

ARTICLE 7 SUBDIVISION REVIEW

701 PURPOSES

In addition to the general purposes of the City Code set forth in Chapter 1, Article 2, Section 1, the purposes of this Article 7 are to ensure the comfort, convenience, safety, health and welfare of the people of the City, to protect the environment and to promote the development of an economically sound and stable community.

702 APPLICABILITY

This Article 7 applies to the selling, leasing, developing, building upon, or conveying for consideration any land in a subdivision, as defined in 30 A M.R.S.A. § 4401(4), except that it does not apply to:

- 702.1** Subdivisions approved by the City administrator before September 23, 1971, in accordance with laws then in effect.
- 702.2** Subdivisions in actual existence on September 23, 1971, that did not require approval under prior law.
- 702.3** A subdivision, a plan of which has been legally recorded in the Hancock County Registry of Deeds before September 23, 1971.
- 702.4** Any airport with an airport layout plan that has received final approval from the airport sponsor, MaineDOT, and Federal Aviation Administration.
- 702.5** A subdivision in violation of this Article 7 or 30-A M.R.S.A. § 4401 *et seq.* that has been in existence for 20 years or more, except as provided in 30-A M.R.S.A. § 4402(5).
- 702.6** The division of a new or existing structure so as to create three more dwelling units, which shall be subject to site development plan review pursuant to Article 6. The Planning Board hereby determines that Article 6 meets the requirements of 30-A M.R.S.A. § 4402(6)(A) and therefore such development is exempt from the requirements of this Article 7 (Subdivision Review).

STATE LAW REFERENCE—30-A M.R.S.A. § 4402 (SUBDIVISIONS; EXCEPTIONS).

703 ADMINISTRATION

This Article 7 is administered by the Planning Board.

704 CLASSIFICATION OF SUBDIVISION APPLICATIONS

The City Planner shall classify subdivision applications as a minor subdivision or a major subdivision as follows:

- 704.1 Minor Subdivision:** The division of a tract or parcel of land into four or fewer lots.
- 704.2 Major Subdivision:** The division of a tract or parcel of land into more than four lots.

705 REVIEW PROCEDURES

In addition to the general procedures set forth in Chapter 1, Section 208 and Chapter 56, Article 1, the following procedures apply to applications for subdivision review.

705.1 Sketch Plan Procedures (Optional).

1. **Sketch Plan Meeting.** Before submitting a subdivision application, the applicant may, at the applicant's option, appear at a regular or special meeting of the

Planning Board to informally discuss the proposed subdivision. The sketch plan meeting is informal and informational in nature, and the purposes of the sketch plan meeting are to (i) allow the Planning Board to understand the nature of the proposed subdivision, (ii) allow the applicant to understand the review process and required submissions, and (iii) identify issues that need to be addressed in future submissions.

2. **Submission Requirements.** If the applicant opts to appear at a sketch plan meeting of the Planning Board, the applicant shall submit a sketch plan showing, in simple sketch form, the layout of proposed development and other features in relation to existing conditions. The sketch plan must contain the features and elements set forth in Appendix 56.7-A. The sketch plan, which may be a free-hand penciled sketch, must be accompanied by a written description containing:
 - (a) The general intent of the proposal.
 - (b) General information describing the existing conditions of the site.
 - (c) Proposed drinking water and sewage disposal methods.
 - (d) Proposed uses for each existing or proposed structure.
 - (e) Existing and proposed impervious surface areas, including their dimensions.
3. **Notice.** The applicant must give notice of the sketch plan meeting in accordance with Chapter 1, Section 209.
4. **Appearance.** The applicant or a duly authorized representative must present to the Planning Board at the sketch plan meeting, for informal review and comment, a sketch plan and other information relevant to the proposal.
5. **Waivers.** The applicant may, during the sketch plan meeting, identify and discuss any requests for waivers pursuant to Chapter 1, Section 206.4.
6. **No Vested Rights.** No binding commitments may be made between the applicant and the Planning Board at this stage. No vested interests will attach or accrue as a result of any sketch plan meeting, and such meeting(s) will not cause an application to be deemed complete for review pursuant to Chapter 1, Section 208.3.

705.2 Procedures for Minor Subdivision Review. The following procedures shall apply to any proposed minor subdivision.

1. **Application.** The applicant shall submit to the City Planner an application on forms provided by the City for the approval of a final plan for a minor subdivision. In addition to the general application submission requirements in Chapter 1, Section 208.2, the application must contain the materials set forth in Appendix 56.7-A. The application must be filed at least 27 days prior to a scheduled meeting of the Planning Board. Notice that an application for final plan approval of a minor subdivision has been submitted shall be given in accordance with Chapter 1, Section 209.
 - (a) **Preliminary Plan Not Required.** Preliminary plans are not required for minor subdivisions.

2. **Initial Completeness Review By City Planner.** Notwithstanding the requirements of Chapter 1, Section 208.3, the City Planner shall make an initial determination of the completeness of applications for inclusion on the Planning Board meeting agenda. Any application which the City Planner initially determines to be incomplete shall not be placed on the agenda but shall be returned to the applicant with an indication of the additional information required. When this additional information has been supplied, the City Planner shall place the application on the Planning Board's agenda.
3. **Planning Board Agenda.** Applications determined to be complete by the City Planner shall be placed on the Planning Board's next regular monthly agenda for consideration. The Chair of the Planning Board may call a special meeting if the number of agenda items or other circumstances seem to require.
4. **Completeness and Public Hearing Determination by Planning Board.** Prior to starting its review of the application, the Planning Board must determine that the application is complete for review in accordance with Chapter 1, Section 208.3. Upon determination that a complete application has been submitted for review, the Planning Board shall issue a dated receipt to the applicant and shall determine whether to hold a public hearing on the application. The Planning Board may, but is not required, to hold a public hearing on a preliminary plan application for a minor subdivision. If the Planning Board decides to hold a public hearing, it shall hold the hearing within 30 days of receipt of a complete application and notice of the hearing shall be given in accordance with Chapter 1, Section 209.
5. **Appearance.** The applicant, or duly authorized representative, shall attend meetings and hearings of the Planning Board to discuss the minor subdivision plan application. Failure to attend will postpone the Planning Board's review of the application until such time when the application is on the Planning Board's next meeting agenda and the applicant, or duly authorized representative, is in attendance.
6. **Written Decision.** The Planning Board shall issue a written decision in accordance with Chapter 1, Section 208.5.

