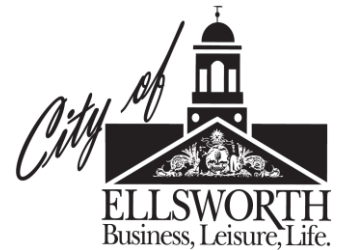


**City of Ellsworth
Chapter 28**

Subdivision Ordinance



Adopted: May 16, 1998

With Revisions through May 21, 1990

Amended April 14, 2003

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Article I Purposes

The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people, of the City of Ellsworth, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the City of Ellsworth, Maine, the Planning Board of the City Ellsworth shall consider the following criteria and before granting approval shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A. Section 4404.

The subdivision:

- 1.1 Will not result in undue water or air pollution. In making this determination, the Planning Board of the City of Ellsworth shall at least consider the elevation of the land above sea level and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resource rules and regulations. (Am 4/03)
- 1.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision.
- 1.3 Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.
- 1.4 Will not cause an unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- 1.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed.
- 1.6 Will provide for adequate solid waste and sewage waste disposal.
- 1.7 Will not cause unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized.
- 1.8 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- 1.9 Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any.
- 1.10 The subdivider had adequate financial and technical capacity to meet the above stated standards.

- 1.11 Whenever situated in whole or in part, within 250 feet of the watershed of any pond, lake river or tidal waters, will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water.
- 1.12 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- 1.13 Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that all principal structures within the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.
- 1.14 Freshwater Wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.
- 1.15 River, Stream or Brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9.
- 1.16 Storm Water. The proposed subdivision will provide for adequate storm water management.
- 1.17 Spaghetti Lot Prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, Section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
- 1.18 The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
- 1.19 For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

Article II Authority and Administration

2.1 AUTHORITY

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A. sections 4403 and 3001.
- B. These standards shall be known and may be cited as "Subdivision Regulations of the City of Ellsworth, Maine."

2.2 ADMINISTRATION

- A. The Planning Board of the City of Ellsworth, hereinafter call the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land proposed for subdivision, within the boundaries of the City of Ellsworth.

Article III Definitions

Accessory Use or Structure: A subordinate use or structure customarily incidental to and located on the same lot as the principal use or structure, such as a garage, workshop, or the like. Accessory uses, in the aggregate, shall not subordinate the principal use or structure on the lot.

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.

Acre: A measure of land containing 43,560 square feet.

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.

Agriculture: The cultivation of soil for the production or raising of food, crops, or other valuable or useful products including commercial gardening, and the growing of nursery stock.

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.

Apartment, Accessory: A separate dwelling unit which is located within and subordinate to a single family detached dwelling.

Automobile Junk Yard: 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.)

Automobile Oriented Business: A business establishment which serves its customers while they remain in their motor vehicles such as a drive-in restaurant, drive-up bank teller and a car wash.

Automobile Repair Shop: A business establishment where motor vehicles and/or their related parts are repaired, reconditioned, painted, or rebuilt.

Boarding, Rooming, or Lodging House: Any dwelling in which lodging is offered for compensation to three or more persons either individually or as families with or without meals.

Building Height: The vertical distance measured from the average elevation of the finished grade within twenty (20) feet of a building to the highest point of the building.

Bureau: State of Maine Department of Conservation's Bureau of Forestry.

Campground: A business, public or private establishment operated as a recreational site for tents, campers, trailers, and travel-trailers, or other forms of temporary shelter that can accommodate two or more parties.

Campsite, Individual private: Private land for exclusive personal use not associated with a campground, but which is developed for repeated camping by only one group not to exceed 10 individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Camper: For the purpose of this ordinance, a "camper" shall be defined as a travel trailer or a recreational vehicle equipped with sleeping accommodations

Cemetery: A burial ground for the interment of the dead.

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.

Church: A building or group of buildings arranged, designed, intended, or used for the conduct of religious services, and accessory uses associated therewith.

Club: Any voluntary association of persons organized for fraternal, social, religious, benevolent, recreational, literary, patriotic, scientific, or political purposes whose facilities are open to members but not the general public, and which is principally engaged in activities which are not customarily carried on for pecuniary gain.

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 Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer shall include the Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

Commercial Recreation - Indoor: A business establishment providing indoor recreation facilities such as a bowling alley, skating rink, swimming pool, tennis or racquet ball courts, but not including mechanical, electronic, or video game arcades.

Commercial Recreation - Outdoor: A business establishment providing recreational facilities such as a golf course, tennis courts, swimming pool, ice skating rink, or riding stables, but not including campgrounds, drive-in movie theaters, race tracks, water slides or mechanical or motorized rides.

Community Building: A building owned by a non-profit organization available to the community for purposes of public assembly and community activities.

Community Use: A governmental or public service use for the general benefit of the citizens funded in whole or in part by the City of Ellsworth or a quasi-public organization, including by way of illustration and without limitation, municipal buildings, schools, public parks and recreational facilities, fire stations, ambulance services and sewage treatment plants.

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 shall issue a receipt to the applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of a portion of the improvements which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Comprehensive Plan or Policy Statement: Any part or element of the overall plan or policy for development of the municipality, as defined in Title 30 M.R.S.A., 4961.

