

TOWN OF EUSTIS
SUBDIVISION ORDINANCE

Adopted: September 11, 1995

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ARTICLE I. PURPOSES

The purposes of this ordinance are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Eustis, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Eustis, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this Ordinance have been met and that the proposed subdivision will meet the requirements established by in the State Subdivision Law (Title 30-A.M.R.S.A. Sections 4401 et. seq.).

ARTICLE II. AUTHORITY, ADMINISTRATION, EFFECTIVE DATE REPEAL OF EXISTING ORDINANCE

2.1 Authority

- A. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.
- B. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of Eustis, Maine."

2.2 Administration

- A. The Planning Board of the Town of Eustis, hereinafter called the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land proposed for subdivision, as defined by this Ordinance within the Town of Eustis.

2.3 Effective Date

The effective date of this Ordinance is _____ .

2.4 Repeal of Existing Subdivision Ordinance

Adoption of this Ordinance shall repeal any and all previous subdivision ordinances, or regulations. This shall not prevent the enforcement of repealed

ordinances or regulations with respect to the time periods in which they were in effect.

2.5 Conflict with Other Ordinances

A. This Ordinance shall not be construed to repeal any existing bylaws or ordinances, other than those specifically identified, or to impair the provisions of private restrictions placed upon property, provided, however, that where this Ordinance imposes greater restrictions, its provisions shall control.

2.6 Validity and Severability

A. Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

ARTICLE III. ADMINISTRATIVE PROCEDURE

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

3.2 Agenda. In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least ten (10) days in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

3.3 Joint Meetings. If any portion of the proposed subdivision crosses the boundary of an adjacent municipality or area under the jurisdiction of the Land Use Regulation Commission, the Board shall meet jointly with that municipality's planning board or the Land Use Regulation Commission to discuss the application.

ARTICLE IV. PREAPPLICATION FOR MINOR AND MAJOR SUBDIVISIONS

4.1 Submission. The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand pencilled sketch, should be supplemented with general information to describe or outline the existing

conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten acres in size.

- 4.2 Contour Interval and On-Site Inspection.** Within thirty days, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision, and hold an on-site inspection of the property.
- 4.3 Ownership Interest.** The applicant shall furnish written evidence showing his interest (option, contract for sale, etc.) in the property to be subdivided to the Board.

ARTICLE V. MINOR SUBDIVISIONS

- 5.1 General.** In any case in which, because of the complexity of the subdivision proposal or circumstances indicating that some aspect of the proposal is likely to present a substantial risk to public health, safety, or welfare, the Board may require the developer to submit any of the additional information which would be required for a major subdivision where necessary to assure that a hazardous condition will not be present.
- 5.2 Procedure.**
 - A.** Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan at least ten (10) days prior to a scheduled meeting of the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board. The Board shall provide the subdivider with a dated receipt of a Final Plan application at the Board Meeting where the Final Plan application is first presented and heard by the Board.
 - B.** All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee of \$50 per lot, dwelling unit, or unit contained in a shopping center or similar commercial establishment payable by check to the Town of Eustis.

- C. If the services of outside consulting engineers or other experts are required by the Board to assist in review of the plan, the Board shall notify the applicant of the nature of services, the firm or individual selected and the estimated cost of the services. The costs of such services shall be paid by the applicant and evidence of such payment furnished to the Board before the final plan for the project is signed.
- D. Upon receipt of an application for approval of a Minor Subdivision, the Board shall notify in writing all owners of abutting property to the proposed subdivision.
- E. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- F. Within thirty (30) days of the Board issuing a dated receipt of a Final Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application and determine whether to hold a public hearing on the Final Plan application.
- G. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. Notice of the public hearing shall be mailed to all abutters of the proposed subdivision seven (7) days prior to the hearing by the Town of Eustis Planning Board.
- H. Within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

5.3 Submissions

- A. The subdivision plan for a Minor Subdivision shall consist of two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office and three copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36

inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted. In addition, one copy of the plan(s) which may be reduced to a size of 8 1/2 by 11 inches, and all accompanying information shall be mailed by the applicant to each Board member, the Code Enforcement Officer, Fire Department, Rescue Chief, Road Commissioner, and Superintendent of Schools no less than ten (10) days prior to the meeting.

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

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot Numbers.
2. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. At least one corner of the parcel shall be identified with relation to abutting property. The plan shall indicate the type of monument to be set or found at each lot corner.
3. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
4. A copy of any deed restrictions intended to cover all or part of the lots in the subdivision.
5. Indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
6. Indication of the type of water supply system(s) to be used in the subdivision.

7. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and the names of adjoining property owners. The plan(s) shall be embossed with the stamp or seal of the professional engineer, surveyor or planner, or all of the above, as the case may be.
8. The names and addresses of owners of record of adjacent property, including any property directly across an existing public or private street from the subdivision.
9. A copy of the portion of the County Soil Survey covering the subdivision.
10. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
11. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
12. A soil erosion and sedimentation control plan.
13. A plan for the disposal of surface waters prepared by a registered professional engineer.
14. The location of any fresh water wetlands.
15. The location of rivers, streams or brooks within or abutting the proposed subdivision.
16. The location and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife or the Town of Eustis that is in or adjacent to the proposed subdivision.
17. Any portion of the subdivision which is located within the direct watershed of a lake or pond shall be identified.
18. A phosphorus impact analysis and control plan when determined as necessary by the Board.
19. The location of known or potential archaeological resources, scenic areas, historic buildings or sites, unique natural areas and mapped sand and gravel aquifers with a description of how such features will be maintained or impacts upon them minimized.

ARTICLE VI. PRELIMINARY PLAN FOR MAJOR SUBDIVISION

6.1 Procedure

- A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least ten (10) days prior to a scheduled meeting of the Planning Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board. The Board shall provide the subdivider with a dated receipt of a Preliminary Plan application at the Board meeting where the Preliminary Plan application is first presented and heard by the Board.**
- B. All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee of \$50.00 per lot, dwelling unit, or unit contained in a shopping center or similar commercial establishment payable by check to the Town of Eustis.**
- C. If the services of outside consulting engineers or other experts are required by the Board to assist in review of the plan, the Board shall notify the applicant of the nature of services, the firm or individual selected and the estimated cost of the services. The costs of such services shall be paid by the applicant and evidence of such payment furnished to the Planning Board before the final plan is signed.**
- D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.**
- E. Upon receipt of an application for Preliminary Plan approval of a Major Subdivision, the Board shall notify in writing all owners of abutting property to the proposed subdivision.**
- F. Within thirty (30) days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.**
- G. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to**

the hearing. Notice of the public hearing shall be mailed to all abutters of the proposed subdivision seven (7) days prior to the hearing by the Town of Eustis Planning Board.

- H. Within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- I. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 1. The specific changes which it will require in the Final Plan;
 - 2. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and
 - 3. The amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan.
- J. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of these standards and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes or conditions the Board deems necessary, as a result of the further study of a subdivision or as a result of additional information received, so that the Final Plan satisfies all of the approval criteria set forth in this Ordinance and in Title 30-A M.R.S.A. §4404 et. seq.

6.2 Submissions

- A. **Location Map:** The Preliminary Plan shall be accompanied by a Location Map adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:
 - 1. Existing subdivisions within 1000 feet of the proposed subdivision.

2. Locations and names of existing and proposed streets.
3. Boundaries and designations of any zoning districts.
4. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.

B. Preliminary Plan: The Preliminary Plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than 100 feet to the inch. The Board may allow plans for subdivision containing more than 100 acres to be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. In addition, one copy of the plan(s) which may be reduced to a size of 8 1/2 by 11 inches, and all accompanying information shall be mailed by the applicant to each Board member, Code Enforcement Officer, Fire Department, Rescue Chief, Road Commissioner and Superintendent of Schools no less than ten (10) days prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot Numbers.
2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument to be set or found at each lot corner.
3. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
4. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
5. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
6. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type,

and other essential existing physical features shall be shown on the plan.

7. Indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
8. Indication of the type of water supply system(s) to be used in the subdivision.
9. The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan. The plan(s) shall be embossed with the stamp or seal of a professional engineer, surveyor or planner, or all of them, as the case may be.
10. The names and addresses of owners of record of adjacent property, including any property directly across an existing public or private street from the subdivision.
11. The location of any zoning boundaries affecting the subdivision.
12. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
13. The location, names and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
14. The proposed lot lines with dimensions and lot areas.
15. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
16. The location of any open space to be preserved and an indication of its improvement and management.
17. A soil erosion and sedimentation control plan.

18. A plan for the disposal of surface drainage waters, prepared by a Registered Professional Engineer.
19. A copy of that portion of the county soil survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a Registered Soil Scientist indicating the suitability of soil conditions for those uses.
20. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
21. The location of any fresh water wetlands.
22. The location of rivers, streams or brooks within or abutting the proposed subdivision.
23. The location and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife or the Town of Eustis that is in or adjacent to the proposed subdivision.
24. Any portion of the subdivision which is located within the direct watershed of a lake or pond shall be identified.
25. A phosphorus impact analysis and control plan when determined as necessary by the Board.
26. The location of known or potential/archeological resources, scenic areas, historic buildings or sites unique natural areas and mapped sand and gravel aquifers with a description of how such features will be maintained or impacts upon them minimized.

ARTICLE VII. FINAL PLAN FOR MAJOR SUBDIVISION

7.1 Procedure

- A. The subdivider shall, within 12 months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan. If the application for the Final Plan is not submitted within 12 months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any

recommendations made by the Board. The Board shall provide the subdivider with a dated receipt of a Final Plan application at the Board meeting where the Final Plan application is first presented and heard by the Board.