705.3 Procedures for Major Subdivision Preliminary Plan Review. The following procedures shall apply to any proposed preliminary plan for a major subdivision.

1. **Application.** The applicant shall submit to the City Planner an application on forms provided by the City for the approval of a preliminary plan for a major subdivision. In addition to the general application submission requirements in Chapter 1, Section 208.2, the application must contain the materials set forth in Appendix 56.7-A. The applicant must be filed at least 27 days prior to a scheduled meeting of the Planning Board. Notice that an application for preliminary plan approval of a major subdivision has been submitted shall be given in accordance with Chapter 1, Section 209.
 - (a) Any proposed subdivision located within 600 feet at its closest point to a water line must connect to the public system as approved by the Water Department Supervisor.
 - (b) When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.

2. **Special Fee Designation.** Notwithstanding Chapter 1, Section 302.1, all applications for approval of a preliminary plan for a major subdivision are designated special applications and a special fee shall be assessed in accordance with Chapter 1, Section 302.
3. **Initial Completeness Review By City Planner.** Notwithstanding the requirements of Chapter 1, Section 208.3, the City Planner shall make an initial determination of the completeness of applications for inclusion on the Planning Board meeting agenda. Any application which the City Planner initially determines to be incomplete shall not be placed on the agenda but shall be returned to the applicant with an indication of the additional information required. When this additional information has been supplied, the City Planner shall place the application on the Planning Board's agenda.
4. **Technical Review Team—Regular Meeting.** The City Planner shall call a Technical Review Team (TRT) meeting no later than seven days after an application has been deemed complete by the City Planner. This meeting shall be referred to as the Regular Meeting of the TRT. As part of the TRT meeting, the Fire Chief must review and provide comment on life-safety infrastructure requirements, including emergency vehicle access (turn-radius and width), hydrant locations, and fire flow requirements. The City Planner, in coordination with the TRT, shall conduct a final qualitative review of the application and issue a memorandum of preliminary findings, which shall be made available to the Planning Board, the applicant, and any interested parties.
5. **Planning Board Agenda.** An application determined to be complete by the City Planner shall be placed on the Planning Board's next regular monthly agenda for consideration. The Chair of the Planning Board may call a special meeting if the number of agenda items or other circumstances so require.
6. **Completeness and Public Hearing Determination by Planning Board.** Prior to starting its review of the application, the Planning Board must determine that the application is complete for review in accordance with Chapter 1, Section 208.3. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant. The Planning Board may, but is not required, to hold a public hearing on a preliminary plan application for a major subdivision. If the Planning Board decides to hold a public hearing, it shall hold the hearing within 30 days of receipt of a complete application and notice of the hearing shall be given in accordance with Chapter 1, Section 209.
7. **Appearance.** The applicant, or duly authorized representative, shall attend meetings and hearings of the Planning Board to discuss the major subdivision plan application. Failure to attend will postpone the Planning Board's review of the application until such time when the application is on the Planning Board's next meeting agenda and the applicant, or duly authorized representative, is in attendance.
8. **Joint Meeting.** If the subdivision is located in more than one municipality, the Planning Board shall hold a joint meeting with the municipal reviewing authority of the adjacent municipality.

9. **Written Decision; Conditions of Approval.** The Planning Board shall issue a written decision in accordance with Chapter 1, Section 208.5. Without limiting the Planning Board's authority to grant approvals with conditions pursuant to Chapter 1, Section 208.5, when granting approval of a preliminary plan for a major subdivision, the Planning Board shall state the conditions of such approval, if any, with respect to:
 - (a) The specific changes which it will require in the final plan;
 - (b) The character and extent of the required improvements for which waivers may have been requested, and which may be waived pursuant to Section 206.4; and
 - (c) The terms and amount of all performance guarantees which the Planning Board will require as prerequisite to the approval of the final plan in accordance with Chapter 1, Section 511.
10. **No Vested Rights.** Approval of a preliminary plan shall not constitute approval of the final plan or intent of the Planning Board to approve the final plan; rather it is an expression of the Planning Board's 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 Planning Board upon fulfillment of the requirements of this Article 7 and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Planning Board may require additional changes as a result of the further study of the subdivision or new information received.
11. **Preliminary Plan Expiration.** If the period of time between Planning Board approval of a preliminary plan and submittal of a final plan exceeds six months, the approval of the preliminary plan shall be deemed to have lapsed unless the Planning Board, in its discretion, extends the period of time for good cause shown.

705.4 Procedures for Major Subdivision Final Plan Review. The following procedures shall apply to any proposed final plan for a major subdivision.