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

Conditional Use: A use permitted by the Planning Board subject to certain conditions and standards consistent with the General Purposes section for each zoning district. In addition to the specific uses listed for each zoning district, a conditional use may include uses similar to those listed. The Board shall only grant approval of a similar use after having found that the impact of the use will not be any greater than the impact of the use to which it is being compared.

Contiguous Lots: Lots which adjoin at any line or point, or are separated at any point by a body of water less than fifteen feet wide.

Customary Home Occupation: Any occupation or profession, which is accessory to a residential use, and provided that:

1. The home occupation is to be conducted by a member of the family residing in the dwelling;
2. All activity associated with the home occupation is conducted wholly within the dwelling unit or wholly within a structure accessory to a dwelling unit in order that no external structural change or alteration or external activities are required which change the residential character or appearance of the dwelling;
3. No machinery or equipment which emits audible sounds, air pollutants or other wastes apparent from outside the dwelling will be utilized in the home occupation;
4. The home occupation will not involve retail sales as a primary activity, but articles may be sold from the dwelling, which are incidental to the providing of the service involved in the home occupation;
5. The family member conducting the home occupation may employ at the dwelling no more than two (2) additional persons who are not members of the immediate family residing in the dwelling to assist in the home occupation (maximum of five (5) people including family members);
6. Adequate off-street parking will be provided within the lot upon which the dwelling is located in accordance with the requirements in Chapter 56, Unified Development ordinance, Article 11 Parking Standards.

Deck: A level structure adjacent to a building elevated above the surface of the ground which may have a railing but no roof, awning, or other covering.

Decorative Changes: Repainting, residing, reroofing; adding, removing or replacing trim, railing, or other non-structural architectural details; or adding, removing or changing the location of windows and doors.

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.

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

- a. **Single-Family Dwelling** - A building designed or intended to be used exclusively for residential occupancy by one (1) family only and containing only one (1) dwelling unit.
- b. **Two Family Dwelling or Duplex** – A building designed or intended to be used exclusively for residential occupancy by no more than two (2) families and containing two (2) separate dwelling units in one (1) structure.
- c. **Multiple Dwelling:** A building designed or intended to be used, or used exclusively for residential occupancy by three (3) or more families living independently of one another and containing three (3) or more dwelling units, including apartment buildings and condominiums, but excluding single-family and two-family dwellings.

Dwelling Unit: Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, as required by the State of Maine and/or the City of Ellsworth, for not more than one household, or a congregate residence for 6 or less persons. A dwelling unit shall have minimum of 500 square feet.

Earth: Topsoil, sand, gravel, clay, peat, rock, or other minerals.

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 and livestock from the threat of destruction or injury. (Am 4/03)

Essential Services: Facilities for the transmission or distribution of water, gas, electricity or communication or for the collection, treatment or disposal of wastes, including, without limitation, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but not buildings.

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 (5) unrelated persons.

Farmstand: A roadside stand not exceeding 400 square feet in floor area selling only farm, garden, greenhouse, or nursery products, and between Labor Day and Christmas, cut Christmas trees, garlands, wreaths, and wreath materials.

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

Fishing Equipment: Personal property designed, intended, or used in connection with commercial and/or recreational fishing activities including boats, nets, buoys, traps, and line.

Fish Processing: The loading, unloading, packing, processing and packaging of edible fish and other seafood products but not including processing of fish wastes or fish by-products.

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.

Foundation: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including but not limited to basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

Forestry: See "Timber Harvesting" and "Timber Management Activities."

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.

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.

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.

Gasoline Service Station: A business establishment selling fuel and related products for motor vehicles.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of 10 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 Ordinance, Ellsworth's Great Pond 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.

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.

Hand Crafts: The manufacturing of handcrafted articles, such as ceramics, leather goods, and jewelry.

Health Institution: A hospital, nursing home; boarding care facility or any other place for the treatment or diagnosis of human ailments, excluding professional offices.

Height: See "Building Height."

High Intensity Soil Survey: A map prepared by a certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that 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.

Home Occupation: See "Customary Home Occupation."

Hotel: A building or group of buildings having ten (10) or more guest rooms in which lodging, or meals and lodging, are offered for compensation, including motels, tourist courts, motor lodges, and cabins.

Impervious Area: The total area of a principal and accessory structures and areas that will be covered with a low-permeability material such as 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.

Industrial Park or Development: A subdivision in an area zoned exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit usually with provisions for common service for the users.

Inn: A business establishment having nine (9) or less guest rooms in which lodging is offered to guests for compensation, and meals may be offered for compensation only to the lodgers.

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

Junkyard:

- a. **Automobile Graveyard** - a yard, field, or other area used as a place of storage for three (3) or more unserviceable, discarded worn-out or junked automobiles.
- b. **Junkyard** - 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.

Kennel: Any commercial establishment where dogs and/or cats are kept or boarded for a fee or where animal grooming is performed for a fee.

Lot: A parcel of land occupied or capable of being occupied by one (1) 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.

Lot Area: 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 - Corner: A lot with at least two contiguous sides abutting upon a street or right-of-way.

Lot Coverage: The percentage of the lot covered by structures.

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 Frontage: The horizontal distance measured in a straight line connecting the intersections of the front lot line with the side lot lines.

