no lunch or dinner is server and no meeting facilities are provided). Each unit is a large single room. Business hotels provide very few or none of the supporting facilities provided at hotels; and Motel – place of lodging that provide accommodations and often a restaurant. Motels generally offer free on-site parking and provide little or no meeting space and few (if any supporting facilities. Exterior corridors accessing rooms – immediately adjacent to a parking lot – commonly characterize motels.	1 space/room, plus 0.2 employee spaces/ sleeping room
Bed & Breakfast and Inn	1 space/room, plus 2 spaces
Campsite	1 space/site
Condominiums	2 spaces/dwelling unit
Multi-Family – 3 or more units	1.5 spaces/dwelling
Mobile Home	2 spaces/dwelling unit
Boarding House	1 space/room, plus 2 spaces
Senior Housing , Congregate Facility, Nursing Home, and Assisted Living Facility	1.2 spaces/unit
Homeless Shelter	1.5 spaces /1,000 SF GFA plus 2 spaces for staff

Table 1105.1 continued - INSTITUTIONAL, SOCIAL & PUBLIC SERVICES/FACILITIES

Day Care	0.25 spaces/student
Elementary and Middle School	0.25 spaces/student
High School	0.85 space/employee, and 0.4 space per student
Assembly, Theaters, Auditoriums	0.33 spaces/seat
Convention Center, Ballrooms, Banquet Center	0.33 spaces/seat, plus 1 space per employee
Hospital: Any institution where medical or surgical care and overnight accommodations are provided to non-ambulatory and ambulatory patients, as part of a campus setting. The term hospital includes medical clinics (facilities that provide diagnoses and outpatient care).	2 spaces/1,000SF GFA plus 1 space/employee including visiting staff doctors
COMMERCIAL/INDUSTRIAL USES	
Industrial, manufacturing, warehousing, wholesale	0.83 spaces/employee on maximum shift, plus 1 space per vehicle customarily used in operation of the use or stored on the premises.
Medical/Dental Clinic	2.2 spaces/exam room plus 1 space/employee
Automobile repair and gasoline stations	1 space/350 SF or 6 spaces minimum
Barber, beauty, nail and tanning shops	1.75 spaces/chair plus 1 space/employee
Animal Hospital	3 spaces/1,000 sq. ft. GFA
Retail Store and Service Businesses	3.6 spaces/1,000 sq. ft. GFA
Motor Vehicles, ATV, and Boat Sales	2 spaces/employee
Furniture and Carpet Stores	2.5 spaces/ 1,000 sq. ft. GFA
Video Rental Store	2.5 spaces/1,000 sq. ft. GFA or 5 spaces minimum, whatever is greater
Professional Office	3 spaces/1,000 sq. ft. GFA
Convention Center	0.33 spaces/seat plus 0.8 space/employee
Bank	5 spaces/1,000 sq. ft. GFA
Restaurants, eating/drinking establishments	0.25 spaces/seat, plus 1 space per employee
Fast Food restaurant	0.5 space/seat, plus 0.68 spaces/employee

1105.2 Uses Not Cited. If a development does not have a prescribed parking requirement, as listed in **Table 1105.1** Parking Requirements above, and it is determined by the Administrator that the development cannot be fairly compared to a use in the above **table**, then the parking requirement for the development shall be determined, by the Administrator with guidance from the City Planner or designee. The applicant shall provide adequate information by which the proposal can be reviewed, which includes but may not necessarily be limited to the following: 1) types of uses; 2) number of employees; 3) building design capacity; 4) square feet of sales area; 5) parking spaces proposed on site; 6) parking spaces provided elsewhere; and 7) hours of operation.

1105.3 Unit of Measurement. The following measurement units shall be used when determining the required number of parking space.

- A. **Gross Floor Area** of buildings (GFA), as defined.
- B. **Bench Seating:** In calculating bench seating for places of assembly, each 24 inches of benches, pew or other such seating, shall be counted as one seat.
- C. **Stacking spaces:** Each required drive-through waiting or stacking spaces shall be a minimum of 24 feet long and 9 feet wide.
- D. **Fractional Spaces.** When calculations for determining the required number of parking spaced results in a fractional space, any fraction of less than one-half may be disregarded, while a fraction of one-half or more shall be counted as one space.
- E. **Employee Parking.** Parking spaces required for employees shall be based on the maximum number of employees on the premises at any one time. The overlap in shift change is not taken into account.

1105.4 Adjustment and Reduction.

- A. **Parking Deferment.** Where the Administrator finds that the required amount of parking is excessive or there is uncertainty of how much space the use might require, the Administrator may approve a reduction in parking spaces of up to 25%, provided that the land area needed to meet the full requirement is retained. The site plan shall note the area where parking is being deferred with a dotted lot layout. If within a two-year period following issuance of a Certificate of Occupancy the Administrator determines, based on observed usage that the deferred parking is needed, then such parking shall be constructed by the applicant within 12 months of being informed of such request in writing by the Administrator. The Administrator may require the posting of a performance bond or other assurance to cover the estimated construction cost of the deferred parking with a refund or a release in two years if the additional parking is not found to be necessary.
- B. **Limits on Excessive Parking.** In order to minimize excessive areas of pavement which depreciate aesthetic standards and contribute to high rates of stormwater runoff, exceeding the minimum parking space requirement by up to 25% shall only be allowed with approval by the Administrator. In granting the additional parking spaces, the Administrator shall determine that such parking is required, based on documented evidence, to accommodate the use on a typical day not a peak period demand.
- C. **Overflow Parking.** Any request to exceed the minimum parking space requirements from 25.1% to 38% shall be considered overflow parking and shall comply with the process established in **Section B** above and shall be constructed in a manner that returns surface water to the ground (pervious surfacing).
- D. **Shared Parking Reduction.** The Administrator may consider a reduction in the number of parking required for a mixed-use building or when two or more uses share parking because of dissimilar peak time parking demands, as calculated using 1105.4 Shared Parking Reduction Schedule. Parking reduction shall not apply to uses in Downtown A or for mixed-uses that are expressly listed in 1105.1 Parking Requirement Table.

A reduction in the number of parking spaces is computed by multiplying the minimum amount of parking normally required for each land use by the appropriate percentage as shown in section 1105.4 Shared Parking Reduction Schedule for each of the five time periods shown. The number of parking spaces required is determined by totaling the resulting numbers in each column; the column total that generates the highest number of parking spaces then becomes the parking requirement.

Table 1105.4 Shared Parking Reduction Schedule

Type of Use	Total Required Spaces w/out Reduction	Parking Reduction				
		Weekday		Weekend		
		Daytime (6 am-6 pm)	Evening (6 pm-midnight)	Daytime (6 am-6 pm)	Evening (6 am-midnight)	Nighttime (Midnight-6 am)
Office/Professional Services		100%	10%	10%	5%	5%
Industrial		100%	10%	10%	5%	5%
Food Sales and Service/Restaurant		50%	100%	100%	100%	10%
Retail		60%	90%	100%	70%	5%
Hotel, Motel, Inn		75%	100%	75%	100%	75%
Indoor/Legitimate Theater, Comm. Rec. establishment		40%	100%	80%	100%	10%
Meeting Center		50%	100%	100%	100%	10%
Multi-family dwellings		50%	100%	100%	100%	100%
Places of Worship		10%	10%	100%	5%	5%
Other		100%	100%	100%	100%	100%
TOTAL						

Example –Two buildings are sharing one parking lot. Building #1 consists of a 2,020 SF of professional office space; 11,000 SF of retail; and a 62-seat restaurant with 6 staff. Building #2 consists of a 280-seat auditorium and a 300-seat church. This project would require 235 parking spaces.

Table 1105.4.A Shared Parking Reduction Schedule - example						
Type of Use	Total Required Spaces w/o Reduction	Parking Reduction				
		Weekday		Weekend		
		Daytime (6 am-6 pm)	Evening (6 pm-midnight)	Daytime (6 am-6 pm)	Evening (6 am-midnight)	Nighttime (Midnight-6 am)
Office/Professional Services	6	100%	10%	10%	5%	5%
		6	0.6	0.6	0.5	0.5
Industrial	0	100%	10%	10%	5%	5%
		0	0	0	0	0
Food Sales and Service/Restaurant	22	50%	100%	100%	100%	10%
		11	22	22	22	2.2
Retail	40	60%	90%	100%	70%	5%
		24	36	40	28	2
Hotel, Motel, Inn	0	75%	100%	75%	100%	75%
		0	0	0	0	0
Indoor/Legit Theater, Com Rec.	92	40%	100%	80%	100%	10%
		36.8	92	73.6	92	9.2
Meeting Center	0	50%	100%	100%	100%	10%
		0	0	0	0	0
Multi-family dwellings	0	50%	100%	100%	100%	100%
		0	0	0	0	0
Places of Worship	99	10%	10%	100%	5%	5%
		9.9	9.9	99	4.95	4.95
Other	0	100%	100%	100%	100%	100%
		0	0	0	0	0
TOTAL	259	87.7	161	235.2	147	19

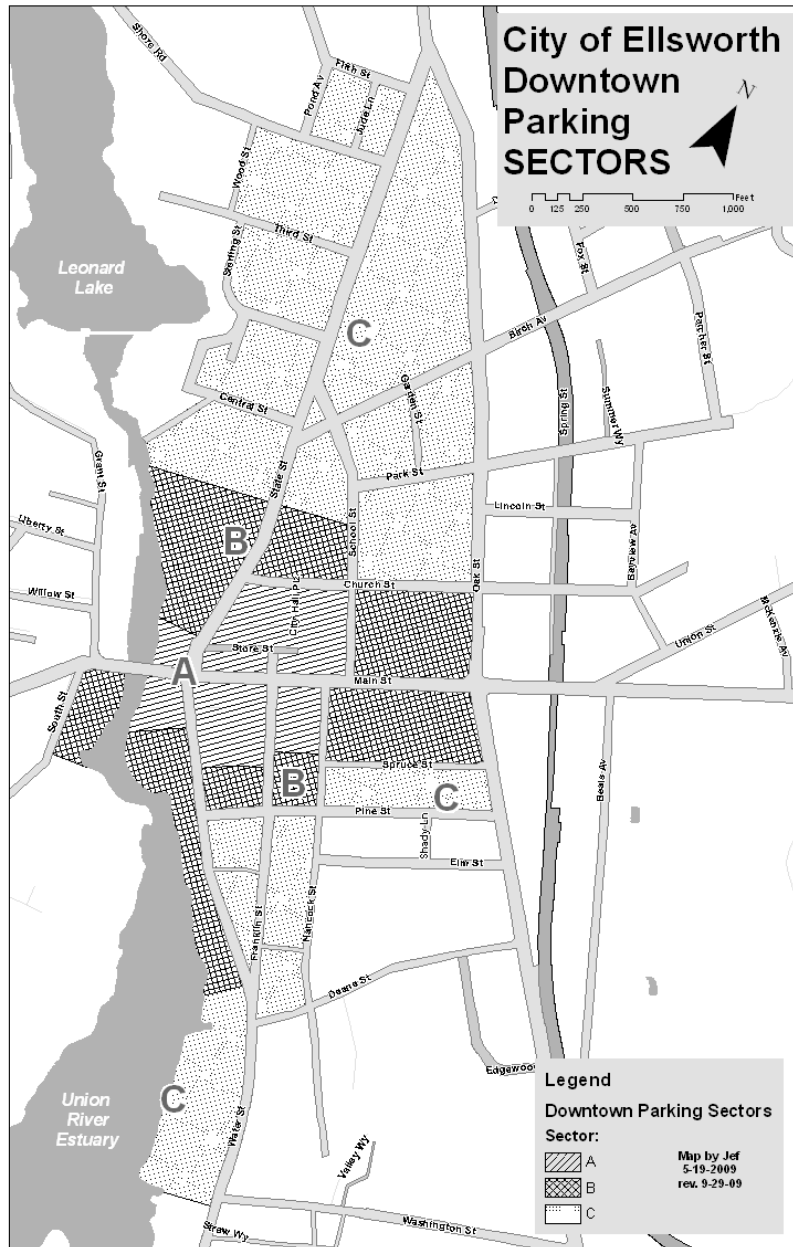
1106 **LOADING SPACE**

Loading facilities shall be located entirely on the same lot as the development it serves with the exception of the Downtown Area where there are, in the judgment of the Administrator, practical difficulties in satisfying the requirement for loading. Loading facilities or truck staging area shall not be allowed in the front yard or side yard. In cases where such facilities must be placed in the front yard or side yard, the use of a decorative concrete block screen wall, planting or mature plants and other such landscaping elements shall be required for screening.

1107 Affordable Housing Parking Bonus

See Chapter 56, Article 8, Section 826.3 for Affordable Housing parking bonuses.

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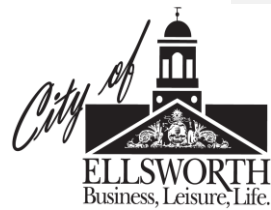


t Ordinance
Article 11 Parking Standards

**City of Ellsworth
Chapter 56
Unified Development Ordinance**

**Article 14
Definitions**

Amended August 20, 2012
Amended January 14, 2013
Amended March 17, 2014
Amended May 21, 2018
Amended April 20, 2020
Amended March 20, 2023
[Amended XXXXX XX, XXXX](#)



ARTICLE 14 DEFINITIONS

Note: All terms not herein and not defined shall be defined using Merriam-Webster's Collegiate Dictionary, 11th edition.

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AASHTO: American Association of State Highway and Transportation Officials.

Accessory Use or Structure (Non-residential): A subordinate use or structure customarily incidental and subordinate to the principal use and located on the same lot. Accessory uses, in the aggregate, shall not subordinate the principal use(s) on a lot. An accessory use located in an accessory structure shall conform to the space standards of each zone.

~~**Accessory, Dwelling:** A separate residential dwelling unit, but not a mobile home, which is located within a single family dwelling unit or in a detached building and is clearly subordinate to the primary use.~~

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Accessway: Any public or private street, right-of way, or driveway used to enter or leave a public or private street or adjacent land using an on-road vehicle. All streets are considered accessways but not all accessways are considered streets. Within the Shoreland Zone, an accessway also includes a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a residential driveway less than 500 feet in length.

Adverse Impact: A negative consequence for the physical, social, or economic environment resulting from an action or project.

Affordable Housing: Decent, safe, and sanitary dwelling units that meet the following criteria:

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A. For rental housing, a development in which a household whose income does not exceed eighty percent (80%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than thirty percent (30%) of the household's monthly income on housing costs (including, but not limited to, rent and utilities that are paid separately from the rent, e.g. electric, water, heat, sewer, trash, etc.).

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B. For owned housing, a development in which a household whose income does not exceed one hundred twenty percent (120%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States

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[Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than thirty percent \(30%\) of the household's monthly income on housing costs \(including, but not limited to, mortgage, mortgage and homeowner's insurance, real estate taxes, and homeowner association fees\).](#)

[For the purposes of this definition, "majority" means 51% or more of available units within a development or on the same lot.](#)

[For the purposes of this definition, "area median income" means income that is at the midpoint of the Hancock County Area excluding HMFA income distribution calculated on an annual basis by the U.S. Department of Housing and Urban Development.](#)

[See Performance Standards in Chapter 56, Article 8, Section 824.](#)

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agricultural Activity and Processing, Commercial: Farming, including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, or harvesting for the production of food and fiber products (except commercial logging and timber harvesting operations); grazing or raising of livestock (except in feedlot); aquaculture; sod productions; orchards; tree farms; nurseries and green houses. It also includes activities involving a variety of operations on crops or livestock, and on crops after harvest to prepare them for harvest or further processing and packaging at a distance from the agricultural area. These uses include but are not limited to slaughterhouse, mills, refineries, canneries, milk processing plants, cleaning, milling, pulping, drying, roasting, storing, packing, selling and other similar activities.

Agricultural, Activity: Farming, including plowing, tillage, cropping, installation of best management practices, seeding, cultivating, or harvesting for the production of food and fiber products (except timber harvesting); grazing or raising of livestock (except in feedlot); aquaculture; sod productions; orchards.

Agricultural, Feedlot: A lot, structure, building, or confined area used intensively for the keeping of farm animals, including but not limited to, of bovine, equine, swine, or sheep species in close quarter for the purpose of fattening for market or slaughter and where animal waste may accumulate. Does not include a barn or similar structure.

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Alteration: A change, addition, or modification requiring construction, including any change in the location of structural members of buildings such as bearing walls, columns, beams, or girders, but not including cosmetic or decorative changes.

Animal Hospital: A commercial establishment for the care and treatment, and boarding of animals, including household pets.

~~**Apartment, Accessory:** A separate dwelling unit, which is located within, and subordinate to a single family detached dwelling.~~

Application: The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the applicable department or board of the City from development review, approval, or permitting process.

Arterial Road: Roads or streets which are expected to provide a high degree of mobility for the longer trip length. They are to provide a relatively high operating speed and level of service. Access to abutting property is not the major function and thus some degree of access control is desirable to enhance mobility.

ASTM: International standards organization formerly known as the American Society for Testing and Materials.

Automobile rental/leasing: Leasing or renting of automobiles, motorcycles, and light load vehicles.

Automobile Repair: The use of a site for the repair of vehicles such as automobiles, trucks, vans, trailers, recreational vehicles, or motorcycles or other similar motorized transportation vehicles including the sale, installation, and servicing of equipment and parts. This use includes muffler shops, repair garages, oil change and lubrication, painting, tire sales and installations, wheel and brake shops, body and fender shops and similar repair and maintenance activities but excludes dismantling or salvage.

Automobile Sales, Major: Any business establishment that sells or leases, and maintains an inventory of more than 26 new or used vehicles for sale or long-term lease such as new or used automobiles, trucks, vans, trailers, recreational vehicles, or motorcycles or other similar motorized transportation vehicles.

Automobile Sales, Minor: Any business establishment that sells or leases, and maintains an inventory of 5 to 25 new or used vehicles for sale or long term lease such as automobiles, trucks,

vans, trailers, recreational vehicles, or motorcycles or other similar motorized transportation vehicles.

Average Daily Traffic (ADT): Average Daily Traffic. See Trip Generation.

Bar and/or Cocktail Lounge: Any premises wherein alcoholic beverages are sold at retail for consumption on the premises and minors are excluded therefore by law. It shall not mean a premise wherein such beverages are sold in conjunction with the sale of food for consumption on the premises and the sale of such beverages comprises less than 25% of the gross receipts.

Basal Area: The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement: Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Bed and Breakfast: Any dwelling in which lodging is offered for compensation to persons either individually or as a family with or without meals [for more than three, but not more than 30 individuals](#).

Best Management Practices (B.M.P.): Established guidelines for control and reducing point and non-point source pollution.

Bikeways: A continuous unobstructed, reasonably direct route between two points that is intended and suitable for bicycle use. Bikeways include, but are not limited, to bike paths, and multi-use paths.

Boarding House, Congregate Housing, Assisted Living: Any dwelling [or portion of a mixed-use building](#) in which three or more rooms are offered for compensation to persons either individually or as families with or without meals for [stays of more than three thirty](#) consecutive days [or longer](#).

Boat Launching Facility♦: A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Buffer, Vegetated: A strip of land with natural or planted vegetation located between a structure and a side a rear property line intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

Building Height, Non-residential: The vertical distance measured from the average elevation of the finished grade within 20 feet of a building to the eaves or start of a roofline. The highest point of the roof is not included in the height limitations.

Building Height, Residential: The vertical distance measured from the average elevation of the finished grade within 20 feet of a building to the highest point of the building. The highest point shall not include attachments or structures such as transmission towers, windmills, chimney, antennas, and similar structures having no floor area.

Building: Any structure having a roof or partial roof supported by columns or walls and which is used for the shelter or enclosure of persons, animals, goods or property of any kind.

Bulk Materials: Uncontained solid matter such as powder, grain, stone, sand, etc.

Bulk Tank Facilities: Bulk storage tanks of flammable and combustible liquids, compressed gases or liquefied petroleum gas (LP gas) for businesses use, wholesale, or wholesale distributing.

Bureau: State of Maine Department of Conservation's Bureau of Forestry.

Business and Trade School: A specialized instructional establishment that provides on-site training of business, commercial, and /or trade skills such as accounting, driving, and auto repair. This classification excludes establishments providing training in an activity that is not otherwise permitted in the zone where it is to locate. Incidental instructional services in conjunction with another primary use shall not be considered a business and trade school.

Campground: A business, public or private establishment operated as a recreational site for tents, camper, trailer, and travel trailer or other forms of temporary living shelter that can accommodate two or more parties.

Campsite: Private land for exclusive personal use, not associated with a business or a campground, which is developed for repeated camping and which involves site improvements that may include, but not limited to gravel pads, parking areas, fireplaces, or tent platform.

Canopy Trees: A deciduous tree whose mature height and branch structure provide foliage primarily in the upper half of the tree.

Canopy: The more or less continuous cover formed by tree crowns in a wooded area.

Cardholder, Qualified Employee (medical marijuana): Cardholder means a principal officer, board member or employee of a dispensary who has been issued and possesses a valid registry identification card.

Cemetery: A burial ground for the interment of the dead, includes crematoriums, and mausoleums.

Centrally managed water system: A water system that provides potable water for human consumption through pipes or other constructed conveyances to at least 15 service connections or serves an average of at least 25 people for at least 60 days a years as regulated by 10-144 C.M.R. Ch. 231, *Rules Relating to Drinking Water*. This system may be privately owned.

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Change in Use: The change from an existing use to another use, including without limitation, the addition of a new use to an existing use. Example: Residential to Business, Business to Assembly.

Changeable Display Sign. A sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means, or manually through placement of letters or symbols on a panel mounted in or on a track system.

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 owned in common by lot/unit owners, the City, or a land conservation organization.

Code Enforcement Officer: A person appointed by the City Council to administer and enforce this ordinance. Reference to the Code Enforcement Officer may include the Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

Collector Road: These roads serve a dual function in accommodating short trips and feeding Arterial roads. They should provide some degree of mobility and also serve abutting property. An intermediate design speed and level of service is appropriate.

Commercial Use: The use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Commercial: A land use which is primarily occupied or engaged in commerce or work intended for commerce other than a home occupation.

Comparable sewer system: Any subsurface wastewater disposal system that discharges 2,000 gallons of wastewater per day as regulated by 10-144 C.M.R. Ch. 241, *Subsurface Wastewater Disposal Rules*.

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

Comprehensive Plan or Policy Statement: Any part or element of the most recently adopted overall plan or policy for development of the municipality adopted by the City of Ellsworth as defined in Title 30-A M.R.S.A. Section 4301.

Connector: An accessway whose primary function is to allow traffic access between adjacent lots or developments without providing access to a public right-of-way.

Conservation Plan: A customized document that outlines the use and best management practices of the natural resources on public or private lands. Typically, the plan will include land use maps, soil information, inventory of resources, engineering notes, and other supporting information.

Contiguous Lots: Lots which adjoin at any line or point, or are separated at any point by a body of water less than 15 feet wide.

Cooking Facilities: A specific area, appliance, or other device that could reasonably be used for heating or re-heating solid foods. This could include hot plates, stoves, stove tops, ovens, microwaves, and air fryers for example. Beverage preparation such as coffee makers are not considered cooking facilities.

Cross Access: An easement or accessway providing for vehicular access between two or more sites.

Cross-sectional Area: The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line

on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

Curb Cut: The providing of vehicular ingress or egress between property and abutting street.

Curb Ramp: A short ramp cutting through a curb or built up to it.

Custom Manufacturing: Establishments primarily engaged in the onsite production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools, or the use of mechanical equipment commonly associated with residential or commercial uses, or a single kiln.

Day Care: Any facility operated for the purpose of providing care, protection and guidance to individuals during only part of a 24-hour day. This term includes nursery schools, pre-schools, day care centers for individuals, and other similar uses but excludes educational facilities or any facility offering care to individuals for a full 24-hour period.

DBH: The diameter of a standing tree measured 4.5 feet from ground level

Deck: A level structure adjacent to a building elevated above the surface of the ground which has a railing but no roof, awning, or other covering.

Designated Growth Area: The area that is designated in the City of Ellsworth Comprehensive Plan as suitable for orderly residential, commercial, or industrial development, or any combination of these developments, and into which most development projected over ten (10) years is directed.

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

Development: Uses including but not limited to the construction of a new building or other structures on a lot or below the shoreline or in a wetland, the relocation of an existing building on another lot, or the use of open land for a new use; any man-made change to improved or unimproved real estate, including but not limited to parking, temporary uses, clearing of land or vegetation, mining, dredging, filling, grading, paving, excavation, or drilling operations; it includes a building, a development site under the same ownership, a consolidated development, and phased development.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability: Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Dispensary: A Registered Dispensary or Dispensary means a not-for-profit entity registered pursuant to 10-144 CMR Chapter 122 Section 6 consisting of a Medical Marijuana Cultivation Facility, a Medical Marijuana Retail Facility, or a Medical Marijuana Combined Facility (Medical Marijuana Cultivation Facility and a Medical Marijuana Retail Facility as defined: 1)

Medical Marijuana Cultivation Facility (Cultivation Facility): A not-for-profit facility limited to the acquisition and possession of medical marijuana; cultivation or growing of medical marijuana; manufacturing of medical marijuana; delivering, transporting and transferring of medical marijuana to a Medical Marijuana Retail facility; and 2) **Medical Marijuana Retail Facility (Retail Facility):** A not-for-profit facility limited to acquisition and possession of medical marijuana; the selling, supplying or dispensing of medical marijuana and of paraphernalia or related supplies and educational materials to registered patients who have designed the Medical Marijuana Retail Facility to dispense medical marijuana for their medical use and to registered primary caregivers of those patients.

Disruption of Shoreline Integrity: The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Disturbed Area: All land areas that are stripped, graded, grubbed, filled or excavated at any time during the site preparation or removing vegetation for, or construction of, a project.

Downtown Area: Geographic area delineated by the City Council on November 17, 2008.

Drainageway: A natural or man-made channel or course within which surface discharge of water may occur. Drainageways include, but are not limited to rivers, streams and brooks (whether intermittent or perennial), swales ditches, pipes, culverts, and wetlands with localized discharge of water.

Driveway, Commercial: Any accessway serving a commercial use generating less than 50 average daily traffic (ADT).

Driveway, Residential: A means of access from a public or private road which will serve no more than two dwelling units.

Dwelling: Any building or structure or portion thereof containing one or more dwelling units, but not including a motel, hotel, inn, or similar use.

Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, ~~cooking~~Cooking Facilities (as defined in this Article), ~~sleeping~~Sleeping Facilities (as defined in this Article), bathing, and sanitary facilities; includes single-family houses, and the units in a duplex, apartment house, multi-family dwellings, and residential condominiums, mobile homes, and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Dwelling units created after June 19, 1989, must contain a minimum of 500 square feet of living space.

Dwelling Unit, Multi-Family: A building designed or intended to be used, or used exclusively for residential occupancy by three or more families living independently of one another including apartment buildings and condominiums, but excluding single-family and two-family dwellings. Ellsworth has two types of multi-family dwelling: a) the 3- to 6-unit complex; and b) the 7-unit and more.

Dwelling Unit, Accessory: A separate residential dwelling unit, which is located within or attached to a single-family dwelling unit or in a detached building and is subordinate to the primary structure or use located on the same lot. Accessory dwelling units shall have a minimum size of 190 square feet and shall not exceed 50% the square footage of the primary dwelling unit or 750 sq. ft., whichever is more restrictive. Performance Standards are located within Chapter 56, Article 8, Section 805.

Dwelling Unit, Principal: A dwelling unit constructed where the residential use is not wholly incidental or accessory to another use on the same premises. Principal dwelling units created after June 19, 1989, must contain a minimum of 400 square feet of living space.

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Dwelling Unit, Single Family Attached: A building designed or intended to be used exclusively for residential occupancy by no more than two families and containing two separate dwelling units in one structure.

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Dwelling Unit, Single– Family Detached: A building designed or intended to be used exclusively for residential occupancy by one family only and containing only one dwelling unit.

~~**Dwelling, Single Family Attached:** A building designed or intended to be used exclusively for residential occupancy by no more than two families and containing two separate dwelling units in one structure.~~

~~**Dwelling:** Any building or structure or portion thereof containing one or more dwelling units, but not including a motel, hotel, inn, or similar use.~~

Earth: Topsoil, sand, gravel, clay, peat, rock, or other minerals.

Educational Institution: Parochial, private, charitable or nonprofit schools, junior college, or university other than business and trade schools, with or without living quarters, dining rooms, restaurants, and other incidental facilities for students, teachers, and employees.

Emergency Mobile Home Park: A parcel of land used to accommodate several mobile homes for a temporary period.

Emergency Operations: Operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Enclosure Ratio: The ratio of building height to the distance between building and the center of the right-of-way. The front setback distance shall be measured from the front façade, including any porch, stoop, or other area integral; to the building.

Energy Storage Systems (ESS), Accessory: ESS store energy for industrial and general uses utilizing various technologies. Accessory use ESS, are considered part of the principal use for zoning purposes including allowable locations. To be considered as accessory, ESS shall be designed with appropriate storage capacity to serve the principal use only and not the electric power grid.

Energy Storage Systems (ESS), Stand Alone: ESS store energy for industrial and general uses utilizing various technologies. Chemical batteries are a type of ESS that are installed as a stand-alone use.

Engineer: Professional Engineer licensed to practice in the State of Maine.

Entrance: An accessway serving one of the following uses: retail, office, industrial, institutional, or service business uses. (Am. 6/09/03)

Equipment Sales and Rental: Establishments primarily engaged in the sale or rental of large tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment. Included in this type of use is the incidental storage, maintenance, and servicing of such equipment.

Essential Services, Distribution: Small-scale facilities serving a local area, including power lines, water and sewer lines, storm drainage facilities, transformers, pump stations and hydrants, switching boxes, and other buildings normally, but not always, found in a street right-of-way to serve adjacent properties.

Essential services, Facilities: A building or other structure used or intended to be used by public or private utilities, including but not limited to gas tank and other storage facilities; water or sewer storage facilities; compost facility; and electrical transmission and distributions substations.

Essential Services, Transmission: Large-scale facilities serving the entire city or region such as power transmission lines, natural gas transmission lines, water storage tanks and reservoirs, major water transmission lines or sewer collectors and interceptors, solid waste disposal or processing facilities, excluding landfill, sewage or wastewater treatment plants, and generating facilities.

Existing Dwelling Unit: [A dwelling unit in existence on a lot at the time of submission of a permit or Planning Board application to build additional units on that lot.](#)

Expansion of a Structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of Use: The addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Façade: That portion of any exterior elevation on the building extending from grade to top pt the parapet, wall, or eaves and the entire width of the building elevation.

Family: One or more persons occupying a dwelling unit as a single non-profit housekeeping unit whether or not related to each other by birth, marriage or adoption, but not to consist of more than five unrelated persons.

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

Financial Security: Any security used as a guarantee that improvements required as part of an application are satisfactorily completed.

Floodway: the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor Area♦: the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Foot-candle: A measure of light falling on a surface. One foot-candle is equal to the amount of light generated by one candle shining on one square foot surface located one foot away. Foot-candle measurements shall be made with a photometric light meter three feet above the ground.

Footprint: the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks. *[This definition is needed for Shoreland Zoning and is from the State Model, Chapter 1000]*

Forest Management Activities: timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of

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timber harvesting and the construction, creation or maintenance of accessways and land management roads.

Forest Stand: A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Formal Easement. An interest in real property recorded at the Hancock County Registry of Deeds dedicating a portion of land to be used specifically for a sign.

Foundation: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freestanding. A sign that is attached to, erected on, or supported by some structure such as a pole, mast, frame, or other structure that is not itself an integral part of or attached to a building or other structure whose principal function is something other than the support of a sign.

Frontage, Shore: The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Frontage, Street: The horizontal distance measured in a straight line between the intersections of the side lot lines of a lot with the right-of-way of a street.

Functional Area (of an intersection): The area beyond the physical intersection of two accessways that comprises decision and maneuvering distance, plus any required vehicle storage length, and the area protected through corner clearance standards and access spacing standards.

Functionally Water-dependent Uses: those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that cannot be located away from these waters. The uses include, but are not limited to dams, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings; finfish and shellfish processing; fish storage and retail and wholesale fish marketing facilities; waterfront dock and port facilities; shipyards and boat building facilities; marinas; navigation aids; basins and channels; retaining walls; industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that cannot reasonably be located or operated at an inland site; and uses that primarily provide general public access to coastal or inland waters.

Gas Station: A place where gasoline, motor oil, lubricants or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience store.

Glare: Light exceeding an accustomed level resulting in annoyance, discomfort, or reduced visibility.

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 a surface area in excess of 30 acres. For the purposes of this Article, Ellsworth's Great Ponds are: Branch Lake, Graham Lake, Green Lake, Jesse Bog, Little Duck Pond, Little Rocky Pond, Lower Patten Pond, Upper Patten Pond, Wormwood Pond, and Leonard Lake.

Gross Floor Area (GFA): the total interior floor area of a building or structure measured at the inside face of the exterior walls, but excluding stairwells, elevator shafts, lobbies, and bathrooms located for common or public usage of the total building rather than for tenant or internal usage, and space occupied by mechanical equipment or space related to the operation and maintenance of the building.

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

Growth Area: Area of land defined in the Comprehensive Plan as the Growth Area.

Half Story: That portion of a building immediately beneath a sloping roof when there is less than four feet vertically between the floor and the intersections of the bottoms of the rafters at the plate with the interior faces of the walls. A half story may be as completely used for any purpose as a full story.

Harvest Area: The area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated accessways and land management roads construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of a Structure: The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

High and Moderate Value Waterfowl and Wading Bird Habitat: High and moderate value waterfowl and wading bird habitats are significant wildlife habitats. Waterfowl are members of the family Anatidae including but not limited to brant, wild ducks, geese, and swans. Wading birds include but are not limited to herons, glossy ibis, bitterns, rails, coots, common moorhens, and sandhill cranes. High and moderate value waterfowl and wading bird habitats are depicted on a GIS data layer maintained by the Maine Department of Inland Fisheries and Wildlife (IF&W) and available from either IF&W or the Maine Department of Environmental Protection. The IF&W rating procedure and list of waterfowl and wading bird species was created December 22, 1993, updated September 1, 2005, and is available at IF&W offices.

High Intensity Soil Survey: A map prepared by a certified Soil Scientist, identifying the soil types down to 1/8 of an 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 point. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.

High Pollutant Land Uses: Land uses with high pollutant loads including, but not limited to, the following categories and uses: 1) Manufacture involving: Asphalt, petroleum or lubricants; chemical products or hazardous substances; food products; glass, clay, cement, concrete or gypsum products; paper or paper products; rubber or plastic; leather, textiles or fabric; and timber or wood products. 2) Transportation uses: air, land & water transportation facilities; vehicles service, fueling and maintenance facilities; vehicle equipment and cleaning facilities; vehicle fleet storage areas; road salt storage and loading areas (if exposed to rainfall); and parking lots generating 400 ADT or greater. 3) Industrial/other commercial uses: auto salvage or recycling; electricity generation; hazardous waste treatment, storage or disposal; landfill, land application or dump operation; landscape nurseries; outdoor storage and loading areas; oil and gas refining; printing and publishing; recycling facility; sewage treatment works; and warehousing. 4) Mining/extraction of: coal, oil or gas; metals; and minerals.

Home Occupation: Any occupations, profession, or business activity customarily conducted entirely within a dwelling unit and carried on by a member of the family residing on the dwelling unit and carried on by a member of the family residing in the dwelling unit, and which occupation or profession is clearly incidental and subordinate to the use of the dwelling unit for dwelling purposes and does not change the character of the dwelling unit. A home occupation is an accessory use to a dwelling unit.