1. **Application; Filing Deadline.** The applicant shall, within six months after the approval of the preliminary plan, submit to the City Planner an application on forms provided by the City for approval of a final plan for a major subdivision containing the materials set forth in Appendix 56.7-A. The final plan shall approximate the layout shown on the Preliminary Plan and shall incorporate any conditions of approval of the Preliminary Plan imposed by the Planning Board. The application must be filed at least 27 days prior to a scheduled meeting of the Planning Board. If the application for the final plan is not submitted within six months after preliminary plan approval, the Planning Board may, in its discretion, refuse to act on the final plan application and require resubmission of a preliminary plan application. Notice that an application for final plan approval of a major subdivision has been submitted shall be given in accordance with Chapter 1, Section 209.
2. **Initial Completeness Review by City Planner.** Notwithstanding the requirements of Chapter 1, Section 208.2, the City Planner shall make an initial determination of the completeness of applications for inclusion on the Planning Board meeting agenda. Any application which the City Planner initially determines to be incomplete shall not be placed on the agenda but shall be returned to the applicant with an indication of the additional information required. When

this additional information has been supplied, the City Planner shall place the application on the Planning Board's agenda.

3. **Technical Review Team—Regular Meeting.** The City Planner shall call a Technical Review Team (TRT) meeting no later than seven days after an application has been deemed complete by the City Planner. This meeting shall be referred to as the Regular Meeting of the Technical Review Team. The City Planner, in coordination with the TRT, shall conduct a final qualitative review of the application and issue a memorandum of preliminary findings, which shall be made available to the Planning Board, the applicant, and any interested parties. The memorandum shall include comment upon the adequacy of each City department's existing capital facilities to service the proposed subdivision.
4. **Planning Board Agenda.** An application determined to be complete by the City Planner shall be placed on the Planning Board's next regular monthly agenda for consideration. The Chair of the Planning Board may call a special meeting if the number of agenda items or other circumstances so require.
5. **Completeness and Public Hearing Determination by Planning Board.** Prior to starting its review of the application, the Planning Board must determine that the application is complete for review in accordance with Chapter 1, Section 208.3. Upon determination that a complete application has been submitted for review, the Planning shall issue a dated receipt to the applicant and shall determine whether to hold a public hearing on a final plan application for a major subdivision. If the Planning Board decides to hold a public hearing, it shall hold the hearing within 30 days of receipt of a complete application, and notice of the hearing shall be given in accordance with Chapter 1, Section 209.
6. **Appearance.** The applicant, or duly authorized representative, shall attend meetings and hearings of the Planning Board to discuss the major subdivision plan application. Failure to attend will postpone the Planning Board's review of the application until such time when the application is on the Planning Board's next meeting agenda and the applicant, or duly authorized representative, is in attendance.
7. **Joint Meeting.** If the subdivision is located in more than one municipality, the Planning Board shall hold a joint meeting with the municipal reviewing authority of the adjacent municipality.
8. **Written Decision; Conditions of Approval.** The Planning Board shall issue a written decision in accordance with Chapter 1, Section 208.5 within 30 days from the public hearing or within 60 days of receiving a complete application if no hearing is held.
 - (a) **Performance Guarantee.** Before the Planning Board grants approval of the final plan, the subdivider shall demonstrate compliance with the performance guarantee requirements contained in Chapter 1, Section 511.
 - (b) **Violations.** No final plan shall be approved by the Planning Board as long as the subdivider is in violation of the provisions on a previously approved plan.

- (c) **Phased Subdivision.** At the time the Planning Board grants final plan approval, it may allow the plan to be divided into two or more phases. If any City department notified of the proposed subdivision informs the Planning Board that their department or district does not have adequate capital facilities to service the subdivision, the Planning Board shall require the final plan to be divided into two or more phases subject to any conditions the Planning Board deems necessary to allow the orderly planning, financing and provision of public services to the subdivision.
- (d) **Copies.** Upon findings that all applicable standards in Section 705 have been met, and upon voting to approve the subdivision, the Planning Board shall sign the final plan. One copy of the signed final plan shall be retained by the Planning 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 CEO.
- (d) **Recording Required.** The applicant shall cause the final plan to be recorded in the Hancock County Registry of Deeds within 90 days of final plan approval.
- (e) **No Changes, Erasures, Modifications, Revisions.** No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Planning Board and endorsed in writing on the final plan, unless the revised final plan is first submitted and the Planning Board approves any modifications, except in accordance with Section 705.7. In the event that a final plan is recorded without complying with this requirement, it shall be considered null and void, and the CEO shall institute proceedings to have the final plan stricken from the records of the Hancock County Registry of Deeds.

9. **Final Plan Expiration.**

- (a) If the period of time between Planning Board approval and recording in the Hancock County Registry of Deeds is greater than 90 days, the final plan shall be null and void.
- (b) Except in the case of a phased subdivision development plan, if construction and installation of subdivision improvements have not substantially started within five years of the date of the Planning Board's signature on the final plan, the subdivision shall expire. Upon determining that a subdivision's approval has expired under this paragraph, the Planning Board shall cause a notice placed in the Hancock County Registry of Deeds to that effect.

705.5 Revisions to Approved Preliminary and Final Plans.

- 1. **Procedure.** An applicant for a revision to a previously approved preliminary or final plan shall, at least 27 days prior to a scheduled meeting of the Planning Board, request to be placed on the Board's agenda. If the proposed revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval in Section 705.2 or Section 705.3 shall be followed. If the proposed revision involves only modifications to a final plan, without the creation of additional lots or dwelling units, the procedures for final plan approval in Section 705.4 shall be followed.

2. **Application.** The applicant must submit, in addition to the general application submission requirements in Chapter 1, Section 208.2, an application on forms provided by the City for the approval of a minor subdivision. The application must contain a copy of the approved plan, as well as the proposed revisions and other submission materials in such quantities and containing such information as are required for a preliminary plan or final plan. The application must also include enough supporting information to allow the Planning Board to make a determination that the proposed revisions meet the review criteria governing subdivisions set forth in Section 706.
3. **Scope of Review.** The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.
4. **Revised Plan.** The revised plan shall indicate that it is the revision of a previously approved and recorded subdivision 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 Hancock County Registry of Deeds.