Lot - Interior: Any lot other than a corner lot.

Lot Lines: The property lines bounding a lot as defined below:

- a. **Front Lot Line** - 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.
- b. **Rear Lot Line** - 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 (10) feet long, lying furthest from the front lot line. On a corner lot, the rear lot line shall be opposite-the front lot line of least dimension.
- c. **Side Lot Line** - Any lot line other than the front lot line or rear lot line.

Lot Minimum Area: The lot area, less the area of any land subject to rights-of-way or easements, other than utility easements servicing the lot, and also excluding lands which are below the normal high water mark or which are covered with water for at least three months per year.

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 Width: The width of any lot as measured wholly within the lot at the required front setback along a line parallel to a straight line connecting the intersections of the front lot line with the side 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.

Manufactured Housing: A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building that is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two (2) types of Manufactured Housing are included. Those two (2) types are:

(1) Those units constructed after June 15, 1976, commonly called "newer mobile homes," that the manufacturer certifies are constructed in compliance with the United States Department of

Housing and Urban Development standards, meaning structures transportable in one or more sections, that in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit.

(2) This term also includes any structure that meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and

Those units commonly called "modular homes" that the manufacturer certifies are constructed in compliance with Title 10, chapter 951, and rules adopted under that chapter, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Mobile Home: Housing units that comply with the "newer mobile home" standards of the United States Department of Housing and Urban Development, as defined herein under "Manufactured Housing." Substandard housing units shall not be installed in a Mobile Home Park or elsewhere in the City of Ellsworth.

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.

Mineral Extraction: Any operation within any 12 month period which removes more than ~~one~~ 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.

Mobile Home Pad: That portion of a mobile home site reserved for the placement of a mobile home, appurtenant structures or additions.

Mobile Home Site [aka mobile home park lot]: An area of land in a Manufactured Housing 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 Section.

Mobile Home Park: A parcel of land under unified ownership approved the City for the placement of three (3) or more Manufactured Housing units.

Motel: See "Hotel."

Multifamily Development: A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums, or mobile home parks. (Am 4/03)

Municipal Officers: Municipal Officers shall mean the Ellsworth City Council.

Net Residential Acreage: The total acreage available for the subdivision as shown on the proposed subdivision plan, minus the area for streets or accessways and the areas which are unsuitable for development.

Non-conforming Structure or Building: A structure or accessory facility, such as parking areas lots or other conditions to which the requirements of this ordinance apply, which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, or other standards contained in this ordinance, but which is allowed solely because it was in lawful existence at the time this ordinance or subsequent amendments took effect.

Nonconforming Use: Any activity on the premises or in a structure not permitted as a land use in the district in which it lies, which existed prior to the passage of the district requirements prohibiting it. For the purpose of this Ordinance, a Conditional Use, as a permitted use, is not a nonconforming use.

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.

Nursing Home: Any dwelling in which three or more aged, chronically ill or incurably ill persons, or persons convalescing from an illness are housed and furnished with meals and nursing care for compensation.

Official Submittal Date: The date upon which the Board issues a receipt, indicating that a complete application has been submitted.

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.

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.

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.

Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges, and Uses Projecting Into Water Bodies:

- a. **Temporary** - Structures which remain in the water for less than seven (7) months in any period of twelve (12) consecutive months.
- b. **Permanent** - Structures which remain in the water for seven (7) months or more in any period of twelve (12) consecutive months.

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.

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.

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

Principal Building: The building in which the primary use of the lot is conducted.

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 in which human excrement is placed.

Professional and Business Offices: The place of business, other than a residential unit, of doctors, lawyers, accountants, financial, architects, surveyors, real estate and insurance agents, psychiatrists, psychologists, counselors, and the like, or in which a business conducts its administrative, financial and clerical operations and also including providers of personal services such as barbers, hairdressers, and beauticians.

Public Utility: Any person, municipal department or other entity organized to furnish water, gas, electricity, waste disposal services, communication facilities, or transportation to the public.

Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

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.

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 location and sizes, culverts, and building lines.

Recreational Vehicle: A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Residual Basal Area: The average of the basal area of trees remaining on a harvested site.

Restaurant: An establishment where food and drink are prepared and served to the public and where no food or beverages are served directly to occupants of motor vehicles.

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider 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.

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: this word is used interchangeably with the word Street.

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."

School: An institution for education or instruction including a college, university, and public or private school conducting classes pursuant to a program approved by the State Board of Education or similar governmental agency, but not including commercially operated schools such as schools of beauty, culture, business, dancing, driving, music or recreation which shall be deemed retail business.

Setback: The horizontal distance from a lot line to the nearest part of a structure.

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.

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 in Chapter 56, Article 4. Shoreland Zoning Regulations and/or streams mapped on the Official Land Use Map.

Sign: An object, device or display, or part thereof, situated outdoors or indoors, which is directed at persons outside the premises, 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, illumination, or projected images.

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

Solar Collector: A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes to a building's energy supply.

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (when used), and components for the distribution of transformed energy.

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.

Street: A public or private way including but not limited to roads, alley, and other rights-of-way for vehicular and/or pedestrian 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 10 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: 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 third 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 municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
- c. A lot of 40 or more acres will be counted as a lot.
- d. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- e. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- f. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- g. 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 this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than ½ the assessed value of the real estate.
- h. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- i. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 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.