Homeless Shelter: A building or group of buildings, which offer overnight and/or longer-term transitional lodging, consisting of separate units and/or dormitory style, multiple bed units. Meals may be provided to occupants. All of the services may be given without charge and in no case shall such a shelter be run on a for-profit basis.

Hotel/Motel: A building containing individual sleeping rooms or suites, having each a private bathroom attached thereto, for the purpose of providing lodging facilities to the general public for compensation with or without meals, excluding accommodations for employees, and in which ingress and egress to and from all rooms is made through an interior hallway. These accommodations cannot meet the definition of a dwelling unit.

A business establishment having guest rooms consisting of a building or series of building in which lodging is offered for compensation and where related ancillary uses shall be allowed only if the use is expressly permitted in the subject zone.

Impervious surface/area: Low-permeability man-made material that prevents stormwater from penetrating the ground, such as structures and areas covered with asphalt, concrete and compacted gravel used for parking and roadways. A natural or man-made waterbody is not considered an impervious area except for the purpose of stormwater calculations.

Increase in Nonconformity of a Structure, Shoreland: Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in shoreline setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the shoreline setback requirement if the expansion extends no further into the required shoreline setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Industrial Service: Establishment providing industrial services to individuals or businesses. This classification include dry cleaning plants, metal machine and welding shops; furniture upholstery shop; and similar business engagements in custom fabrication and repair.

Industrial: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Industry, Heavy: A use involving the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or use involving storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industry, Light: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Infill Development: Development on vacant or underused lots in otherwise built-up areas.

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

Junk Yard: 1) a place occupied by three or more unregistered, unserviceable, discarded, or junked automotive vehicles, or bodies, engines, or other parts thereof sufficient in bulk to equal two vehicles or bodies, also referred to as a motor junk yard but excluding vehicle repair garages where autos are being overhauled or held temporarily pending insurance claims, etc.; or 2) a yard, field or other area used as a place of storage for discarded, worn-out or junked plumbing, heating supplies, household appliances, furniture, discarded scrap and junked lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous material, including garbage dumps, waste dumps and sanitary landfills.

Laboratory, Research and Development Facility: An establishment which conducts research, development, production of scientific commodities for sale, or the breeding and managing of animals for the purpose of distribution to other research facilities. It also includes laboratories conducting educational or medical research or testing such as, but not limited to, a biotechnology or biomedical establishments. Excluded from this definition are activities incorporating high concentration of chemicals, biological and radiological hazards that are usually associated with general manufacturing uses.

Land Management Road: A route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Landing Area: A landing pad area, strip, deck, or building roof used to launch or receive non-emergency aircraft.

Landscaping: Any combination of living plants, such as trees, shrubs, vines, ground cover, flowers or grass, as well as fences, retaining wall, benches, and other similar structures.

Level of Service (LOS): is a measure of effectiveness for transportation infrastructure elements such as intersections that considers mobility, timing and other factors.

Licensed Forester: A forester licensed under 32 M.R.S.A. Chapter 76.

Light Fixture, Outdoor: An outdoor illuminating device, outdoor lighting, or reflective surface, lamp or similar device, permanently installed or portable, used for illumination, decoration, or advertisement.

Light Trespass: Any light spill falling over property lines that illuminate adjacent ground or buildings.

Lighting Maintenance: The servicing, repairing, or altering of any premises, appliance, apparatus, or equipment to perpetuate the use or purpose for which such premises, appliance, apparatus, or equipment was originally intended. Activities that change the character, size, or scope of a project beyond the original design are not included in this definition.

Lighting, Fully Shielded: A light fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture are projected below the horizontal plane.

Loading, off-street: An unobstructed area provided for the temporary parking of trucks and other motor vehicles for the purpose of loading, and unloading goods, wares, materials, and merchandise.

Local Road: Roads or streets with relatively short trip lengths and which have as a primary function property access. They are intended to provide access to residences, businesses, farms and other abutting property and are not intended to provide through traffic, although a limited amount of through traffic may use some local roads. These roads are not designed for mobility or higher operating speeds. This function is reflected by use of lower design speeds and level of service.

Lot Area, Shoreland: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath accessways serving more than two lots.

Lot Coverage, Shoreland: The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone for the lot or for a portion thereof that is located within the shoreland zone, including land area previously developed.

Lot Lines: The property lines bounding a lot as defined below: 1) Front Lot Line is, on an interior lot, the line separating the lot from the street or right-of-way. On a corner or through lot, the line separating the lot from each street or right-of-way. On lots with shore frontage, the shoreline constitutes the front lot line. 2) Rear Lot Line is the lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension. 3) Side Lot Line is any lot line other than the front lot line or rear lot line.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the Hancock County Register of Deeds.

Lot Size, Minimum Area: The lot area, less the area of any land subject to right-of-way or easements, other than utility easements servicing the lot, and also excluding lands which are below the normal high water mark or defined wetlands.

Lot Width: The width of a lot at the front setback line.

Lot, Corner: A lot with at least two contiguous sides abutting upon a street or right-of-way.

Lot, Interior: Any lot other than a corner lot.

Lot, Minimum Width, Shoreland: The closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Lot, Occupied: A parcel with a primary structure erected and ready for occupancy.

Lot: A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by ordinances and having frontage upon a public street, right-of-way, or private way.

Low Impact Design: Low Impact Development (LID) is a stormwater management strategy designed to maintain site hydrology and mitigate the adverse impacts of stormwater runoff and nonpoint source pollution. LID actively manages stormwater runoff by mimicking a project site's pre-development hydrology using design techniques that infiltrate, store, and evaporate runoff close to its source of origin. LID strategies provide decentralized hydrologic source control for stormwater runoff. In short, LID seeks to manage the rain, beginning at the point where it falls.

Lumen: A quantitative unit measuring the amount of light emitted from a light source.

Maintenance: The servicing, repairing, or altering of any sites, appliances, apparatus or equipment to perpetuate the use or purpose for which such sites, appliances, apparatus, or equipment was originally intended. Activities resulting in a substantial change are not considered maintenance – see redevelopment definition.

Manufacturing: Uses include factories making products of all kinds and properties devoted to operations such as processing, assembling, mixing, packaging, finishing or decorating, and repairing.

Marijuana: Marijuana means the leave, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, and other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or sterilized seed of the plant which is incapable of germination.

Marina: A use of waterfront land involved in the operation of a marina including structures and activities normally integral to the operation of a marina, such as servicing, fueling, pumping-out, chartering, launching, and dry-storage and boating equipment.

Market Value: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

MDEP: Maine Department of Environmental Protection

MDOT: Maine Department of Transportation

Medical Use (medical marijuana): Medical use means the acquisition, possession, cultivation, manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the

administration of marijuana to treat or alleviate a registered patient's debilitating medical condition or symptoms associated with the registered patients debilitating

Mineral Exploration: Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral Extraction: Any operation within any 12 month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site (for commercial purposes).

Mobile Home Pad: That portion of a mobile home site reserved for the placement of a mobile home, appurtenant structures or additions.

Mobile Home Park: A parcel of land with accommodations for three or more mobile homes in use as dwellings.

Mobile Home Site [aka mobile home park lot]: An area of land in a Mobile Home Park used for installation of a mobile home and the exclusive use of its occupants that shall be designated on the Mobile Home Park plan meeting all of the requirements of this Article 8 Performance Standards section 819 Mobile Home Park Standards.

Mobile Home: A structure, transportable in one or more sections, which is built on a permanent chassis, and suitable for year round single family occupancy, with or without permanent foundation.

Modular Home: Dwelling units that are designed to be placed on a permanent perimeter foundation which extends below the frost line. These units come into multiple sections.

Motel: A building or group of buildings which contain living or sleeping accommodations used regularly, seasonally, or occasionally for transient occupancy. Ingress and egress to and from these accommodations leads directly outdoors. These accommodations cannot meet the definition of a dwelling unit.

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Multi-unit Residential: A residential structure containing three or more residential dwelling units.

Municipal Officers: Municipal Officers shall mean the Ellsworth City Council.

Native: Indigenous to the local forests.

Net Residential Acreage: The total acreage available for the project, as shown on the proposed plan, minus the area for streets or accessways and the areas, which are unsuitable for development.

Noise: the intensity, duration and character of sounds from any and all sources.

Noise-Sensitive Use: Where people normally sleep such as homes, hospitals, and hotels; and within classroom and contemplative settings such as schools, libraries, churches and funeral homes.

Non-conforming Condition, Shoreland: Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Article 4 Shoreland Zoning or subsequent amendment took effect.

Non-conforming Lot, Shoreland: A single lot of record which, at the effective date of adoption or amendment of this Article 4 Shoreland Zoning, does not meet the area, frontage, or width requirements of the district in which it is located.

Nonconforming Lot: A lot that fails to meet the requirements for area, height, yards, buffer, or other bulk standards and regulations, generally applicable in the zoning district because of a change in the applicable zoning district regulations or a government action.

Non-conforming Structure, Shoreland: A structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Article or subsequent amendments took effect.

Nonconforming Structure: A structure that was lawfully erected but that no longer complies with all the regulations applicable to the zoning district in which the structure is located.

Non-conforming Use, Shoreland: Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Article or subsequent amendments took effect.

Nonconforming Uses: A use that was lawfully established but that no longer complies with the use regulations applicable to the zoning district in which the property is located.

Normal High-water Line (non-tidal 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. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

Obstruction: Any building, structure, sign, apparatus, mechanical equipment, parked spaces, fence, landscaping or other element of a long term nature placed above or on the ground with a visibility triangle.

Open Space: The portion of a lot or site which is maintained in its natural state or planted with grass, shrubs, trees, or other vegetation and which is not occupied by buildings, structures, or other impervious surfaces.

Parapet: That portion of a wall, which extends above the roof line.

Parking Lot, Private: Parking for the exclusive use of the owners, tenant, lessees, or occupants of the lot on which the parking area is located or their customers, employees or whomever else they permit to use the parking area.

Parking Lot, Public: Parking available to the public, with or without payment or fee.

Parking Lot: An open area other than an accessway used for the parking of two or more vehicles, excluding an area associated with a residential driveway serving no more than two residential dwelling units.

Parking, Commercial: Parking or storage of motor vehicles as a commercial enterprise for which any fee is charged independently of any other use of the premise.

Parking, Excess: Required parking which has been demonstrated as being unused by an existing land use or exceeds the minimum ordinance requirements.

Parking, Satellite: Parking not located on a parcel or lot that is contiguous or adjacent to the parcel or a lot not containing the use for which the parking is intended.

Parking, Shared: A public or private parking area used jointly by two or more users.

Parking, Valet: Parking of vehicles by an attendant provided by the establishment for which the parking is provided.

Patio: A level area adjacent to a dwelling unit constructed of stone, cement or other material located at ground level, with no railing or other structure above the level of the ground.

Peak Flow: The greatest rate of flow in a drainage way, measured as volume per unit of time, resulting from a storm of specified frequency and duration.

Peak Period: Period of maximum parking activity: can be by the hour, day of week, or season.

Permeability: The capacity of a material to transmit a liquid, which is expressed in terms of hydraulic conductivity of water in centimeters-per-second units of measurement.

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Personal Service Establishment: Businesses primarily engaged in providing services involving the care of an individual and his/her goods or apparel which does not in itself produce tangible commodity.

Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-water Line or Within a Wetland: 1) Temporary: Structures which remain in or over the water for less than 7 months in any period of 12 consecutive months; 2) Permanent: Structures which remain in or over the water for 7 months or more in any period of 12 consecutive months.

Planned Unit Development: A development controlled by a single developer for a mix of residential, commercial, and industrial uses. A PUD is undertaken in a manner that treats the developed area in its entirety to promote the best use of land, including the creation of open space, a reduction in the length of road and utility systems, and the retention of the natural characteristics of the land.

Planning Board: The Planning Board of the City of Ellsworth created by the Ellsworth City Charter in accordance with State Statutes.

Point of Interest: An outdoor area or other places of scenic, historical, cultural or religious interest, whether publicly or privately owned.

Portable Sign. A sign such as but not limited to, a sign on wheels, interchangeable message board, A- or T-frame sign, menu board, or sandwich board.

Potable: [Describing water that is safe for drinking as defined by the U.S. Environmental Protection Agency's \(EPA\) Drinking Water Standards and Health Advisories Table.](#)

Principal Structure: A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

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

Privy: A pit in the ground into which human excrement is placed.

Processing, Fish Wholesale: The loading, unloading, packing, processing, and packaging of edible fish and other seafood products but not including re-processing of fish wastes or fish by-products.

Professional and Business Offices: The place of business, other than a residential unit, of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance agents, psychiatrists, psychologists, counselors, and the like, or in which a business conducts its administrative, financial or clerical operations and, with the exception of the Business and Technology Park Zone, it also includes providers of personal services such as barbers, hairdressers, and beauticians.

Professional Establishment: Any establishment home occupation, whose primary activity is the provision of assistance, as opposed to products, to individuals, businesses, industry, government and other enterprises such as lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance agents, psychiatrists, psychologists, counselors, doctors and therapists, and the like, includes Health Care Facilities.

Project Data Sheet: A summary sheet of no more than two pages showing Land Use Information (site area, total dwelling units, gross density, parking), Land Use Plan (buildings, streets/parking, detention ponds, open space in acres, and percent of total land), Unit Information (type, square footage, sales price) Economic Information (site acquisition, site improvement, construction costs).

Projecting Sign. A sign attached to and projecting from a building or structure face or wall, generally at right angles to the building.

Public Drinking Water: A public water system delivers water through a set of pipes for human consumption and has at least 15 service connections, or regularly serves at least 25 residents for 60 or more days per year.

Public Facility: Any facility, including, but not limited to, buildings, property, recreation areas, and accessways, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Public Way: A street that allows vehicular and/or pedestrian use by the general population.

Recent Floodplain Soils: The following soil series as described and identified by the National Cooperative Soil Survey: Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Alluvia, Cornish, Charles, Podunk, Rumney, Saco, Suncook, Sunday, and Winooski.

Reconstruction, Street: The rebuilding of a street in such a manner and to such an extent as to substantially replace the existing street or a portion of the existing street, including but not limited to widening, extending, straightening, and layout of an existing street.

Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts, and building lines.

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational, Trailer and Vehicle: A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, including, without limitation, a pickup camper, travel trailer, tent trailer, motor home, or converted van or truck.

Redevelopment: The servicing, repairing, or altering of any structures, buildings, sites, appliances, apparatus or equipment resulting in a substantial change irrespective of whether a change occurs in the land use.

Registered Patient (medical marijuana): Registered patient means a patient who has a registry identification card issued by the State of Maine.

Religious Institutions: Place of worship of religious assembly with related facilities such as the following in any combination: rectory or convent, meeting hall, offices for administration of the institution, and playground.

Repair, Street: Repair of a street or section thereof to maintain its serviceability including, but not limited to patching, brush cutting, ditching, grading, erosion control measures and storm water management, etc. It does not include construction, relocation and alterations.

Replacement System [subsurface wastewater disposal]: A system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

~~**Residential Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time period rented. Recreational vehicles are not residential dwelling units.~~

Residential: A use intended primarily for human living accommodations.

Residual Basal Area: The average of the basal area of trees remaining on a harvested site.

Residual Stand: A stand of trees remaining in the forest following timber harvesting and related activities

Restaurant: An establishment where food and drink are prepared and served to the public.

Re-subdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the subdivide not indicated on the approved plan.

Retail Business: A business establishment engaged in the sale of goods or services to an ultimate consumer for direct use or consumption, and not for resale, not including automobile oriented businesses and not including electronic, mechanical, or video game arcades.

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

River: A free-flowing body of water including its associated floodplain wetlands. For the purposes of this Ordinance Ellsworth's only River is the Union River from the Graham Lake dam to Leonard Lake. The Union River below the Leonard Lake dam is a tidal estuary considered a coastal wetland.

Road (street): A public or private way including but not limited to roads, alley, and other rights-of-way for vehicular and/or pedestrian use.

Road Frontage: The linear distance connecting the intersections of the front lot line with the side lot lines.

Road Types: Classification of roadways based on the character of service and access functions they are intended to provide as determined by the City Planner or Planning Board for projects reviewed or to be reviewed by the Planning Board and by the Code Enforcement Officer for all other projects.

Road, Gravel: An unpaved road constructed of material as described in section 916.5.

Rubbish: Any discarded, worn-out, abandoned, or non-functioning article or articles or materials including but not limited to tin cans, bottles, used wood products, junk appliances, junk automobiles, or parts thereof, old clothing, or household goods. The word "rubbish" shall include the words "trash," "waste materials," and "refuse."

Rural Area: Area of land as defined in the Comprehensive Plan.

Sawmill: A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

Service Drop: Any utility line extension which does not cross or run beneath any portion of a water body provided that: 1) in the case of electric service: a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon an accessway right-of-way; and b. the total length of the extension is less than 1,000 feet. 2) in the case of telephone service: a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or b. the extension requiring the installation of new utility poles or placement underground is less than 1,000 feet in length.

Service Road: A public or private road, auxiliary to a collector or an arterial road, which has as its purpose the maintenance of traffic mobility and safety off the collector and arterial to which it serves, and access management to the parcels adjacent to it.

Setback from a Property Line: The horizontal distance from a side or rear property line to the nearest part of a structure or other regulated object or area.

Setback from the Edge of a Right-of-way: The horizontal distance from a right of way to the nearest part of a structure or other regulated object or area

Setback, Shoreline: The horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, accessway, parking lot or other regulated object or area.

Setback: The horizontal distance from a lot line to the nearest part of a structure.

Shared Access: An access connecting two or more sites to the public street system.

Shopping Center: One or a group of retail and other commercial establishments that is planned, owned and managed as a single property. On-site parking is provided: 1) **Small:** Maximum of three businesses; total maximum building square footage of 15,000; 2) **Community:** Total maximum building square footage of 100,000 square foot; and 3) **Big-Box:** Any establishment having a gross floor area of 75,000 square feet or more in one or more buildings at the same location, and any expansion or renovation of an existing building or buildings that results in a retail business establishment's having a gross floor area of 75,000 square feet or more in one or more buildings except when the expansion of an existing retail business establishment is less than 20,000 square feet. Other retail business establishments on the same site as the large-scale retail business establishment are not included in this definition unless they share a common check stand, management, controlling ownership or storage areas.

Shoreland Zone: The land area located within 250 feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within 75 feet, horizontal distance, of the normal high-water line of a stream, as defined, and/or streams mapped on the Official Land Use Map.

Shoreline: The normal high-water line, or upland edge of a freshwater or coastal wetland.

Short Term Rental: A dwelling unit that is rented to a tenant or guest for less than 28 consecutive days.

Shrub: A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than ten feet in height at its maturity.

Sidewalk: An improved pedestrian surface that is typically located adjacent to a road.

Sign Setback. The minimum distance required between any property line and any portion of a sign or sight structural support.

Sign, back-lit. An indirect source of light which illuminates a sign by shining through a translucent surfaced of a sign, including plastic signs, lit from an internal light source.

Sign: A sign is an object, devise or structure, or part thereof, situated outdoors or displayed in a window, visible from a public access way, free standing or attached, which is used to advertise, identify, display direct or attract attention to an object, person, institution, organization, business, product, service, event, or location, by any means including words, letters, figures, design, symbols, fixtures, colors, illuminations or projected images.

Skid Road or Skid Trail: A route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash: The residue, e.g., treetops and branches, left on the ground after a timber harvest.

Sleeping Facilities: A room or area used primarily for sleeping.

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Solar Energy System (SES), Accessory: SES of any size that primarily serves an on-site principal use or one on an adjacent parcel. Accessory use SES, are considered part of the principal use for zoning purposes including allowable locations.

Solar Energy System (SES), Stand Alone: SES of any size that primarily serves an off-site user such as the electric power grid or another use on a non-adjacent parcel.

Source Water Protection Area: The areas that contribute water to a pond, lake, stream or well as shown on the most recent Ellsworth Public Water Supply Source Protection Areas Maps prepared by the Maine Drinking Water Program, Source Protection section.

Special Use: A governmental or public service use providing public health, safety, comfort, convenience, or the general welfare for the general benefit of the citizens funded in whole or in part by the City of Ellsworth or a quasi-municipal organization, including by way of illustration, municipal buildings, schools, public parks and recreational facilities, cemetery, public art, museum, interpretation center, public parking, fire stations, ambulance services, highway garage, distribution and transmission of essential services ; essential facilities, hospital, Federal Aviation Administration –designated commercial service airport, heliport.

SSHB: Standard Specifications for Highways and Bridges as published by the Maine Department of Transportation

Stable: A structure or land use in or on which equines are kept for the sale or hire to the public. Breeding, boarding, or training of equines may also be conducted.

Storage, Bulk: On-site storage of any soil, gravel, clay, mud, debris, vegetation, refuse of any other material, organic or inorganic in a concentrated state.

Store, Convenience: A retail establishment which accommodate neighborhood needs for groceries and which may sell, as accessory uses, prepared food for carry-out. The sales area of such use shall be indoors only, and the total enclosed area for such use shall not exceed 4,000 square feet.

Stormwater Management Plan: A comprehensive plan including notes, plans, specifications and details which, when implemented, provides methods, structures and mechanisms intended to manage stormwater on a site. The plan also incorporates methods, techniques, designs, practices and other means to control erosion and sedimentation.

Stormwater: The part of precipitation, including runoff from rain or melting ice and snow, that flows across the surface as sheet flow, shallow concentrated flow, or in drainageways.

Story: That portion of a building contained between any floor and the floor or roof next above it, but not including any portion so contained if more than one-half of such portion vertically is below the average mean finished grade of the ground adjoining such building.

Stream: A free-flowing body of water from the outlet of a great pond or the confluence of two perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or a perennial or intermittent stream shown as such on the most recent edition of a United States Geological Survey 7.5 minute series topographic map and/or

mapped on the Official Land Use Map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

Street: A public or private way including but not limited to roads, alley, and other rights-of-way for vehicular use.

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground. The term includes structures temporarily or permanently located, such as decks and patios. Only structures covering more than ten square feet must comply with the requirements of zoning districts, exclusive of shoreland zoning districts, where all structures, regardless of size, must comply with the shoreland zoning requirements. The following are not considered structures: fences, poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors, a retractable awning or shade used solely to shade a door or window. The following are not considered structures outside of shoreland zoning districts: parking lots, driveways, an awning or tent for a temporary event and backyard tents used for sleeping.

Subdivision Sign. A permanent sign that identifies the name of a residential subdivision or apartment building.

Subdivision, Major: Any division containing more than four lots or any subdivision containing a proposed public street.

Subdivision, Minor: Any division containing four lots or less, and in which no street is proposed to be constructed.

Subdivision: Means the division of a tract or parcel of land into 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 3 or more dwelling units within a 5-year period, the construction or placement of 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 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless: (1) Both dividings are accomplished by a subdivider who has retained one 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 5

years immediately preceding the 2nd 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 Planning Board 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 40 or more acres will be counted as a lot by this 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 Chapter 28 Subdivision Ordinance.

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 Chapter 28 Subdivision Ordinance. 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 Chapter 28 Subdivision Ordinance. 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 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 Chapter 28 Subdivision Ordinance. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than 1/2 the assessed value of the real estate. D.5 A division accomplished by a gift to the City if the City 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 Chapter 28 Subdivision Ordinance. 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 Chapter 28 Subdivision Ordinance. If the real estate exempt under this paragraph is transferred within 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. D.7 The division of a tract or parcel of land into 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 units, with the exception of condominiums, are not subject to subdivision review as the units are subject to Major Site Development Review which is as stringent as that required under this subchapter.

Substantial Change: Activities that alter the character, or the size or scope of a project

including structures, buildings, sites, appliances, apparatus or equipment beyond the existing design costing more than 50% of the existing value of the buildings, appliances, etc.

Substantial Start: Completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface Sewage Disposal System: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

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

Technical Review Team: The Technical Review Team consists of the following Ellsworth Staff: Fire Chief, Police Chief, Public Works Director and/or designees (Water Superintendent, Sewer Superintendent, and Highway Foreman), and City Planner, and may include the City Manager and a member of the City Council.

Telecommunications Tower: A structure designed and constructed to support one or more antennas used by commercial wireless telecommunication facilities and including all appurtenant devices attached to it. A tower can be freestanding (solely self-supported by attachment to the ground) or supported (attached directly to the ground and with guy wires), of either lattice or monopole construction.

Tidal Waters: All waters affected by tidal action during the highest annual tide.

Timber Harvesting and Related Activities: Timber harvesting, the construction and maintenance of accessways and land management roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 410.14, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

Tiny Home: A dwelling unit permanently constructed on a frame or chassis that may be placed on a foundation and designed for use as a permanent single family home or an accessory dwelling unit that:

- (1) Complies with American National Standards Institute Standard A119.5 on plumbing, propane, fire and life safety and construction or National Fire Protection Association Standard 1192 on plumbing, propane and fire and life safety for recreational vehicles;
- (2) Does not exceed 400 square feet in footprint; and
- (3) Does not exceed any dimension allowed for operation on a public way per 29-A M.R.S.A. §2380.

"Tiny home" does not include a trailer, semitrailer, camp trailer, recreational vehicle, or mobile home. If a "tiny home" is constructed on wheels, it must be without motive power and must be approved by the Department of Motor Vehicles for highway operation and safety.

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 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. Land in the same ownership that is separated by an intermittent or non-navigable stream or tidal waters where there is no flow at low tide shall be considered part of the same tract or parcel of land.

Trailer: A vehicle without motive power and not intended for human occupancy, designed to be towed by a motor vehicle including a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

Transit: Passenger services provided by public, private, or nonprofit entities such as, but not limited to, fixed route bus.

Tree, shade: A woody plant, usually deciduous, that normally grows with one main trunk and has a canopy that screens an filter the sun in the summer.

Tree: Any self-supporting woody perennial plant which has a diameter at breast height (DBH) of two inches or more and which normally attains an overall height of at least 15 feet at maturity, usually with one main stem or trunk and many branches.

Tributary Stream: Means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed,

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devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. This definition does not include the term "stream" as defined elsewhere in this Article, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Trip Generation: An estimate of the peak number of vehicle trip ends generated for a selected use or project used to estimate an ADT. It shall be as determined from 1) "Trip Generation" as published by the Institute of Transportation Engineers (latest edition) or 2) specific traffic counts provided by an Engineer.

Trip or Trip End: A single or one-direction vehicle movement with either the origin or the destination (exiting or entering) inside a study site. For trip generation purposes, the total trip ends for a land use over a period of time are the total of all trips entering plus all trips exiting a site during a designated time period

Upland Edge of a Wetland: The boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are 6 meters (approximately 20 feet) tall or taller.

Urban Core: An area of land shown on a map as defined by the City Council.

Use: The purpose for which land or a building or structure is arranged, designed or intended, or for which it is occupied.

Utility Pole: Pole used to support essential services such as power, telephone, or cable television lines; or used to support street or pedestrian way lighting, typically located in public right-of-way.

Variance: A relaxation of the terms of this ordinance where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this ordinance would result in unnecessary or undue hardship.

Vegetation: All live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4½ feet above ground level.

Velocity Zone: An area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a Structure: The volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Walkway: An off-street pedestrian path.

Wall Sign. A sign attached to or painted on a wall of a building, a window, or structure so that the wall forms the supporting structure or becomes the background of the sign. Also included as a wall sign are roof signs and awning signs.

Warehouse: Facilities characterized by extensive warehousing, frequent heavy trucking activity, or fully enclosed storage of material.

Water Body: Any great pond, river or stream.

Water Crossing: Any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to accessways, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Watershed: The land area that drains, via overland flow, drainageways, waterbodies or wetlands to a given waterbody or wetland.

Wetland, Coastal: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Wetland, Forested: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately 20 feet) or taller.

Wetland, Freshwater: Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are: 1) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream, such that in a natural state, the combined surface area is in excess of 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

Wetland: A freshwater or coastal wetland.

Wholesaling: A business establishment engaged in the bulk sale of goods or materials not manufactured or processed on the premises.

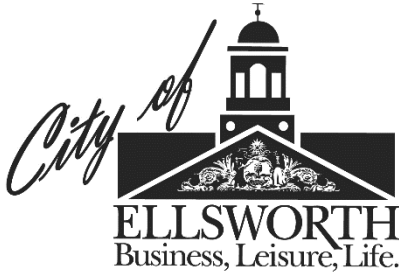
Windfirm: The ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

Window Sign. A sign that is applied to or attached to the exterior or interior of a window or located in such a manner within a building that it is visible from the exterior of the building through a window, but excludes merchandise display. Window signs, graphics and text located more than 12 inches from the face of the window are not considered signs.

Woody Vegetation: Live trees or woody, non-herbaceous shrubs.

Yard: On the same lot with a principal building, a space which is open to the sky and unoccupied by any structures except a fence not more than six feet in height.

~~**Zoning Acre:** A measure of land containing 40,000 square feet.~~



Public works

1 City Hall Plaza ▪ Ellsworth, ME 04605-1942
Phone (207) 667-2563 ▪ Fax (207) 667-4908
awilson@ellsworthmaine.gov

MEMO

To: City Council Members

From: Adam Wilson

Date: 11/7/2023

Re: Replacement of Pipe arch for Branch Lake Stream.

Background

The MDOT inspected the 17-foot span on Red Bridge Road Bridge # 6288 in 2021 and instructed the City to post this span to a weight limit of 22 ton.

May 16, 2022, council meeting, Public works director requested the City Council to hire Andrew McCullough P.E. to engineer the replacement of the culvert going under Red Bridge Road. **Council order# 051603**

April 29 2022, the State of Maine DEP awarded the City of Ellsworth a stream crossing grant for 125,000. This grant is to assist with funding for this project.

January 30th 2023 the public works director requested an extension for the project due to the Christian Ridge Road rehabilitation. The D.E.P. approved this on February 28, 2024. the project has a finish date of May 1, 2025.

Andrew McCullough P.E. designed and sent out to bid the project on August 8, 2023 Andrew sent the RFP for the bridge span to four contractors.

Andrew held a pre bid meeting with the City Manager, Public Works Foreman and contractors to answer any questions.

On September 28, 2023, we received two: The results are the bids shown below.

RF Jordan \$ 951,342.00

Maine Earth \$ 1,151,590.00

Request

To award the contract to the low bid for 951,342.00 Award the construction oversight to Andrew McCullough PE in the amount of 23,250.00 along with a standard 10% contingency for a total project of 1,069,762.20

The following motion suggested

Move to award the bid to RF Jordan for 951,342.00 the

A contract for construction oversight to Andrew McCullough PE. , in the amount of 23,250.00 with a 10% contingency for a total project amount of 1,069,762.20

To be funded from Local Roads Capital Improvement account (9090900-59001) and the DEP stream grant from the State of Main.