705.6 Site Visits. The Planning Board may hold a site visit of the property at any time during any subdivision review process. Notice of the site visit must be given in accordance with Chapter 1, Section 209. The applicant shall place “flagging” at the centerline of any proposed streets, at the approximate intersections of the street center and lot corners, and at the location of other important proposed structures and features as may be requested by the Planning Board.

705.7 Supplemental Application Materials. No supplemental application materials shall be accepted by the City Planner after noon on the first Monday following the TRT Regular Meeting. Supplemental application materials shall not be distributed by the applicant to the Planning Board at any meeting or public hearing of the Planning Board unless it is determined by the Chair of the Planning Board that such materials are relevant, necessary, and brief enough to be quickly assimilated, and only if adequate copies are provided and of a type that is compatible with information technology currently available at the City.

706 REVIEW CRITERIA GOVERNING SUBDIVISION PLAN REVIEW

When reviewing any application for a major or minor subdivision, the Planning Board shall consider the following statutory review criteria and before granting approval must find that the proposal complies with each of the following review criteria.

706.1 Statutory Review Criteria.

1. **Pollution.** The proposed subdivision will not result in undue water or air pollution. In making this determination, the Planning Board 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.
2. **Sufficient Water.** The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.
3. **City Water Supply.** The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

4. **Erosion.** The proposed subdivision 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.
5. **Traffic.** The proposed subdivision 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.
6. **Sewage Disposal.** The proposed subdivision will provide for adequate solid waste and sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.
7. **Solid Waste Disposal.** The proposed subdivision will not cause unreasonable burden on the City's ability to dispose of solid waste if municipal services are to be utilized.
8. **Aesthetic, Cultural and Natural Values.** The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the MDIFW or the City, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. **Conformity with Local Ordinances and Plans.** The proposed subdivision conforms with this Article 7 and any duly adopted comprehensive plan, development plan or land use plan. In making this determination, the Planning Board may interpret this Article 7 and plans.
10. **Financial and Technical Capacity.** The subdivider had adequate financial and technical capacity to meet the standards of this Section 706.
11. **Surface Waters.** Whenever situated entirely or partially within the watershed of any pond or lake, or within 250 feet of any wetland, great pond, or river as defined in 38 M.R.S.A. § 436-A, the proposed subdivision will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water.
12. **Ground Water.** The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. **Flood Areas.** If the subdivision, or any part of it, is in a flood prone area, as determined based on the FEMA Flood Boundary and Floodway Maps and Flood Insurance Rate Maps and information presented by the applicant, 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.
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.

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 38 M.R.S.A. § 480-B(9).
16. **Storm Water.** The proposed subdivision will provide for adequate storm water management.
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 38 M.R.S.A. § 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
18. **Lake Phosphorus Concentration.** 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.
19. **Impact on Adjoining Municipalities.** 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.
20. **Lands Subject to Liquidation Harvesting.** Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S.A. § 8869(14). If a violation of rules adopted by the DACF Bureau of Forestry to substantially eliminate liquidation harvesting has occurred, the City administrator must determine prior to granting approval for the subdivision that five years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The administrator may request technical assistance from DACF Bureau of Forestry to determine whether a rule violation has occurred, or the administrator may accept a determination certified by a forester licensed pursuant to 32 M.R.S.A. Ch. 76. If the administrator requests technical assistance from the DACF Bureau of Forestry, the Bureau must respond within five working days regarding its ability to provide assistance. If the Bureau notifies the administrator that the Bureau will not provide assistance, the administrator may require the applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, “liquidation harvesting” has the same meaning as in 12 M.R.S.A. § 8868(6) and “parcel” means a contiguous area within one municipality, township, or plantation owned by one person or a group of persons in common or joint ownership.

706.2 Additional Review Criteria.

1. **Conformance With Comprehensive Plan.** All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the City and with the provisions of all pertinent state and local codes and ordinances.
2. **Adequate Technical and Financial Capacity.** The applicant must have adequate technical and financial capacity to develop the subdivision in compliance with all applicable review standards. Evidence of adequate technical capacity may include a written statement identifying the consultants and contractors involved in designing and constructing the subdivision development and their respective expertise and experience with comparable projects. Evidence of adequate financial capacity may include a written statement from the lender or financing partner

identifying the estimated project cost and confirming that the subdivider has funds to cover the cost.

3. **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.

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, 12 M.R.S.A. Ch. 42:

- (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 on a FEMA Flood Insurance Rate Map, 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 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 a utility easement.
- (d) Land that has been created by filling or draining a pond or wetland.

4. **Lot Requirements.**

- (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 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. Refer to Chapter 56, Section 910.3 (Street Design and Construction Standards).
- (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 re-subdivision. 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 Planning 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 Planning Board.
- (i) Where a major subdivision abuts or contains an existing or proposed State-owned street, driveway or entrance permits must be obtained from the MaineDOT. This requirement shall be noted on the subdivision plan and in the deed of any lot with frontage on the State-owned street.

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

6. **Required Improvements.** The following improvements are required for all subdivisions:

(a) **Monuments.**

- (i) 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.
- (ii) 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.
- (iii) 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, ½ inch deep shall locate the point or points described above.
- (iv) 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.**

- (i) Any proposed subdivision located within 600 feet at its closest point to a water line must connect to the public water supply.
- (ii) The subdivider shall provide a written statement from the Water Superintendent that adequate water for both domestic and firefighting 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.
- (iii) The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Water Superintendent and the Fire Chief.
- (iv) When the location of a subdivision does not allow for a financially reasonable connection to a public water system, the Planning Board may allow the use of individual wells or a private community water system.