- j. 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.
- k. 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.
- l. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.
- m. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs E to I, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

Subdivision – Major: Any division containing more than four lots or dwelling units, or any subdivision containing a proposed street.

Subdivision - Minor: Any division containing four lots or less, and in which no street is proposed to be constructed.

Subdivision of New and/or Existing Structure: Any division of a new or existing structure which creates, through sale or lease, three (3) or more dwelling units, or three (3) or more units for commercial or industrial use, within a five-year period.

Subsurface Sewage Disposal System also referred to as Subsurface Wastewater 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.

Terrace: See "Patio."

Theater: A fully enclosed building used for-display or presentation to the public of films, plays, or other kinds of performances.

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 (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Chapter 56, Article 4, Section 410.14, *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Timber Harvesting and Related Activities: Timber harvesting, the construction and maintenance of accessways used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Tract (or Parcel) of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting land owners.

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.

Travel Trailer: See "Recreational Vehicle."

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, 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 Chapter 56, Article 4, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

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.

Use: The purpose for which land or a building or structure is arranged, designed or intended, or for which it is occupied.

Variance: A realization of the terms of the zoning ordinance which impose restrictions of lot coverage, lot size, or setback as permitted by Article VII of the Ordinance.

Warehouse: A structure or building used primarily for the storage of articles, goods or materials.

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.

Water Dependent Use: A use which, by its nature, requires a shorefront or surface water location, including, without limitation, boat yards, marinas, boat houses, boat launching ramps, ship chandleries and commercial fishing facilities. The location of a use, which does not by its nature require a shorefront or surface water location, on a pier, boat, or barge, shall not qualify it as a water dependent use.

Wetland: A freshwater or coastal wetland.

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 or brook, 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, 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.

Wholesaling: A business establishment engaged in the bulk sale of goods or materials not manufactured or processed on the premises.

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 (6) feet in height.

Yard Sale: Display and sale of property owner's possessions (may include multi-families and their possessions). Yard sales exceeding three (3) consecutive days and/or held more frequently than (3) times in any calendar year will be considered a commercial use and require Site Plan Review.

Article IV Administrative Procedure

4.1 PURPOSE

The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.

4.2 AGENDA

In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda by contacting in writing, the Code Enforcement Officer at least two (2) weeks in advance of a regularly scheduled meeting. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

Article V Preapplication

5.1 PROCEDURE

- A. Applicant presentation and submission of sketch, plans. Twelve (12) copies of all information accompanying the plan shall be submitted. (Am 4/03)
- B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
- C. Scheduling of on-site inspection.

5.2 SUBMISSION

- A. Subdivision of New or Existing Structures: The preapplication Sketch Plan shall show the name of the property owner, address of structure to be subdivided, including tax map, lot number and zoning district; lot size; outline and dimensions (width, length, height) of existing building; outline and dimensions of proposed addition, if applicable; proposed floor plan indicating entrances and exits; parking spaces for additional dwelling units; type and availability of water supply; and the location and capacity of sewer/septic facilities.
- B. Major and Minor Subdivisions: The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other

features in relation to existing conditions. The sketch plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall also contain a locus map in the upper right hand corner showing where the subdivision is located within the City of Ellsworth, in what zone, and contain the Assessor's Map Number and Lot Number.

5.3 ON-SITE INSPECTION

Within 30 days of submission, the Board or designee may hold an on-site inspection of the property. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street center and lot corners, prior to the on-site inspection. The board shall not conduct on-site inspection when there is more than one foot of snow on the ground.

5.4 RIGHTS NOT VESTED

The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purpose of bringing the plan under the protection of Title 1, M.R.S.A. section 302.

Article VI Subdivision of New and Existing Structures

6.1 GENERAL

The Board may require, where it deems necessary, for the protection of public health, safety, and welfare, that a subdivision of a new or existing structure comply with all or any of the submission requirements for a minor or major subdivision.

6.2 PROCEDURE

- A. Within 30 days of receipt of a preapplication, the Board will notify the applicant of any further information which will be needed for a complete application for Subdivision of new and existing structures or if, for the protection of public health, safety, and welfare, the applicant will be required to comply with all or any of the submission requirements for a Minor or Major Subdivision. Unless otherwise directed by the Board, a complete application will be considered when all the questions on the application form have been answered and supporting documentation attached. The application must be signed by the applicant or his/her agent. Twelve (12) copies of all information accompanying the plan shall be submitted.

- B. At the time the application is accepted as complete, the Board shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.
- C. Upon determination that a complete application has been submitted, the Board shall issue a dated receipt to the subdivider.
- D. The Board shall hold a public hearing within thirty (30) days of receipt of a complete application and shall publish notice of the date, time and place of hearing in a newspaper of general circulation in the municipality at least once, the date of the first publication to be at least fourteen (14) days prior to the hearing.
- E. Within thirty (30) days of a public hearing, the Board shall make findings of fact on the application and approve, approve with conditions, or deny the application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

Article VII Minor Subdivisions

7.1 GENERAL

The Board may require, where it deems it necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.