#112001

R F Jordan Bid

Maine Earth

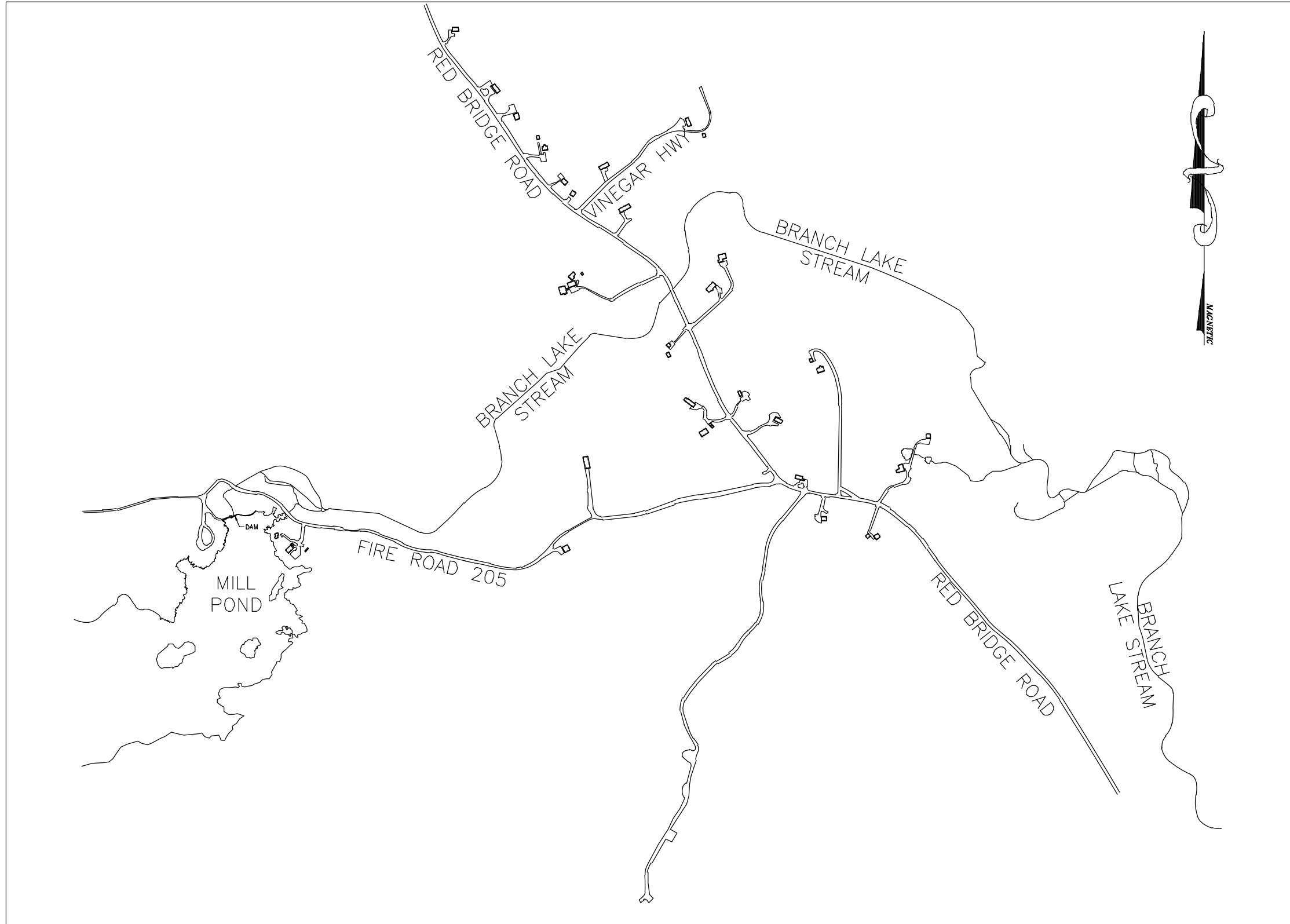
Line No.	Item ID	Item Description	UNITS	QUANTITY	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT
	201.11	CLEARING	ACRE	0.25		21,400		23,000.00
	202.01	REMOVE EXISTING STRUCTURE AND OBSTRUCTIONS	LS	1		47,200		9,700.00
	202.2	REMOVE EXISTING BITUMINOUS PAVEMENT	SQ YD	667	6	4,002.00	8	5,336.00
	203.2	COMMON EXCAVATION	CYD	3500	14	48,510.00	17	58,905.00
	203.25	GRANULAR BORROW	CYD	2800				
	204.2	ADDITIONAL SHOULDER AGGREGATE	CYD		32	5,760.00	25	4,500.00
		AGGREGATE SUBBASE COURSE						
	304.10	GRAVEL	CYD	240	33	7,920.00	56	13,440.00
		AGGREGATE BASE COURSE GRAVEL CRUSHED	CYD	72		ALTER ROAD BASE ELEVATIONS		ALTER ROAD BASE ELEVATIONS
	204.09	AGGREGATE BASE COURSE GRAVEL CRUSHED	CYD	25	83	5,976.00	70	5,040.00
	403.208	HOT MIX ASPHALT 12.5 MM HMA SURFACE	TON	62	275	17,050.00	293	18,166.00
	403.213	HOT MIX ASPHALT 12.5 MM BASE	TON	62	275	17,050.00	293	18,166.00
	502.111	STRUCTURAL CONCRETE FOOTINGS	CYD	128	518	66,304.00	1,190.00	152,320.00
	511.07	COFFERDAM: DOWNSTREAM	LS	1				
	511.07	COFFERDAM UPSTREAM	LS	1				
	603.16	15 INCH CULVERT PIPE OPTION 1	LF	30	120	3,600.00	103	3,090.00
	603.17	18 INCH CULVERT PIPE OPTION 1	LF	60	111	6,660.00	103	6,180.00
	603.409	CORRUGATED METAL PIPE ARCH	LS	1	445,000.00	445,000.00	490,000.00	490,000.00
	606.15	GUARDRAIL TYPE 3A SINGLE RAIL	LF	470	49	23,030.00	55	28,850.00
	652.33	DRUM	EA	20	57	1,140.00	75	1,500.00
	652.34	CONE	EA	50	40	2,000.00	25	1,250
	652.XX	CONSTRUCTION SIGNS						
	652.38	FLAGGER	HR	50	52	2,600.00	49.4	2,470.00
	304.15	AGGREGATE BASE COURSE-TYPE B	CYD	2385	38.00	90,630.00	70	166,950.00
	513.5	RETAINING WALL	SF	96	289	27,744.00	60	5,760.00
	610.08	PLAIN RIP-RAP	CYD	72	86	6,192.00	99	7,128.00
	656.75	TEMPORARY SOIL EROSION AND WATER POLLUTION CONTROL	LS	1	11,454.00	11,454.00	5,750.00	5,750.00
	659.1	MOBILIZATION	LS	1	27,566.00	27,566.00	50,000.00	50,000.00
	610.21	STREAM CHANNEL ROCK	CYD	64	300	19,200.00	151	9,664.00
	615.086	LOAM/COMPOST MIX	CYD	155	108	16,740.00	85	13,175.00
	652.361	SUPPLY AND MAINTENANCE OF						
		TRAFFIC CONTROL DEVICES	LS	1	9,614.00	9,614.00	14,500.00	14,500.00
	652.41	PORTABLE-CHANGEABLE						
		MESSAGE SIGN	EA	2	1,714.00	3,428.00	3,000.00	6,000.00
	656.66	CHECK DAM	CYD	5	150	750	200	1,000.00
	893.05	STREAM DIVERSION AND						
		TEMPORARY COFFERDAMS	LS	1	28,872.00	28,872.00	50,000.00	50,000.00
		TOTAL BID AMOUNT			951,342.00		1,151,590.00	

RED BRIDGE ROAD
BRANCH LAKE STREAM CROSSING
REPLACEMENT

LIST OF SHEETS

- COVER
- C1.0 EXISTING CONDITIONS SITE PLAN
- C1.1 CONSTRUCTION TRAFFIC CONTROL
- C1.2 CONSTRUCTION SITE PLAN
- C1.3 ROAD PROFILE
- C2.0 CONSTRUCTION DETAILS
- C2.1 CONSTRUCTION DETAILS
- C2.2 CONSTRUCTION DETAILS
- C2.3 CONSTRUCTION DETAILS
- C2.4 CONSTRUCTION NOTES

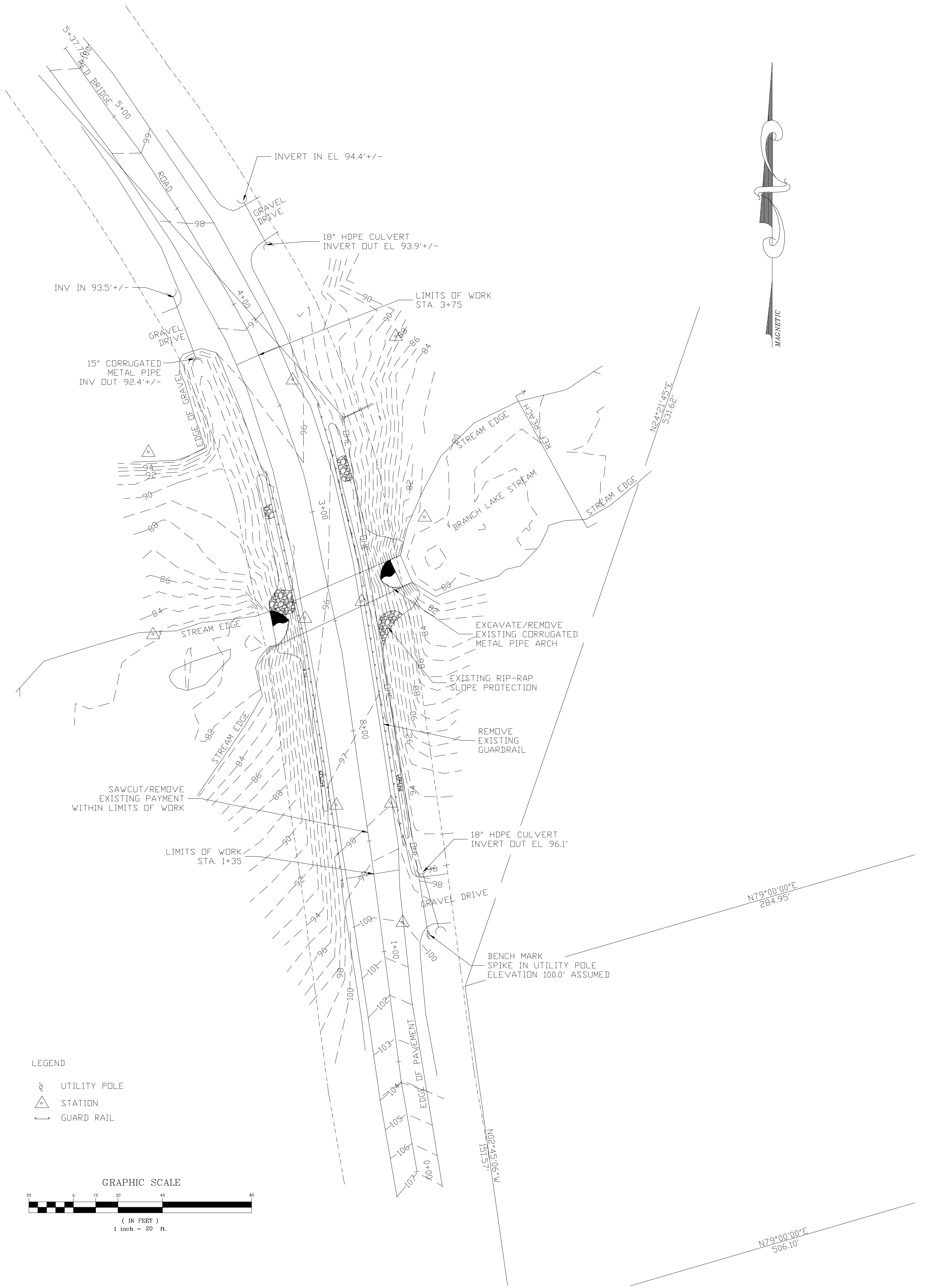
PROJECT LOCATION



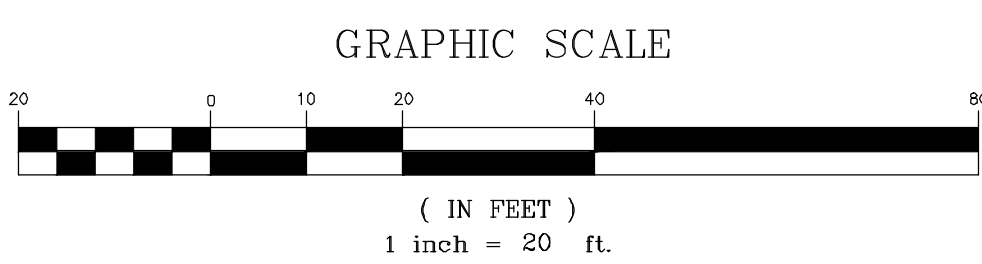
ANDREW McCULLOUGH
ENGINEERING CONSULTANTS
93 BUCKSPORT ROAD
ELLSWORTH, ME 04605
207-667-6551 mccengr@gmail.com

CITY OF ELLSWORTH
ONE CITY HALL PLAZA
ELLSWORTH, ME 04605

AUGUST 28, 2023



- LEGEND
- UTILITY POLE
 - STATION
 - GUARD RAIL



1	RELEASED FOR BIDS	8/28/23
No.	Revision/Issue	Date

BID PLANS

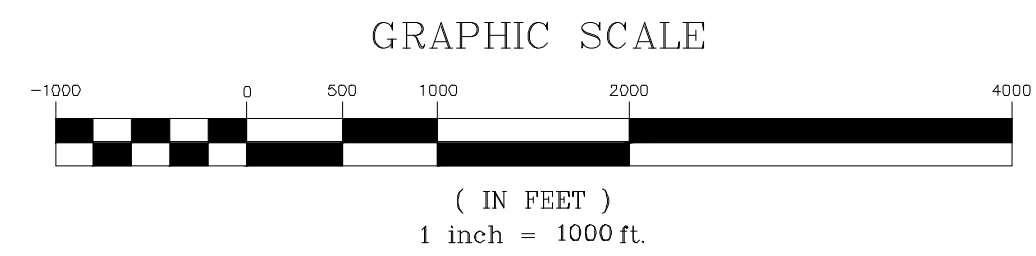
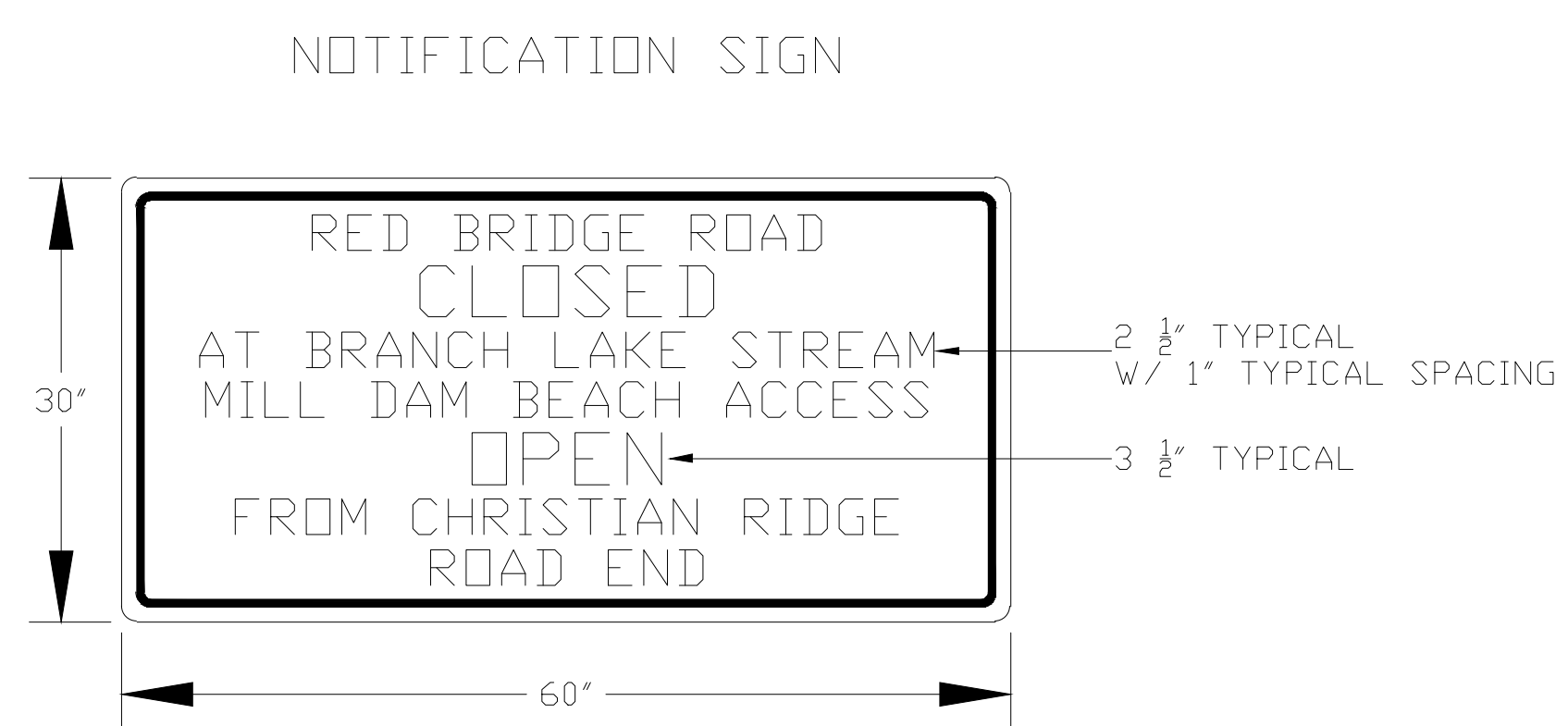
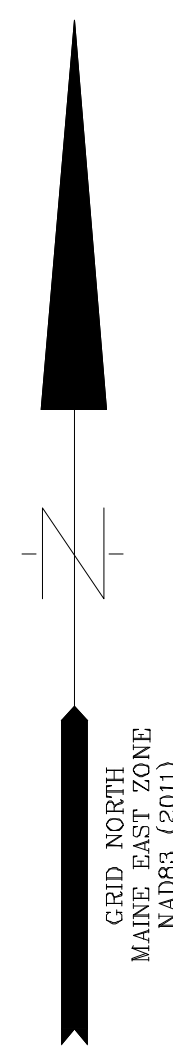
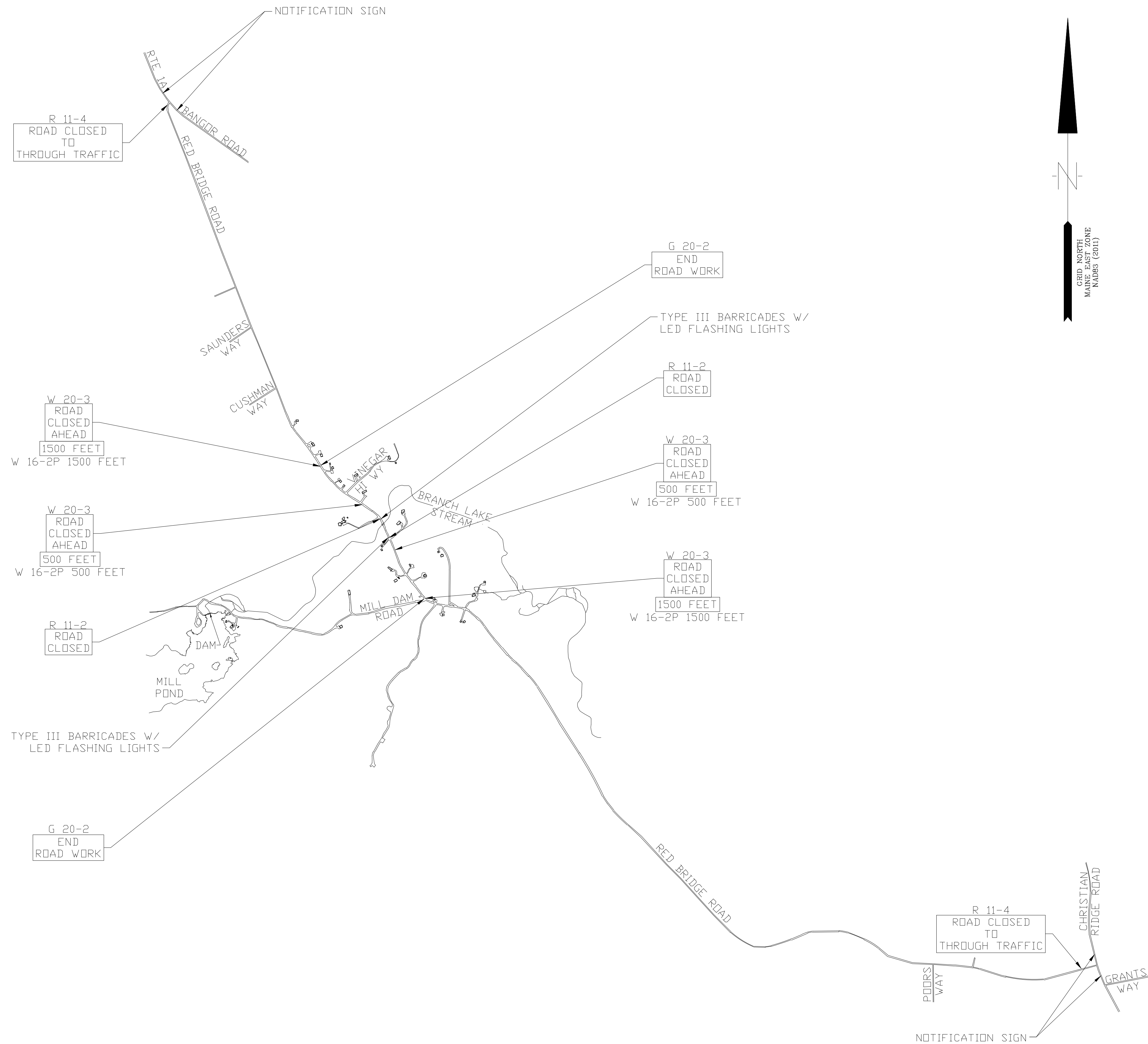
Record Owner and Address

Firm Name and Address
ANDREW McCULLOUGH
Engineering Consultants
93 Bucksport Road
Ellsworth, ME
207-667-6551
mccengr@gmail.com

Project Name and Address
EXISTING CONDITIONS
SITE PLAN
Prepared For:
CITY OF ELLSWORTH
RED BRIDGE ROAD
BRANCH LAKE
STREAM CROSSING
Ellsworth, Maine

Project
2598
Date
8/28/23
Scale
1"=20'

Sheet
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General Notes

BID PLANS

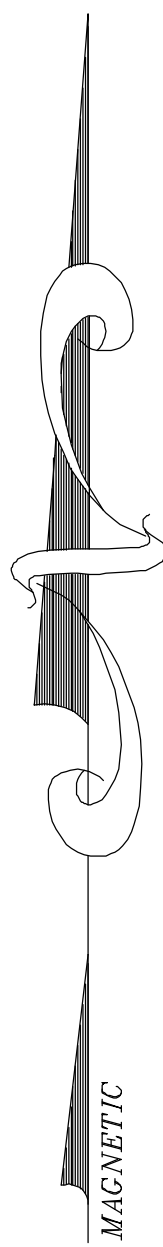
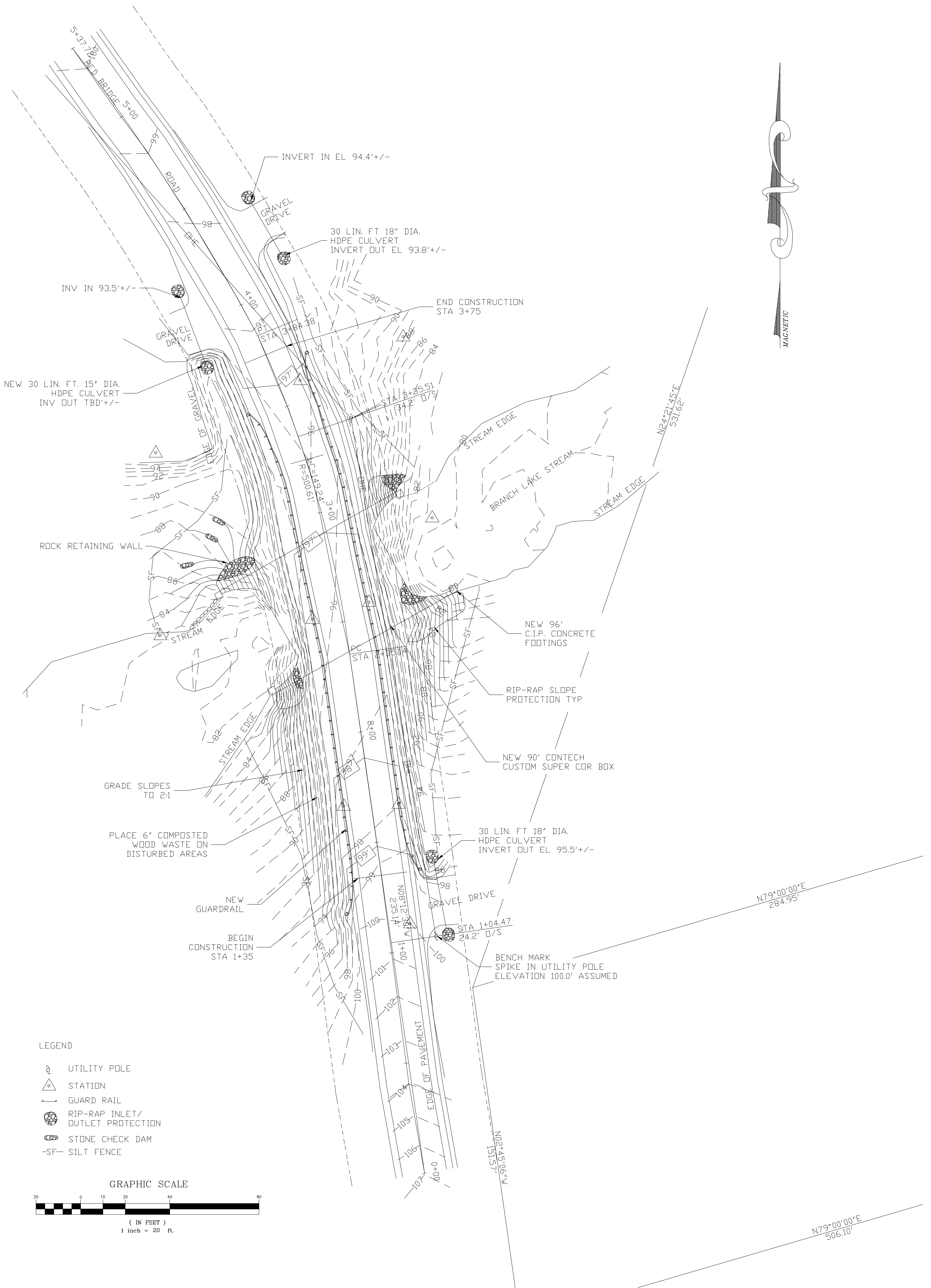
No.	Revision/Issue	Date
1	RELEASED FOR BIDS	8/28/23

Record Owner and Address
 CITY OF ELLSWORTH
 ONE CITY HALL PLAZA
 ELLSWORTH, ME 04605

Firm Name and Address
 Andrew McCullough
 Engineering Consultants
 93 Bucksport Road
 Ellsworth, ME
 207-667-6551
 mccengr@gmail.com

Project Name and Address
 CONSTRUCTION TRAFFIC CONTROL
 CULVERT REPLACEMENT
 Prepared For:
 CITY OF ELLSWORTH
 Red Bridge Road
 Ellsworth, Maine

Project 2598	Sheet C 1.1
Date 8/28/23	
Scale 1"=1000'	



LEGEND

- UTILITY POLE
- STATION
- GUARD RAIL
- RIP-RAP INLET/OUTLET PROTECTION
- STONE CHECK DAM
- SF- SILT FENCE

GRAPHIC SCALE

(IN FEET)

1 inch = 20 ft.

1	RELEASED FOR BIDS	8/28/23
No.	Revision/Issue	Date

BID PLANS

Record Owner and Address

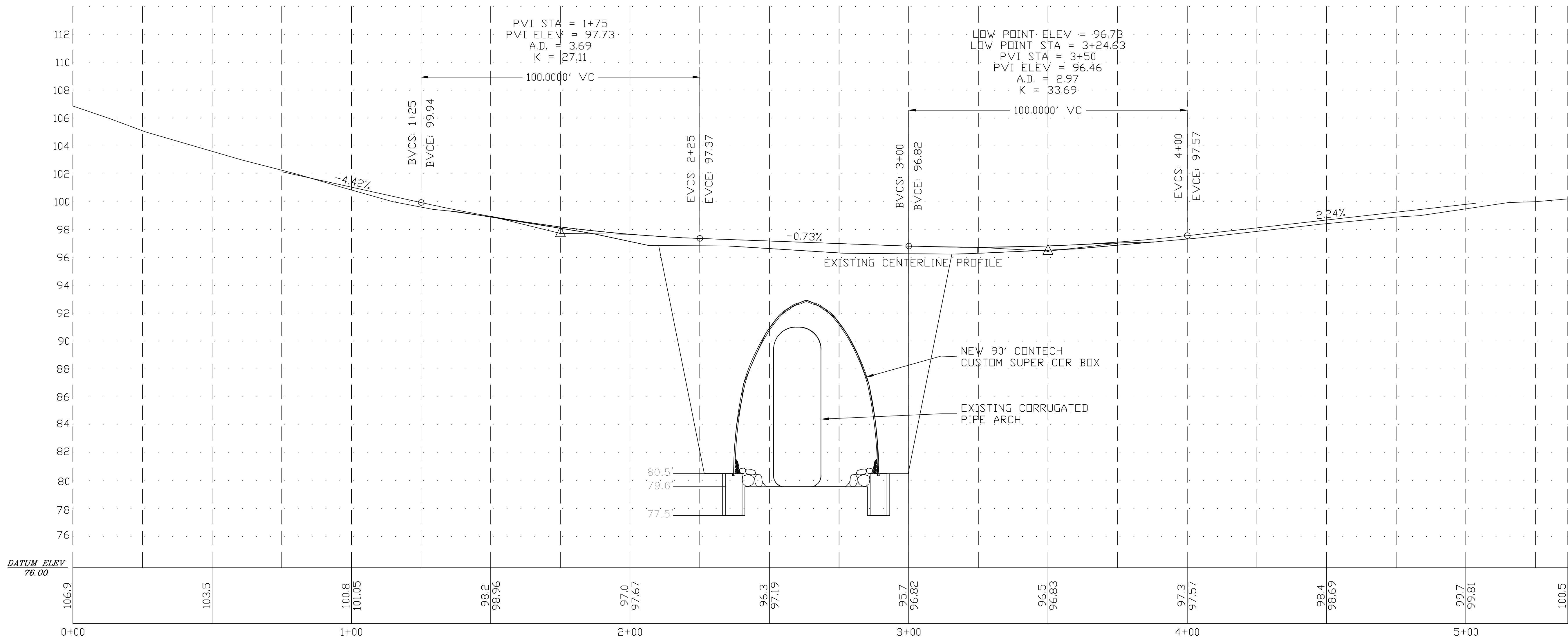
Firm Name and Address

ANDREW McCULLOUGH
Engineering Consultants
93 Bucksport Road
Ellsworth, ME
207-667-6551
mccengr@gmail.com

Project Name and Address

CONSTRUCTION PLAN
Prepared For:
CITY OF ELLSWORTH
RED BRIDGE ROAD
BRANCH LAKE
STREAM CROSSING
Ellsworth, Maine

Project	2598	C 1.2
Date	8/28/23	
Scale	1"=20'	



General Notes

BID PLANS

1	RELEASED FOR BIDS	8/28/23
No.	Revision/Issue	Date

Record Owner and Address

Firm Name and Address

Andrew McCullough
Engineering Consultants
93 Bucksport Road
Ellsworth, ME
207-667-6551
mccengr@gmail.com

Project Name and Address

ROAD PROFILE
Prepared For:
CITY OF ELLSWORTH
RED BRIDGE ROAD
BRANCH LAKE
STREAM CROSSING
Ellsworth, Maine

Project

2598

Date

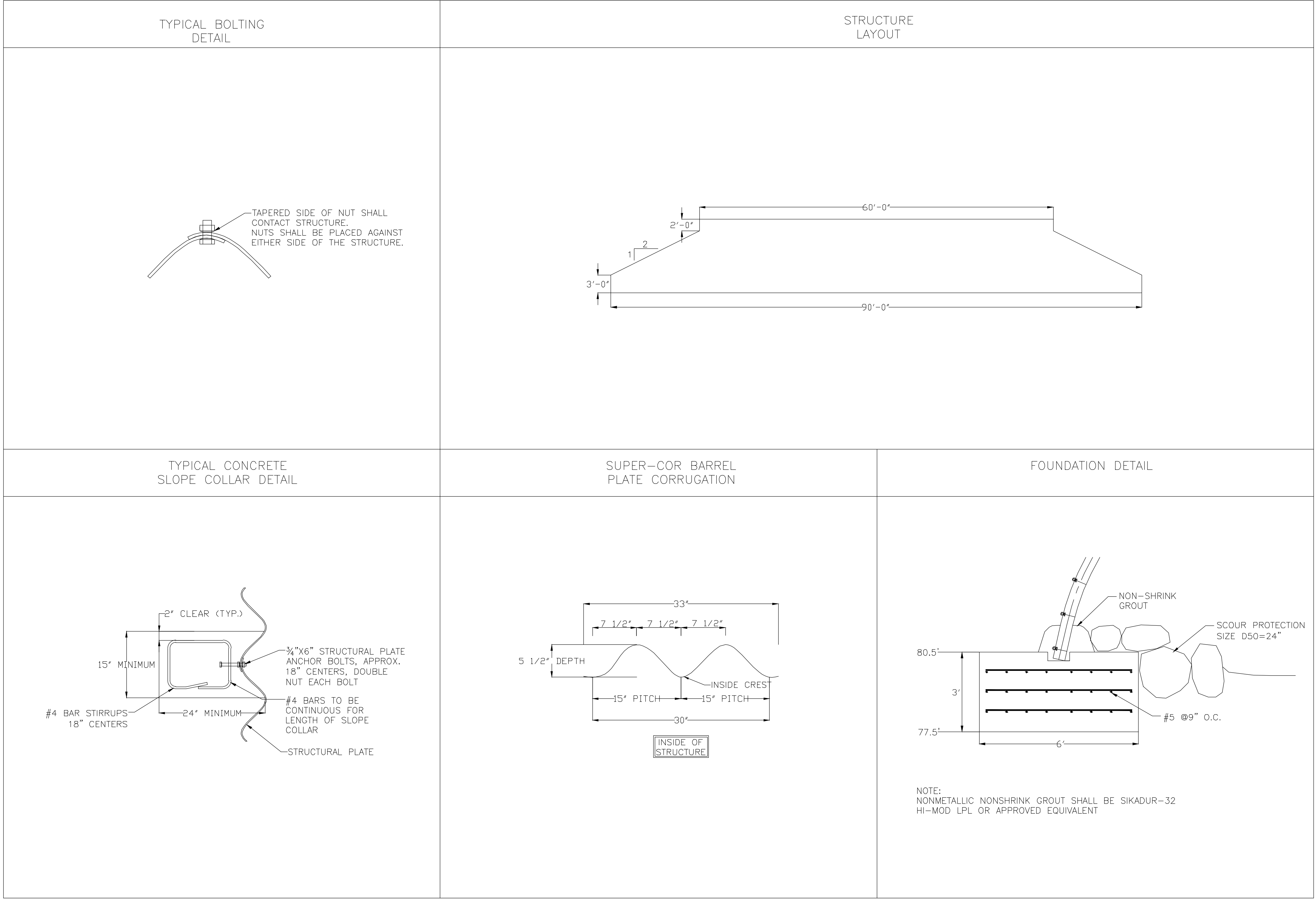
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General Notes

BID PLANS

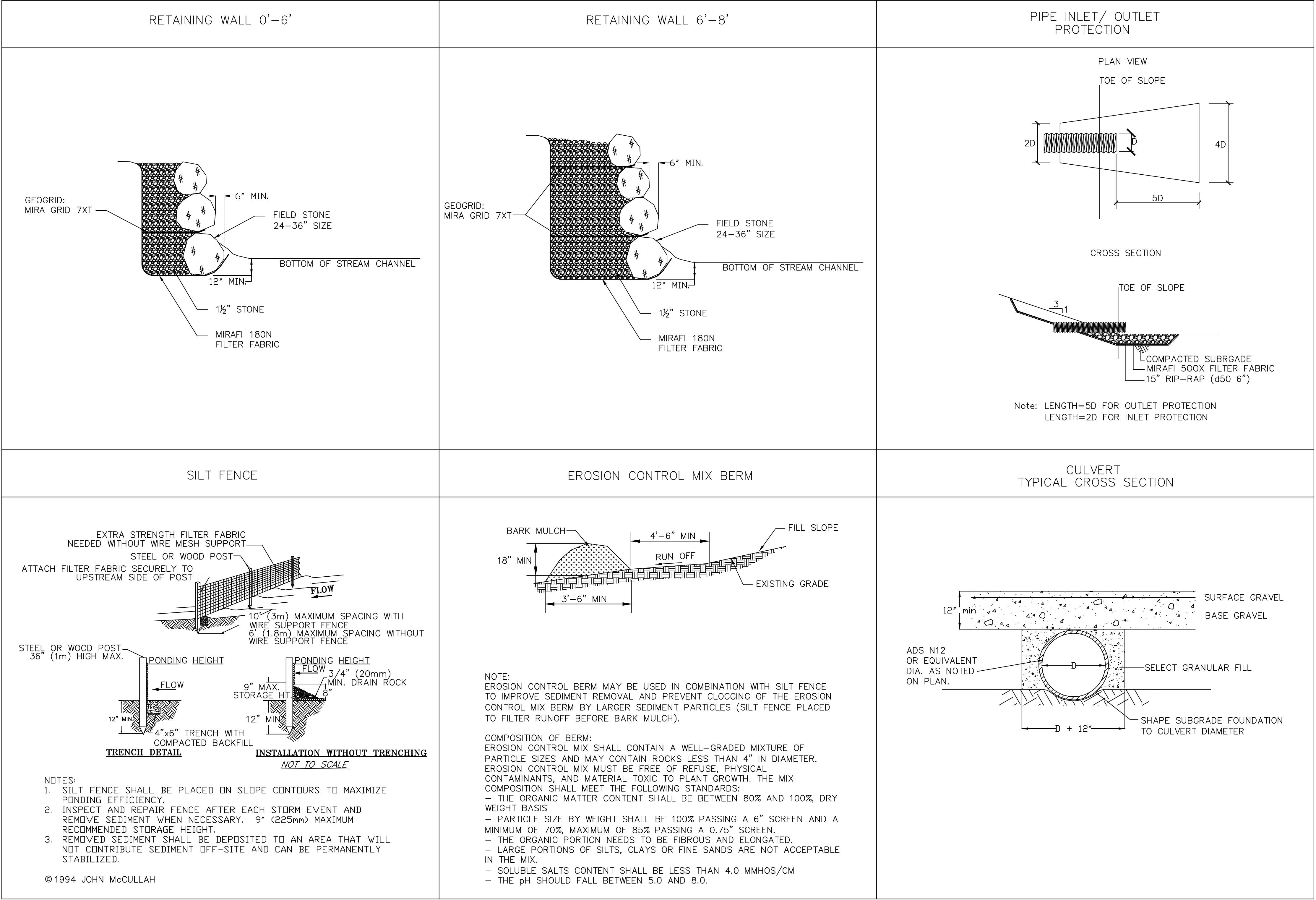
1	RELEASED FOR BIDS	8/28/23
No.	Revision/Issue	Date

Record Owner and Address

Firm Name and Address
Andrew McCullough
Engineering Consultants
93 Bucksport Road
Ellsworth, ME
207-667-6551
mccengr@gmail.com

Project Name and Address
CONSTRUCTION DETAILS
Prepared For:
RED BRIDGE ROAD
BRANCH LAKE
STREAM CROSSING
Ellsworth, Maine