(c) **Sewage Disposal.**

- (i) *Public System.* Any proposed subdivision located within 600 feet at its closest point to a sewer line must connect to the public sewer system. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 600 feet of the proposed subdivision at its nearest point. The Wastewater Superintendent shall certify that providing service to the proposed subdivision is within the capacity of the system's collection and treatment system.
- (ii) *Private Systems.* The applicant shall submit evidence of soil suitability for subsurface wastewater disposal prepared by a Maine licensed site evaluator or soil scientist in compliance with the requirements of the Maine subsurface wastewater disposal rules, codified at 10-144 C.M.R. ch. 241. 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. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance under the Maine subsurface wastewater disposal rules, codified at 10-144 C.M.R. ch. 241. The system must comply with the surface drainage requirements of Chapter 56, Article 10 (Stormwater Management Design and Construction Standards).

- (d) **Land Features.** Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking lots, and building excavations. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff. To prevent soil erosion in shoreline areas, tree cutting in the

strip extending 100 feet inland from the normal high-water mark of any water body shall be limited pursuant to Chapter 56, Article 10.

(e) **Cluster Development.**

(i) *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 UDO may be altered without restriction with the exception of height limitations.

(ii) *Alternative Lot Layout and Dimensional Requirements.* A cluster development shall comply with all applicable requirements, except those concerning lot layout and dimensions. Instead, the cluster development shall comply with the following alternative requirements:

- The minimum area of land in a cluster development shall be ten acres, except where there is public water and sewer.
- The plan shall indicate the location of all proposed roads, structures, parking lots, footpaths and common open space.
- No building shall be constructed on soil types classified on soil and water conservation district maps as being poorly or very poorly drained.
- 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.
- In cluster developments with individual lot sizes of 20,000 square feet or less, all dwelling units shall be connected to a common water supply and distribution system, either public or private.
- In cluster developments with individual lot sizes of 20,000 square feet or less, all dwelling units shall be connected to a public sewer system or to a central collection and treatment system.
- 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.

(e) **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 City 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

City for the costs of installing street names, traffic safety and control signs. Street lighting shall be installed as approved by the Planning Board.

7. **Dedication and Maintenance of Common Open Space and Services.** The developer shall be responsible for the maintenance of common open space until a homeowners' association has been duly established. The bylaws of a proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Planning Board as part of final plan subdivision review. Deed restrictions and covenants for mandatory membership in a homeowner's association setting forth the lot owner's rights, interests, and privileges in the homeowner's association and the common property, including all access roads, easements, and common open spaces, shall be included in the deed for each lot or dwelling.
8. **Construction in Flood Hazard Areas.** When any part of a subdivision is located in a special FEMA flood hazard area, 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.
9. **Impact on Groundwater.**
 - (a) When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - (i) A map showing the basic soils types.
 - (ii) The depth to the water table at representative points throughout the subdivision.
 - (iii) Drainage conditions throughout the subdivision.
 - (iv) Data on the existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - (v) 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.
 - (vi) 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 National Primary Drinking Water

Standards, and no subdivision shall increase any contaminant concentration in the ground water to more than the National Secondary Drinking Water Standards, as codified in the Maine rules relating to drinking water, 10-144 C.M.R. Ch. 231. If groundwater contains contaminants in excess of the National 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. If groundwater contains contaminants in excess of the National Secondary Drinking Water Standards, the subdivision shall not cause the concentration of the parameters, in question to exceed 150% of the ambient concentration.

- (d) Subsurface wastewater 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.

10. Access Control and Traffic Impacts.

- (a) Provision 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.
- (b) Access and circulation shall comply with the requirements of Chapter 56, Article 9 (Street Design and Construction Standards) and Article 10 (Stormwater Management Design and Construction Standards).
- (c) Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan and 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.”

707 POST-APPROVAL REQUIREMENTS

707.1 Inspection of Required Improvements.

1. **Notice; Agreement.** At least five days prior to commencing each major phase of construction of required improvements, the developer shall:
 - (a) Notify the CEO in writing of the time when the developer proposes to commence construction of such improvements, so that the CEO can cause inspection to be made to ensure that all specifications and requirements shall be met during the construction of required improvements, and to ensure the satisfactory completion of improvements and utilities required by the Planning Board.
 - (b) 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 must contain a fee schedule and dates for which the agreement is valid.

2. **Noncompliance.** If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the official shall so report in writing to the CEO, Planning Board, and the subdivider or builder. The subdivider shall take prompt action to cure any construction defects.
3. **Minor Modifications to Improvements.** If at any time before or during the construction of the required improvements, it becomes necessary to modify the required improvements due to unforeseen circumstances such as encountering hidden outcrops of bedrock or natural springs, the CEO is authorized to approve minor modifications to the final plan. The CEO shall issue any approval under this section in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed with the City. For major modifications, such as relocation of rights-of-way, property boundaries, or changes of grade by more than 1%, the subdivider shall request on-site inspection and approval from the Planning Board using the plan revision procedures in Section 705.5.
4. **Third-party Inspections.** At the close of each summer construction season, the City shall, at the expense of the developer, have the site inspected by a third-party qualified inspector. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Planning 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.
5. **Monumentation.** Prior to the sale of any lot, the developer shall provide the Planning Board with a letter from a registered land surveyor stating that all monumentation shown on the plan has been installed.
6. **Obligation to Maintain Improvements.** The developer shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until such time, if ever, of acceptance of the improvements by the City.