7.2 PROCEDURE

- A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan at least fourteen (14) days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board. Twelve (12) copies of all information accompanying plan shall be submitted.
- B. All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee of \$100.00 payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the additional costs of advertising and postal notification.
- C. Upon receipt of an application for Final Plan approval of a minor subdivision, the Board shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.
- D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan. Failure to attend the meeting to present the preliminary plan application shall result in a delay of the Board's receipt of the plan until the next meeting that the project is on the agenda and that the applicant, or his duly authorized representative, is in attendance.
- E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.
- F. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. (Am 4/03)

- G. Within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

7.3 SUBMISSIONS

- A. The subdivision plan for a Minor Subdivision shall consist of two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office and twelve (12) copies of one or more maps or drawings drawn to a scale of not more than one hundred (100) feet to the inch. Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred (200) feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Twelve (12) copies of all information accompanying the plan shall be submitted.

The application for approval of a Minor Subdivision shall include the following information:

1. Location Map: The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
 - a. Existing subdivisions in the proximity of the proposed subdivision.
 - b. Locations and names of existing and proposed streets.
 - c. Boundaries and designations of zoning districts.
 - d. An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.
2. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
3. Verification of right, title, or interest in the property.

4. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument to be set or found at each lot corner.
5. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
6. A copy of any deed restrictions intended to cover all or part of the lots in the subdivision.
7. Indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer Department stating the Department has the capacity to collect and treat the wastewater shall be provided.
 - b. Any proposed subdivision located within 200' at its closest point to a sewer line must connect to the public system as approved by the Sewer Department Supervisor.
 - c. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
8. Indication of the type of water supply system(s) to be used in the subdivision.
 - a. When water is to be supplied by public water supply, a written statement from the Water Department shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the Water Department's supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the Water Department approving the design of the extension shall be submitted.
 - b. Any proposed subdivision located within 200' at its closest point to a water line must connect to the public system as approved by the Water Department Supervisor.

- c. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
9. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and the names of adjoining property owners. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
10. A copy of the portion of the Hancock County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features.
12. Contour lines at the interval specified by the Planning Board, showing elevation in relation to Mean Sea Level.
13. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
14. A hydrogeologic assessment prepared by a certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer, and:
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifer," by the Maine Geological Survey, 1981; and
 - b. The subdivision has an average density of less than 100,000 square feet per dwelling unit.
15. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
16. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is

located in the direct watershed of a great pond, the application shall indicate which great pond.

17. A storm water management plan and erosion control management plan, per City of Ellsworth Code of Ordinance chapter 56, Article 10 - Stormwater Management and Construction Standards.
18. Areas within or adjacent to the proposed subdivision which have been identified as High or Moderate Value Wildlife Habitat by the Maine Department of Inland Fisheries and Wildlife or within the Ellsworth Comprehensive Plan. If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values, which qualify the site for such designation.
19. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the Local Register of Historic Places, or have been identified in the comprehensive plan as sensitive or likely to contain such sites.
20. The location and method of disposal for land clearing and construction debris.

Article VIII Preliminary Plan for Major Subdivision

8.1 PROCEDURE

- A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least fourteen (14) days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board. Twelve (12) copies of all information accompanying plan shall be submitted.
- B. All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee of \$15.00 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of \$25.00 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application. If the balance in this special account shall be drawn down by 75% of the original deposit, the Board shall notify the applicant, and require that an additional \$10.00

per lot or dwelling unit be deposited as necessary. Any balance in the account remaining after a decision on the Final Pan application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

- C. The applicant, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan. Failure to attend the meeting to present the preliminary plan application shall result in a delay of the Board's receipt of the plan until the next meeting that the project is on the agenda and that the applicant, or his duly authorized representative, is in attendance.
- D. Upon receipt of an application for Preliminary Plan approval of a Major Subdivision, the Board shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.
- E. Within thirty (30) days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- F. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.
- G. The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- H. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
1. The specific changes which it will require in the Final Plan;
 2. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and

3. The amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan;
- I. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

8.2 SUBMISSIONS

A. Location Map.

The Preliminary Plan shall be accompanied by a location map adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:

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

B. Preliminary Plan.

The Preliminary Plan shall be submitted in twelve (12) copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch. The Board may allow plans for subdivisions containing more than one hundred acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary details can easily be read. In addition, one copy of the Plan(s) reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than fourteen days prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers.
2. Verification of right, title, or interest in the property.
3. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments.
4. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
6. Contour lines showing elevations in relation to Mean Sea Level. 6
7. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetation cover type, and other essential existing physical features.
8. Indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Sewer Department indicating there is adequate capacity within the Sewer Department system to transport and treat the sewage shall be submitted.
 - b. Any proposed subdivision located within 200' at its closest point to a sewer line must connect to the public system as approved by the Sewer Department Supervisor.
 - c. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test oil analyses, prepared by a licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
9. Indication of type of water supply system(s) to be used in the subdivision.
 - a. When water is to be supplied by public water supply, a letter from the servicing Water Department shall be submitted indicating there is adequate supply and pressure for the subdivision.