Project	2598	Sheet
Date	8/28/23	C-2.0
Scale	NONE	



General Notes

BID PLANS

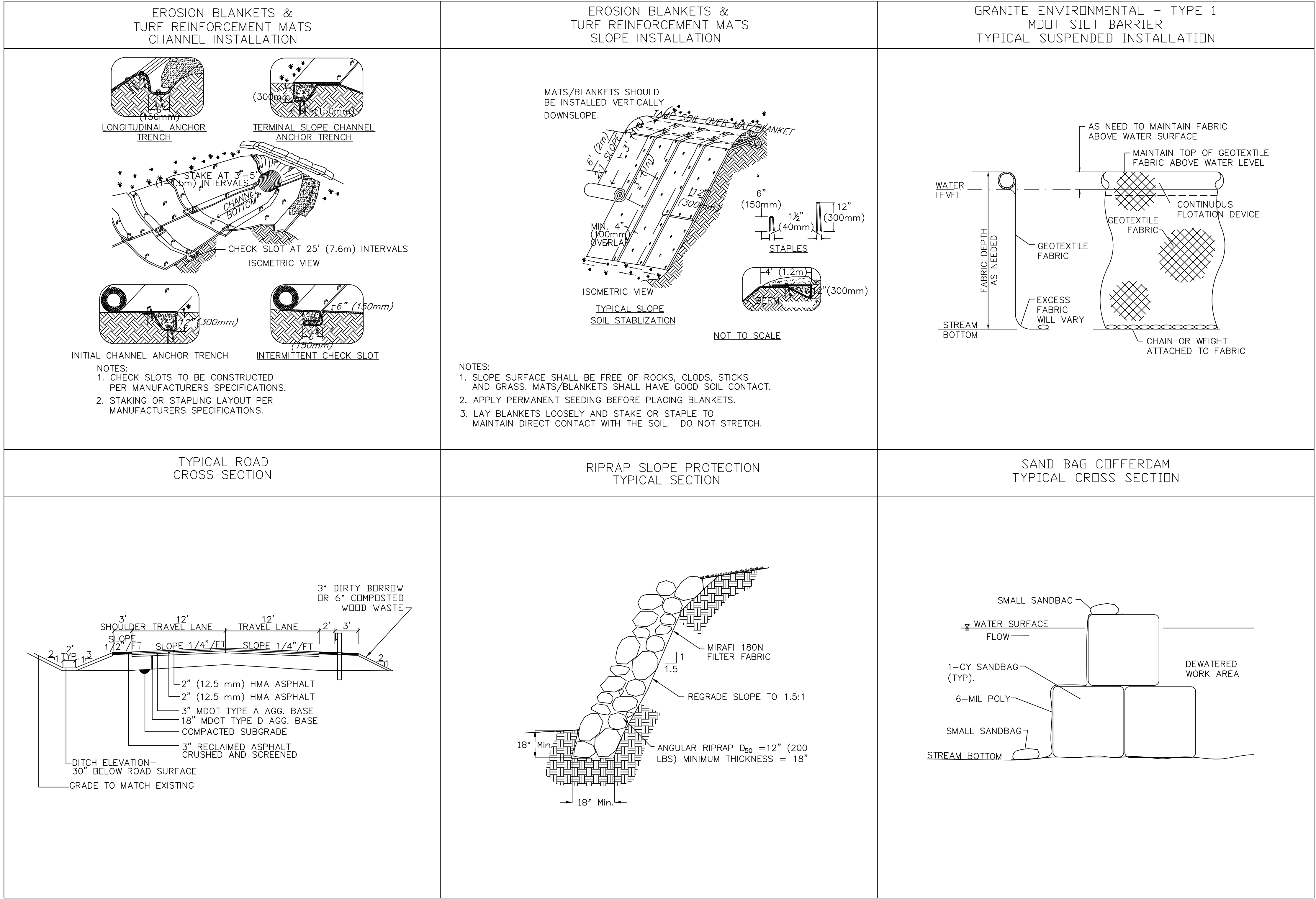
1	RELEASED FOR BIDS	8/28/23
No.	Revision/Issue	Date

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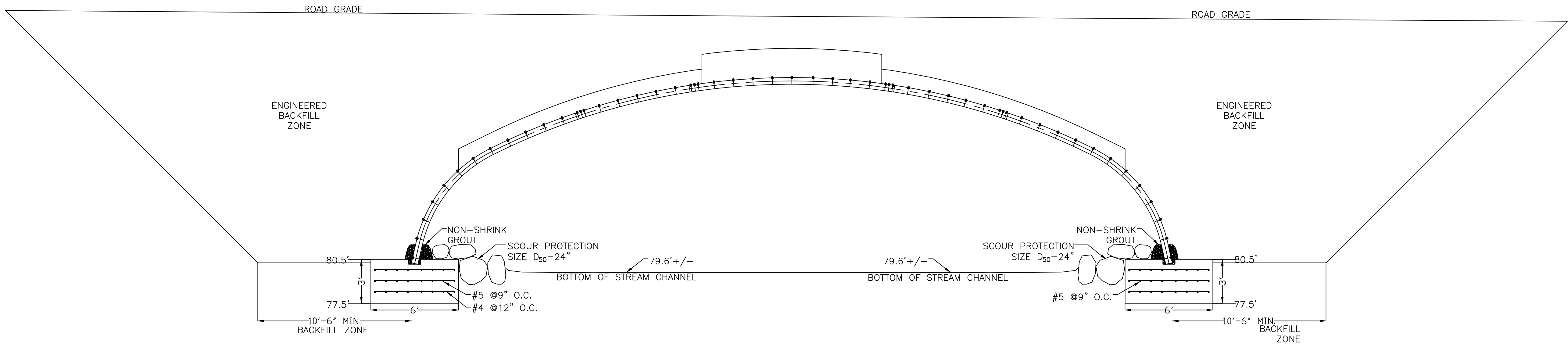
Firm Name and Address
Andrew McCullough Engineering Consultants 93 Bucksport Road Ellsworth, ME 207-667-6551 mccengr@gmail.com

Project Name and Address
CONSTRUCTION DETAILS Prepared For: RED BRIDGE ROAD BRANCH LAKE STREAM CROSSING Ellsworth, Maine

Project	2598	Sheet
Date	8/28/23	C-2.1
Scale	NONE	



CUSTOM SUPER COR BOX
51'-3' X 12'-4'



GENERAL NOTES:

1. THIS SPECIFICATION COVERS THE MANUFACTURE AND INSTALLATION OF THE GALVANIZED STEEL DEEP CORRUGATED ARCH STRUCTURE (BRIDGECOR) AS DETAILED IN THE PLANS. ANY INSTALLATION INFORMATION PROVIDED HEREIN SHALL BE REVIEWED AND APPROVED BY THE ENGINEER. CHANGES AND DISCREPANCIES MUST BE FORWARDED TO THE MANUFACTURER TO BE INCORPORATED IN A REVISED DRAWING SET.
2. THE ENGINEER SHALL VERIFY THAT THE PROPOSED STRUCTURE IS APPROPRIATE FOR THE SITE CONDITIONS AND THE DESIGN PARAMETERS ARE CONSISTENT WITH THE PROJECT REQUIREMENTS. ALL ASPECTS OF THE STRUCTURE DESIGN AND LAYOUT NOT EXPLICITLY INCLUDED IN THESE DRAWINGS SHALL BE PROVIDED OR COORDINATED BY THE ENGINEER. THIS MAY INCLUDE BUT IS NOT LIMITED TO: FOUNDATIONS, BACKFILL, END TREATMENTS, HYDRAULIC ANALYSIS, AND SCOUR ANALYSIS AS REQUIRED.
3. CONTECH PRODUCT DRAWINGS MAY NOT BE USED, REPRODUCED, COPIED,OR ISSUED TO A THIRD PARTY WITHOUT THE PRIOR WRITTEN PERMISSION OF CONTECH ENGINEERED SOLUTIONS.
4. ALL DIMENSIONS ARE TO THE INSIDE CRET OF THE CORRUGATION PROFILE UNLESS NOTED OTHERWISE AND ARE SUBJECT TO MANUFACTURING TOLERANCES.
5. THE STRUCTURE GEOMETRY, DESIGN, AND MATERIALS AS SHOWN IN THESE DRAWINGS ONLY APPLY FOR BRIDGECOR . DESIGNED AND FABRICATED BY CONTECH ENGINEERED SOLUTIONS(CONTECH). ALTERNATIVE SYSTEMS SHALL BE FULLY DESIGNED AND APPROVED PRIOR TO BIDDING, WITH SEALED DRAWINGS AND CALCULATIONS PROVIDED TO DEMONSTRATE COMPLIANCE WITH THE SAME GEOMETRY, DESIGN, AND MATERIAL REQUIREMENTS AS SHOWN HEREIN.
6. FOR WATER CONVEYANCE APPLICATIONS THE STRUCTURE MUST MEET HYDRAULIC REQUIREMENTS OF THE SITE AS DETERMINED BY THE ENGINEER. SHEET PILING, INLET AND OUTLET APRONS, CUTOFF WALLS, RIP RAP, AND/OR OTHER MEASURES SHALL BE INSTALLED AS NECESSARY TO PREVENT LOSS OF ENGINEERED BACKFILL AND/OR FOUNDATION SOILS DUE TO SCOUR. THE EXTENT, SIZE, AND LOCATION OF SCOUR PROTECTION SHALL BE DETERMINED BY THE ENGINEER.

DESIGN PARAMETERS:

1. DESIGN BY CONTECH ENGINEERED SOLUTIONS IS BASED ON THE FOLOWING DESIGN CRITERIA:
 - MINIMUM COVER: 1.5'
 - MAXIMUM COVER: 2.5'
2. ENGINEERED BACKFILL MATERIAL SHALL COMPLY WITH THE ENGINEERED BACKFILL MATERIAL REQUIREMENTS SHOWN IN THESE DRAWINGS.
3. DESIGN COVER AND LATERAL EXTENT OF ENGINEERED BACKFILL ZONE SHALL BE AS SHOWN IN THESE DRAWINGS AND REQUIRED BY THE DESIGN STANDARDS REFERENCED IN THESE NOTES.
4. REFERENCE AASHTO LRFD SECTION 12.6.1 FOR SEISMIC DESIGN CONSIDERATIONS.
5. STRUCTURE DESIGN BASED ON SITE SOIL INFORMATION PROVIDED IN CONTRACT DOCUMENTS. IF UNEXPECTED SITE SOIL CONDITIONS ARE ENCOUNTERED, CONTECH MUST BE NOTIFIED TO DETERMINE IF DESIGN CHANGES ARE NEEDED.
6. TEMPORARY CONSTRUCTION VEHICLE LOADING HEAVIER THAN THE DESIGN VEHICLE LIVE LOAD SHALL NOT BE PERMITTED TO CROSS OVER THE STRUCTURE WITHOUT THE APPROVAL OF CONTECH. IT IS THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY CONTECH OF THE SIZE, TYPE, AND WEIGHT OF ANY CONSTRUCTION VEHICLES INTENDED TO CROSS OVER THE STRUCTURE.

General Notes

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1. GENERAL

- 1.1. BIG R BRIDGE PRODUCT DRAWINGS ARE COPYRIGHTED AND MAY NOT BE USED, REPRODUCED, COPIED, OR ISSUED TO A THIRD PARTY WITHOUT THE PRIOR WRITTEN PERMISSION OF BIG R BRIDGE.
- 1.2. ALL DIMENSIONS ARE IN FEET AND INCHES UNLESS NOTED OTHERWISE.
- 1.3. ALL DIMENSIONS ARE TO THE INSIDE CREST OF THE CORRUGATION PROFILE UNLESS NOTED OTHERWISE.
- 1.4. ALL ELEVATIONS ARE IN FEET UNLESS NOTED OTHERWISE.
- 1.5. ALL DIMENSIONS ARE SUBJECT TO MANUFACTURING AND INSTALLATION TOLERANCES IN ACCORDANCE WITH THE REFERENCED SPECIFICATIONS.
- 1.6. 1S = 16" AT NEUTRAL AXIS OF STRUCTURE BARREL PLATES.

2. DESIGN STANDARDS

- 2.1. SUPER COR DESIGN IN ACCORDANCE WITH SECTION 12 OF AASHTO LRFD BRIDGE DESIGN SPECIFICATION 7TH EDITION (2014) WITH CURRENT INTERIMS.
- 2.2. OTHER DESIGN REFERENCES MAY INCLUDE CHBDC-S6-06, AS/NZS2041-1998, ASTM A796-13a, AISI, AREMA, AND BIG R BRIDGE IN-HOUSE DESIGN PROCEDURES.
- 2.3. VEHICLE LIVE LOADS SPECIFIED BY OWNER AND APPLIED ACCORDING TO AASHTO REQUIREMENTS AND VEHICLE MANUFACTURER'S DATA SHEETS WHERE REQUIRED.

3. DESIGN PARAMETERS

- 3.1. DESIGN BY BIG R BRIDGE BASED ON THE FOLLOWING DESIGN CRITERIA.
- 3.2. VEHICLE LIVE LOAD: HL-93.
- 3.3. DESIGN UNIT WEIGHT OF ENGINEERED BACKFILL = 120 LBS/FT³.
- 3.4. ENGINEERED BACKFILL MATERIAL SHALL COMPLY WITH THE DESIGN PARAMETERS AND BACKFILL SPECIFICATION SHOWN IN THESE NOTES.
- 3.5. ENGINEERED BACKFILL MATERIAL SHALL BE COMPACTED TO A MINIMUM OF 92% OF THE MATERIAL'S MAXIMUM DRY DENSITY AS DETERMINED BY THE MODIFIED PROCTOR TEST (AASHTO T180 / ASTM D1557) AT A MOISTURE CONTENT WITHIN 3% OF OPTIMUM.
- 3.6. DESIGN SECANT MODULUS OF THE BACKFILL, ES ≥ 3 KSI.
- 3.7. DESIGN COVER AND LATERAL EXTENT OF ENGINEERED BACKFILL ZONE SHALL BE AS SHOWN ON SHEET C-2.31 AND REQUIRED IN THE DESIGN SPECIFICATION REFERENCED IN NOTE 2.1.
- 3.8. SEISMIC LOADS CONSIDERED PER AASHTO LRFD CLAUSE 12.6.1.
- 3.9. DESIGN YIELD STRENGTH OF SUPER COR PLATE PER AASHTO M167/ASTM A761.
- 3.10. STRUCTURE DESIGN BASED ON SITE SOIL INFORMATION PROVIDED IN CONTRACT DOCUMENTS.
- 3.11. IF UNEXPECTED SITE SOIL CONDITIONS ARE ENCOUNTERED, BIG R BRIDGE MUST BE NOTIFIED TO DETERMINE IF DESIGN CHANGES ARE NEEDED.
- 3.12. VEHICLE LOADING HEAVIER THAN THAT SPECIFIED IN NOTE 3.2 OR COVER HEIGHTS OUTSIDE OF THE LIMITS SHOWN IN THESE DRAWINGS SHALL NOT BE USED WITHOUT CONSULTATION WITH BIG R BRIDGE.
- 3.13. PROTECTION SHALL BE DETERMINED BY THE OWNER OR OWNER'S CONSULTANT.
- 3.14. FOOTINGS DESIGNED AND PROVIDED BY OTHERS.

4. MANUFACTURING & MATERIAL STANDARDS

- 4.1. STEEL PLATE IN ACCORDANCE WITH ASTM A1018 OR A1011.
- 4.2. CORRUGATED STRUCTURAL PLATE IN ACCORDANCE WITH AASHTO M167 (ASTM A761).
- 4.3. STRUCTURAL PLATE GALVANIZING IN ACCORDANCE WITH ASTM A761, AVERAGE COATING MASS OF 3 OZ/FT² (BOTH SURFACES).
- 4.4. HARDWARE GALVANIZING IN ACCORDANCE WITH ASTM A153 OR B695.
- 4.5. HIGH STRENGTH STEEL BOLTS IN ACCORDANCE WITH ASTM A449 AND HIGH STRENGTH STEEL NUTS IN ACCORDANCE WITH ASTM A563.
- 4.6. GALVANIZED COATINGS THAT HAVE BEEN COMPROMISED SHALL BE RESTORED WITH A MINIMUM OF TWO COATS OF COLD GALVANIZING COMPOUND (SPRAY OR PAINT) IN ACCORDANCE WITH ASTM A761, SECTION 7 OR OTHER MEASURES AS DESCRIBED IN ASTM A780.

5. SUPER COR STRUCTURE ASSEMBLY

- 5.1. REFER TO SUPER COR ASSEMBLY AND INSTALLATION MANUAL FOR DETAILED PROCEDURES ON PROPER ASSEMBLY INSTRUCTIONS AND EQUIPMENT/TOOLS REQUIRED.
- 5.2. ASSEMBLY OF THE SUPER COR STRUCTURE SHALL BE IN ACCORDANCE WITH SECTION 26 OF AASHTO LRFD CONSTRUCTION SPECIFICATIONS (LATEST EDITION, WITH INTERIMS) AND BIG R BRIDGE RECOMMENDATIONS. THE NOTES PROVIDED ON THIS PAGE GENERALLY APPLY FOR ALL SUPER COR STRUCTURES. ADDITIONAL PROJECT SPECIFIC ASSEMBLY GUIDELINES MAY BE PROVIDED TO SUPPLEMENT THESE NOTES.
- 5.3. PLATE ASSEMBLY CAN BEGIN AFTER PLACEMENT OF STRUCTURE FOOTINGS HAVE BEEN APPROVED BY THE OWNER OR OWNER'S REPRESENTATIVE. VERIFICATION OF PROPER SPACING, ALIGNMENT, AND ORIENTATION OF KEYWAY IS STRONGLY RECOMMENDED PRIOR TO BEGINNING PLATE ASSEMBLY. ANY MODIFICATIONS TO THE KEYWAY SHALL BE MADE PRIOR TO BEGINNING PLATE ASSEMBLY.
- 5.4. UNLESS NOTED OTHERWISE, THERE IS NO STRUCTURAL REQUIREMENT FOR THE ORDER OR SEQUENCE IN WHICH PLATES ARE TO BE LAPPED – SO LONG AS THE PLATES ARE ORIENTED AND BOLTED TOGETHER AS SHOWN ON THE DRAWINGS AND ACHIEVE A TIGHT FIT AT THE JOINTS. NUTS SHALL BE PLACED WITH THE TAPERED FACE IN CONTACT WITH THE PLATES UNLESS NOTED OTHERWISE. NUTS CAN BE ON EITHER THE INSIDE OR OUTSIDE OF THE STRUCTURE TO FACILITATE ASSEMBLY.
- 5.5. A SHINGLING PATTERN (FROM BOTTOM TO TOP) IS TYPICALLY RECOMMENDED FOR BARREL PLATES TO REDUCE THE POTENTIAL FOR INFILTRATION OF SURFACE WATER. HYDRAULIC STRUCTURES ARE TYPICALLY ASSEMBLED FROM UPSTREAM TO DOWNSTREAM TO PROVIDE A SIMILAR SHINGLING PATTERN FROM RING TO RING ON THE BARREL. THE DIRECTION OF PLATE ASSEMBLY AND LAPPING SHALL BE DETERMINED BY THE OWNER OR OWNER'S REPRESENTATIVE.
- 5.6. PLATE ASSEMBLY CAN BEGIN BY ASSEMBLING ONE OR TWO COMPLETE RINGS ON THEIR SIDE. CARE SHOULD BE EXERCISED TO OBTAIN IN-PLANE ALIGNMENT OF THE PLATES IN THE RING(S) AS THIS WILL DETERMINE THE STARTING POINT FOR ALIGNING EACH SUCCESSIVE RING. THE BOLTS IN THE COMPLETED RINGS SHOULD BE TIGHTENED SO THE RINGS CAN BE LIFTED INTO PLACE ON THE FOOTING. IF DESIRED, THE ENTIRE STRUCTURE MAY BE ASSEMBLED ADJACENT TO THE SITE AND LOWERED ONTO THE FOOTING. PROPER SAFE LIFTING POINTS AND METHODS ARE THE RESPONSIBILITY OF THE CONTRACTOR.
- 5.7. A CRANE OR SUITABLE LIFTING EQUIPMENT SHOULD BE CONNECTED TO THE STRUCTURE AT LOCATIONS THAT WILL NOT SIGNIFICANTLY ALTER THE STRUCTURE SHAPE (TYPICALLY NEAR APPROXIMATELY THIRD POINTS ON THE SPAN). AT THIS POINT THE STRUCTURE CAN BE VERY FLEXIBLE AND CAUTION SHOULD BE EXERCISED WHEN LIFTING INTO POSITION. ONCE THE STRUCTURE IS UPRIGHT ON THE FOOTING, PLACE ONE SIDE INTO THE KEYWAY. DRAW THE OPPOSITE SIDE INTO THE KEYWAY. AFTER THE STRUCTURE IS SET IN THE KEYWAY, MAKE MEASUREMENTS TO VERIFY THE STRUCTURE IS NOT TWISTED AND IS LOCATED AT ITS PROPER STARTING POINT IN THE KEYWAY BEFORE ATTACHING ADDITIONAL PLATES.
- 5.8. THE STRUCTURE SHOULD BE CENTERED IN THE KEYWAY AS MUCH AS POSSIBLE. SHIMS OR BLOCKS MAY BE USED TO HOLD THE STRUCTURE IN ITS PROPER LOCATION UNTIL THE KEYWAY IS GROUDED.
- THE SPAN AND RISE OF THE STRUCTURE SHOULD BE CHECKED FREQUENTLY DURING THE EARLY STAGES OF ASSEMBLY TO VERIFY THAT ASSEMBLY TOLERANCES ARE BEING ACHIEVED AND ALLOW FOR ADJUSTMENTS TO PROCEDURES IF NECESSARY BEFORE ASSEMBLY IS COMPLETE.
- 5.10. ATTACH ADDITIONAL PLATES, COMPLETING ONE RING AT A TIME FROM THE BASE PLATES ON EITHER SIDE UP TO THE CROWN PLATES, AND LEAVE BOLTS HAND TIGHT. LEAVING BOLTS HAND TIGHT AT THIS POINT WILL ALLOW FLEXIBILITY THAT MAY BE NEEDED TO ATTACH THE NEXT RING OF PLATES. BOLTS SHOULD BE TIGHTENED ABOUT 3 RINGS BEHIND THE LEADING RING AS ASSEMBLY PROGRESSES. TO MAINTAIN SPAN AND RISE DIMENSIONS IT MAY BE NECESSARY TO LIFT OR PUSH THE STRUCTURE IN SPECIFIC AREAS TO ACHIEVE A FULLY TIGHTENED SEAM. TIGHTEN LONGITUDINAL SEAMS FIRST, FOLLOWED BY CIRCUMFERENTIAL SEAMS.

- 5.11. INSTALL SKEW/BEVEL PLATES (IF APPLICABLE) AFTER THE MAIN BARREL OF A STRUCTURE HAS BEEN COMPLETED. IN THE CASE OF SOME BEVELED STRUCTURES, THE COMPLETED RINGS SUPPORT THE BEVEL AND PREVENT IT FROM DISTORTING THE DESIGN SHAPE OF THE STRUCTURE. FOR SKEWED ENDS, PLATES SHOULD BE ALIGNED TO ALLOW FOR STRAIGHT, CIRCUMFERENTIAL INSTALLATION OF END TREATMENTS (E.G. CONCRETE COLLARS). WHEN CAST-IN-PLACE CONCRETE COLLARS ARE TO BE CONSTRUCTED, THE CONTRACTOR WILL NEED TO ALLOW FOR FORM WORK TO BE ERECTED ON THE END OF THE STRUCTURE. SPECIAL BRACING AND SCAFFOLDING MAY BE REQUIRED.PLEASE NOTE THAT FOR SKEWED/BEVELED STRUCTURE ENDS THE CORRUGATION PROFILE WILL VARY THROUGH THE PLANE OF THE SKEW, RESULTING IN GAPS IN SOME LOCATIONS. THUS, WHEN FORMING CAST-IN-PLACE COLLARS OR HEADWALLS, THIS "ROUGHNESS" WILL BE PRESENT, AND SHOULD BE FACTORED IN THE SET-UP OF FORM WORK.
- 5.12. FINAL BOLT TIGHTENING TO THE TORQUE IN NOTE 5.13 SHALL NOT BEGIN UNTIL THE STRUCTURE SHAPE IS CHECKED AND APPROVED BY THE OWNER OR OWNER'S REPRESENTATIVE. THE ASTM TOLERANCE ON PLATE WIDTH IS ± 1/8", MEASURED BETWEEN THE CENTER OF CIRCUMFERENTIAL BOLT HOLES ON THE OUTER EDGES OF THE PLATE. THE ASTM TOLERANCE ON BOLT HOLE SIZE IS THE BOLT DIAMETER PLUS 1/4". THESE TOLERANCES CAN RESULT IN UP TO ABOUT 1/8" OF PLAY OR DRIFT PER PLATE ON THE STRUCTURE PERIPHERY AND FROM RING TO RING ON THE STRUCTURE LENGTH. A GENERAL FORMULA FOR ESTIMATING POTENTIAL CIRCUMFERENTIAL AND LONGITUDINAL DRIFT IN THE STRUCTURE IS:
- STRUCTURE DRIFT = # PLATES PER RING OR # OF RINGS X 1/8".
- INSIDE SPAN AND RISE OF THE ASSEMBLED STRUCTURE AFTER BOLTING SHALL BE WITHIN 2% (OR 5 INCHES, WHICHEVER IS LESS) OF THE PLAN DIMENSIONS.
- RECOMMENDED TORQUE RANGE ON THE BOLTS IS 150 TO 300 FT-LBS. NOTIFY BIG R BRIDGE IF THE MAXIMUM TORQUE IS EXCEEDED. OVER-TORQUED BOLTS MAY NEED TO BE REPLACED.

6. ENGINEERED BACKFILL ENVELOPE

- 6.1. ENGINEERED BACKFILL MATERIAL SHALL BE PLACED WITHIN THE ENGINEERED BACKFILL ENVELOPE TO THE MINIMUM WIDTH AND WITHIN THE COVER LIMITS SHOWN ON SHEET S101. THE ENGINEERED BACKFILL ENVELOPE SHALL NOT BE ALTERED WITHOUT WRITTEN APPROVAL FROM BIG R BRIDGE.
- 6.2. IN-SITU SOILS BELOW AND ADJACENT TO THE ENGINEERED BACKFILL ENVELOPE SHALL BE PREPARED TO PROVIDE A FIRM SURFACE AGAINST WHICH TO COMPACT THE ENGINEERED BACKFILL MATERIAL. THE DESIGN ENGINEER SHALL EVALUATE THE IN-SITU SOILS TO DETERMINE THE DEGREE AND TYPE OF IMPROVEMENT NEEDED TO ACHIEVE A FIRM BEARING SURFACE FOR THE ENGINEERED BACKFILL MATERIAL – INCLUDING ANY BENCHING OR SLOPING THAT MAY BE NEEDED FOR THE SIDE SOILS. BACKFILL PLACEMENT MAY NOT BEGIN UNTIL THE GEOTECHNICAL ENGINEER HAS APPROVED PREPARATION OF THE IN-SITU SOILS.
- 6.3. A DRAINED CONDITION WAS ASSUMED FOR THE ENGINEERED BACKFILL ENVELOPE. DESIGN AND SUPPLY OF A SUB-DRAINAGE SYSTEM (IF NEEDED) SHALL BE PROVIDED BY OTHERS.
- 6.4. WHEN REQUIRED, AS DETERMINED BY THE DESIGN ENGINEER, A GEOTEXTILE OR GRADED SOIL FILTER MAY BE USED BETWEEN THE ENGINEERED BACKFILL AND IN-SITU SOIL TO PREVENT MIGRATION OF FINES AND POSSIBLE INTERNAL EROSION OF THE SOIL.

7. ENGINEERED BACKFILL MATERIAL REQUIREMENTS

- 7.1. THE DESIGN OF SUPER COR SOIL-METAL STRUCTURES RELIES ON COMPACTED SOIL PROPERTIES PROVIDED BY THE ENGINEERED BACKFILL MATERIALS. THE CORRECT SELECTION AND PLACEMENT OF COMPACTED ENGINEERED BACKFILL MATERIAL IS CRITICAL TO THE PERFORMANCE OF SUPER COR STRUCTURES.
- 7.2. THE ENGINEERED BACKFILL MATERIAL SHALL SATISFY STRENGTH AND COMPRESSIBILITY CRITERIA USED IN THE DESIGN OF THE SUPER COR STRUCTURE AND SHALL NOT BE ADVERSELY AFFECTED BY WETTING, DRYING, SATURATION, FREEZE/THAW, VIBRATIONS, OR FLOWING WATER.
- 7.3. BACKFILL MATERIAL SHALL CONSIST OF A WELL-GRADED GRANULAR SOIL CLASSIFYING AS A-2-4 OR A-1 ACCORDING TO AASHTO M145 AND MEETING THE REQUIREMENTS DESCRIBED HEREIN.
- 7.4. THE LARGEST PARTICLE SIZE USED WITHIN THE BACKFILL ENVELOPE SHALL NOT BE GREATER THAN 12 INCHES. THE LARGEST PARTICLE SIZE USED WITHIN 3 FEET OF THE STRUCTURE SHALL NOT BE GREATER THAN 8 INCHES AND THE LARGEST SIZE PARTICLE WITHIN 1 FOOT OF THE STRUCTURE SHALL NOT BE GREATER THAN 6 INCHES.
- 7.5. THE FINES CONTENT (FINER THAN #200 SIEVE) SHALL NOT EXCEED 10% FOR SOIL PLACED WITHIN THE BACKFILL ENVELOPE. THE ENGINEERED BACKFILL MATERIAL SHALL CONTAIN A MINIMUM OF 40% GRAVEL (> #4 SIEVE).
- 7.6. GRAIN SIZE DISTRIBUTION (GRADATION) OF THE ENGINEERED BACKFILL MATERIAL SHALL SATISFY: C_u GREATER THAN OR EQUAL TO 3 AND C_c BETWEEN 0.7 AND 3, WHERE C_u = COEFFICIENT OF UNIFORMITY = D₆₀/D₁₀ AND C_c = COEFFICIENT OF CURVATURE = (D₃₀)²/(D₆₀XD₁₀). D_{XX} IS THE PARTICLE SIZE CORRESPONDING TO XX% FINER ON THE CUMULATIVE PARTICLE SIZE DISTRIBUTION CURVE (ASTM D2487).
- 7.7. C_u REQUIREMENTS ARE WAIVED FOR CRUSHER RUN SCREENED AGGREGATES. C_c REQUIREMENTS ARE WAIVED FOR BACKFILL MATERIAL CONTAINING MORE THAN 60% GRAVEL (> #4 SIEVE).
- 7.8. PLASTICITY INDEX (PI) OF THE FINE GRAINED PORTION OF THE SOIL USED IN THE ENGINEERED BACKFILL ZONE SHALL BE LESS THAN 12 (ASTM D4318).
- 7.9. PARTICLE ANGULARITY SHALL BE DETERMINED ON MATERIAL LARGER THAN 1 INCH BY VISUAL EXAMINATION. THE SOIL FRACTION LARGER THAN 1 INCH IN SIZE SHALL CONTAIN A MINIMUM OF 35% (BY WEIGHT) OF ANGULAR OR SUB-ANGULAR PARTICLES.
- 7.10. PARTICLE ELONGATION AND FLATNESS SHALL BE DETERMINED ON MATERIAL LARGER THAN 1/4 INCH BY VISUAL EXAMINATION. FLAT OR ELONGATED PARTICLES LARGER THAN 1/4 INCH IN THE LEAST DIMENSION SHALL NOT EXCEED 25% (BY WEIGHT) OF THE SOIL USED WITHIN THE ENGINEERED BACKFILL ENVELOPE.
- 7.11. ABRASION LOSS SHALL NOT EXCEED 45% AS DETERMINED BY THE LOS ANGELES ABRASION TEST (ASTM C131).
- 7.12. HUMIC (DECAYING) ORGANIC MATTER SHALL NOT EXCEED 1.0% (DRY WEIGHT BASIS). SHALES AND CLAYSTONES ARE GENERALLY CONSIDERED DELETERIOUS MATERIALS AND SHALL NOT BE ALLOWED IN THE ENGINEERED BACKFILL ENVELOPE WITHOUT APPROVAL FROM THE DESIGNER. BACKFILL SHALL BE FREE OF VEGETATIVE MATTER (E.G. ROOTS, TOPSOIL, LEAVES, PEAT, MOSS, WOODY MATTER, AND COMPOST).
- 7.13. ELECTROCHEMICAL REQUIREMENTS FOR SOIL AND WATER IN CONTACT WITH THE SUPER COR STRUCTURE ARE AS FOLLOWS:
- PH = 5 TO 10 (AASHTO T289)
 - RESISTIVITY ≥ 3000 OHM-CM (AASHTO T288)
 - CHLORIDES ≤ 100 PPM (AASHTO T291)
 - SULPHATES ≤ 200 PPM (AASHTO T290)
 - CHLORIDE AND SULPHATE REQUIREMENTS WAIVED FOR SOILS WITH RESISTIVITY ≥ 5000 OHM-CM.
- 7.14. A BARRIER COATING MAY BE NEEDED TO EXTEND OR ACHIEVE DESIGN SERVICE LIFE IF BACKFILL OR WATER ELECTROCHEMICAL PROPERTIES CANNOT BE MET. BARRIER COATING (IF REQUIRED) SHALL BE DESIGNED AND PROVIDED BY OTHERS.

8. ENGINEERED BACKFILL MATERIAL EVALUATION

- 8.1. THE SELECTION AND EVALUATION OF PROPOSED ENGINEERED BACKFILL MATERIAL IS THE RESPONSIBILITY OF THE CONTRACTOR. THE CONTRACTOR SHALL PROVIDE BIG R BRIDGE WITH DOCUMENTATION FROM A QUALIFIED GEOTECHNICAL ENGINEER THAT THE PROPOSED ENGINEERED BACKFILL MATERIAL MEETS OR EXCEEDS THE REQUIREMENTS IN SECTIONS 3 AND 7 OF THE NOTES.
- 8.2. PROPOSED ENGINEERED BACKFILL MATERIAL WITH PROPERTIES NOT MEETING THE REQUIREMENTS IN SECTIONS 3 OR 7 SHALL BE CONSIDERED AN ALTERNATIVE BACKFILL MATERIAL. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE ALTERNATIVE MATERIAL WHOSE PROPERTIES ARE SUPPORTED BY EITHER IN-SITU OR LABORATORY TESTING USING RECOGNIZED GEOTECHNICAL EXPLORATION AND EVALUATION METHODS.

- 8.3. PROPOSED ENGINEERED BACKFILL MATERIAL AND ALTERNATIVE ENGINEERED BACKFILL MATERIALS MAY BE REJECTED IF THE PROPOSED MATERIAL DOES NOT MEET OR EXCEED THE SOIL STRENGTH AND OTHER PARAMETERS USED IN DESIGN.
- 8.4. ADDITIONAL ANALYSIS AND/OR GEOTECHNICAL CONSULTATION FEES INCURRED BY THE DESIGNER FOR EVALUATION OF ALTERNATIVE ENGINEERED BACKFILL MATERIALS SHALL BE REIMBURSED BY THE CONTRACTOR.