707.2 Recording, Conveyance of Lots.

1. No plan of a division of land within the City which would constitute a subdivision shall be recorded in the Hancock County Registry of Deeds until a final plan has been approved by the Planning Board in accordance with this Article 7.
2. 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 Planning Board and recorded in the Registry Deeds.
3. 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.
4. No public utility, water district, sanitary district, or utility company of any kind

shall serve any lot in a subdivision for which a final plan has not been approved by the Planning Board.

5. Except as expressly authorized by state law or a provision of the City Code, no development of a subdivision may occur without Planning Board approval. 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 this Article 7, and recorded in the Hancock County Registry of Deeds.
6. 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 the requirements of this Article 7, up to and including the entire frontage of the lot.

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

707.4 Cleanup. Following street construction, the developer 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.

707.5 Plan Approval Not Evidence of Acceptance. The approval by the Planning Board of any preliminary or final plan shall not be deemed to constitute or be evidence of any acceptance by the City of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area is shown on the plan to be dedicated to the City, approval of the plan shall not constitute an acceptance by the City of such areas. The Planning Board shall require the plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the City Council covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

STATE LAW REFERENCE—30-A M.R.S.A. § 4403 (SUBDIVISIONS; MUNICIPAL REVIEW AND REGULATION); 30-A M.R.S.A. § 4404 (SUBDIVISIONS; REVIEW CRITERIA).

708 DEFINITIONS

For purposes of this Article 7, the following terms have the following meanings:

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, fireplace, 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, racetracks, 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 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 15 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.

1. **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.

2. **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.
3. **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, frost walls, 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.

1. **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.
2. **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:

1. **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.
2. **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.

3. **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. 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
3. 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 by 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.

Re-subdivision. 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, alleys, 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. "Subdivision," as that term is defined in 30-A M.R.S.A. § 4401(4).

1. **Major Subdivision.** The division of a tract or parcel of land into more than four lots.
2. **Minor Subdivision.** The division of a tract or parcel of land into four or fewer lots.

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 411.14, *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 landowners.

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 Chapter 1, Section 211.

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.

APPENDIX 56.7-A SUBMISSION REQUIREMENTS

SUBMISSION REQUIREMENT		PREAPPLICATION MEETING —SKETCH PLAN	MINOR SUBDIVISION —FINAL PLAN	MAJOR SUBDIVISION —PRELIMINARY PLAN	MAJOR SUBDIVISION —FINAL PLAN ¹
1. Number and Format of Submissions					
	One digital copy of all submissions, in such form as the City Planner requests.	X	X	X	X
	<u>Prior to the Technical Review Team Meeting:</u> Three copies of each plan sheet, no larger than 24 by 36 inches in size, with 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. <u>After the Technical Review Team Meeting:</u> Eight copies of each plan, in conformance with the above-listed requirements.	X	X	X	X
	<u>Prior to the Sketch Plan Meeting:</u> One copy of the sketch plan reduced to a size of 8 ½ by 11 inches or 11 by 17 inches.	X	X	X	X
	One set of reproducible, stable base transparent originals of the subdivision plan (for City records).	---	X	---	X
	<u>Prior to the Technical Review Team Meeting:</u> One copy of all other submission requirements. <u>After the Technical Review Team meeting:</u> Eight copies of all other submission requirements.	X	X	X	X
2. Location Map					
	A location map drawn to scale and at a size adequate to show the relationship of the proposal to adjacent properties, and including: — Locations and names of existing streets. — Boundaries and designations of zoning districts. — An outline of the project, and any remaining portion of the owner's property if the plan submitted covers only a portion of the owner's holdings. — Existing development in the proximity of the project.	X	X	X	---
3. Sketch Plan (cont. on next page)					
	The sketch plan must be a proportionate scale plan of the affected property and must include, at minimum: — The names and addresses of the owner of record and, if different, the applicant.	---	X	X	---

¹ Include all Planning Board conditions from preliminary plan.

SUBMISSION REQUIREMENT		PREAPPLICATION MEETING —SKETCH PLAN	MINOR SUBDIVISION —FINAL PLAN	MAJOR SUBDIVISION —PRELIMINARY PLAN	MAJOR SUBDIVISION —FINAL PLAN ¹
	— The names and addresses of all consultants working on the project. — The name of the project, the date that the plan was prepared, a north point, and a bar scale. — The boundaries of the affected parcel(s). — Tax maps and lot numbers. — Acreage of the affected property. — Boundaries and designations of zoning districts. — Existing conditions, as set forth in Section 4. — A locus map in the upper right hand corner showing where the project is located within the City. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's tax maps on which the project is located.				
	A statement clearly identifying all proposed adjustments or modifications from the sketch plan or preliminary plan, if submitted.	---	X	X	X
4. Existing Conditions Map (cont. on next page)					
	One or more maps drawn at a scale of not more than 100 feet to the inch, showing the relation of the proposed subdivision to adjacent properties and the surrounding area and including: — The name of the project, the date that the plan was prepared, a north point, and a bar scale. — Zoning district boundaries. — Field-surveyed boundaries of the proposed development and all lot lines, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. — Existing restrictions and conditions on the site. — The locations, widths, and names of existing roads, streets, highways, paper streets, easements, and rights-of-way. — Areas with public rights for physical or visual access to the shoreline. — The locations of all existing sewer lines, water mains, culverts, and drainage ways. — The locations and dimensions of all existing structures and buildings. — The locations, widths, and names of open spaces, parks, public spaces, and public improvements, including those shown upon the official Land Use Map and the Comprehensive Plan.	X	X	X	X