- b. Any proposed subdivision located within 200' at its closest point to a water line must connect to the public system as approved by the Water Department Supervisor.
10. The date the Plan was prepared, magnetic north point, true north, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
11. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.
12. The location of any zoning boundaries affecting the subdivision.
13. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
14. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
15. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- 16.
17. The proposed lot lines with approximate dimensions and lot areas.
18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
19. The location of any open space to be preserved and a description of proposed improvements and its management.
20. A copy of that portion of the Hancock County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in Geotechnics, indicating the suitability of soil conditions for those uses. (

21. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
22. A hydrogeologic assessment, prepared in accordance with Section 12.12 by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer, and:
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey 1981; and
 - b. The subdivision has an average density of less than 100,000 square feet per dwelling unit.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality.

22. An indication of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours, proposed general mitigation, access management, and consideration of pedestrian and non-automotive needs.
23. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of Branch Lake, the application shall contain a Phosphorus Control Plan.
24. Areas within or adjacent to the proposed subdivision which have been identified as High or Moderate Value Wildlife Habitat by the Maine Department of Inland Fisheries and Wildlife or within the Ellsworth Comprehensive Plan. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values, which qualify the site for such designation.
25. Determination that the project is or is not in whole or in part located in the direct watershed of a Great Pond, as defined in the Ellsworth Code of Ordinance Chapter 56, Article 10 – Stormwater Management, Design and Construction Standards.
26. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places,

or have been identified in the Comprehensive Plan as sensitive or likely to contain such sites.

27. Show the limits of construction disturbance.

Article IX Final Plan for Major Subdivision

9.1 PROCEDURE

- A. The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan at least fourteen (14) days prior to a scheduled meeting of the Board. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
- B. All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee of \$20.00 per lot or dwelling unit payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. Prior to submittal of the Final Plan application, the applicant shall show written proof that applications have been filed for the following, where appropriate:
1. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Great Ponds Act, Fresh Water Wetland Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
 2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
 3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system is to be utilized.
 4. Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a waste water discharge license is needed.
 5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

- E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.
- F. A public hearing may be held by the Board within thirty (30) days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times. The date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing. (Am 4/03)
- G. The Board shall notify the Road Supervisor, Police Chief, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
- H. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article XIV.
- I. If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.
- J. The Board, within thirty (30) days from the public hearing or within sixty (60) days of receiving a complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in Title 30-A, section 4404 and in these regulations. If the Board finds that all standards of the Statute and these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute or these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

9.2 SUBMISSIONS

The Final Plan shall consist of twelve (12) maps drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for

binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other be filed at the Municipal Offices, shall be submitted. In addition, one copy of the Final Plan, reduced to a size of 8 ½ by 11 inches or 11 by 17 inches, and all accompanying documents shall be mailed to each Board member no less than fourteen days prior to the meeting. (Am 4/03)

The application for approval of the Final Plan shall include the following information.

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, and essential existing physical -features.
- D. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer Department indicating the Department has reviewed and approved the sewerage design shall be submitted.(Am 4/03)
- E. Indication of the type of water supply system(s) to be used in the subdivision.
 1. When water is to be supplied by public water supply, a written statement from the Water Department shall be submitted indicating the Department has reviewed and approved the water system design. A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.
 2. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
 3. Any proposed subdivision located within 200' at its closest point to a water line must connect to the public water system as approved by the Water Department Supervisor.
- F. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner subdivider, and individual or company who prepared the plan.
- G. The location of any zoning boundaries affecting the subdivision.

- H. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- I. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.
- J. The width and location of any streets or public improvements shown upon the Official Land Use Map and the Comprehensive Plan, if any, within the subdivision.
- K. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.
- L. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
- M. Any proposed subdivision located within 200' at its closest point must connect to the public sewer system as approved by the Sewer Department Supervisor.
- N. A storm water management plan and an Erosion and Sedimentation Control Plan, prepared by a registered professional engineer in accordance with the Ellsworth Code of Ordinance – Chapter 56, Article 10 Stormwater Management, Design and Construction Standards.
- O. A phosphorus impact analysis and control plan conducted using the procedures set forth in *Phosphorus Control in Lake Watersheds* A long-term maintenance plan for all phosphorus control measures, per Ellsworth Code of ordinance Chapter 56, Article 10 - Stormwater Management, Design, and Construction Standards.
- P. The contour lines shown on the plan shall be at an interval of no less than two feet.
- Q. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

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

9.3 FINAL APPROVAL AND FILING

- A. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions on a previously approved Plan.
- B. Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A. section 4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more section subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision.
- D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article IX. The Board shall make findings that the revised plan meets the standards of Title 30-A, M.R.S.A. section 4404, and these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Except in the case of a phase development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and Void. Upon determining that a

subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

Article X Revisions to Approved Plans

10.1 PROCEDURE

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

10.2 SUBMISSIONS

The applicant shall submit a copy of the approved plan, as well as twelve (12) copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

10.3 SCOPE OF REVIEW

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

Article XI Enforcement

11.1 INSPECTION OF REQUIRED IMPROVEMENTS

- A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall:
 - 1. Notify the Code Enforcement Officer in writing of the time when he/she proposes to commence construction of such Improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 - 2. Show proof of a signed agreement between the subdivider and a Licensed Civil Engineer that the Engineer will accept responsibility for on-site inspection and certification that all specifications have been met. Such agreement will contain a fee schedule and dates for which the agreement is valid.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the Code Enforcement Officer is authorized to approve minor modifications due to, unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Code Enforcement Officer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the City. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall request on-site inspection and approval from the Review Board.
- D. At the close of each summer construction season the City shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1st of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.

- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- F. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

11.2 VIOLATIONS AND ENFORCEMENT

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.
- B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry Deeds.
- C. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this section, and may collect attorneys' fees and court costs if it is the prevailing party.
- E. No public utility, water district, sanitary district and/or utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- F. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in these regulations and recorded in the Registry of Deeds.
- G. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

Article XII General Standards

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

12.1 CONFORMANCE WITH COMPREHENSIVE PLAN

All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

12.2 RETENTION OF OPEN SPACES AND NATURAL OR HISTORIC FEATURES

- A. If the proposed subdivision contains any identified historical or archaeological sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas shall be included in the open space, and suitably protected by appropriate covenants and management plans.
- B. Any public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space, with provisions made for continued public access.

12.3 LAND NOT SUITABLE FOR DEVELOPMENT

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the Minimum Lot Size Law.

- A. Land which is situated below the normal high water mark of any water body.
- B. Land which is located within the 100 year frequency floodplain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least two (2) feet above the 100 year flood level. The elevation of filled or made land shall not be considered.
- C. Land which is part of a right-of-way, or easement, including utility easements.
- D. Land that has been created by filling or draining a pond ~~or~~ or wetland.
- E. Wetlands.

12.5 LOTS

- A. All lots shall meet the minimum requirements of the Land Use Ordinance for the zoning district in which they are located. The lot configuration should be designed to maximize access to solar energy on building sites with suitable orientation.
- B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas lots shall be laid out to coincide with building locations to maximize solar energy gain.
- C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access on the less traveled way. See Ellsworth Code of Ordinances, Article 9 – Street Design and Construction Standards 910.3.
- D. Wherever possible, side lot lines shall be perpendicular to the street.
- E. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future resubdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
- F. If a lot on one side of a stream, tidal water, road, utility easement or wetland fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
- G. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- H. Lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and his comments considered by the Board.
- I. Where a major subdivision abuts or contains an existing or proposed State-owned street, permits must be obtained from the Maine Department of Transportation for entrance/driveway. This requirement shall be noted on the Plan and in the deed of any lot with frontage on the State-owned street.

12.6 UTILITIES

- A. Utilities, with the exception of electric, telephone and television cable, shall be installed underground except as otherwise approved by the Board.
- B. Underground utilities shall be installed prior to the installation of the final gravel base of the road.
- C. The size, type and location of street lights, electric and gas lines, telephone, and other utilities shall be shown on the plan and approved by the Board.

12.7 REQUIRED IMPROVEMENTS

The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.

A. Monuments

- 1. Stone monuments shall be set at all street intersections and points of curvature or minimum 4' rebar, but no further than 750 feet apart along street lines without curves or intersections.
- 2. Stone monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less or minimum 4' rebar.
- 3. Stone monuments shall be a minimum of four inches square at the top and four feet in length or minimum 4' rebar, and set in the ground at final grade level. After they are set, drill holes, 1/2 inch deep shall locate the point or points described above.
- 4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation.

B. Water Supply

- 1. Any proposed subdivision located within 200' at its closest point to a water line must connect to the public water system.
 - a. The subdivider shall provide a written statement from the servicing water department or district that adequate water for both domestic and fire fighting purposes can be provided without placing an undue burden on the source, treatment facilities or distribution system involved. The subdivider shall be responsible

for paying the costs of system improvements necessary to serve the subdivision.

- b. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Water Department and the Fire Chief.

2. When the location of a subdivision does not allow for a financially reasonable connection to a public water system, the Board may allow the use of individual wells or a private community water system.

C. Sewage Disposal

1. Public System

- a. Any proposed subdivision located within 200' at its closest point to a sewer line must connect to the public sewer system.
- b. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 200 feet of the proposed subdivision at its nearest point. The Sewer Department shall certify that providing service to the proposed subdivision is within the capacity of the system's collection and treatment system.

2. Private Systems

- a. The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator or Soil Scientist in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
- b. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

D. Surface Drainage per the Ellsworth Code of Ordinance – Chapter 56, Article 10 Stormwater Management, Design and Construction Standards.

12.8 LAND FEATURES

- A. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas lots, and building excavations.
- B. Except for normal thinning, landscaping, and cutting trees to provide to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.
- C. To prevent soil erosion in shoreline areas, tree cutting in the strip extending one hundred feet inland from the normal high water mark of any waterbody shall be limited in accordance with Article 10, Section 1, Subsection C.11.

12.9 CLUSTER DEVELOPMENTS

- A. Purpose.

The purpose of these provisions is to allow for innovative concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the Zoning District in which the development is proposed. To this end, the layout, and dimensional requirements of the Land Use Ordinance may be altered without restriction except height limitations.