9. ENGINEERED BACKFILL PLACEMENT PROCEDURE

- 9.1. SUBGRADE AND EMBANKMENT SOILS BELOW AND AT THE SIDES OF THE ENGINEERED BACKFILL ENVELOPE MUST BE EVALUATED AND PREPARED TO RECEIVE FILL AS DIRECTED BY THE DESIGN ENGINEER. ANY OVER-EXCAVATION AND REPLACEMENT OR OTHER TYPES OF SOIL IMPROVEMENT REQUIRED BY THE DESIGN ENGINEER SHALL BE COMPLETED AND APPROVED PRIOR TO BEGINNING PLACEMENT OF ENGINEERED BACKFILL MATERIAL.
- 9.2. THE ENGINEERED BACKFILL MATERIAL SHALL BE PLACED UNIFORMLY ON BOTH SIDES OF THE STRUCTURE SIMULTANEOUSLY IN LAYERS OF 8 INCHES OR LESS (BEFORE COMPACTION) AND COMPACTED TO A MINIMUM OF 92% OF THE MATERIAL'S MAXIMUM DRY DENSITY AS DETERMINED BY THE MODIFIED PROCTOR TEST (AASHTO T180 / ASTM D1557). DEPENDING ON THE COMPACTION EQUIPMENT AND ENGINEERED BACKFILL MATERIAL USED, IT MAY BE NECESSARY TO DECREASE THE LIFT THICKNESS AND/OR MOISTURE CONDITION THE LOOSE SOIL TO ACHIEVE THE SPECIFIED MINIMUM LEVEL OF COMPACTION. ENGINEERED BACKFILL MATERIALS PLACED AT OR NEAR OPTIMUM MOISTURE CONTENT WILL TYPICALLY ACHIEVE THE SPECIFIED LEVEL OF COMPACTION MORE READILY THAN SOILS PLACED WHEN THEY ARE EXCESSIVELY WET OR DRY.
- 9.3. IF THE ENGINEERED BACKFILL MATERIAL DOES NOT PRODUCE A PROCTOR CURVE AND/OR IS NOT CONDUCTIVE TO TRADITIONAL FIELD TESTING METHODS, QUALITATIVE METHODS OF EVALUATING COMPACTION MAY BE USED. SUCH METHODS SHALL BE EVALUATED AND APPROVED BY THE DESIGN ENGINEER AND A COPY OF THE METHOD BE PROVIDED TO THE DESIGNER.
- 9.4. THE DIFFERENCE IN BACKFILL LEVELS ON THE TWO SIDES OF THE STRUCTURE AT ANY TRANSVERSE SECTION SHALL NOT EXCEED 12 INCHES WITHOUT PRIOR APPROVAL FROM BIG R BRIDGE. INADEQUATELY COMPACTED MATERIAL SHALL BE REWORKED, MOISTURE CONDITIONED AS NECESSARY, AND RE-COMPACTED UNTIL THE SPECIFIED LEVEL OF COMPACTION IS ACHIEVED.
- 9.5. VIBRATORY COMPACTION EQUIPMENT USED WITHIN 5 FEET OF THE WIDEST PART OF THE STRUCTURE, UP TO THE MINIMUM DESIGN COVER HEIGHT ABOVE THE STRUCTURE, SHALL HAVE A STATIC MASS OF 12 TONS OR LESS. IT MAY BE POSSIBLE TO USE HEAVIER EQUIPMENT IF IT CAN BE DEMONSTRATED THAT THE STRUCTURE SHAPE IS NOT ADVERSELY AFFECTED. ENGINEERED BACKFILL MATERIAL PLACED WITHIN 1 FOOT Laterally OF THE STRUCTURE SPRINGLINE SHALL BE COMPACTED IN THIN LIFTS USING HAND OPERATED EQUIPMENT UNTIL THE MINIMUM COVER HEIGHT IS REACHED. OVER-COMPACTION OF ENGINEERED BACKFILL IN THIS ZONE SHOULD BE AVOIDED, AS THIS CAN CONTRIBUTE TO EXCESSIVE DEFLECTION OF SOME STRUCTURES. AREAS CLOSEST TO THE STRUCTURE SHALL BE COMPACTED RUNNING PARALLEL TO THE LENGTH OF THE STRUCTURE.
- 9.6. PLACE AND COMPACT ENGINEERED BACKFILL MATERIAL OVER THE TOP OF THE STRUCTURE (ABOVE 3/4 OF THE RISE) USING EQUIPMENT AS DESCRIBED ABOVE, RUNNING PERPENDICULAR TO THE LONGITUDINAL AXIS OF THE STRUCTURE. NO EQUIPMENT SHALL BE ALLOWED OVER THE STRUCTURE THAT WOULD EXCEED THE DESIGN LOAD AT THE MINIMUM DESIGN HEIGHT OF COVER. NO CONSTRUCTION EQUIPMENT SHALL BE ALLOWED TO PARK ON TOP OF A PARTIALLY BACKFILLED STRUCTURE.
- 9.7. AT NO TIME SHALL THE ENGINEERED BACKFILL MATERIAL BE DUMPED OR PUSHED AGAINST THE STRUCTURE WALL(S) SO AS TO CHANGE THE SHAPE OR ALIGNMENT OF THE STRUCTURE. MATERIAL SHALL NOT BE DUMPED ON TOP OF THE STRUCTURE AT ANY TIME. TRUCKS MAY UNLOAD IN ROUGH LAYERS NO CLOSER THAN 5 FEET FROM THE WIDEST PART OF THE STRUCTURE.
- 9.8. THE STRUCTURE SHALL BE CHECKED PERIODICALLY DURING BACKFILLING TO ENSURE THE SHAPE OF THE STRUCTURE MEETS DESIGN REQUIREMENTS AND IS CONSISTENT WITH THE ASSEMBLY TOLERANCES AS STATED IN THE SUPER COR INSTALLATION GUIDE. IF EXCESSIVE DEFLECTION OF THE STRUCTURE IS NOTED, BACKFILLING SHALL BE HALTED AND BACKFILL PLACEMENT AND COMPACTION PROCEDURES MODIFIED TO CORRECT THE STRUCTURE SHAPE. IT MAY BE NECESSARY TO REMOVE SOME OF THE BACKFILL TO CORRECT EXCESSIVE DEFLECTION. AFTER COMPLETION OF BACKFILL PLACEMENT, THE FINAL SHAPE OF THE STRUCTURE SHALL BE WITHIN 2% (OR 5 INCHES, WHICHEVER IS LESS) OF THE PLAN DIMENSIONS.
10. CONSTRUCTION OBSERVATION AND TESTING
- 10.1. OBSERVATION AND TESTING SHALL BE PERFORMED DURING CONSTRUCTION TO VERIFY COMPLIANCE WITH THESE DRAWNGS AND SPECIFICATIONS AND STANDARDS REFERENCED IN THESE NOTES.
- 10.2. QUALITY CONTROL STATISTICAL PROCEDURES, VERIFICATION MEASUREMENTS, SUPERVISION, AND PROGRESS TESTING ARE THE RESPONSIBILITY OF THE CONTRACTOR TO ENSURE THAT THE COMPLETED PROJECT COMPLIES WITH THESE DRAWINGS AND SPECIFICATIONS. THE PROJECT OWNER OR THEIR DESIGNATED REPRESENTATIVE MAY ACCEPT THE CONTRACTOR'S QUALITY CONTROL PROGRAM OR ADOPT AN INDEPENDENT QUALITY ASSURANCE PROGRAM TO VERIFY COMPLIANCE.
- 10.3. CONSTRUCTION OBSERVATIONS AND TESTING BY THE CONTRACTOR SHALL INCLUDE BUT NOT BE LIMITED TO:
- BOLT TORQUE MEASUREMENTS
 - PLATE TIGHTNESS OBSERVATIONS
 - STRUCTURE SHAPE MEASUREMENTS
 - VERIFICATION OF PROPER ALIGNMENT OF KEYWAY
 - ACCEPTANCE OF ENGINEERED BACKFILL MATERIAL
 - ENGINEERED BACKFILL MATERIAL SAMPLING, LABORATORY & IN-PLACE TESTING
- 10.4. SUGGESTED CONSTRUCTION OBSERVATIONS AND TESTING BY THE OWNER OR OWNER'S REPRESENTATIVE AS PART OF A QUALITY ASSURANCE PROGRAM MAY INCLUDE BUT NOT BE LIMITED TO:
- INDEPENDENT VERIFICATION OF OBSERVATIONS AND TESTING BY CONTRACTOR
 - FOUNDATION PREPARATION & PLACEMENT
 - EVALUATION OF SUBGRADE SOILS BELOW & ADJACENT TO BACKFILL ENVELOPE
 - PLATE ASSEMBLY
 - SHAPE MONITORING
 - FINAL BOLT TIGHTENING
 - FINAL SHAPE
- 10.5. CONSTRUCTION OBSERVATIONS AND TESTING CAN TAKE PLACE ON A PERIODIC OR FULL TIME BASIS AS REQUIRED BY THE OWNER OR OWNER'S REPRESENTATIVE AND AS CONSTRUCTION ACTIVITIES DICTATE.
- 10.6. IF REQUIRED, A BIG R BRIDGE REPRESENTATIVE CAN BE AVAILABLE ON SITE AT COMMENCEMENT OF WORK FOR INFORMAL CREW TRAINING ON SUPER COR ASSEMBLY TECHNIQUES AND RECOMMENDED PROCEDURES. IF REQUIRED, A BIG R BRIDGE REPRESENTATIVE CAN ALSO BE AVAILABLE ON SITE TO ACT AS AN OBSERVER AT THE BEGINNING OF PLATE ASSEMBLY AND BACKFILL PLACEMENT OPERATIONS (ADDITIONAL SITE VISIT COSTS MAY APPLY).

General Notes

BID PLANS

1	RELEASED FOR BIDS	8/28/23
No.	Revision/Issue	Date

Record Owner and Address

Firm Name and Address

Andrew McCullough
Engineering Consultants
93 Bucksport Road
Ellsworth, ME
207-667-6551
mccengr@gmail.com

Project Name and Address

CONSTRUCTION NOTES
Prepared For:
RED BRIDGE ROAD
BRANCH LAKE
STREAM CROSSING
Ellsworth, Maine

Project

2598

Date

8/28/23

Scale

NONE

Sheet

C-2.4

BID DOCUMENTS

**City of Ellsworth
Red Bridge Road
Branch Lake Stream Crossing**

OWNER:

**City of Ellsworth
1 City Hall Plaza
Ellsworth, ME 04605**

DATE:

August 28, 2023

ENGINEER:

**ANDREW MCCULLOUGH ENGINEERING CONSULTANTS
93 BUCKSPORT ROAD
ELLSWORTH, ME 04605
(207) 667 – 6551
mccengr@gmail.com**

**CONTRACT
City of Ellsworth
Red Bridge Road
Branch Lake Stream Crossing**

TABLE OF CONTENTS

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SECTION 1

INSTRUCTIONS TO BIDDERS

1. The City of Ellsworth, Maine (herein called the "Owner") invites proposals on the forms attached hereto. Proposals must be made upon blank forms provided.
2. At the time of the opening of Proposals, each Bidder will be presumed to have inspected the Site, to have read and be thoroughly familiar with the Plans and other Contract Documents, including Addenda. The failure or omission of any Bidder to receive or examine any form, instrument, or document shall in no way relieve any Bidder from any obligation in respect to his Proposal.
3. The Bidder shall make his proposal from his examinations, estimations and estimates, and shall not hold the Owner, its agents, employees, or agents hired by the Owner, responsible or bound by any schedule. If any error in any plan, drawing, specification or direction, relating to anything to be done under this contract, comes to his knowledge, he should report it at once to the Owner.
5. Base proposals on the Materials, Methods, Equipment, and Products as specified.
6. The Owner reserves the right to waive any informalities and reject any and all bids, or to accept any bid.
7. No proposals may be withdrawn during a period of forty-five (45) calendar days immediately following the opening thereof.
8. No Contract may be assigned, sub-let or transferred without the written consent of the Owner.
9. Bidders may be required to furnish a statement of their business experience, record of accomplishments, and financial responsibility at the discretion of the Owner.
10. The selected Contractor shall be required to furnish a 100% Contract Performance Bond and a 100% Contract Payment Bond to cover execution of his Contract.

11. Each bid must be accompanied by a satisfactory bid bond for 5% of the proposal. Such checks or bid bonds to be returned to all except the three lowest bidders within three (3) days after the formal opening of proposals, and the remaining checks, or bid bonds will be returned to the three lowest bidders within 48 hours after the Owner and the accepted Bidder have executed the Contract.

12. The successful Bidder, upon his failure or refusal to execute and deliver the Contract and Performance and Payment Bonds, within twelve (12) days after he has received notice of the acceptance of his bid, shall forfeit to the Owner, as damages for such failure or refusal, the security deposit.

SECTION 2
NOTICE TO CONTRACTORS

Sealed proposals, in envelopes plainly marked "**Red Bridge Road Branch Lake Stream Crossing Replacement** " addressed to:

City of Ellsworth
1 City Hall Plaza
Ellsworth, ME 04605

will be opened and read aloud on **September 28, 2023 @ 3:00 pm.** at the City Hall, Ellsworth, Maine.

Submit proposals made upon blank forms provided. See also Instructions to Bidders.

No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally.

A mandatory pre-bid meeting will be held at the site on September 7, 2023 at 9:00 am.

Every request for such interpretation should be in writing addressed to: Andrew McCullough, PE, Andrew McCullough Engineering Consultants, 93 Bucksport Road, PO Box 1497, Ellsworth, ME, 04605 and to be given consideration must be received at least five days prior to the date fixed for opening bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the plans and specifications which, if issued, will be sent by email to all prospective bidders not later than three days prior to the date fixed for the opening of bids. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his/her bid as submitted.

Plans and specifications may be obtained from Andrew McCullough, PE, Andrew McCullough Engineering Consultants, 93 Bucksport Road, Ellsworth, ME 04605, phone: 207-667-6551, email: mccengr@gmail.com weekdays between the hours of 8:00 a.m. and 4:00 p.m. upon paying a non-refundable fee of \$50.00. An additional non-refundable fee of \$15.00 must be included if shipping is desired. Shipping shall be by USPS.

Notes:

- (1) Documents from a Facsimile System (Fax) are not acceptable.

SECTION 3
DETAILED SCOPE OF WORK

Project Management

Mobilization

Install and Maintain Temporary Sediment and Erosion Controls

Install and Maintain Temporary Stream Diversion

Install and Maintain Work Zone Traffic Control Plan

Remove existing guardrail and pipe arch required for Construction

Remove existing asphalt required for construction

Excavate and Backfill new Footings and Pipe Arch

Install new concrete footings and pipe arch

Place new gravel subbase and base course

Place new HMA road surface

Install new guardrail

Place new rip-rap inlet and outlet protection

Place Composted Woodwaste on Disturbed Areas

SECTION 4
PROPOSAL

Proposal of

(Name): _____

Address: _____

TO: **City of Ellsworth**
 1 City Hall Plaza
 Ellsworth, ME 04605

Having carefully examined the Form of Contract, General Conditions, Special Provisions and Specifications contained herein, along with the plans sheets for the construction of:

Red Bridge Road Branch Lake Stream Crossing

as well as premises and conditions affecting the work, we, the undersigned, propose to furnish labor, equipment, tools and materials necessary for and reasonably incidental to the construction of this contract as stated in the following "Schedule of Prices."

NOTE: This proposal shall be filled in by the Bidder, in ink, with the unit prices written in words and numerals and the extensions shall be made by him. If discrepancies are encountered, written words will be accepted and the Grand Total will be adjusted accordingly. For complete information concerning these items, see the Specifications.

We understand that any estimated quantities indicated on the plans for lump sum items in the above schedule are made available for our information only and that we have made our own determinations of quantities and have bid the lump sum items accordingly.

We understand that payment for each item will be the lump sum bid amount, unless noted otherwise. Unit Prices will be utilized for Extra Work Items outside the scope of the base bid.

The undersigned agrees, if awarded the contract, to commence work on or after July 15, 2024 and complete the in-stream work on or before September 30, 2024.

The City will permit the Red Bridge Road to be closed for a maximum period of 45 days to perform the work. The Contractor is obligated to provide a 30 day notice before the road is shut down to perform the work.

This proposal includes the cost of 100% Contract Performance and Payment Bonds.

ADDENDUM RECEIPT

The receipt of the following addenda to Drawings and Specifications is hereby acknowledged.

ADDENDUM NO. _____ **DATED** _____
ADDENDUM NO. _____ **DATED** _____

The undersigned agrees, if this proposal is accepted, to sign a contract and deliver it, along with Contract Performance and Payment Bonds and with the affidavits of insurance specified within twelve (12) calendar days after the date of notification of such acceptance, except if the 12th day falls on a holiday, a Saturday or Sunday, then the conditions will be fulfilled if the required documents are received before 12:00 o'clock noon on the day following the holiday, or the Monday following the Saturday or Sunday.

Signature: _____

(Name Printed & Title)

Firm & P.O. Address

NOTE:

If bidder is a corporation, write State of incorporation, and if a partnership, give full names of all partners.

Schedule of Items

Project: Red Bridge Road Branch Lake Stream Crossing

201.11 Clearing

Quantity: 0.25 AC Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

202.01 Removing Existing Structure and Obstructions (Guardrail and Pipe Arch)

Quantity: 1 LS Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

202.2 Remove Existing Bituminous Pavement

Quantity: 667 SY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

203.20 Common Excavation

Quantity: 3465 CY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

204.20 Shoulder Aggregate

Quantity: 180 SY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

304.10 Aggregate Subbase Course Gravel

Quantity: 240 CY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

304.14 Aggregate Base Course Gravel

Quantity: 72 CY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

304.15 Aggregate Base Course – Type B

Quantity: 2385 CY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

403.208 HMA 12.5 mm Nominal Maximum Size Surface

Quantity: 62 Ton Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

403.213 HMA 12.5 mm Nominal Maximum Size Base

Quantity: 62 Ton Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

502.111 Structural Concrete Footing

Quantity: 128 CY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

513.50 Retaining Wall

Quantity: 96
SF Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

603.16 -15" Culvert Pipe Option 1

Quantity: 30 LF Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

603.17 -18” Culvert Pipe Option 1

Quantity: 60 LF Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

603.409 -Corrugated Metal Pipe Arch

Quantity: 1 LS Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

606.55 Guardrail Type 3 Single Rail

Quantity: 470 LF Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

610.08 Plain Riprap

Quantity: 72 CY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

610.210 Stream Channel Rock

Quantity: 64 CY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

615.086 Loam/ Compost Mix

Quantity: 155 CY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

652.361 Supply and Maintenance of Traffic Control Devices

Quantity: 1 LS Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

652.38 Flaggers

Quantity: 50 HR Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

652.33 Drums

Quantity: 20 EA Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

652. 34 Cones

Quantity: 50 EA Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

652.41 Portable-Changeable Message Sign

Quantity: 2 EA Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

656.66 Check Dam

Quantity: 5 CY Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

656.75 Temporary Soil Erosion and Water Pollution Control

Quantity: 1 LS Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

659.10 Mobilization

Quantity: 1 LS Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

893.05 Stream Diversion and Temporary Cofferdams

Quantity: 1 LS Unit Bid in Figures: \$ _____
The Sum of _____ dollars and
_____ cents
Item Total \$ _____

Total Bid Amount

In Figures: \$ _____

The Sum of _____ dollars and
_____ cents

SECTION 5

BONDS

FORM OF GENERAL CONTRACT BID BOND

CITY OF ELLSWORTH
Red Bridge Road Branch Lake Stream Crossing

KNOW ALL MEN BY THESE PRESENTS, THAT WE, THE UNDERSIGNED,

(1) _____

AS PRINCIPAL, AND

(2) _____

AS SURETY, ARE HEREBY HELD AND FIRMLY BOUND UNTO

(3) _____

_____ IN THE PENAL SUM OF

FOR THE PAYMENT OF WHICH, WELL AND TRULY TO BE MADE, WE HEREBY JOINTLY
AND SEVERALLY BIND OURSELVES, OUR HEIRS, EXECUTORS, ADMINISTRATORS,
SUCCESSORS AND ASSIGNS, SIGNED THIS (4)_____DAY

OF _____20_____.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT WHEREAS THE
PRINCIPAL HAS SUBMITTED TO (5)

OWNER _____

A CERTAIN PROPOSAL, ATTACHED HERETO AND HEREBY MADE A PART HEREOF, TO
ENTER INTO A CONTRACT IN WRITING, FOR THE CONSTRUCTION

OF (6)_____

See Legend, Page 3.

NOW THEREFORE:

(a) IF SAID PROPOSAL SHALL BE REJECTED, OR, IN THE ALTERNATE,

(b) IF SAID PROPOSAL SHALL BE ACCEPTED AND THE PRINCIPAL SHALL
EXECUTE AND DELIVER A CONTRACT IN THE FORM OF CONTRACT ATTACHED
HERETO (PROPERLY COMPLETED IN ACCORDANCE WITH SAID PROPOSAL) AND
SHALL FURNISH A BOND FOR HIS FAITHFUL PERFORMANCE OF SAID CONTRACT,
AND FOR THE PAYMENT OF ALL PERSONS PERFORMING LABOR OR FURNISHING

MATERIAL IN CONNECTION THEREWITH, AND SHALL IN ALL OTHER RESPECTS PERFORM THE AGREEMENT CREATED BY THE ACCEPTANCE OF SAID PROPOSAL, THEN THIS OBLIGATION SHALL BE VOID, OTHERWISE THE SAME SHALL REMAIN IN FORCE AND EFFECT: IT BEING EXPRESSLY UNDERSTOOD AND AGREED THAT THE LIABILITY OF THE SURETY FOR ANY AND ALL CLAIMS HEREUNDER SHALL, IN NO EVENT, EXCEED THE PENAL AMOUNT OF THIS OBLIGATION AS HEREIN STATED.

THE SURETY, FOR VALUE RECEIVED, HEREBY STIPULATES AND AGREES THAT THE OBLIGATION OF SAID SURETY AND ITS BOND SHALL BE IN NO WAY IMPAIRED OR AFFECTED BY ANY EXTENSION OF THE TIME WITHIN WHICH THE PRINCIPAL MAY ACCEPT SUCH PROPOSAL AND SAID SURETY DOES HEREBY WAIVE NOTICE OF ANY SUCH EXTENSION.

IN WITNESS WHEREOF, THE PRINCIPAL AND THE SURETY HAVE HEREUNTO SET THEIR HANDS AND SEALS, AND SUCH OF THEM AS ARE CORPORATIONS HAVE CAUSED THEIR CORPORATE SEALS TO BE HERETO AFFIXED AND THESE PRESENTS TO BE SIGNED BY THEIR PROPER OFFICERS, THE DAY AND YEAR FIRST SET ABOVE.

SIGNED AND SEALED THIS (4)_____DAY OF _____, 20____.

SIGNED AND SEALED THIS (4)_____DAY OF _____, 20____.

WITNESSES: _____ CONTRACTORS: _____

_____ BY _____(L.S.)

_____ BY _____(L.S.)

_____ BY _____(L.S.)

WITNESSES: _____ SURETY: _____

_____ BY _____ (L.S.)

_____ BY _____ (L.S.)

Legend

- (1) Correct Name of Contractor.
- (2) Correct Name of Surety
- (3) Owner, City Manager of Town, City, Corporation, Partnership, etc.
- (4) Same Date as that of Contract
- (5) Owner shall be Town, City, Corporation, Partnership, etc.
- (6) Name of Project as designated in the Contract Documents.

If Contractor is Partnership, all Partners should execute Bond. A Power of Attorney document, together with a statement that it still is in full force and effect, shall be provided by the person executing this Bond. Bond must be counter-signed by a Resident Maine Agent.

FORM OF GENERAL CONTRACT PERFORMANCE BOND

CITY OF ELLSWORTH
Red Bridge Road Branch Lake Stream Crossing

KNOW ALL MEN BY THESE PRESENTS THAT

(1) _____
_____ AS PRINCIPAL,

AND (2) _____

A CORPORATION DULY ORGANIZED UNDER THE LAWS OF THE STATE OF

AND HAVING A USUAL PLACE OF BUSINESS IN _____ AS SURETY,

ARE HELD AND FIRMLY BOUND UNTO THE

(3) _____

IN THE

SUM OF _____ DOLLA

RS (\$ _____), TO BE PAID SAID

(3) _____

OR HIS SUCCESSORS IN OFFICE, FOR WHICH PAYMENT WELL AND TRULY TO BE
MADE, PRINCIPAL AND SURETY BIND THEMSELVES, THEIR HEIRS, EXECUTORS AND
ADMINISTRATORS, SUCCESSORS AND ASSIGNS, JOINTLY AND SEVERALLY BY
THESE PRESENTS.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT IF THE PRINCIPAL SHALL
PROMPTLY AND FAITHFULLY PERFORM THE CONTRACT ENTERED INTO ON THE
(4)_____DAY OF _____A.D. 202___ FOR THE CONSTRUCTION
OF(5)_____

THEN THIS OBLIGATION SHALL BE NULL AND VOID: OTHERWISE, IT SHALL REMAIN IN
FULL FORCE AND EFFECT.

*See Legend at bottom of page.

THE SURETY HEREBY WAIVES NOTICE OF ANY ALTERATION OR EXTENSION OF TIME
MADE BY THE (3) OWNER.

SIGNED AND SEALED THIS (4)_____DAY OF _____, 20___.

WITNESSES:_____ CONTRACTORS:_____

_____ BY _____(L.S.)

_____ BY _____(L.S.)

_____ BY _____(L.S.)

WITNESSES:_____ SURETY:_____

_____ BY _____(L.S.)

_____ BY _____(L.S.)

Legend

- (1) Correct name of Contractor.
- (2) Correct name of Surety.
- (3) Owner, City Manager or Treasurer of the Town, City, Corporation, Partnership, etc.
(Principal).
- (4) Same date as that of Contract.
- (5) Name of project as designated in the Contract Documents.

If Contractor is Partnership, all Partners should execute Bond. A Power of Attorney document, together with a statement that it still is in full force and effect, shall be provided by the person executing this Bond. Bond must be counter-signed by a Resident Maine Agent.

FORM OF GENERAL CONTRACT PAYMENT BOND

CITY OF ELLSWORTH
Red Bridge Road Branch Lake Stream Crossing

KNOW ALL MEN BY THESE PRESENTS THAT (1)_____

AS PRINCIPAL, AND (2)_____

A CORPORATION DULY ORGANIZED UNDER THE LAWS OF THE STATE

OF _____ AND HAVING A USUAL PLACE OF BUSINESS IN

_____ AS SURETY, ARE HELD AND FIRMLY

BOUND UNTO THE (3)_____ IN THE SUM

OF _____

DOLLARS (\$ _____),

FOR THE USE AND BENEFIT OF CLAIMANTS** AS HEREIN BELOW DEFINED, FOR THE
PAYMENT WHEREOF PRINCIPAL AND SURETY BIND THEMSELVES, THEIR HEIRS,
EXECUTORS AND ADMINISTRATORS, SUCCESSORS AND ASSIGNS, JOINTLY AND
SEVERALLY BY THESE PRESENTS.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT IF THE PRINCIPAL SHALL
PROMPTLY SATISFY ALL CLAIMS AND DEMANDS INCURRED FOR ALL LABOR AND
MATERIALS, USED OR REQUIRED BY HIM IN CONNECTION WITH THE WORK
CONTEMPLATED IN THE CONTRACT ENTERED INTO ON THE (4)_____ DAY OF

_____A.D.202__ FOR THE CONSTRUCTION OF

(5)_____

*See Legend, Page 3.

**A claimant is defined as one having a direct Contract with the Principal or with a Subcontractor of the Principal for Labor, Material, or both, used or reasonably required for use in the performance of the Contract.

AND SHALL FULLY REIMBURSE THE OBLIGEE FOR ALL OUTLAY AND EXPENSE WHICH SAID OBLIGEE MAY INCUR IN MAKING GOOD ANY DEFAULT OF SAID PRINCIPAL, THEN THIS OBLIGATION SHALL BE NULL AND VOID: OTHERWISE, IT SHALL REMAIN IN FULL FORCE AND EFFECT.

SIGNED AND SEALED THIS (4)_____DAY OF _____, 20_____.

WITNESSES: _____ CONTRACTOR: _____

BY _____(L.S.)

BY _____(L.S.)

BY _____(L.S.)

WITNESSES: _____ SURETY: _____

BY _____(L.S.)

BY _____(L.S.)

Legend

- (1) Correct name of Contractor.
- (2) Correct name of Surety.
- (3) Owner, City Manager or Treasurer of the Town, City, Corporation, Partnership, etc. (Principal).
- (4) Same date as that of Contract.
- (5) Name of project as designated in the Contract Documents.

If Contractor is Partnership, all Partners should execute Bond. A Power of Attorney document, together with a statement that it still is in full force and effect, shall be provided by the person executing this Bond. Bond must be counter-signed by a Resident Maine Agent.

SECTION 6

CONTRACT

THIS AGREEMENT, made on the _____ day of _____, 2023, by and between the party of the first part, hereinafter called the Owner, and party of the second part, hereinafter called the Contractor,

WITNESSETH, that the Contractor and the Owner, for the considerations hereinafter named, agree as follows:

ARTICLE 1. - Scope of Work

The Contractor shall furnish materials and perform work shown on the plans and described in the Specifications entitled:

Red Bridge Road Branch Lake Stream Crossing prepared for the **City of Ellsworth**, acting as and in these Contract Documents as the Owner, and shall do everything required by this Agreement, the General Conditions and Special Provisions of the Contract, Specifications, and the Drawings.

ARTICLE 2. - Time of Completion

Complete work on or before **October 15, 2024**. (In-stream work shall be complete September 30, 2024.)

ARTICLE 3. - The Contract Sum

A. The Owner will pay to the Contractor for the performance of the Contract the amounts determined for the total number of each of the units of work completed at the unit price or lump sum price stated in the Schedule of Prices. Final payment will be made for the contract quantities unless noted otherwise and accepted by the Owner.

B. Extra work not included in Article 1, but authorized after the date of the Contract, that cannot be classified as coming under any of the Contract units, may be done at mutually agreed upon unit prices, or on a lump sum basis. The cost of the extra work thus obtained will be incorporated in a written Change Order and subsequently included in progress estimates.

ARTICLE 4. - Progress Payments

The Owner will make payments on account of the Contract as follows:

A. Progress payments, based on estimates approved by the Owner, will be made each month provided work completed is in the amount of One Thousand Dollars (\$1,000) or more.

B. The Owner will, after deducting previous payments made, pay the Contractor ninety (90%) per cent of the value of work completed. Retainage amounting to ten (10%) per cent of the value of work completed will be retained by the Owner until completion and acceptance of contract work as set forth in Article 5.

ARTICLE 5. - Acceptance and Final Payment

Payment shall be due 60 days after completion and acceptance of the Contract Work by the Owner, provided the Contractor has submitted evidence satisfactory to the Owner that payrolls, material bills and other indebtedness connected with the Work has been paid. Two and one-half percent (2.5%) shall be retained for a period of one year after completion of the project.

ARTICLE 6. - The Contract Documents

The General Conditions of the Contract, Instructions to Bidders, the Proposal, the Special Provisions, the Specifications, and the Plans, together with the Agreement, form the Contract and they are fully a part of the Contract as if hereto attached or repeated. The following is an enumeration of the Specifications and Plans.

ARTICLE 7. - Contract Performance and Payment Bonds

The Contractor shall furnish the Owner the approved Contract Bonds in the amount of One Hundred (100%) per cent of the Contract Amount each.

ADDENDA:

PLANS:

The Owner and the Contractor hereby agree to the full performance of the covenants herein.

IN WITNESS WHEREOF the parties hereto have executed this Agreement, the day and year first written above.

Witness:

CONTRACTOR_____

Authorized Signature_____

(Printed Name & Title)

Witness:

OWNER: City of Ellsworth

Authorized Signature(s)_____

Printed Name(s) & Title(s)_____

SECTION 7

ARTICLES OF GENERAL CONDITIONS

1. Definitions
2. Intent
3. Safety
4. Progress Schedule
5. Samples
6. Shop Drawings
7. Surveys, Permits, Laws, Taxes and Regulations
8. Labor and Wages
9. Protection of Work and Adjacent Property
10. Inspection of Work
11. Superintendence
12. Changes in The Work
13. Claims for Extra Cost
14. Deductions for Uncorrected Work
15. Delays and Extension of Time
16. Correction of Work
17. Owner's Right to do Work
18. Owner's Right to Terminate Contract
19. Payments
20. Contractor's Insurance Requirements
21. Contract Bonds
22. Damages
23. Liens
24. Assignment
25. Sub-Contracts
26. Uses of Premises
27. Layout of Work
28. Workmanship
29. Cleaning Up
30. Environmental Requirements
31. Use of Town Roads and Haul Roads
32. Legal Holidays

1. DEFINITIONS

Whenever the following terms are used in these Specifications or the Contract, the intent and meaning shall be interpreted as follows:

Addenda: Written or graphic instruments issued prior to the execution of the Agreement which modify or interpret the Contract Documents, Plans and Specifications, by additions, deletions, clarifications or corrections.

Bid: The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

Bidder: Any individual, Partnership, or Corporation submitting a Proposal for the performance of the Work under the terms of the Contract, and acting directly or through a duly Authorized Representative.

Change Order: A written Agreement between the Owner and the Contractor, operating as a supplement to the Contract, covering correction of: Omissions, errors, and discrepancies between the Plans and the Proposal or estimates; or any alterations in the Plans; or additional requirements; Work, Materials and Incidentals required to complete the construction of the Project in an acceptable manner, and setting forth the basis of compensation, if any.

Contract: A written Agreement between the Owner and Successful Bidder, by which the Contractor is bound to perform the Work specified in the Contract Documents together with Change Orders by which the Owner is bound to compensate the Contractor at mutually established and accepted rates or prices.

Contract Documents: The General Conditions, Instructions to Bidders, the Proposal, the Special Provisions, the Plans, Specifications including addenda and other modifications thereof incorporated in the documents before their execution, together with the Agreement, form the Contract Documents.

Contractor: The Individual, Partnership, or Corporation undertaking the execution of the Work under the terms of the Contract with the Owner, and acting directly or through a duly Authorized Representative.

Owner: A public or quasi-public body or authority, corporation, association, partnership, or individual for whom the Work is to be performed, acting directly or through a duly Authorized Representative.

Provide: The word "provide" shall mean furnish and install.

2. **INTENT**

The intent of the specifications, notes and drawings is to prescribe a complete work for construction of the **Red Bridge Road Branch Lake Stream Crossing** which the Contractor undertakes to do in full compliance with the Contract Documents. If there is any apparent contradiction or ambiguity between the drawings and specifications, the Contractor shall bring the fact to the attention of the Engineer or Owner and shall obtain a decision as to the true meaning or intention before proceeding with the portion of the work affected. All work that is called for in only the specification or only in the drawings shall be performed by the Contractor as if described in both, and should any work be required which is not denoted in the specifications or drawings but which is nevertheless necessary for the proper carrying out of the intent thereof, the Contractor shall perform all such work as fully as if it were particularly described.

3. **SAFETY**

The General Contractor, shall at all times, maintain the necessary barricades, fences, guards, lights and signs, to make the construction site safe for all workmen, the Owner and his representatives, as well as the general public who might be in and around the construction site.

The Contractor shall comply with the safety standards, provisions of applicable laws, building and construction codes and the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, the requirements of the Occupational Safety and Health Act of 1970 (Public Law 91-596), and the requirements of Title 29 of the Code of Federal Regulations Section 1518 as published in the "Federal Register," Volume 36, No. 75. He/ she shall exercise every precaution at all times for the prevention of accidents and the protection of persons (including employees) and property. He/she shall maintain at his/her office or other well-known place at the job site, all articles necessary for giving first aid to the injured, and shall make standing arrangements for the immediate removal to a hospital or a doctor's care of persons (including employees) who may be injured on the job site.

4. **PROGRESS SCHEDULE**

The Contractor shall submit a Progress Schedule for timely completion of the work 60 days prior to the commencement of construction.