SUBMISSION REQUIREMENT		PREAPPLICATION MEETING — SKETCH PLAN	MINOR SUBDIVISION — FINAL PLAN	MAJOR SUBDIVISION — PRELIMINARY PLAN	MAJOR SUBDIVISION — FINAL PLAN ¹
	— Existing natural, historical, and archaeological features, including: ▪ The location of all rivers, streams, brooks, great ponds, water bodies, wetlands, watercourses, farmland, significant wildlife habitat, rare and irreplaceable natural areas, other protected natural resources, and other essential physical features. ▪ 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 the Comprehensive Plan. ▪ Areas designated as a critical natural area by the Maine Natural Areas Program or the Comprehensive Plan. ▪ The location of mapped aquifers and aquifer recharge areas. ▪ Known archaeological sites. ▪ All areas within or adjacent to the proposed project 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. ▪ If any portion of the project is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation. — Topographic contour lines at elevation intervals specified by the Planning Board.				
5. Subdivision Plan (cont. on next page)					
	A subdivision plan, drawn at a scale of not more than 100 feet to the inch² including: — The proposed name or identifying title of the subdivision, City tax map and lot numbers, and the name of the City. — The date that the plan was prepared, a north point, and a graphic map scale. — Names and addresses of the record owner and subdivider — The name, registration number, signature, and seal of the professional consultant who prepared the plan. The	---	X	X	X

² Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than two 200 feet to the inch provided all necessary detail can easily be read.

SUBMISSION REQUIREMENT	PREAPPLICATION MEETING —SKETCH PLAN	MINOR SUBDIVISION —FINAL PLAN	MAJOR SUBDIVISION —PRELIMINARY PLAN	MAJOR SUBDIVISION —FINAL PLAN ¹
Planning Board may not accept or approve a final subdivision plan that is not sealed and signed by the professional consultant under whose responsible charge it was completed. — The number of acres within the proposed subdivision. — Field surveyed boundaries of the proposed subdivision and all lot lines, 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. — Names, tax map/lot, and deed references of adjoining property owners — Proposed lot dimensions, lot numbers, lot area (in square feet), buildable area, and minimum setback lines applicable to each proposed lot — 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. — The locations, widths, and names of existing and proposed roads, easements, and rights-of-way. — The locations of existing and proposed structures and buildings. — The locations of existing and proposed sewer lines, water mains, culverts, and drainage ways. — The locations of existing and proposed vegetative cover, berms, hedges, fencing, and screening. — Locations of trees/vegetation to be preserved or replaced. — The location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of entrances and exits of vehicles to and from the site onto public roads, and curb and sidewalk lines. — All parcels of land proposed to be dedicated to public use and the conditions of such dedication. — The location of open space to be preserved and a description of proposed improvements and its management. — Proposed public rights of access to the shoreline of a water body, if any. — Topographic contour lines at elevation intervals specified by the Planning Board, but no less than two feet.				

SUBMISSION REQUIREMENT		PREAPPLICATION MEETING —SKETCH PLAN	MINOR SUBDIVISION —FINAL PLAN	MAJOR SUBDIVISION —PRELIMINARY PLAN	MAJOR SUBDIVISION —FINAL PLAN ¹
	— Areas with sustained slopes greater than 25% cover more than one acre. — Space for insertion of conditions of approval and for the Planning Board's endorsement				
6. Abutting Property Owners					
	The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.	X	---	X	---
7. Roads / Easements / Utilities / Water Crossings					
	All existing and proposed roads, easements, utility lines (water, sewer), and drainage, including detailed road geometry (length, angles, radii, curves, tangent distances, and bearings).	---	X	X	X
	Typical cross-sections of the proposed grading for roads and sidewalks including width, type of pavement, elevations and grades.	---	X	X	X
	Preliminary designs of any proposed bridges or culverts.				
	A description of the road system proposed to serve the subdivision, and an indication of the future probable road system of the remaining portion of the tract if the preliminary subdivision plan submitted covers only part of the applicant's entire holding	---	X	X	X
8. Waste Disposal					
	The location and method of disposal for land clearing and construction debris.	---	X	---	X
	The limits of construction disturbance.	---	---	X	X
9. Water Supply					
	Indication of the type of water supply system(s) to be used in the subdivision. — When water is to be supplied by public water supply, a written statement from the Water Department 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. — 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.	---	X	X	---

SUBMISSION REQUIREMENT	PREAPPLICATION MEETING —SKETCH PLAN	MINOR SUBDIVISION —FINAL PLAN	MAJOR SUBDIVISION —PRELIMINARY PLAN	MAJOR SUBDIVISION —FINAL PLAN ¹
10. Sewage / Wastewater Disposal				
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 City Sewer Department stating it has the capacity to collect and treat the wastewater. — When sewage disposal is to be accomplished by subsurface wastewater disposal systems, an on-site soils investigation report by a licensed site evaluator or engineer. The report must contain the types of soil, a map showing the location of all test pits and proposed location and design of the subsurface wastewater disposal system for the proposed development. — If an engineered system is proposed to serve the subdivision, designs prepared by an engineer and approved by the LPI and DHHS.	---	X	X	---
11. Soil Survey				
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 Planning Board may require the submittal of a Class A (high intensity) or Class B (medium-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 the proposed uses.	---	X	X	---
A soil survey (including a soils map, location of soil test pits, soil narrative report, and soil profile log description) of existing soil conditions, conducted by a professional consultant according to the <i>Guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping</i> (Maine Association of Professional Soil Scientists, Mar. 2009). The intensity level of the soil survey within the buildable area of each lot must be based on the land use proposed, the acreage of proposed lots, and whether on-site subsurface wastewater disposal will be used.		---	X	---
12. Stormwater Management / Erosion & Sedimentation Control (cont. on next page)				
A soil erosion and sedimentation control plan prepared in accordance with the <i>Maine Erosion and Sediment Control Best Management Practices (BMPs): Manual for Designers and Engineers</i> (DEP, Oct. 2016)	---	X	X	X