- B. Basic Requirements

- 1. All the requirements and standards of these regulations, except those dealing with lot layout and dimensions shall be met.
- 2. The minimum area of land in a cluster development shall be ten acres, except where there is public water and sewer.
- 3. The plan shall indicate the location of all proposed roads, structures, parking lots, footpaths and common open space.
- 4. No building shall be constructed on soil types classified by the S.C.S. as being poorly or very poorly drained.
- 5. Where a cluster development abuts a waterbody, a portion of the shoreline, as well as reasonable access to it, shall be part of the common land.

6. In cluster developments with individual lot sizes of 20,000 sq.ft. or less, all dwelling units shall be connected to a common water supply and distribution system, either public or private.
7. In cluster developments with individual lot sizes of 20,000 sq.ft. or less, all dwelling units shall be connected to a public sewer system or to a central collection and treatment system.
8. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south-facing slopes, and natural drainage areas, in accordance with an overall plan for site development and landscaping.

12.10 DEDICATION AND MAINTENANCE OF COMMON OPEN SPACE AND SERVICES

- A. The developer or subdivider shall be responsible for its maintenance until development sufficient to support the association has taken place.
- B. The by-laws of the proposed Homeowners Association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.
- C. Covenants for mandatory membership in the Homeowners Association setting forth the owner's rights, interests, and privileges in the association and the common property, shall be reviewed by the Board and included in the deed for each lot or dwelling.

12.11 CONSTRUCTION IN FLOOD HAZARD AREAS

When any part of a subdivision is located in a special Flood Hazard Area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

12.12 IMPACT ON GROUND WATER

- A. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 1. A map showing the basic soils types.

2. The depth to the water table at representative points throughout the subdivision.
 3. Drainage conditions throughout the subdivision.
 4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 5. An analysis and evaluation of the effect of the subdivision on groundwater resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a lake, projections of the subdivision's impact on groundwater phosphate concentrations shall also be provided.
 6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- B. Projections of groundwater quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
 - C. No subdivision shall increase any contaminant concentration in the groundwater to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
 - D. If groundwater contains contaminants in excess of the Primary Drinking Water Standards, and the subdivision is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated.
 - E. If groundwater contains contaminants in excess of the Secondary Drinking Water Standards, the subdivision shall not cause the concentration of the parameters, in question to exceed 150% of the ambient concentration.
 - F. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

12.13 ACCESS CONTROL AND TRAFFIC IMPACTS

A. General

Provisions shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision, to avoid traffic congestion on any accessways and to provide safe and convenient circulation on public streets and within the subdivision. More specifically, access and circulation shall conform to the Ellsworth Code of Ordinance – Chapter 56, Article 9 – Street Design and Construction Standards.

Article XIII Street and Storm Drainage Design and Construction Standards

13.1 GENERAL REQUIREMENTS

A. The Board shall not approve any subdivision plan unless proposed streets and storm water management systems are designed in accordance with Chapter 56 Article 9 – Street Design and Construction Standards and Article 10 - (Stormwater Managements, Design, and Construction Standards. Approval of the Final Plan by the Board, shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

C. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan & within the deed.

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the City of Ellsworth even if they meet the city street design & construction standards."

13.7 ADDITIONAL IMPROVEMENTS AND REQUIREMENTS

A. Erosion Control. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

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

C. Street Names, Signs and Lighting. Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of

existing streets within the Municipality, and shall be subject to the approval of the City Assessor's Office. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street names, traffic safety and control signs. Street lighting shall be installed as approved by the Board.

Article XIV Performance Guarantees

TYPES OF GUARANTEES

With submittal of the application for Final Plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction. Performance Guarantees shall be required only when public utilities are used. (Am 4/03)

- A. Either a certified check payable to the City or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
- B. A performance bond payable to the City issued by a surety company, approved by the Municipal Officer, or City Manager;
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the City may draw if construction is inadequate, approved by the Municipal Officers, or City Manager; or
- D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Road Supervisor, Municipal Officers, and/or Town Attorney.

14.2 CONTENTS OF GUARANTEE

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

14.3 ESCROW ACCOUNT

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

amount returned to the subdivider and the amount withdrawn to complete the required improvements.

14.4 PERFORMANCE BOND

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

14.5 LETTER OF CREDIT

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

14.6 CONDITIONAL AGREEMENT

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

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

Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 13.8.

14.7 PHASING OF DEVELOPMENT

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

14.8 RELEASE OF GUARANTEE

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Registered Civil Engineer, the Code Enforcement Officer, and other agencies and departments involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

14.9 DEFAULT

If, upon inspection, the Registered Civil Engineer or the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he/she shall so report in writing to the Municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the City's rights.

14.10 IMPROVEMENTS GUARANTEE

Performance guarantees shall be tendered for all improvements required by Section 11.7 of these regulations and for the construction of the streets.

Article XV Waivers

15.1 WAIVERS AUTHORIZED

Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land use ordinance, or these regulations.

15.2 FINDING OF FACTS

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

15.3 CONDITIONS

When granting waivers to any of these regulations in accordance with Sections 14.1 and 14.2, the Board shall set conditions so the purposes of these regulations are met.

15.4 WAIVERS TO BE SHOWN ON FINAL PLAN

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

Article XVI Appeals

- 16.1 An aggrieved party may appeal any decision of the Board under these regulations to Hancock County Superior Court, within thirty days.