5. **SAMPLES**

The Contractor shall furnish for approval, with reasonable promptness, preliminary samples and testing results on materials before materials are incorporated into the work. The Owner will approve such samples, with reasonable promptness. The work shall be in accordance with approved samples. The Owner reserves the right to sample, test and approve materials placed during the progress of the work.

6. SHOP DRAWINGS

The contractor shall check and verify all field measurements and shall submit with such promptness as to cause no delay in the contractor's own work or in that of any other contractor, adequate copies, checked and approved by the contractors of all shop drawings and schedules required for the work of the various trades. The Owner shall check and approve, with reasonable promptness, such scheduled drawings only for conformance with the design concept of the project and compliance with the information given in the contract documents. The contractor shall make any corrections required by the Owner, and shall file with the Owner two corrected copies, and shall furnish such other copies as may be needed. The Owner's approval of such drawings or schedules shall not relieve the contractor from responsibility for deviations from drawings or specifications, unless the contractors have, in writing, called the Owner's attention to such deviations at the time of submission and secured the Owner's written approval; nor shall it relieve the contractors from responsibility for errors in shop drawings or schedules.

7. SURVEYS, PERMITS, LAWS, TAXES AND REGULATIONS

The Owner will furnish land surveys and establish base lines for locating the principal component parts of the Work together with a suitable number of bench marks adjacent to the Work as shown on the plans.

The Contractor will secure and pay for permits and licenses necessary for the prosecution of the Work. Permits or easements, or both, for permanent structures or permanent changes in existing facilities will be secured and paid for by the Owner, unless otherwise specified.

The Contractor will give notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn and specified. Upon observing that the Drawings and Specifications are at variance therewith, promptly notify the Owner, in writing, and any necessary changes will be adjusted by the Owner as provided in the Contract for changes in the Work. The Contractor will bear costs arising from performing any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner.

The Contractor will adhere to codes promulgated by the BOARD OF CONSTRUCTION SAFETY RULES AND REGULATIONS as required by Statute. Copies of the latest Rules and Regulations may be obtained from the Department of Labor and Industry.

8. LABOR AND WAGES

Contractors and Sub-Contractors shall conform to the labor laws of the State of Maine, and other laws, ordinances, and legal requirements affecting the work in Maine.

9. PROTECTION OF THE WORK AND ADJACENT PROPERTY

The Contractor shall continuously maintain adequate protection of contract work from damage and protect the property from injury or loss arising in connection with this Contract, and make good any such damage, injury or loss. Adequately protect adjacent property as provided by law and the Contract Documents.

10. INSPECTION OF WORK

Provide the Owner, the Representative of the Owner and State and Local Officials access to the Work whenever it is in preparation or progress.

The Owner or Owner's Representative will make a final inspection of Work included in the Contract or any portion thereof, as soon as possible after notification that such Work is completed and ready for inspection. If such Work is not acceptable at the time of the inspection, the Owner will advise the Contractor in writing as to the particular defects to be remedied.

11. SUPERINTENDENCE

During work progress the Contractor shall provide a competent Superintendent, satisfactory to the Owner, at the job site. The Superintendent shall represent the Contractor and directions given to him by the Owner shall be binding.

12. CHANGES IN THE WORK

The Owner reserves the right to increase or decrease any Work items indicated in the Plans, Proposal and Contract, or to eliminate any such items, without invalidating the Contract. As the work progresses, the Owner may make such alterations in the plans, in the character of the work, or in the specified coordination of two or more concurrent Contracts, as may be considered necessary or desirable in order to complete the construction. Such changes shall in no way invalidate the Contract. Such Work Changes shall be executed under the original Contract conditions except that any claim for extension of time caused thereby will be adjusted by the Owner at the time of ordering such change.

As work progresses, the Contractor shall call immediate attention to the Owner of latest conditions at the Site materially differing from those shown on the Drawings or in the Specifications, or unknown conditions of unusual nature differing materially from those already

encountered in such Work, before they are disturbed. The Owner will promptly investigate the conditions and if they do so materially differ, the Contract will, with the approval of the Owner, be modified by a Change Order to provide for any increase or decrease in cost resulting from such conditions.

13. CLAIMS FOR EXTRA COST

If the Contractor claims that any instructions by Drawings or otherwise involve extra cost under this Contract, he shall give the Owner written notice thereof within 10 days after the receipt of such instructions, and in any event before proceeding to execute the Work, except in an emergency endangering life or property, and the procedure shall then be as provided for in Paragraph 12, Changes in the Work. No such claim shall be valid unless so made.

14. DEDUCTIONS FOR UNCORRECTED WORK

If the Owner deems it inexpedient to correct Work injured or done not in accordance with the Contract, an equitable deduction from the Contract Amount will be made by the Owner.

15. DELAYS AND EXTENSION OF TIME

If the Contractor is delayed at any time in the progress of the Work by any act or neglect of the Owner, or by any separate Contractor employed by the Owner, or by Changes ordered in the Work or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the Contractor's control, or by any cause which the Owner shall decide to justify the delay, then the completion date shall be extended for such reasonable time as the Owner may decide.

16. CORRECTION OF WORK

The Contractor will remedy any defects due to faulty workmanship and pay for any damage to other work resulting therefrom, prior to final payment under this contract.

17. OWNER'S RIGHT TO DO WORK

If the Contractor should neglect to prosecute the Work properly or fail to perform any provision of this Contract, the Owner, after three days' written notice to the Contractor may, without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor.

18. OWNER'S RIGHT TO TERMINATE CONTRACT

If the Contractor should be adjudged as bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper Materials or if he should fail to make prompt payment to Sub-Contractors, or for Material, or Labor, or persistently disregard laws, ordinances or the instructions of the Owner, or otherwise be guilty of a substantial violation of any provision of the Contract, then the Owner, upon determination that sufficient cause exists to justify such action, may, without prejudice to any other right or remedy, and after giving the Contractor seven days' written notice, terminate the employment of the Contractor and take possession of the premises and of materials, tools, and appliances thereon and finish the Work by whatever method the Owner may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract Amount shall exceed the expense of finishing the work including compensation for additional Architectural, Managerial and Administrative services, such excess shall be paid to the Contractor. If such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner.

19. PAYMENTS

The Contractor shall submit to the Owner a request for each payment and, if required, receipts or other vouchers, showing payments for Materials and Labor, including payments to Sub-Contractors.

Application for payments as the Work progresses may be made of the Owner no more than once a month, unless due to unusual circumstances the Owner may approve more frequent payments. Said Request for Payment shall be based on the proportionate quantities of the various classes of Work completed or incorporated into the Work and payments may be made on account of Materials not incorporated in the Work, but delivered and suitably stored at the Site. Such payments shall be conditioned upon submission by the Contractor of bills of sale, or such other procedure as will adequately protect the Owner's interest including applicable insurances.

The Owner will withhold 10 percent of the money due the Contractor until Contract work has been accepted by the Owner, except that when the Contract has been substantially completed the Owner may, upon request, further reduce the retainage amounts if it deems it desirable and prudent.

20. CONTRACTOR'S INSURANCE REQUIREMENTS

The Contractor shall commence no Work under this Contract until required insurances under this paragraph have been obtained and such Insurances have been approved by the Owner.

Do not allow any Sub-Contractor to commence work on his Sub- Contract until similar Insurances required of Sub-Contractors have been so obtained and approved.

(a) Workmen's Compensation Insurance. Take out and maintain during the life of the Contract, Workmen's Compensation Insurance for employees employed at the Site of the Project and, in sub-let work, require the Sub-Contractor similarly to provide Workmen's Compensation Insurance for their employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous Work under this Contract at the site of the project is not protected under the Workmen's Compensation Statute, the Contractor shall provide and shall cause each Sub-Contractor to provide for the protection of his employees not otherwise protected.

Minimum acceptable limits for Employer's Liability

Bodily Injury by Accident.....	\$500,000
Bodily Injury by Disease.....	\$500,000 Each Employee
Bodily Injury by Disease.....	\$1,000,000 Policy Limit

(b) Public Liability and Property Damage Insurance. The Contractor and Sub-Contractors shall take out and maintain during the life of the Contract such Public Liability and Property damage Insurance as shall protect them from claims and damages which may arise from operations under this Contract, whether such operations be by the Contractor or by any Sub-Contractor or by anyone directly or indirectly employed by them, and the types and amounts of such insurance shall not be less than:

<u>Description</u>	<u>Coverage</u>	<u>Each Accident</u>
(1) Contractor's Liability	B.I. & P.D. <u>\$1,000,000 Single Lmt.</u>	
Products and completed operations aggregate		\$1,000,000
Each occurrence limit		\$1,000,000
Personal injury aggregate		\$ 1,000,000
(2) Contractor's Protective Liability for Subcontracts	B.I. & P.D. <u>\$1,000,000 Single Lmt.</u>	
Products and completed operations aggregate		\$1,000,000
Each occurrence limit		\$ 1,000,000
Personal injury aggregate		\$ 1,000,000
(3) Vehicle Liability, to include Owned, Hired and non-owned auto liability	B.I. & P.D. <u>\$1,000,000 Single Lmt</u>	
		or Non-Owned
(4) Special Hazards Insurance. Full coverage for damage or loss resulting from Explosion or Blasting, Collapse and Underground Damage in the amounts and		

manner specified in this article, paragraph (b) and items (1) and (2) above, ordinarily excluded from coverage, is to be provided in accordance with the requirements of the proposal for the specified Project.

Notes: 1. *B.I. = Bodily Injury; **P.D. = Property Damage
2. Limits Listed are to be *per project aggregate limits* and *per location aggregate limits*.

(c) New Construction and Renovations to Existing Projects. The Contractor shall effect and maintain insurance naming the Owner and Contractor and all subcontractors as insured for the perils of fire, extended coverage, vandalism and malicious mischief upon the entire Project on which the work of this Contract is to be done up to one hundred percent (100%) of the Contract value.

(d) Certificate of Insurance. Furnish the Owner with one (1) copy of a Certificate of Insurance as provided in paragraph (b) and (c) above. Said Certificates of Insurance, in addition to the Statement of Coverage, shall carry a statement worded as follows: "In the event of cancellation or expiration of any of the foregoing policies, thirty (30) days written notice by the insurance company shall be given to the Owner".

21. CONTRACT BONDS

If Contract Bonds are required, the Contractor shall furnish to the Owner upon execution of the Contract, a Contract performance bond and a contract payment bond; each for the full amount of the Contract and issued by a surety company or surety companies authorized to do business in the State of Maine as approved by the Owner. The Bonds shall be in accordance with and executed on the forms furnished in the specifications. The Bonds shall allow for any addition or deductions to the Contract.

22. DAMAGES

A. The Contractor shall indemnify and hold harmless the Owner and its agents and employees from and against claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself including the loss of use resulting therefrom, and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any Sub-Contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

B. In any claims against the Owner or any of its agents or employees, by any employee of the Contractor, any Sub- Contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph A shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Sub-Contractor under Workmen's Compensation Acts, disability benefit acts or other employee benefit acts.

23. LIENS

Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the Owner a complete release of all liens arising out of his Contract, or receipts in full in lieu thereof, and, if required in either case, an affidavit that so far as he has knowledge or information the releases and receipts include the Labor and Material for which a lien could be filed; but the Contractor may, if any Sub-Contractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Owner, to indemnify him against any lien. If any lien remains unsatisfied after final payment is made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such a lien, including other costs and reasonable attorney's fee.

24. ASSIGNMENT

Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any monies due or to become due to him hereunder, without the previous written consent of the Owner.

25. SUB-CONTRACTS

The Contractor is not allowed to sublet any part of this Contract without the written permission of the Owner.

Contractor agrees to be fully responsible to the Owner for the acts and omissions of his Sub-Contractors and of persons either directly or indirectly employed by them, as he is for the acts and omission of persons directly employed by him.

26. USES OF PREMISES

The Contractor will confine tools, storage of Materials and operations of workmen to limits indicated by laws, ordinances, permits or directions of the Owner and not unreasonably encumber the premises with his Materials.

If any part of the project is completed and ready for use, the Owner may, by written and mutual consent, without prejudice to any of the Owner's rights or the rights of the Contractor, enter in and make use of such completed parts of the project. Such use or occupancy shall in no case be construed as an acceptance of any Work or Materials.

27. LAYOUT OF WORK

The Owner will provide adequate offset hubs to control the construction centerline, as shown on the drawings, one time at the beginning of construction. The Contractor will be responsible for preserving the survey control points, setting additional offset hubs and offset stakes, reestablishing centerline after the initial stake out, and for making all additional detail surveys needed for construction, such as slope stakes, offset stakes, and locating other working points.

The Contractor shall be responsible for the correctness of all measurements and shall verify all grades, lines, levels, elevations and dimensions shown on the drawings and report any errors or inconsistencies to the Owner prior to beginning work. The Owner will establish a minimum of two benchmarks on the site from which the Contractor shall lay out vertical controls.

28. WORKMANSHIP

Workmanship, Materials or Equipment, either at the Site or intended for it shall conform with the requirements of Contract Documents, and shall be strictly first class, workmanlike installation and the best obtainable from the crafts and trades. Incomplete or careless workmanship will not be allowed by the Owner. Materials, Equipment and Workmanship shall be equal to or better than the grade specified, and the best of their kind that is obtainable for the purpose for which they are intended. The Owner's decision on the quality of Work will be final.

The Contractor shall perform labor with skilled mechanics in their respective trades. Become familiar with the local labor conditions, skilled and unskilled, prior to submitting a proposal.

If, in the opinion of the Contractor, any Work is indicated on the Drawings or specified in such a manner as would make it impossible to produce Work of the highest quality, or should discrepancies appear between Drawings, or Drawings and Specifications, the Contractor shall refer the same in writing to the Owner for interpretation before proceeding with the Work. If the Contractor fails to make such a reference, no excuse will be entertained by the Owner thereafter for failure to carry out the Work in a satisfactory manner.

The Contractor shall guarantee the Contractor's work against any defects in workmanship and materials for a period of one year from the date of the written acceptance of the project.

29. CLEANING UP

The Contractor shall continuously keep the premises free from accumulation of waste materials or rubbish caused by Employees or Work, and at the completion of the Work,

remove work rubbish from and about the project and tools, and surplus materials and leave work "Broom Clean" or its equivalent, unless more exactly specified.

30. **ENVIRONMENTAL REQUIREMENTS**

The Contractor shall include in the appropriate contract bid items costs for compliance with State and local environmental protection requirements including, but not limited to, the following:

Conformance with the conditions in the State of Maine Stream Crossing Grant.

Control of dust from excavations and spillage of materials on highways.

No burning permitted.

Control of erosion and washing of materials from excavated slopes and embankments.

Prevention of surface water turbidity from dewatering and general earthwork operation.

31. **USE OF TOWN ROADS AND HAUL ROADS**

The town will require the Contractor to use dust control measures. Such costs shall be incidental to contract work items.

32. **LEGAL HOLIDAYS**

Construe legal holidays to occur on the day they are observed: New Year's Day; Martin Luther King, Jr. Day; Washington's Birthday; Patriot's Day; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day; and Christmas Day.

The Contractor and Sub-contractors shall not work on the above-mentioned holidays without prior approval of the Owner.

SPECIAL PROVISIONS

CONTRACT TIME FOR COMPLETION

Work under this contract shall be fully complete and accepted on or before
October 15, 2024.

LIQUIDATED DAMAGES

For each and every day that any work shall remain incomplete after the date of October 15, 2024, the sum of \$ 500.00 per calendar day shall be deducted from any money due the Contractor, not as a penalty but as liquidated damages; provided, however, that due account shall be taken of any adjustment of the contract time for completion of the work granted under the provisions of *ARTICLE 12* (Delays and Extension of Time) of the General Conditions of this contract
(Section 3-A).

Special Provision Section 304:

Engineered Backfill shall conform to the BridgeCor Construction Notes including AASHTO M-145 a-1 gradation and be similar to Type B Gravel Base Crushed.

Special Provision for Pipe Arch:

Pipe Arch manufactured by BridgeCor and Contech Engineered Solutions, LLC.

Special Provision Section 514-Slope Protection:

The Retaining Wall shall be construction in conformance with Section 514 Slope Protection. Rock for the retaining wall shall conform to Section 610.01.e Heavy Riprap.

Supplement General Conditions

Supplemental General Conditions:

1. The Contractor shall coordinate construction to ensure efficient and orderly installation of each part of the Work.
2. A Pre-construction meeting shall be scheduled before starting construction at a time convenient to the Owner and Engineer, but no later than 10 days after the execution of this agreement at the Project Site.
3. The Contractor shall make adequate provisions to accommodate items scheduled for later installation.
4. Survey Monuments shall be protected from damage during Clearing and Installation of Temporary Sediment and Erosion Controls.
5. Any costs associated for re-setting survey monuments will be borne by the Contractor.
6. The Contractor shall excavate test pits prior to the commencement of construction to verify the depth to bedrock.
7. The Contractor shall conduct bi-weekly progress meetings at the Project Site.
8. The Contractor shall submit a construction schedule within 10 days after the date established for the Commencement of the Work.
9. Immediately on discovery of the need for interpretation of the Contract Documents, and if not possible to request interpretation at Project meeting, the Contractor shall prepare and submit an RFI. The RFI shall include a detailed, legible description of item needing interpretation.
10. The Contractor shall maintain a set of the Contract Drawings as Record Drawings.
11. The Engineer will issue supplemental instructions authorizing Minor Changes in the Work, not involving adjustment to the Contract Sum or the Contract Time, on AIA Document G710 or equivalent.
12. If latent or unforeseen conditions require modifications to the Contract, Contractor may propose changes by submitting a request for a change to the Engineer. It shall include costs of labor and supervision, equipment rental, material, and any revision to the schedule. The Engineer will issue a Change Order for signatures of Owner and Contractor on AIA Document G701 or equivalent.
13. The Engineer may issue a Construction Change Directive, on AIA Document G714 or equivalent. This Directive will instruct the Contractor to proceed with a change in the work for subsequent inclusion in a Change Order.
14. The Contractor shall maintain detailed records on a time and material basis of work required by the Construction Change Directive.
15. The Contractor shall clean all work areas, submit Record Drawings, deliver extra materials and remove temporary facilities before requesting inspection for certification of Substantial Completion.
16. During construction, Contractor will have limited use of site indicated. Contractor's use of premises is limited only by Owner's right to perform work or employ other contractors

on portions of Project. Construction shall be performed during the hours of 7 AM – 6 PM Monday through Saturday, other than holidays unless otherwise agreed to in advance by Owner.

17. The Contractor shall provide temporary toilets, wash facilities, and drinking-water fixtures. Comply with regulations and health codes for type, number, location, operation, and maintenance of fixtures and facilities.
18. The Contractor shall provide field offices, storage trailers, and other support facilities as necessary for the work.
19. Collect waste daily and, when containers are full, legally dispose of waste off-site.
20. Provide temporary barricades, warning signs, and lights to protect the public and construction personnel from construction hazards.
21. Minimize interference with adjoining roads, streets, walks, and other adjacent occupied or used facilities during site-clearing operations.
22. Protect and maintain benchmarks and survey control points from disturbance.
23. Protect site improvements to remain from damage. Restore damaged improvements to condition existing before start of site clearing.
24. No storage of materials or equipment or excavation is permitted within the drip line of remaining trees.
25. Take a complete set of photographs prior to the commencement of excavation including surrounding properties. Include existing items to remain during construction from different vantage points. Photographs shall include date and time.
26. Take a minimum of 12 digital photographs daily. Select vantage points to show status of construction and progress since last photographs.
27. Submit key plan of Project site with vantage points marked for location and direction of each photograph.
28. Submit a set of digital image electronic files with each payment request. Identify electronic media with date photographs were taken. Images shall be uncropped.

STANDARD SPECIFICATIONS

The City of Ellsworth, Maine has adopted for this project the “State of Maine, Department of Transportation, Standard Specifications Highways and Bridges” (latest revision), including all current additions or modifications thereof, Standard Details Highway and Bridges (latest revision) including all current additions or modifications thereof, General Conditions, Supplemental Specifications and Supplemental Standard Details for Construction (latest revision), MDOT Best Management Practices for Erosion & Sediment Control including all current additions or modifications thereof.

The contract Agreement, Special Provisions and Supplemental Specifications, Supplemental Standard Details contained herein shall take precedence and shall govern in any case of conflict with the Standard Specifications.

End of Section

Section 201 Clearing Right of Way

The provisions of Section 201 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply.

Section 202 Removing Structures and Obstructions

202.01 Description This work shall consist of removing wholly or in part and satisfactorily disposing of designated structures, bituminous concrete pavement, guardrail and other obstructions which are required to be removed and disposed of under other contract items.

202.06 Remove Bituminous Concrete Pavement

The provisions of Sections 202 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

Pavement may be removed by scarifying and loading the bituminous pavement or excavating and loading the pavement. At the limits of work where bituminous concrete is to remain, joints shall be saw-cut prior to removal and saw-cut again prior to placing new HMA. No work shall extend beyond the limits of work defined on the Site Plan unless authorized by the Engineer.

202.08 Basis of Payment

Pay Item	Pay Unit
202.10 Remove Existing Structures Guardrail and Pipe Arch	LS

202.20 Remove Bituminous Pavement

SY

Section 203 Excavation and Embankment

The provisions of Section 203 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

Payment will be made under:

Pay Item	Pay Unit
203.20 Common Excavation	CYD

Section 204 Shoulder Rehabilitation

The provisions of Section 204 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

204.01 Description: This work shall consist of rehabilitating existing shoulders by grading, compacting and furnishing, placing grading and compacting new shoulder aggregate to required grade.

Payment will be made under:

Pay Item	Pay Unit
204.20 Add Shoulder Aggregate to Existing Shoulder, Plan Quantity	SY

Section 304 Aggregate Base and Subbase

The provisions of Section 304 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

304.02 Aggregate:

The Engineered Backfill shall conform to the gradation for AASHTO M-145. Maine Department of Transportation item 304.15 will be used for the payment of this item. Payment will be made under:

Pay Item	Pay Unit
304.10 Aggregate Subbase Course Gravel	CYD
304.14 Aggregate Base Course-Crushed Type A	CYD
304.15 Aggregate Base Course-Crushed Type B	CYD

Section 401 Hot Mix Asphalt Pavement

The provisions of Section 401 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

401.09 Pavers Pavers shall be of sufficient class and size to place Hot Mix Asphalt Pavement with an 8 ft minimum main screed with activated extensions.

401.10 Rollers: No pneumatic-tired roller is required.

401.18 Quality Control Method: No written Quality Control Plan is required. Minimum Quality Control Frequencies for Temperature of Mix, Temperature of Mat, %TMD Surface, %TMD for Base shall be completed in accordance with Table 2.

Section 402 Pavement Smoothness

The provisions of Section 402 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

The HMA pavement will be accepted or rejected based on a visual basis, either prior to use during placement or in its final disposition. Mixtures exceeding the minimum 275 degree (f) lower limit or the 325 degree (f) upper limit will be rejected from the project. The surface of the completed work, when tested with a 10-foot straightedge, shall not contain irregularities in excess of ¼ inch.

Section 403 Hot Mix Asphalt Pavement

The provisions of Section 403 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

Payment will be made under:

Pay Item	Pay Unit
403.208 HMA 12.5 mm Nominal Maximum Size-Surface	Ton
403.213 HMA 12.5 mm Nominal Maximum Size-Base	Ton

Section 409 Bituminous Tack Coat

The provisions of Section 409 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

Basis of Payment: The supply and placement of the bituminous tack coat between the binder layer and the surface layer shall be considered incidental to the placement of the Surface Course of HMA. No separate payment shall be made.

Section 502 Structural Concrete

The provisions of Section 502 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

Concrete Class for Footings---Class A

Payment will be made under:

Pay Item	Pay Unit
502.111 Structural Concrete Footing	CYD

Section 503 Reinforcing Steel

The provisions of Section 503 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

Basis of Payment: The supply and placement of the reinforcing steel shall be considered incidental to the placement of the concrete footing. No separate payment shall be made.

Section 513 Slope Protection

The provisions of Section 513 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

513.01 Description: This item shall consist of excavating and constructing a retaining wall along the edge of the stream channel near the Pipe Arch inlet and/or outlet to facilitate the grade transitions or changes.

513.02 Materials: Materials shall include suitably sized field stone, Mirafi 180N or equal nonwoven filter fabric, Tensar Mira Grid 7XT geogrid and 1 ½" stone.

513.06 Method of Measurement: The method of measurement shall be the square feet of retaining wall constructed.

513.07 Basis of Payment

Payment will be made under:

Pay Item	Pay Unit
513.50 Retaining Wall	SF

Section 603 Pipe Culverts and Storm Drains

The provisions of Section 603 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

603.01 Description: The Corrugated Metal Pipe Arch shall be fabricated and installed according to the plans, details and construction notes provided by Contech Engineered Solutions for a BridgeCor Structure.

Pay Item	Pay Unit

603.16 15 inch culvert pipe option 1	LF
603.17 18 inch culvert pipe option 1	LF
603.409 Corrugated Metal Pipe Arch	LS

Section 606 Guardrail

The provisions of 606 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

Basis of Payment

Pay Item	Pay Unit
606.55 Guardrail Type 3 Single Rail	LF

Section 610 Stone Fill, Riprap, Stone Blanket and Stone Ditch Protection

The provisions of **Sections 610** of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

Description: This work includes final grading of the stream channel inside the pipe arch to create a uniform slope and backfill against the footings and sidewalls inside of the arch to prevent scour and provide a suitable substrate for fish passage.
Rip-rap for Slope Stabilization shall be Plain Riprap.

Materials.

Plain Riprap

The Contractor shall include but not limit the work under this section to placing nonwoven filter fabric and stone rip-rap at the inlet and outlet of the new pipe arch

Stream Channel Rock shall conform to the following requirements:

50 % by weight Plain Riprap conforming to the requirements of Section 703.26
50 % by weight Heavy Riprap conforming to the requirements of Section 703.28

Basis of Payment

Payment will be made under:

Pay Item	Pay Unit

610.08 Plain Riprap	CYD
610.210 Stream Channel Rock	CYD

Section 615 Loam

The provisions of Section 615 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

Description: This work includes placing a 5 inch thick layer of Loam/ Compost Mix on all disturbed soil areas as part of permanent erosion protection.

Materials:

The Loam/ Compost Mix shall consist of all parts of the tree including bark, heartwood and branches. It shall be a mixture of particle sizes and textures with 100 percent less than 3 inches by volume and 70 percent less than 1 inch by volume. It shall be aged, stable and moist with a dark brown color.

Pay Item	Pay Unit
615.086 Loam/ Compost Mix	CY

Section 652 Maintenance of Traffic

The provisions of Section 652 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

The roadway shall be closed for a period not to exceed 45 days with sufficient signage and advanced notification.

652.3.3 Lane Closure on a Two-Lane Road Using Flaggers—MUTCD 2003 Edition Figure 6H-10 Lane Closure on a Two-Lane Road Using Flaggers (TA-10) shall be incorporated into the Traffic Control Plan.

652.2.5 Portable Changeable Message Signs shall be installed 30 days prior to the road closure at each end of the Red Bridge Road to inform motorists and remain in place until the road closure.

Pay Item	Pay Unit
652.361 Supply and Maintenance of Traffic Control Devices	LS

652.38 Flaggers	HR
652.33 Drums	EA
652.34 Cone	EA
652.41 Portable-Changeable Message Sign	EA

Section 656 Temporary Soil Erosion and Water Pollution Control

The provisions of Sections 637 and 656 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

Pay Item	Pay Unit
656.66 Stone Check Dam	CYD
656.75 Temporary Soil Erosion and Water Pollution Control	LS

Section 659 Mobilization

The provisions of Section 659 of the State of Maine Department of Transportation Standard Specifications March 2020 shall apply with the following additions and modifications:

The total sum of payments under this item shall not exceed 10 percent of the original Contract amount bid.

Basis of Payment

Pay Item	Pay Unit
659.10 Mobilization	LS

Section 893 Stream Diversion and Temporary Cofferdams

893.01 Description: This work shall include installing, maintaining and removing temporary cofferdam structures and utilizing pumps or a temporary culvert to divert stream flows to maintain a dry work area for removing the existing pipe arch and installing the new footings and pipe arch.

893.02 General: The plans for this Stream Diversion and Temporary Cofferdams shall be submitted to the Engineer for review and approval prior to Construction. The City of Ellsworth will coordinate closing the gates of the Branch Lake Dam prior to the start of construction. Flows will be minimized to the greatest extent possible. The Contractor shall install temporary cofferdams upstream and downstream of the project site. After installing Temporary Cofferdams upstream and downstream, the Maine DIFW or a similar approved agency shall be engaged to remove fish from within the work area prior to dewatering.

The work area shall be dewatered prior to the commencement of removal of the existing pipe arch. The contractor shall install and maintain pumps for the anticipated flow. A screen shall be installed on the intake to prevent fish and other aquatic species from becoming entrained. Upon completion of removal of the existing pipe arch, the contractor may install a temporary stream diversion consisting of a pipe of suitable diameter or a plastic lined ditch to maintain stream flows. Pipes or channels shall be sized to safely convey, at a minimum the 2-yr, 24-hour design storm or anticipated high-flow conditions if applicable. Energy dissipation shall be provided at the downstream end of the diversion conduit. Turbid or sediment-laden water from the work area shall be discharged to a sediment basin that does not cause erosion or scour in the vicinity of the discharge point. Care shall be taken to ensure that construction and operation of the diversion will avoid or minimize any damage to the waterway, aquatic and terrestrial habitat, and aquatic life.

Flow barriers shall be inspected at the start and end of each workday, minimum. Repairs shall be made if necessary. The diversion and discharge points shall be inspected daily for signs of erosion. Required repairs to minimize erosion shall be made immediately.

893.03 Anticipated Flows:

July Mean Flow Rate	20.6 cfs
August Mean Flow Rate	11.9 cfs
September Mean Flow Rate:	12.3 cfs

893.04 Basis of Payment

Pay Item	Pay Unit
893.05 Stream Diversion	LS

Andrew McCullough

Engineering Consultants

93 Bucksport Road

PO Box 1497

Ellsworth, Maine 04605

Phone: 207-667-6551

Fax: 207-667-7137

e-mail: mccengr@gmail.com

April 29, 2022

Mrs. Lisa Sekulich, PE
City of Ellsworth Public Works Director
1 City Hall Plaza
Ellsworth, ME 04605

RE: Red Bridge Road/ Branch Lake Stream Crossing

Dear Lisa:

I anticipate the following scope of work to prepare plans, bid documents and permit applications for installing a new pipe arch on concrete walls and footings to replace the existing stream crossing. The plan is to pursue a design following the concept plan submitted to the Maine DEP for the Stream Crossing Grant.

Scope of Work:

Field Survey for Base Plan

Plan of Existing Conditions

Proposed Site Plan

Proposed Road Alignment

Proposed Road Vertical Profile

Elevation/ Section

Foundation Plan

Construction Details

Construction Notes

Preliminary Traffic Control Plan assuming road closure

Sediment and Erosion Control Plan

Estimated Quantities

Estimated Cost

Bid Documents

Bidding

Permit Applications

Permit Fees

Meetings and Review

Total Cost through Bidding: \$33,850

Estimated Cost for Construction Oversight: \$23,250

Construction Oversight---Engineer- 6 hours/ week @ 8 weeks 48 hours @
\$150 \$7250

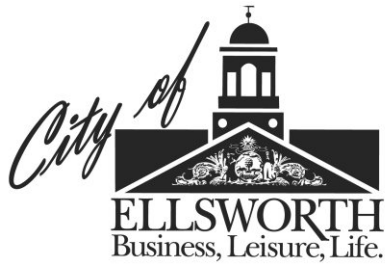
Construction Inspection---Inspector 5 hours/ day @ 40 days 200 hours @ 80
\$16,000

We can begin the field survey in approximately 6 weeks. I anticipate being prepared to solicit bids by January 15, 2023.

Please review and contact me with any questions.

Respectfully,

Andrew McCullough, PE



MEMO

To: City Council

From: Janna Richards, Economic Development Director and Matthew Williams, City Planner

Cc: Glenn Moshier, City Manager

Date: November 14, 2023

Re: Request to accept a grant award of \$32,000 from the Community Resilience Partnership

Background

On February 13, 2023, the City Council adopted a resolution to join the State's Community Resilience Partnership (CRP) program. After approval, staff completed an application to join the CRP and received confirmation of enrollment in the partnership on May 16, 2023.

As a benefit of membership, the City became eligible to apply for grant opportunities through the Community Action Grant program. Funds from this program can be used toward projects that increase the community's climate resilience.

To inform the City's Community Action Grant application, staff and public engagement were conducted. This process revealed one of the top priorities for the City to address included "Improving Mobility and Reducing Vehicle Miles Traveled." The scope of the grant application reflects this priority, proposing the allocation of funds toward a study evaluating strategies that increase alternative transportation modes, including bike and walking infrastructure. In addition, this priority was chosen to help leverage funds from another State program, MaineDOT's Village Partnership Initiative, which focuses on the downtown area/village center of municipalities and on evaluating bicycle and pedestrian infrastructure. With these two funding programs sharing goals, the proposal includes using the Community Action Grant funds as match to the MaineDOT's Village Partnership Initiative.

On September 13, 2023, staff received notice from the State that the City's Community Action Grant application had been awarded in the amount of \$32,000 to be used for the study. The contract from the State is included with this memo for Council's review.

Request

Staff respectfully requests the City Council authorize the City Manager to accept the \$32,000 grant from the Climate Resilience Partnership Community Action Grant program for a study to evaluate Ellsworth's

pedestrian and bicycle transportation resources within the downtown area. There are no required matching funds for this grant. Accordingly, the following motion is suggested:

Authorize the City Manager to execute the necessary agreement to accept a \$32,000 grant from the Climate Resilience Partnership Community Action Grant program for a study to evaluate Ellsworth's pedestrian and bicycle transportation resources within the downtown area.



STATE OF MAINE
GOVERNOR'S OFFICE OF POLICY
INNOVATION AND THE FUTURE

Janet T. Mills
Governor

Hannah Pingree
Director

AWARD CONFIRMATION

October 5, 2023

Matthew Williams
City of Ellsworth
1 City Hall Plaza
Ellsworth, Maine 04605

RFA#202305100: Award confirmation for Community Resilience Partnership Community Action Grant

Dear Mr. Williams,

This letter is in regard to the Request for Applications (RFA) issued by the State of Maine Governor's Office of Policy Innovation and the Future (GOPIF) for the Community Resilience Partnership Community Action Grant. The Department is pleased to confirm your award in the amount of \$32,000.00.

To accept this award and indicate your organization's good faith intention to satisfy the roles, deliverables, timelines, and outcomes set forth in the scope of work, sign below and return to GOPIF.

The grant performance period is October 26, 2023 to October 25, 2025. Quarterly reports are due 15 days after the close of the preceding quarter (Quarters: 1/1–3/31; 4/1–6/30; 7/1–9/30; 10/1–12/31). A final report is due 30 days after the end of the grant period. The State of Maine reserves the right to reclaim any or all of the grant award in the event that the Department deems a good faith effort has not been made by the awardee.

Attached to this letter you will find copies of the RFA and your application, and a quarterly reporting template. Ashley Krulik is the point of contact for your grant and can be contacted by phone at (207)-816-2717 or via email at ashley.krulik@maine.gov. Thank you again for your interest in doing business with the State of Maine.

Sincerely,

Hannah Pingree
Director, Governor's Office of Policy Innovation and the Future

To confirm acceptance of this grant award and commit to the roles, deliverables, timeline, and outcomes in your attached scope of work, please sign, date, and return to Brian Ambrette at GOPIF. Thank you.