SUBMISSION REQUIREMENT		PREAPPLICATION MEETING —SKETCH PLAN	MINOR SUBDIVISION —FINAL PLAN	MAJOR SUBDIVISION —PRELIMINARY PLAN	MAJOR SUBDIVISION —FINAL PLAN ¹
	A stormwater management plan and erosion control management plan prepared in accordance with Article 10 (Stormwater Management Design and Construction Standards).	---	X	X	X
13. Phosphorus Control					
	A determination as to whether any portion of the proposed subdivision is located, in whole or in part, in the direct watershed of a great pond, indicate which great pond.	---	X	X	X
	If any portion of the proposed subdivision is located in the direct watershed of Branch Lake, a phosphorus control plan.	---	---	X	X
	A phosphorus impact analysis and control plan conducted using the procedures set forth in the Maine Stormwater Management Design Manual: Phosphorus Control Manual, Vol. II (DEP, Mar. 2016).	---	---	X	X
	A long-term maintenance plan for all phosphorus control measures, in accordance with Chapter 56, Article 10 (Stormwater Management Design and Construction Standards).	---	---	X	X
14. Critical Natural Areas					
	If any portion of the proposed subdivision is within an area designated as a critical natural area by the Comprehensive Plan or the Maine Natural Areas Program, indicate appropriate measures that are proposed to preserve the values that qualify the site for such designation.	---	X	X	X
15. Hydrogeologic Assessment					
	A hydrogeologic assessment prepared by a certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when (i) the subdivision is not served by public sewer; (ii) 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 (iii) the subdivision has an average density of less than 100,000 square feet per dwelling unit. The Planning 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.	---	X	X	---
16. Traffic Impact Analysis (cont. on next page)					
	An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.	---	X	---	---
	Proposed general mitigation, access management, and consideration of pedestrian and non-automotive needs.	---	---	X	---

SUBMISSION REQUIREMENT		PREAPPLICATION MEETING —SKETCH PLAN	MINOR SUBDIVISION —FINAL PLAN	MAJOR SUBDIVISION —PRELIMINARY PLAN	MAJOR SUBDIVISION —FINAL PLAN ¹
	A traffic impact analysis, upon Planning Board request.	---	---	---	---
17. Landscaping Plan					
	A landscaping plan showing all graded contours and the approximate placement and types of existing and proposed vegetation, berms, hedges, tree lines, fencing, and screening. The plan must identify which existing trees and other vegetation will be preserved and what trees and other vegetation will be replaced.	---	---	X	X
18. Community Services / Infrastructure Impact					
	An evaluation of the availability and suitability of off-site public facilities and services, including public road maintenance and snow removal, police and fire protection, solid waste disposal, recreational facilities, on-site and off-site drainage facilities, and public schools. The analysis must identify (i) the construction and infrastructure elements that will be completed by the applicant prior to the sale of lots, and (ii) the construction and infrastructure elements that are proposed to be borne by the public.	---	---	X	---
19. Fire Protection Plan					
	A plan for fire protection services, including an evaluation of the availability and suitability of fire hydrants, fire ponds, and other fire protection services, consistent with applicable provisions of NFPA.	---	X	X	---
20. Construction Schedule					
	A construction schedule identifying all major stages of construction and including an estimate of the date when construction will start and be substantially completed.	---	---	X	---
21. Long-Term Maintenance Plan					
	A long-term maintenance plan providing for ongoing monitoring and inspections of all infrastructure. The plan must provide a legally binding method for maintaining sufficient financial and technical resources for performing ongoing maintenance and repair of all infrastructure.	---	X	X	X
22. Deeds, Restrictive Covenants, Easements, Open Space (cont. on next page)					
	A copy of the deed from which the survey is based, and any existing easements, encumbrances, or other restrictions currently affecting the property.	---	X	X	X
	Proposed restrictive covenants, lot deed restrictions, and encumbrances intended to cover all or part of the lots in the subdivision.	---	X	X	X
	Homeowners' association bylaws.	---	X	X	X

SUBMISSION REQUIREMENT		PREAPPLICATION MEETING —SKETCH PLAN	MINOR SUBDIVISION —FINAL PLAN	MAJOR SUBDIVISION —PRELIMINARY PLAN	MAJOR SUBDIVISION —FINAL PLAN ¹
	A description and location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication.	---	X	X	X
	Written offers of cession to the City of all public open spaces shown on the subdivision plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners. If open space or other land is to be offered to the City, written evidence that the City Council is satisfied with the legal sufficiency of the written offer of cession.	---	X	---	X
23. Performance Guarantees					
	If public utilities are used, a performance guarantee in compliance with the requirements of Chapter 1, Section 511.	---	X	---	X
24. Certification / Engineer & Surveyor					
	Certification by an engineer or a land surveyor that all surveys, deeds, restrictive covenants, and supporting information accurately reflect the true conditions existing within the proposed subdivision.	---	X	X	X
25. Other Governmental Applications and Approvals					
	Copies of all applicable state and federal applications and approvals associated with the proposed subdivision, including: — DEP permits and licenses, including pursuant to NRPA and Site Location of Development Act, and approvals for stormwater management and wastewater discharges. — DHHS approvals for central water supply and engineered subsurface wastewater disposal systems. — MaineDOT access management approvals — U.S. Army Corps of Engineers approvals pursuant to Section 404 of the Clean Water Act.	---	X	---	X