Authorized Signature

Name

Date

State of Maine
Governor's Office of Policy Innovation and the Future
APPLICATION COVER PAGE

RFA# 202305100

Community Resilience Partnership Community Action Grant

Applicant's Organization Name:		City of Ellsworth	
Chief Executive - Name/Title:		Glenn Moshier, City Manager	
Tel:	207-669-6601	E-mail:	gmoshier@ellsworthmaine.gov
Headquarters Street Address:		1 City Hall Plaza	
Headquarters City/State/Zip:		Ellsworth, Maine 04605	
<i>(Provide information requested below if different from above)</i>			
Lead Point of Contact for Application - Name/Title:		Matthew Williams, City Planner	
Tel:	207-669-6615	E-mail:	mwilliams@ellsworthmaine.gov
Headquarters Street Address:		1 City Hall Plaza	
Headquarters City/State/Zip:		Ellsworth, Maine, 04605	

- This Application and the pricing structure contained herein will remain firm for a period of one hundred eighty (180) days from the date and time of the bid opening.
- No personnel currently employed by the Department or any other State agency participated, either directly or indirectly, in any activities relating to the preparation of the Applicant's Application.
- No attempt has been made, or will be made, by the Applicant to induce any other person or firm to submit or not to submit an Application.
- The above-named organization is the legal entity entering into the resulting contract with the Department should they be awarded the contract.
- The undersigned is authorized to enter contractual obligations on behalf of the above-named organization.

To the best of my knowledge, all information provided in the enclosed application, both programmatic and financial, is complete and accurate at the time of submission.

Name (Print): Matthew Williams	Title: City Planner
Authorized Signature: 	Date: 10/5/2023

State of Maine
Department of Governor's Office of Policy Innovation and the Future
DEBARMENT, PERFORMANCE, & NON-COLLUSION CERTIFICATION
RFA# 202305100

Community Resilience Partnership Community Action Grant

By signing this document, I certify to the best of my knowledge and belief that the aforementioned organization, its principals and any subcontractors named in this proposal:

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.*
- b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:*
 - i. Fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or contract.*
 - ii. Violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.*
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification.*
- d. Have not within a three (3) year period preceding this proposal had one or more federal, state, or local government transactions terminated for cause or default.*
- e. Have not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.*

Failure to provide this certification will result in the disqualification of the Applicant's Application.

Name (Print): Matthew Williams	Title: City Planner
Authorized Signature: 	Date: 10/5/2023

State of Maine
Governor's Office of Policy Innovation and the Future
APPLICATION FORM
RFA# 202305100
Community Resilience Partnership Community Action Grant

In responding to each Criteria below, Applicants should refer to the information provided in the corresponding areas of the Activities and Requirements section in the RFA. Applicants must use this application to respond to all desired information outlined here and in the RFA.

Criteria 1: Eligibility and Applicant Information

Applicant's Organization Name:	
Applicant's Organization is a:	☒ Municipality ☐ Tribal Government ☐ Township, plantation, or unorganized territory ☐ Service provider organization ☐ This is a joint application for a Group of Communities (if applicable).
Is applicant(s) currently enrolled in the Community Resilience Partnership?	☒ yes or ☐ enrolling simultaneously
In partnership with: <i>Letters of Support must be provided with Application.</i>	List Partners (if any)

Criteria 2: Previous Community Action Grant status

Is this the community's first application to the Community Action Grant?	☒ yes or ☐ no (If yes, skip the rest of this section.)
Does your community currently have an active Community Action Grant?	☐ yes , from: ☐ Spring 2022 ☐ Fall 2022 or ☒ no (If no, skip the rest of this section.)

Has an extension ever been requested for the active grant?	☐ yes or ☐ no
If this grant application is successful, what specific steps will the community take to ensure both grants are completed on-time?	

Criteria 3: Community Characteristics

Complete the table describing the characteristics of the community. See the RFA document (Section H-2 of Activities and Requirements) for information and instructions for completing this table. If this is a multi-community application, use the additional rows for each of the communities in the Group.

Community Name	Community Type (Municipality, Tribal Government, Plantation, Township, or Unorganized territory)	Region (1, 2, 3, 4)	Population	Social Vulnerability (low, medium, high)
Ellsworth	Municipality	2	8,531	Medium

Criteria 4: Maine Won't Wait Strategy and Action(s)

Project Title
Reducing Carbon Emissions & Vehicular Miles Traveled While Increasing Active Transportation in Ellsworth

For no-match grants, which Maine Won't Wait strategy <u>and</u> action(s) does the project seek to implement? <i>For grants to support other community-defined climate priorities, applicants must describe the project and how it meets the goals of Maine Won't Wait and complete the cost-share table in the budget worksheet below.</i>

Strategy Area A – Embrace the Future of Transportation; Action A5 – Implement strategies to increase public transit ridership and alternative transportation modes, including bike and walking infrastructure.

Strategy Area E: Protect the Environment & Promote Natural Climate Solutions;

Action E1- Set targets for increasing green space and tree planting to increase shade and water access in public spaces and carbon sequestration.

Criteria 5: Scope of Work

Project Description

Describe the proposed project, including the specific tasks and deliverables, roles and responsibilities, and expected outcomes.

The City of Ellsworth is seeking \$32,000.00 in funds to perform a full catalogue and evaluation of its non-vehicular transportation resources within its village center and begin initial steps to implement suggested improvements. The community resilience funding will be used to develop a transportation plan that identifies strategies to reduce carbon emissions on the roadway, such as increasing active transportation facilities, applying road diets and parking reductions, and thus reducing vehicle miles traveled. In addition, it will look at efficiencies for delivery, freight and commercial traffic within the study area and improve these metrics and safety for all modes of transportation.

Ellsworth has a dense and walkable downtown area, but current bike/ped infrastructure is lacking and does not facilitate safe and easy use. MaineDOT's Village Partnership Initiative ("VPI") Planning Phase provides the City of Ellsworth with the opportunity to fund an extensive assessment of hazard areas, potential remedies, and factors to improve active transportation and walkability in the village center. As a result of these improvements, active transportation would increase and carbon emissions would be reduced. The City is already taking steps to be proactive in making improvements. The City of Ellsworth is partnering with MaineDOT to install temporary demonstration projects at locations that are known problem areas for pedestrians to improve visibility, calm traffic, and make street crossing safer. These areas include Water Street, State Street, and Main Street, which are all within or feed into the historic downtown.

The main deliverable from this project will be the completed transportation plan, which will correlate with the VPI Planning Phase. The City is focused on a plan that looks at the feasibility and steps for execution to improve sidewalk connectivity, improve crosswalk safety, and look for the opportunity to install bike lanes or bike paths.

The City would be ready to begin the planning phase as soon as grant funds are awarded. For this project, City Planner Matthew Williams will head efforts in

coordination with Adam Wilson, Highway Foreman, Janna Richards, Economic Development Director, Glenn Moshier, City Manager, and MaineDOT to hire a consultant and see the successful completion of the plan. The expected outcomes for this project include having the above mentioned deliverables. Being able to understand the assets the City has in place and the areas that need improvement will allow the City to take deliberate steps to improve quality of life, safety, and the environment/air quality.

Additionally, this plan will be completed in similar timeframe as the City's Comprehensive Plan update and provide the City with necessary information to quickly respond to public input from the Comprehensive Plan regarding active transportation.

Project Timeline

Describe the timeline for completing each task or deliverable and the expected completion of the grant-funded project.

The planning phase of this project will begin on or around September 1, 2023 and will last for 12 months.

Choose the desired grant period: ☐ 12 months or ☒ 24 months

Note: The grant performance period is expected to begin on or around September 1, 2023.

Project Need

Describe the need for the project. Why is this project a community priority?

Ellsworth sees around 25,000 vehicles pass through the City per day with summer highs of 36,000 vehicles. As a major service center for Hancock County and beyond, Ellsworth's economy and infrastructure are heavily impacted by vehicular traffic. These impacts peak in summertime when the Acadia and Downeast regions attract millions of tourists, most of whom arrive and depart in automobiles that must pass through Ellsworth. And while the effects are at their highest in summertime, there is high traffic volume of many miles of road year-round as workers commute from one end of Ellsworth to the other or pass through to work on the island. A large percentage of Ellsworth's population lives within the Downtown area, yet may find it easier to drive from place to place than walk due to missing pedestrian infrastructure

and safeguards. Ellsworth also has a desire to increase green spaces available to the public and encourage more pedestrian circulation.

Road maintenance and condition are regular topics of conversation at local meetings as the City has ownership over 58 miles of roadway and maintains 99 miles. In FY 2020, 58% of road improvement and maintenance spending went to rural areas of the City. This figure is so high because 35% of overall spending went to making road improvements around the Branch Lake Watershed to improve water quality. The downtown needs similar investment to increase active transportation and decrease the amount of trips on urban roads. This would consequently decrease the overall maintenance costs for roads and cut down on carbon emissions.

Community Engagement and Equity Considerations

Describe your approach to community engagement. Maine's climate response must ensure shared benefits across diverse populations of Maine people. Applicants should include robust community engagement in their action grant proposals, for example inclusive planning processes so that diverse community voices are able to participate. Climate change impacts will create the greatest hardships for already marginalized communities, and Maine must identify and promote solutions to help the people most vulnerable to climate impacts. Applicants should consider the potential benefits of their proposed climate action projects and, if applicable, describe how the project distributes those benefits equitably.

During the grant application process, the City of Ellsworth sought community input in a variety of ways. First, a general survey was advertised to the public that asked citizens to rank each Strategy Area as either "High Priority," "Medium Priority," "Low Priority," and "Not a Priority." Examples of potential projects were provided with each Strategy Area to allow survey takers to understand what each strategy represented. The survey was open for a month and was advertised on the City's Facebook page through a boosted post and the City's website. A press release was also sent out and picked up by local news sources. Next, after the survey was closed, City staff held a public forum to discuss the results and receive feedback on projects the public would like to see occur. A primary takeaway from the public forum was to prioritize those studies and assessments that would seek to identify the City's baseline conditions in an effort to assess vulnerability/gaps and determine solutions to mitigate/fill gaps. The proposed transportation plan would meet these prioritized parameters as identified by the public.

Some of Ellsworth's most vulnerable populations include the elderly, disabled, and low-income families. These populations tend to live around and within Ellsworth's Urban Core. As examples, Union River Estates, Straw Way Family Housing, The

Meadows, Leonard Lake Senior Housing, and Oriole Way Apartments and Senior Housing are just a few of the low-income housing tailored for families, the elderly, and the disabled that are located within Ellsworth's Urban Core. Even if people within these communities do not live in the Urban Core, many work retail or other service jobs within it. The populations often do not own vehicular forms of transportation and improved and safe pedestrian and bicycle circulation is vital to allow people to get to work and essential services.

It is important to note that while locating low-income housing within the Urban Core allows residents to have more mobility options such as active transportation compared to being located outside of this designated area, those living within the urban center are more likely to experience the negative effects of carbon emissions.

The proposed transportation plan will allow for community engagement from the Ellsworth community as a whole; however, knowing these vulnerable populations are impacted by the lack of pedestrian and bicycle infrastructure and also knowing that these populations may have difficulty accessing public forums due to limited transportation options, the City will ensure an effort is made to collect feedback from these populations to inform the plan.

Criteria 6: Budget

Budget Narrative

Please provide a detailed explanation of your proposed project expenses organized by task, including how the proposed grant funding will be combined with other funding sources to support the project.

MaineDOT VPI Planning Grant- \$50,000.00
CRP- \$32,000.00
City Tax Appropriations or TIF Funds- \$18,000.00

There are two main tasks associated with this full project. Task 1 is the development of an active transportation plan that reduces carbon emissions on the roadway by increasing active transportation facilities, applying road diets and parking reductions, thus reducing vehicle miles traveled. The plan would focus on increasing connectivity of pedestrian transportation networks such as sidewalks and walking paths, particularly within the dense residential neighborhoods near downtown. Additionally, improving sight distance at crosswalks and improving crosswalk accessibility for all users. Studying the feasibility of bike lanes and bike paths for active transportation usage within the downtown area will be part of the study and plan. The plan will also examine increased beautification along some of Ellsworth's major corridors to help induce safer speeds and traffic dieting. This task would involve the hiring of a traffic planning service consultant at a price of roughly \$100,000.00 to complete the plan. The study will be funded through \$50,000.00 from a MaineDOT VPI Planning Grant, \$18,000.00 from City funds, and \$32,000.00 from CRP.

RFA# 202305100 – APPLICATION

Cost-Share Table (if applicable)

Which cost share applies to the lead applicant?

What is the project cost share amount?

A cost share will apply For Climate Action Grants that implement other community climate and energy priorities (i.e., activities not found in the Community Action Inventory).

Tier 1: Communities with populations less than 4,000

Tier 2: Communities with EITHER populations between 4,000 and 10,000 OR tax assessment less than \$25 million (according to State Revenue Sharing data).

Tier 3: Communities with populations greater than 10,000 AND tax assessment greater than \$25 million (according to State Revenue Sharing data).

Tier 1	Tier 2	Tier 3
10% local match	10% local match	20% local match

N/A

Budget Worksheet

Project Task	Funds Requested	Other Funds (match, rebates, etc.)	Total Project Budget
Task 1	\$32,000.00	\$68,000.00	\$100,000.00
Task 2			
Task 3			
Task 4			
(add additional tasks as needed)			

Total	\$32,000.00	\$68,000.00	\$100,000.00

IMPORTANT: The applicant's budget narrative and budget worksheet must include any applicable incentives or rebates (for example, from Efficiency Maine) at the time of application, including for electric vehicles and charging equipment, heat pumps and VRF systems, LED lighting, and water heaters.

State of Maine
Governor's Office of Policy Innovation and the Future
LETTERS OF SUPPORT
RFA# 202305100
Community Resilience Partnership Community Action Grant

Applicants are strongly encouraged to include letters of support from municipal and county officials, local civic leaders, or state legislators.

If this is a collaborative application from multiple communities, all participating communities must include a letter of support.

Brian Ambrette
Senior Climate Resilience Coordinator
Governor's Office of Policy Innovation and the Future
181 State House Station
Augusta, ME 04333

July 5, 2023

Dear Mr. Ambrette:

I am writing in support of the City of Ellsworth's grant proposal to conduct an assessment of the City's active transportation infrastructure and conduct the planning phase of the Village Partnership Initiative (VPI) with the Maine Department of Transportation. Over the past several decades, lack of consistent planning of the bike/ped and traffic calming infrastructure has left the City with disjointed paths, deteriorating sidewalks, and unsafe pedestrian crossings which create a risk to the health and safety of the citizens of Ellsworth. Additionally, the lack of accessible and cohesive active transportation infrastructure encourages large volumes of local vehicular traffic which greatly increases carbon emissions within the City. These environmental impacts are only increased during the warmer months where the City sees a large amount of tourism and therefore more vehicular traffic. Ellsworth is looking to get a handle on the problem and improve quality of life, health & safety, and walkability in Ellsworth's Downtown.

As a resident of downtown Ellsworth who does not drive, I have seen the effects of our current active transportation infrastructure and lack of alternative means of travel. I can walk to most places I need to get to when the weather is nice, but crossing major roadways is unsafe, especially with tourists who may not be aware pedestrians have right-of-way in crosswalks. Our current public transportation runs only Monday-Friday and does not have frequent enough stops to make it workable for errands or riding to other areas it serves on weekends. Additionally, when I lived in a third-floor apartment in downtown's center, the exhaust fumes from backed-up traffic made opening the windows for "fresh air" in the summer unbearable. With this combination of issues experienced by myself and all who live downtown, other solutions are needed.

I highly support the City of Ellsworth's commitment to this grant proposal and the VPI project. The City has successfully administered numerous State and Federal grant funds in the past and is well positioned to administer an award through the Community Resilience Partnership. By assessing the current needs in the Downtown with regards to walkability and environmental impact of vehicular traffic, it will help position the City to create a practical plan for the Village Partnership Initiative and help better improve the walkability and environmental sustainability in Ellsworth.

Respectfully,



Jennifer Sala

Brian Ambrette
Senior Climate Resilience Coordinator
Governor's Office of Policy Innovation and the Future
181 State House Station
Augusta, ME 04333

July 5, 2023

Dear Mr. Ambrette:

I am writing in support of the City of Ellsworth's grant proposal to conduct an assessment of the City's active transportation infrastructure and conduct the planning phase of the Village Partnership Initiative (VPI) with the Maine Department of Transportation. Over the past several decades, lack of consistent planning of the bike/ped and traffic calming infrastructure has left the City with disjointed paths, deteriorating sidewalks, and unsafe pedestrian crossings which create a risk to the health and safety of the citizens of Ellsworth. Additionally, the lack of accessible and cohesive active transportation infrastructure encourages large volumes of local vehicular traffic which greatly increases carbon emissions within the City. These environmental impacts are only increased during the warmer months where the City sees a large amount of tourism and therefore more vehicular traffic. Ellsworth is looking to get a handle on the problem and improve quality of life, health & safety, and walkability in Ellsworth's Downtown.

As a local business owner, member of the School Board, and member of the Comprehensive Plan Steering Committee, I have seen the effects of our current active transportation infrastructure and lack of alternative means of travel. As a downtown resident and business owner, I see firsthand the inability of the City to maintain its pedestrian infrastructure due to funding. I also get a lot of feedback from my customers that they are concerned about the safety of themselves and their families when walking along some of Ellsworth's busier roads. In my role as a School Board member, I am aware of the many students who walk to and from school or to other recreational activities. The safety of these students is called into question when they are forced to walk down roads without sidewalks and without proper visibility and signage.

I highly support the City of Ellsworth's commitment to this grant proposal and the VPI project. The City has successfully administered numerous State and Federal grant funds in the past and is well positioned to administer an award through the Community Resilience Partnership. By assessing the current needs in the Downtown with regards to walkability and environmental impact of vehicular traffic, it will help position the City to create a practical plan for the Village Partnership Initiative and help better improve the walkability and environmental sustainability in Ellsworth.

Respectfully,



Paul Markosian

Brian Ambrette
Senior Climate Resilience Coordinator
Governor's Office of Policy Innovation and the Future
181 State House Station
Augusta, ME 04333

July 3rd, 2023

Dear Mr. Ambrette:

I am writing in support of the City of Ellsworth's grant proposal to conduct an assessment of the City's active transportation infrastructure and planning phase of the Village Partnership Initiative (VPI) with the Maine Department of Transportation. Over the past several decades, lack of consistent planning of the bike/ped and traffic calming infrastructure has left the City with disjointed paths, deteriorating sidewalks, and unsafe pedestrian crossings which create a risk to the health and safety of the citizens of Ellsworth. Additionally, the lack of accessible and cohesive active transportation infrastructure encourages large volumes of local vehicular traffic which greatly increases carbon emissions within the City. These environmental impacts are only increased during the warmer months where the City sees a large amount of tourism and therefore more vehicular traffic. Ellsworth is looking to get a handle on the problem and improve quality of life, health & safety, and walkability in Ellsworth's Downtown.

As a local business owner and downtown resident, I live the effects of our current active transportation infrastructure and lack of alternative means of travel: I walk between my home and my business, downtown shops, city hall, the harbor park, and often have to dodge commuters attempting to bypass traffic. I cut through yards to avoid busy streets which lack sidewalks. I sprint like Frogger across our downtown roads and confusing intersections. And as a city councilor, I receive constant feedback from residents on the sorry state of our sidewalks, dangerous intersections, backed-up traffic, potholes, etc.

I highly support the City of Ellsworth's commitment to this grant proposal and the VPI project. The City has successfully administered numerous State and Federal grant funds in the past and is well positioned to administer an award through the Community Resilience Partnership. By assessing the current needs in the Downtown with regards to walkability and environmental impact of vehicular traffic, it will help position the City to create a practical plan for the Village Partnership Initiative and help better improve the walkability and environmental sustainability in Ellsworth.

Respectfully,

Jon Stein, downtown resident, Ellsworth City Councilor & Owner, Fogtown Brewing Company

Nicole Grohoski
Senator, District 7



P.O. Box 1732
Ellsworth, ME 04605

THE MAINE SENATE
131st Legislature

July 5, 2023

Brian Ambrette, Senior Climate Resilience Coordinator
The Governor's Office of Policy Innovation and the Future
181 State House Station
Augusta, Maine 04333-0181

To Mr. Brian Ambrette:

I am writing in support of the City of Ellsworth's grant proposal to conduct an assessment of the City's active transportation infrastructure and conduct the planning phase of the Village Partnership Initiative (VPI) with the Maine Department of Transportation.

Over the past several decades, lack of consistent planning of bicycle, pedestrian, and traffic calming infrastructure has left the City with disconnected paths, deteriorating sidewalks, and unsafe pedestrian crossings which create a risk to the health and safety of the people of Ellsworth and the many tourists who visit. Additionally, the lack of cohesive and accessible active transportation infrastructure results in large volumes of local vehicular traffic which greatly increases greenhouse gas emissions within the City.

As a resident of Ellsworth and its State Senator, I strongly support the City of Ellsworth's commitment to this grant proposal and the VPI project. The City has successfully administered numerous State and Federal grant funds in the past and is well positioned to administer an award through the Community Resilience Partnership. The proposed assessment will help the City create a practical plan for the Village Partnership Initiative and help improve the walkability, bikeability, and environmental sustainability of Ellsworth.

Thank you for considering this request. Please feel welcome to contact me with any questions.

Best Regards,

A handwritten signature in black ink that reads "Nicole C. Grohoski".

Nicole Grohoski, State Senator

CERTIFICATE OF MEMBERSHIP

ISSUE DATE 06/30/23

NAMED MEMBER

City of Ellsworth
One City Hall Plaza
Ellsworth, ME 04605

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND, OR ALTER THE COVERAGE AFFORDED BY THE POOL.

COMPANIES AFFORDING COVERAGE

COMPANY

A - MAINE MUNICIPAL ASSOCIATION PROPERTY AND CASUALTY POOL

60 Community Dr.
Augusta, ME 04330

COVERAGES

THIS IS TO CERTIFY THAT THE COVERAGE LISTED BELOW IS AFFORDED TO THE MEMBER NAMED ABOVE FOR THE PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH PROGRAM.

CO LTR	TYPE OF COVERAGE		CERTIFICATE NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS OF LIABILITY
A	General Liability		P09130PC2022	07/01/2022	07/01/2023	\$400,000/occurrence for causes of action pursuant to the Maine Tort Claims Act. Coverage is limited to those areas for which governmental immunity has been expressly waived. \$2,000,000/occurrence for causes of action pursuant to federal law or state law for which immunity is not provided by the Maine Tort Claims Act. The total limit of liability available per occurrence is \$2,000,000 regardless of number or types of actions.
	X	Premises/Operations				
	X	Products/Completed Operations				
	X	Contractual				
	X	Broad Form Property Damage				
	X	Personal Injury				
	X	Bodily Injury/Property Damage				
		Claims Made	X	Occurrence		
	Law Enforcement Liability					
	Medical Malpractice / Ambulance Malpractice					
	Automobile Liability					\$400,000/occurrence
	Automobile Physical Damage					
	Property - All Risk					
	Crime					
	Other					
	Workers Compensation and Employer Liability					

Description of Operations/Locations/Vehicles/Special Items

Coverage under the above-identified Certificate applies only on behalf of the City of Ellsworth with respect to Section III-Liability, Agreement D-General Liability with respect to the Community Resilience Partnership Community Action Grant RFA# 202305100 only with respect to claims or "suits" arising, in whole or in part, out of the acts, conduct or omissions of the City of Ellsworth.

Certificate Holder

Governor's Office of Policy Innovation and the Future
181 State House Station
Augusta, ME 04330

Cancellation

Should any of the above described certificates be cancelled before the expiration date thereof, notice will be delivered in accordance with the common conditions.

Authorized Representative

Michelle Pelletier

STATE OF MAINE
Governor's Office of Policy Innovation and the Future



RFA# 202305100

**Community Resilience Partnership
Community Action Grant**

RFA Coordinator	All communication regarding the RFA <u>must</u> be made through the RFA Coordinator identified below. Name: Brian Ambrette Title: Senior Climate Resilience Coordinator Contact Information: brian.ambrette@maine.gov
Informational Webinar	Date: June 1, 2023 Time: 3:00 p.m., local time Location: virtual webinar (Zoom) Please click the link below to join the webinar: https://mainestate.zoom.us/j/86418630427?pwd=cG9nSnVpTUV4YlJqUVVVCVkrVC90Zz09
Submitted Questions	All questions must be submitted, by e-mail, to the RFA Coordinator no later than June 9, 2023 at 11:59 pm, local time and must include "RFA# 202305100 Questions" in the subject line of the e-mail.
Application Submission Period	<i>Applications <u>must</u> be received by the Division of Procurement Services by:</i> Initial Submission Deadline: July 7, 2023 , no later than 11:59 p.m., local time. Applications must be submitted electronically to the Division of Procurement Services at proposals@maine.gov and must include "RFA# 202305100 Application – [Applicant's Name]" in the subject line of the e-mail.

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RFA TERMS/ACRONYMS with DEFINITIONS

The following terms and acronyms, as referenced in the RFA, shall have the meanings indicated below:

Term/Acronym	Definition
Department	Governor's Office of Policy Innovation and the Future
RFA	Request for Application
State	State of Maine
Service Provider Grant	Grant to a service provider to provide assistance to a Group of communities in Maine to prepare for and enroll in the Community Resilience Partnership and then to apply for grant funds to implement priority climate and energy projects. Please see RFA# 202305099 – Service Provider Grant for more information.
Community	A municipal government, Tribal Government, plantation, township, or unorganized territory in Maine.
Group	Multiple communities submitting a single joint application for grant funding.
Community Action Grant	Upon enrollment in the Community Resilience Partnership, communities are eligible for Community Action Grants for projects that reduce energy use and costs, transition to clean energy, and make communities in Maine more resilient to climate change.

**Community Resilience Partnership
Community Action Grant
RFA# 202207017
Details and Instructions**

A. Application Purpose and Background

The Governor's Office of Policy Innovation and the Future (Department) is seeking applications for Community Action Grants as defined in this Request for Application (RFA) document. This document provides the Application to be used for submittal, instructions for submitting applications, the procedure and criteria by which the awarded Applicants will be selected.

The Community Resilience Partnership provides grants and assistance to municipalities, Tribal Governments, and unorganized territories for projects that reduce energy use and costs, transition to clean energy, and make communities in Maine more resilient to climate change. Communities – those that have already taken significant climate action as well as those considering their early steps – are eligible for Community Action Grants upon completion of [program enrollment requirements](#).

Communities that would like assistance completing enrollment activities and applying for Community Action Grants are encouraged to partner with [Service Provider Organizations](#). [RFA# 202305099](#) – Service Provider Grant is available to support this assistance to communities.

B. General Provisions

1. From the time this RFA is issued until award notification is made, all contact with the State regarding this RFA must be made through the RFA Coordinator identified on the cover page of this RFA. No other person/State employee is empowered to make binding statements regarding this RFA. Violation of this provision may lead to disqualification from the application process, at the State's discretion.
2. The Applicant shall take careful note that in evaluating its application submitted in response to this RFA the Department will consider materials provided in the application and internal Departmental information of previous contract history, if any, with the Applicant. The Department also reserves the right to consider other reliable references and publicly available information in evaluating the Applicant's experience and capabilities.
3. All submissions in response to this RFA will be public records, available for public inspection pursuant to the State of Maine Freedom of Access Act (FOAA) ([1 M.R.S. § 401](#) et seq.).
4. All applicable laws, whether or not herein contained, shall be included by this reference. It shall be the Applicant's responsibility to determine the applicability and requirements of any such laws and to abide by them.

C. Eligibility to Submit Applications

There are two (2) eligible types of applicants for the Community Action Grant:

- 1) Individual Communities (as defined on page 3) in Maine who are enrolled in the [Community Resilience Partnership](#). Applicants may submit enrollment materials through the [enrollment portal](#) simultaneously with submitting their grant application.

(Unorganized territories, townships, and plantations are eligible and are strongly encouraged to work with a Service Provider to complete the enrollment process.)

- 2) Multiple Communities (as defined on page 3) may apply jointly for projects that address mutual goals and have interrelated scopes of work.
 - a. All communities participating in the application must be enrolled in the Partnership at the time the grant application is submitted or submit enrollment materials through the [enrollment portal](#) simultaneously with the grant application.
 - b. Service Providers may apply on behalf of groups of communities only for actions listed in the List of Community Actions (available [here](#)). Letters of support must be provided from each community in the proposed group.
 - c. In a multi-community application, the communities are required to designate a lead applicant. Factors to consider might include which community will receive the grant funds and manage the contracting and grant reporting on behalf of the partner communities. The communities may wish to have a memorandum of understanding (MOU) that spells out the responsibilities of each community. If an MOU is established, GOPIF may request a copy of the document during the grant contracting phase.

A community may participate in no more than one (1) Community Action Grant application in a round.

Communities that already have an active Community Action Grant from a previous round are eligible to apply in this round but may not apply for new funds to support the same project.

School districts, water and sewer districts, neighborhood associations, and similar entities are not eligible to be primary applicants but are encouraged to partner with a municipality or other eligible entity described above.

D. Number of Awards

The Department anticipates making multiple awards as a result of the RFA process.

Funding for this program is provided in the state biennial budget. For this round of Community Action Grant applications, \$1,100,000 has been allocated. The Department may award all, part, or none of this allocation at its discretion.

RFA# 202305100 – Community Resilience Partnership Climate Action Grant

Maximum Award: Individual communities, as defined above, are eligible for a minimum award of \$5,000 and a maximum award of \$50,000. Groups of communities applying jointly are eligible for awards of up to \$125,000.

First-time Applicants: The Department intends to prioritize awards to those applicants who have not previously received funding under this grant program. Awards will be made starting with first-time applicants that score highest and awards being made to subsequent applicants in order of the scores received. In order to be considered for prioritization, the first-time application must receive a minimum score of 75 total points (this minimum is not a guarantee of an award). If funds remain available after awarding first-time application awards, the Department will issue awards to applicants who have previously received funding from Community Action Grants, starting with the highest scores awarded.

E. Contract Terms

Contract terms will be up to two (2) years, as specified by the applicant's proposal.

The expected start of the grant performance period is on or around September 15, 2023.

F. Future Grant Rounds and Application Submittals

Pending availability of funding, the Department anticipates future grant rounds to occur at approximately 8-10 month intervals. A potential schedule of future rounds would be:

Round 4: Winter-Spring 2024

Round 5: Fall-Winter 2024

Applicants may apply only once per grant round but may apply to subsequent grant rounds as desired.

**Community Resilience Partnership
Community Action Grant
RFA# 202305100
Activities and Requirements**

G. Grants

1. Eligible activities. There are two types of Community Action Grants:

- i. No-match grants to support implementation of one or more activities in the List of Community Actions (available [here](#)) that are aligned with the state's climate action plan, [Maine Won't Wait](#).
- ii. Grants to support other community-defined climate and energy implementation priorities. A cost-share (match) will apply, as described in the table below.

The source of funding for these grants is the state budget, therefore applicants are strongly encouraged to utilize Community Action Grants as match to leverage federal grant funds. Community Action Grants may also be used to close project funding gaps for other state funding programs, in accordance with (i) or (ii) above. It is the applicant's responsibility to consult the rules for the federal or state funding programs if the Community Action Grant will be designated as cost-share or match.

Certain eligible activities from the List of Community Actions carry special instructions or limitations. **It is the applicants' responsibility to review the list and ensure that the proposed activities meet all eligibility requirements.** For example,

- Purchase of electric vehicles (Action A1): A maximum of \$7,500 of a Community Action Grant may be applied to the purchase of an electric vehicle for municipal or tribal fleets. Eligible vehicles include light-duty, medium-duty, and heavy-duty on-road electric vehicles as well as electric riding mowers and electric outboard engines that are part of a municipal fleet, all subject to the maximum award amount. Where applicable, Efficiency Maine's electric vehicle rebate must be included in the applicant's project budget.
- Energy efficiency projects (Actions B1-B5): Energy efficiency projects such as heat pumps, VRF systems, LED lighting upgrades, water heaters, etc. must be eligible for Efficiency Maine's incentives. The applicant's project budget must include applicable Efficiency Maine rebates or incentives.
- Bulk purchasing (Action H7): Grant funds may not be used to purchase or subsidize equipment or services for residential or commercial properties.

2. Cost-share (or match). There is no local cost share for Community Action Grants

that implement activities from the List of Community Actions (available [here](#)).

A cost share will apply for Community Action Grants that implement community climate and energy priorities other than those listed in the List of Community Actions. The cost-share is structured in a tiered approach. In-kind match is permitted. Communities that have a cost-share requirement are encouraged to leverage funds from the federal American Rescue Plan Act (ARPA), Bipartisan Infrastructure Law (BIL), and Inflation Reduction Act (IRA) or other state and federal sources.

Tier	Description	Cost-share for activities <u>not</u> listed in the List of Community Actions
Tier 1	Communities with populations less than 4,000	10%
Tier 2	Communities with EITHER populations between 4,000 and 10,000 OR tax assessment less than \$25 million (according to State Revenue Sharing data).	10%
Tier 3	Communities with populations greater than 10,000 AND tax assessment greater than \$25 million (according to State Revenue Sharing data)	20%

All funded projects will be required to provide quarterly updates until the project is completed, as well as project deliverables and a brief project case study that communicates lessons learned.

H. Application Components

A complete and scoreable application for funding will include the following components. Specific descriptions of each component are included in the required application form (see page 14).

1. General Information, Eligibility, and Application Information

Applicants must complete the following documents as part of their application:

- Application Cover Page & General Assurances
- Debarment, Performance and Non-Collusion Certification
- Eligibility and Applicant Information (see Section C above)

2. Previous Community Action Grant status

If applicable, applicants must provide information on previously received Community Action Grants including current status and whether the project is meeting the proposed timeline and outcomes. Applicants who are not meeting the requirements of their current grant agreement are not eligible for an additional grant.

3. Community Characteristics

Additional application scoring points are available for communities with small- and medium-sized populations and communities with high and medium social vulnerability.

Applicants should refer to the following sources to complete the Community Characteristics section of the application form:

- Social Vulnerability Index (SVI) [categorization information](#)
- Community Resilience Partnership regions:
 - Region 1: York, Cumberland, Sagadahoc, Lincoln, Knox, and southern Oxford Counties (including Brownfield, Denmark, Fryeburg, Hiram, Lovell, Porter, Stoneham, Stow, Sweden).
 - Region 2: Waldo, Hancock, and Washington Counties.
 - Region 3: Androscoggin, Oxford, Kennebec, Franklin, and Somerset Counties.
 - Region 4: Piscataquis, Aroostook, and Penobscot Counties.

4. Maine Won't Wait Strategy and Action(s)

For no-match grants from the List of Community Actions (available [here](#)), the Applicant must identify the [Maine Won't Wait](#) strategy and action(s) that the project will implement.

For grants to support other community-defined climate priorities, Applicants must describe the project and how it meets the goals of [Maine Won't Wait](#), and must complete the cost-share table in the budget worksheet.

5. Scope of Work

- Project Description - Describe the proposed project, including the tasks and deliverables, project timeline, roles and responsibilities of project managers and partners, and the expected outcomes.
- Project Timeline - Describe the timeline for completing each task or deliverable and the expected completion of the grant-funded project.
- Need for the Project - Describe the need for the project. Why is this project a community priority?
- Approach to community engagement and equity considerations - Maine's climate response must ensure shared benefits across diverse populations of Maine people. Applicants should include robust community engagement in their action grant proposals, for example inclusive planning processes so that diverse community voices are able to participate. Climate change impacts will create the greatest hardships for already marginalized communities, and Maine must identify and promote solutions to help the people most vulnerable to climate impacts. Applicants should consider the potential benefits of their

proposed climate action projects and, if applicable, describe how the project distributes those benefits equitably.

6. Budget Proposal

Applicants must provide a Budget Narrative and Budget Worksheet detailing the cost of the grant and where specific funds will be allocated.

Eligible expenses are limited to those incurred during the grant period of performance. Expenses incurred prior to or after the period of performance are not eligible. Expenses incurred prior to the grant period of performance are not eligible to be included in the budget nor as match.

For grants to support other community-defined climate priorities not listed in the List of Community Actions (available [here](#)), applicants must complete the cost-share table in the budget worksheet. In-kind match is permitted. In-kind match is the value of any real property, equipment, goods, or services contributed to the grant that would have been eligible costs. In-kind match is counted only for the period of the grant award.

IMPORTANT: The applicant's budget narrative and budget worksheet must include any applicable incentives or rebates (for example, from Efficiency Maine) at the time of application, including for electric vehicles and charging equipment, heat pumps and VRF systems, LED lighting, and water heaters.

**Community Resilience Partnership
Community Action Grant
RFA# 202305100
Key Process Events**

I. Informational Meetings

The Department will host an Informational Meeting concerning the RFA via Zoom. Time and a web link to the meeting are provided on the cover page of this RFA.

The purpose of the Informational Meeting is to provide information about the grant program, answer and/or field questions, clarify for potential Applicants any aspect of the RFA requirements that may be necessary and provide supplemental information to assist potential Applicants in submitting responses to the RFA. Although attendance at the Informational Meeting is not mandatory, it is strongly encouraged that interested Applicants attend.

J. Submitting Questions about the Request for Applications

Any questions must be submitted by e-mail and received by the RFA Coordinator identified on the cover page of this RFA, as soon as possible but no later than the date and time specified on the RFA cover page. Submitted Questions must include the subject line: "RFA# 202305100 Questions". The Department assumes no liability for assuring accurate/complete/on time e-mail transmission and receipt.

Question & Answer Summary: Responses to all questions will be compiled in writing and posted on the Division of Procurement Services [Grant RFPs and RFAs](#) website. It is the responsibility of all interested parties to go to this website to obtain a copy of the Question & Answer Summary. Only those answers issued in writing on this website will be considered binding.

K. Amendments to the Request for Applications

All amendments (if any) released in regard to this Request for Applications will be posted on the Division of Procurement Services [Grant RFPs and RFAs](#) website. It is the responsibility of all interested parties to go to this website to obtain amendments. Only those amendments posted on this website are considered binding.

L. Application Submission

- 1. Applications Due:** Applications must be received no later than 11:59 p.m. local time, on the date listed on the cover page of the RFA. E-mails containing original application submissions, or any additional or revised application files, received after the 11:59 p.m. deadline will be rejected without exception.

If the need arises, the Department may reopen this RFA.

- 2. Submission Instructions:** Applications are to be submitted electronically to the RFA# 202305100 – Community Resilience Partnership Climate Action Grant

State of Maine Division of Procurement services, via e-mail, to proposals@maine.gov.

- a. Only applications received by e-mail will be considered. The Department assumes no liability for assuring accurate/complete e-mail transmission and receipt.
- b. E-mails containing links to file sharing sites or online file repositories will not be accepted as submissions. Only e-mail applications that have the actual requested files attached will be accepted.
- c. Encrypted e-mails received which require opening attachments and logging into a proprietary system will not be accepted as submissions. Please check with your organizations Information Technology team to ensure your security settings will not encrypt your proposal submission.
- d. File size limits are 25MB per e-mail. Applicants may submit files across multiple e-mails, as necessary, due to file size concerns. All e-mails and files must be received by the due date and time listed above.
- e. Applicants are to insert the following into the subject line of their e-mail submission: **"RFA# 202305100 Application – [Applicant's Name]"**.
- f. Applications are to be submitted as a single, typed, PDF or Word file and contain the completed application form (found on p. 14) and all relevant attachments.

**Community Resilience Partnership
Community Action Grant
RFA# 202305100
Application Evaluation and Selection**

M. Scoring Weights and Process

Scoring Criteria	Points Available
Criteria 1: General Information and Eligibility	Pass/Fail
Criteria 2: Previous Community Action Grant status	Pass/Fail
Criteria 3: Community Characteristics • <u>5 points</u> for a small (population less than 4,000) community or high social vulnerability. • <u>3 points</u> for a medium-size (population between 4,000 and 10,000) community or medium social vulnerability. • In a multi-community application, one qualifying community may earn points for the whole application	Up to 5 points
Criteria 4: Maine Won't Wait Strategy and Action(s)	15 points
Criteria 5: Scope of Work • Project Description • Need for the Project • Approach to Community Engagement and Consideration of Equity	60 points
Criteria 6: Budget Proposal	20 points
Total Points	100 points

An evaluation team, composed of qualified reviewers, will judge the merits of the applications received in accordance with the criteria defined in the RFA.

For applications that demonstrate meeting the eligibility requirements in Criteria 1, the evaluation team will use a consensus approach to evaluate and score the remaining Criteria sections shown above. Members of the evaluation team will not score those sections individually but, instead, will arrive at a consensus as to assignment of points for each of those sections.

N. Selection and Award

1. The final decision regarding the award of the contract will be made by representatives of the Department subject to approval by the State Procurement Review Committee.
2. Notification of conditional award selection or non-selection will be made in writing by the Department.
3. Issuance of the RFA in no way constitutes a commitment by the State of Maine to award a contract, to pay costs incurred in the preparation of a response to the RFP, or to pay costs incurred in procuring or contracting for services, supplies, physical space, personnel or any other costs incurred by the Bidder.
4. The Department reserves the right to reject any and all applications or to make multiple awards.

O. Appeal of Contract Awards

Any person aggrieved by the award decision that results from the RFA may appeal the decision to the Director of the Bureau of General Services in the manner prescribed in [5 M.R.S.A. § 1825-E](#) and [18-554 Code of Maine Rules Chapter 120](#). The appeal must be in writing and filed with the Director of the Bureau of General Services, 9 State House Station, Augusta, Maine, 04333-0009 within 15 calendar days of receipt of notification of conditional contract award.

**Community Resilience Partnership
Community Action Grant
RFA# 202305100
Application Form**



Applicants must use the embedded application document to complete their application. The application document can be accessed by double clicking on the icon above.

Applicants must also provide a certificate of insurance on a standard ACORD form (or the equivalent) evidencing the Bidder's general liability, professional liability and any other relevant liability insurance policies that might be associated with the proposed services.

**Governor's Office of Policy Innovation and the Future
Community Resilience Partnership
Quarterly Report & Final Case Study Template**

Grant Recipient:	Organization Name
Grant Type:	Community Action Grant
Grant Round:	Choose an item.
Funding Award:	Full Amount of Grant Award
Reporting Period:	Quarter Being Reported On
Submitted by:	Reporter's Name and Contact Information
Date Submitted:	Date Sent to Contract Administrator

Funds Spent This Quarter	Funds Spent to Date	Funds Remaining
Amount of funds spent this quarter	Amount of Funds Spent to date	Remaining Award Funds

Quarterly Task Updates

In the following narratives for each task, provide an update of progress during the recent quarter on activities and outcomes. Discuss briefly whether the task is on track, ahead of, or behind your expected pace of progress? To what factors do you attribute this pace? Are there opportunities to capitalize on this success or adjust your plans to compensate for the pace?

Task 1 Narrative:	Update on progress of Task 1
Task 1 Percent Complete:	Estimated amount of Task (as a percent)

Task 2 Narrative:	Click or tap here to enter text.
Task 2 Percent Complete:	Click or tap here to enter text.

Task 3 Narrative:	Click or tap here to enter text.
Task 3 Percent Complete:	Click or tap here to enter text.

Task 4 Narrative:	Click or tap here to enter text.
Task 4 Percent Complete:	Click or tap here to enter text.

Task 5 Narrative:	Click or tap here to enter text.
Task 5 Percent Complete:	Click or tap here to enter text.

Task 6 Narrative:	Click or tap here to enter text.

Task 6 Percent Complete:	Click or tap here to enter text.

Task 7 Narrative:	Click or tap here to enter text.

Task 7 Percent Complete:	Click or tap here to enter text.

Add additional tasks if needed

General Narrative

Overview of any conditions not reported in Task narratives, including:

- new opportunities or challenges that have been identified
- new or unexpected partners, or barriers to partnerships
- important lessons to take away from this reporting period

Click or tap here to enter text.

If this is a quarterly report and there is still work remaining under this grant, stop here and delete the following pages.

If this is a final report and all deliverables have been completed, please complete the following pages in addition to the sections above.

Final Report & Case Study

After completing the quarterly update above, fill out this section only when you have completed the scope of work and have no remaining expenses for the grant. This final report is due no later than 30 days after the end of the grant period. See the award notification letter for due dates. If you are not submitting a final report at this time, you may delete the following pages.

Aim for 100-300 words for each response. These responses may be used in publicly accessible materials to share project details, outcomes, lessons, and best practices.

1. Describe the final product(s) or result(s) of the project.

Click or tap here to enter text.

2. As specifically as possible, how has this project advanced the community's priorities for energy efficiency, clean energy, and/or community resilience?

Click or tap here to enter text.

3. How were community members engaged in the project? What lasting benefit will there be because of their participation?

Click or tap here to enter text.

4. If you were starting this project over again, what lessons would you apply?

Click or tap here to enter text.

5. What future needs has this project surfaced or what future projects will this project enable?

Click or tap here to enter text.

6. Will the community seek funding to continue any aspects of this project? If yes, what sources of funding are being considered?

Click or tap here to enter text.

7. What aspects of the Community Resilience Partnership made your experience with this project easier? What aspects of the Partnership made it more difficult?

Click or tap here to enter text.

8. Is there anything else you would like to share about your experience with the grant project?

Click or tap here to enter text.

9. If available, please separately attach a photo or two that illustrates the project's final outcome or a significant milestone, event, or community meeting along the way. Please provide a caption below for each photo so we may use them in Partnership materials.

Click or tap here to enter text.

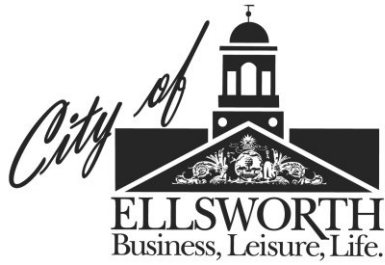
10. Please provide a final account of the project's expenditures compared to the budget proposed in the grant application. "Other Funds" may include local funds, in-kind match, other grants, or Efficiency Maine incentives.

	Proposed grant funds	Grant funds expended	Other funds expended	Total funds expended
Task 1:				
Task 2:				
Task 3:				
Task 4:				
Task 5:				
Task 6:				
Task 7:				

(add tasks as needed)				
Total:				
*Difference between proposed and actual expenditures:				

***Any unspent or unused grant funds must be returned to the State of Maine.** Please make a check payable to “Treasurer State of Maine” for the unspent amount with “Community Resilience Partnership: return of funds” in the memo, and mail it to:

Governor’s Office of Policy Innovation and the Future
Attn: Ashley Krulik
181 State House Station
Augusta, Maine 04333-0181



MEMO

To: City Council

From: Janna Richards, Economic Development Director and Matthew Williams, City Planner

Cc: Glenn Moshier, City Manager; Local Roads Committee (c/o Adam Wilson); Traffic Safety Committee

Date: November 14, 2023

Re: Request to submit an application to the MaineDOT Village Partnership Initiative and to authorize the allocation of matching funds

Background

On July 17, 2023, MaineDOT's Region 4 Planner provided a presentation for the City Council, explaining the Village Partnership Initiative (VPI) Program and a brief overview of the program's phases/timeline and how to apply for the program. Staff also prepared a memo in anticipation of that presentation, which is attached for additional context.

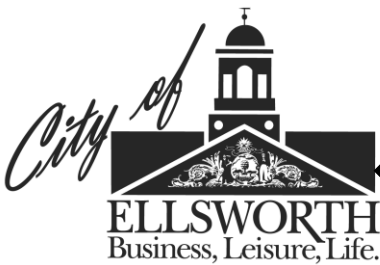
During the late summer and fall, staff has continued to work with the MaineDOT to prepare a scope of work for the planning phase of the VPI. This draft scope of work is attached to this memo for Council's review and consideration. A budget is also included with the draft scope of work. The MaineDOT has estimated the cost of the study to be approximately \$108,000. The DOT's share of the cost of the study is 50% of the estimated cost and requires a local match of 50%.

Request

Staff asks that the Council please review the draft scope of work and provide feedback for submittal. In addition, staff proposes that the City's required matching funds be allocated in the following manner: up to \$32,000 from the Community Resilience Partnership Community Action Grant program, up to \$10,000 from FY24 Local Roads funds, and up to \$15,000 from FY24 TIF funds.

Therefore, staff respectfully requests the City Council to approve the submittal of the VPI Planning Phase Scope of Work/Application and to authorize the allocation of matching funds as listed above. Accordingly, the following motion is suggested:

Approve the submittal of a MaineDOT Village Partnership Initiative planning phase application, with the required matching funds allocated from: up to \$32,000 of the Community Resilience Partnership grant funds, up to \$10,000 from FY24 Local Roads funds, and up to \$15,000 from FY 24 TIF funds.



MEMO

To: City Council
From: Ellsworth Traffic Safety Committee (Glenn Moshier, Matthew Williams, Elizabeth Ouellette, Jason Ingalls, Janna Richards, Lisa Sekulich, MaineDOT Region 4 Traffic Engineer)
Cc: Jarod Farn-Guillette, Regional Transportation Planner, MaineDOT
Date: July 11, 2023
Re: Village Partnership Initiative & Demonstration Projects

This memo serves to inform the City Council and public of the work of the City's Traffic Safety Committee, particularly as it relates to the MaineDOT Village Partnership Initiative program and pedestrian safety demonstration projects.

Ellsworth's Traffic Safety Committee is an internal City staff committee, with support from regional State DOT staff, assembled in 2018 under the facilitation of the Planning Office. After COVID-19 and staffing changes caused the group to pause in 2020, the committee was revitalized in February 2023.

Village Partnership Initiative

The Village Partnership Initiative (VPI) has been an agenda item for this committee since February. Staff, with support from the DOT, reviewed a large-scale map of the City and began to delineate a proposed study area and identified the associated infrastructure needs and improvements within the area that would serve to improve pedestrian safety and aesthetics. It became clear during this exercise that the City's VPI project would meet the "Transformative" category of the VPI program given the identified large-scale improvements and associated costs.

A map of the focus area has been provided in the Council packet and includes the Main Street upper and lower lights, State Street, and Water Street. Improvements within this area that were identified by the Traffic Safety Committee and supported by DOT include: drainage, sidewalks, road resurfacing, wayfinding signage, streetscaping (including lighting), ADA compliance, and bicycle and pedestrian safety and mobility. Representatives of the committee met with the DOT to discuss the scope of the project and action items to move forward.

The next step is for the City to apply for Phase 1 of the VPI – the Planning Phase. This phase would require a 50% match by the City. In anticipation of acquiring these matching funds, the City has applied for a grant through the Community Resiliency Partnership to offset the total cost of the

match. City staff anticipate coming back before the Council to formally request dedicating matching funds toward this phase of the project.

Demonstration Projects

In relation to the work associated with the VPI process, the Traffic Safety Committee has also partnered with the DOT to identify locations for pedestrian and bicycle safety demonstration projects within the downtown. The committee will develop ways in which we will collect data from pedestrians and cyclists, as well as motorists, to understand if these temporary measures have provided a better sense of safety in our community. This data can be integrated into the VPI planning process. Related to the “Unfinished Business” Council agenda item for the July meeting, one of the projects is located in front of the Franklin Street Parklet. A request for temporary tough curbing and delineators has been made to the DOT. If acquired, this project will be installed in August through this partnership in order to provide a safe barricade that is more aesthetically pleasing.

US1/3/Main Street - Downtown – SR230/State Street/Water Street
Ellsworth Village Partnership Initiative
Planning Phase - Scope of Services

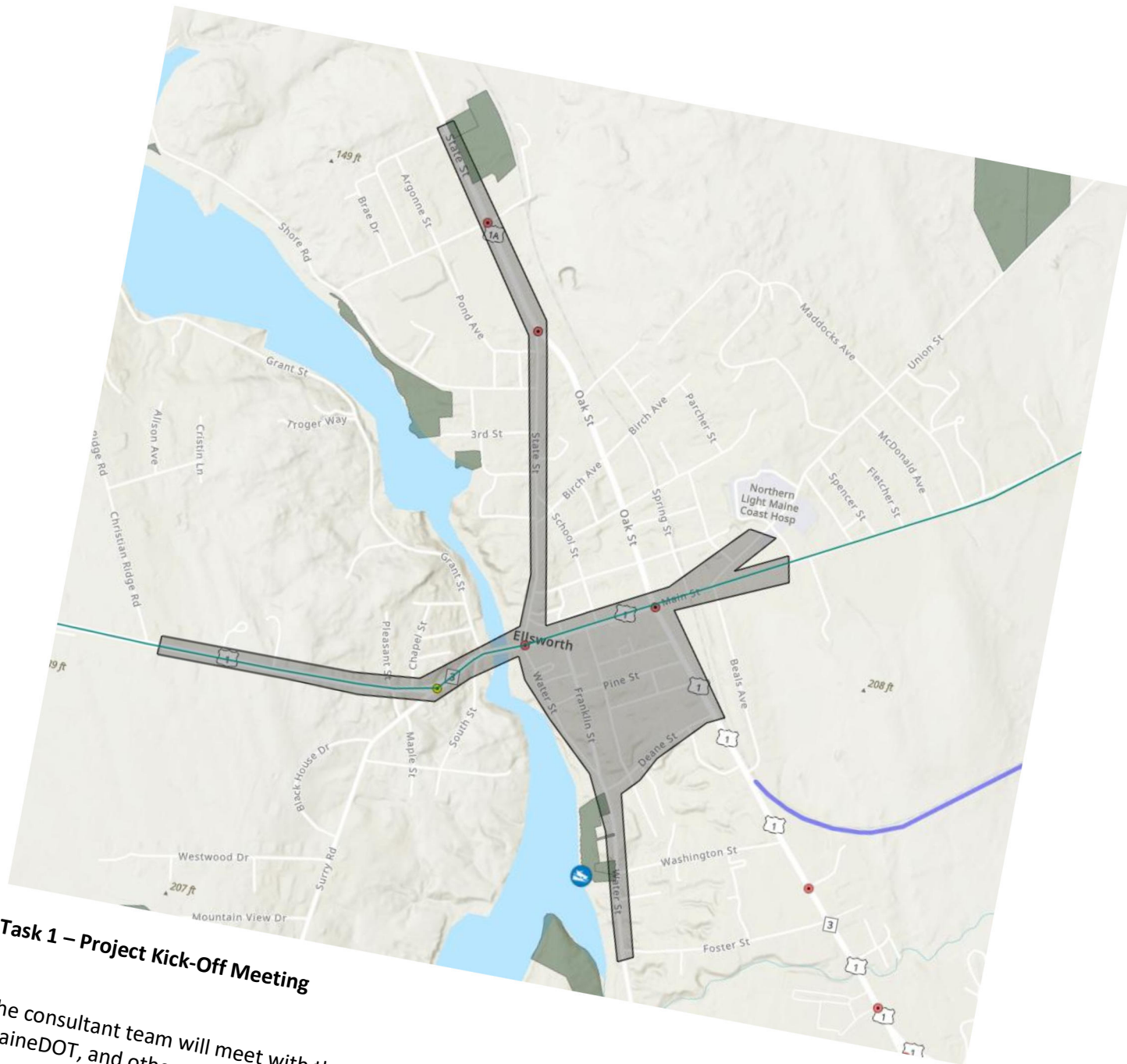
Introduction & Scope of Work

The City of Ellsworth (the City) and the Maine Department of Transportation (MaineDOT) is undertaking a feasibility study to identify ways to improve safety and accessibility for all transportation users, address traffic volume issues, assess parking needs and demand, improve active transportation connections between Ellsworth's historic downtown, riverfront access, address climate resiliency of the transportation system, improve connections to the local schools, and address access management issues particularly along the US Bike Route 1 within the downtown core of Ellsworth. Specifically, this study will:

- (1) Identify pedestrian and bicycle facility deficiencies and recommend improvements within the study area, particularly at the following locations:
 - a. along State Route 230/State Street from the High School Entrance/Intersection with US1A to intersection with US1/3/Main Street and SR 230 Water Street,
 - b. along US1/3 to Intersection with Christian Ridge Road, and
 - c. within the downtown core to include Franklin and Deane Streets
- (2) Identify parking needs and demands and recommend changes/improvements that increases parking efficacies and connections to the public parking facilities;
- (3) Address wayfinding issues within the study area;
- (4) Analyze traffic movements and patterns within the study area;
- (5) Analyze and assess locations for possible road diets; and
- (6) Analyze and assess locations for bicycle facilities within the study area.

This study will identify transportation improvements that reduce congestion, improve pedestrian and traffic safety, compliment long-range land use planning goals, and align with economic goals for Ellsworth. This study will not only consider roadway safety and mobility issues, but also consider improvements to active transportation and transit. It will also look at aesthetic design features to enhance the urban streetscape to include improving the look, feel and character of historic Downtown Ellsworth and anticipate current growth trends and development occurring within the historic downtown district. Some comprehensive traffic modeling or signal timing analysis is anticipated. The consultant should reference previous completed signal timing and traffic model studies to inform this project and current projects in the MaineDOT Work Plan WIN#02296.00 Ellsworth Multiuse Pathway, WIN#026412.00 Ellsworth, Route 1A.

Study Area



Task 1 – Project Kick-Off Meeting

The consultant team will meet with the study team including representatives from City, HCPC, MainedOT, and other stakeholders under a collaborative planning process as follows:

- Identify and understand local issues
- Identify and understand relevant state and federal regulatory requirements
- Finalize scope of work
- Identify previous related study efforts and available data
- Identify traffic data that will need to be collected
- Identify baseline environmental data that will need to be collected
- Identify existing and future Active Transportation uses and concerns

- Identify existing transit on the corridor and discuss future opportunities
- Prepare preliminary study purpose and need

Deliverables: Meeting agendas, minutes, presentation materials at all study team and public or elected official meetings.

Task 2 – Review Available Data

The consultant team will review available information provided by City, HCPC and MaineDOT. These will include, but not be limited to, the following:

- Most Recent Ellsworth Comprehensive Plan and info collected for current Comp. Plan update.
- Most Recent HCPC and MaineDOT Transportation Plans
- Most recent Ellsworth Economic Development Strategies
- Plans associated with transportation and/or the downtown area in coordination with stakeholder groups such as the Heart of Ellsworth, HCPC, others as provided.

Deliverables: Summary of available data and documentation of site conditions as needed.

Task 3 – Assessment of Current Conditions

The consultant team will evaluate the existing and recent historic performance of traffic in the study area based on traditional forecasting and growth models. The assessment will include but not be limited to:

- Analysis of current traffic conditions of the study area. The analysis will include traffic patterns, capacity, speeds, and crash experience
- Identification of transit, bicycle, and pedestrian deficiencies in the study area.
- Identification of transportation vulnerable users and equity concerns.
- Review analyses with team members and discuss possible recommendations and additional alternatives to be considered.
- Analysis of existing land-use patterns and potential changes based upon land-use goals and projections.
- Site-visit and safety audit with multiple partners (city manager, chief of police, city planning staff, fire chief, public works, consultant, MaineDOT, etc.) within study area.

Deliverables: Technical memorandum on existing conditions including the following:

- Identification of concerns and opportunities
- Safety audit summary and results

Task 4 Assessment of Future Scenarios

The consultant team will evaluate future traffic volume based on traditional growth forecasts and considering known development and land use changes underway, particularly on US 1/3 Acadia Highway and Route 1A It will include:

- A 2045 forecast of traffic volumes in the study area, based on historical traffic data and available MaineDOT traffic forecasts.
- Analysis of existing and recommended access management changes
- Review of possible traffic signal modifications and implementation of traffic demand management at the identified intersections
- Analysis of impacts to bicycle and pedestrian facilities
- Analysis of transit opportunities
- Discussion on infill mixed-use development in downtown Ellsworth and parking assessments
- Review analyses with team members and discuss possible recommendations and additional alternatives to be considered.

Deliverables: Matrix depicting alternatives for Ellsworth.

Task 5 Develop Preliminary Recommendations & Public Engagement

Based on the analysis of alternatives determined in Task 4, the consultants will develop recommendations based on effectiveness of meeting the study area transportation needs. The consultant will develop an effective approach to educate and solicit meaningful feedback from the public. This can include a series of in-person, hybrid, or social media outreach. MaineDOT assumes a minimum of two public meetings, which could be standalone project meetings or portions of town council meetings.

- Develop recommendations for all transportation modes based on effectiveness and viability from a regulatory perspective. Measurements for effectiveness will include benefits to mobility and safety, cost and practicality of implementation, and ability to meet the purpose and need.
- The recommendations will include a discussion of the potential and degree of effort associated with environmental analysis, secondary, cumulative impacts, etc., including anticipated future costs of remaining planning, design, and construction phases.
- Develop cost estimates for recommendations (including construction and potential right-of-way costs).
- Develop a recommendation for prioritizing and phasing of implementation.
- Develop a draft report containing the analysis of existing and future conditions, alternatives analysis, and recommendations, including a matrix summarizing recommendations along with an appendix of traffic and crash data.
- Develop basic conceptual renderings which will include a collection of plan, section, and perspectival views of recommended alternatives at specific places along the corridor.
- Presentation of preliminary recommendations and alternatives at public meetings for feedback and input to develop a Draft Report

Task 6 – Draft Report

The Tasks discussed above will be combined into a draft narrative report documenting the project. At a minimum the report will include an executive summary, narrative of the study process, a description of the various alternatives considered, documentation of the evaluation criteria, and illustrations of conceptual designs (in plan and perspectival view) and cross sections for the preferred alternative. The final report will incorporate all applicable technical memorandums.

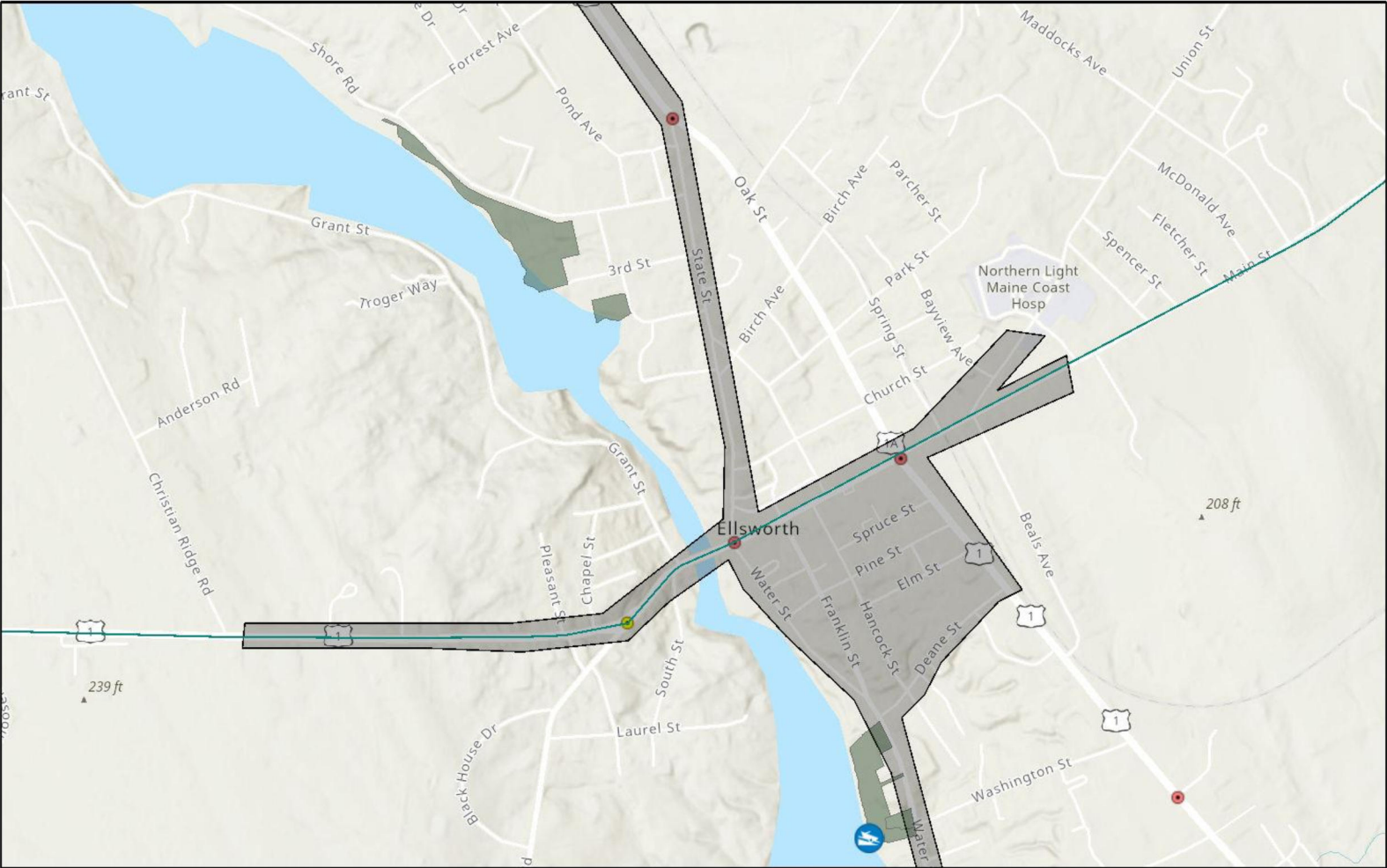
Deliverables: Draft Report with detailed cost estimating for any further environmental analysis, preliminary engineering, right-of-way, construction, and construction engineering. The report will include the required renderings.

Task 7 – Final Report

The consultant will create a final narrative report documenting the project and includes conceptual plans and renderings, cost estimates.

Deliverables: Final Report

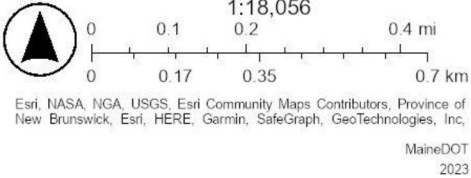
Ellsworth VPI-Plan Phase Scope



10/30/2023

- USBR1_1A
- Maine Boat Launches GeoLibrary - Maine Boat Launches GeoLibrary
- Maine Conserved Lands - Maine Conserved Lands - All

- MaineDOT Traffic Signals - Traffic Signals
- Signal
 - Beacon
 - World Hillshade



RE: JUNIPER CEMETERY ASSOCIATION
DATE: AUGUST 17, 2023
TO WHOM IT MAY CONCERN:

For the past 4 (four) years JUNIPER CEMETERY ASSOCIATION has existed in name only, because all of the members of the Board of Trustees, except 2 (the Treasurer & Secretary), have either retired from the Board or have died, and no one else could be found to take their places. The President found and paid individuals and companies to mow the cemetery, but that has been the extent of activity with regard to Juniper Cemetery.

At the most recent Board Meeting (2019) it was voted to extend an offer to the City of Ellsworth to take over the Cemetery. Juniper would give over all monies in the checkbook and savings account at TD Bank, and it would also give over to the City of Ellsworth monies held by Juniper Cemetery in the Cemetery Account that the City of Ellsworth currently maintains.

In order for the City of Ellsworth to accept the monies and the care of Juniper Cemetery, a Meeting must take place wherein the Board of Trustees of Juniper Cemetery all sign a document showing they are in agreement to hand over said monies and property.

To have a meeting and a vote, the Cemetery must have a Board of Trustees. Under the 1917 Bylaws, the Officers of the Board of Trustees "may act with unlimited powers to do all they deem essential", including "full power to remove or fill vacancies on the Board of Trustees". To that effect, the Treasurer and Acting President, Mary T. White, this date has asked the following persons to become members of the Juniper Cemetery Board of Trustees, and they have all accepted said positions.

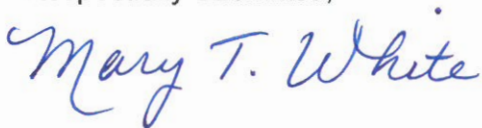
Below is a roster of the current Board of Trustees of Juniper Cemetery:

Mary T. White, Treasurer and Acting President (of Surry, Maine)
Susan Hodgkins, Secretary (of Trenton, Maine)
Terry L. Carlisle (of Ellsworth, Maine)
Gary Frost (of Ellsworth, Maine)
Phyllis Young (of Ellsworth, Maine)
Reginald Young (of Ellsworth, Maine)

Of the above members of the current Board of Trustees, 5 (five) have relatives buried at Juniper Cemetery.

The 6 (six) members of the Board of Juniper Cemetery will meet at 4:30 pm on Thursday, September 7, 2023, for discussion and to vote on whether to hand over the physical and fiscal care of the Cemetery to the City of Ellsworth.

Respectfully Submitted,



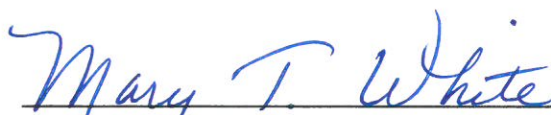
DATE: SEPTEMBER 7, 2023

RE: SPECIAL MEETING of the JUNIPER CEMETERY ASSOCIATION

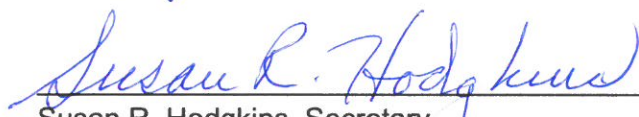
TO WHOM IT MAY CONCERN:

We, the undersigned, as members of the Board of Trustees of Juniper Cemetery Association, and by the powers vested upon us by the 1917 Bylaws of said Juniper Cemetery Association, upon discussion, have unanimously agreed this date to hand over all lands and monies owned by said Juniper Cemetery Association, along with the physical and fiscal care of said Cemetery to the City of Ellsworth, in the State of Maine.

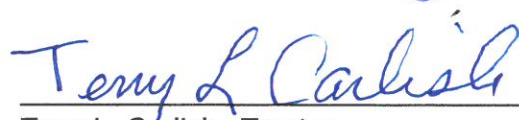
This is the final meeting of Juniper Cemetery Association.



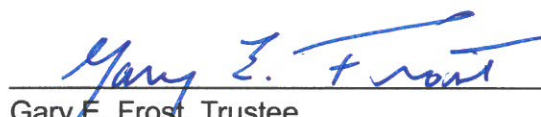
Mary T. White, Treasurer and Acting President



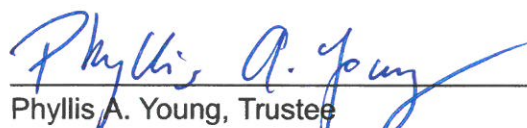
Susan R. Hodgkins, Secretary



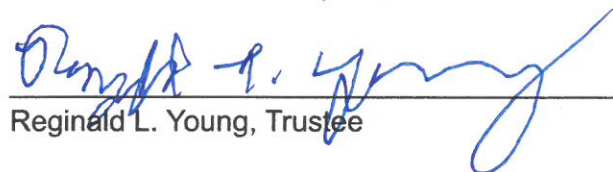
Terry L. Carlisle, Trustee



Gary E. Frost, Trustee



Phyllis A. Young, Trustee



Reginald L. Young, Trustee