- B. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- C. Within thirty (30) days of the Board issuing a dated receipt of a Final Plan application, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application and determine whether to hold a public hearing on the Final Plan application.
- D. The Board shall determine whether to hold a public hearing on the Final Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. Notice of the public hearing shall be mailed to all abutters of the proposed subdivision seven (7) days prior to the hearing by the Town of Eustis Planning Board.
- E. The Planning Board shall request the Road Commissioner, School Superintendent, Fire Chief, and Rescue Chief to comment upon their department's capacity to service the proposed subdivision.
- G. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article XII.
- H. Within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to be the Board and the subdivider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

7.2 Submissions

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two

inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Offices, and three copies of the plan shall be submitted. In addition, one copy of the Final Plan, which may be reduced to 8 1/2 by 11 inches, and all accompanying information shall be mailed by the applicant to each Board member, Code Enforcement Officer, Fire Department, Rescue Chief, Road Commissioner and Superintendent of Schools no less than ten (10) days prior to the meeting.

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

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot Numbers.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument to be set or found at each lot corner.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. Indication of the type of sewage disposal to be used in the subdivision.
- E. Indication of the type of water supply system(s) to be used in the subdivision.
 1. When water is to be supplied by private wells evidence of adequate ground water supply and quality shall be submitted by a written statement from either a well driller or a hydrogeologist familiar with the area.
- F. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan. The Plans shall be embossed with the stamp or seal of a professional engineer, surveyor or planner, or all of them, as the case may be.
- G. The location of any zoning boundaries effecting the subdivision.

- H. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- I. The location, names and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.
- J. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

ARTICLE VIII. FINAL APPROVAL AND FILING

- 8.1 Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A. §4404, and this Ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds by the subdivider within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- 8.2 At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan.
- 8.3 No change, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article 9.1.C. The Board shall make findings that the revised plan meets the standards of Title 30-A, M.R.S.A. §4404, and this Ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

- 8.4 The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- 8.5 Failure to commence substantial construction of the subdivision within two years of the date of approval of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE IX. ENFORCEMENT

9.1 Inspection of Required Improvements

- A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. If the inspecting official finds, upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as but not limited to encountering hidden outcrops of bedrock and natural springs. The inspecting official shall issue any approval under this section in writing and

shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, or changes of grade by more than 1%, etc., the subdivider shall obtain approval to modify the plans from the Board.

- D. At the close of each summer construction season, the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed townway to a town meeting, a written certification signed by a professional engineer registered in the State of Maine may be required by the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of the Town of Eustis.
- G. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

9.2 Violations and Enforcement

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.
- B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. No person, firm, corporation or other legal entity may convey, any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this ordinance shall be punished by a fine of not less than \$100, and not more than \$2,500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this section, and may collect attorney's fees and court costs if it is the prevailing party.
- E. No public utility or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- F. No person shall establish or develop a subdivision without first having a Final Plan thereof approved by the Planning Board. "Develop" shall include grading or construction of roads, grading of land or lots, or construction of any buildings.

ARTICLE X. REVIEW STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following standards and make findings that each, in addition to standards contained in Title 30-A, M.R.S.A., Section 4404, have been met prior to the approval of a Final Plan. In all instances, the burden of proof shall be upon the applicant.

10.1 Conformance with Comprehensive Plan. All proposed subdivisions shall be in conformity with the Eustis Comprehensive Plan and with the provisions of all pertinent state and local codes and ordinances.

10.2 Open Space Provisions

- A. The Board may require that a proposed subdivision design include a plan that will show the preservation of existing trees, the replacement of trees

and vegetation, graded contours, streams and the preservation of identified scenic, historic archaeological or environmentally sensitive areas.

- B. The Board may require that the subdivider reserve an area equal to ten percent of his total land as an open space and/or recreational area for use by property owners in the subdivision.
1. If such an area is reserved, the Final Plan shall provide how title to the reserved land shall be held and how costs of development, maintenance and taxes shall be met.
 2. Included in the instrument of conveyance to each property owner of the subdivision shall be a statement of:
 - a) The manner of providing for the cost of development and maintenance and for property taxes of the reserved land.
 - b) If appropriate, the individual property owner's pro rata share of development costs, maintenance cost and property taxes of the reserved land.
 - c) Land designed for public use shall not be subdivided for any other purpose. This prohibition does not apply to land areas designed for later development if the Subdivision Plan includes provision for development in discrete stages.
 - d) Any area designated for common use shall be so arranged that each property owner has access to it.
- C. Land reserved for open space purposes shall be a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry. The Board shall review open space plans to determine if the subdivider has made a maximum effort to preserve scenic vistas and make available land for trails and lookouts.
- D. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.

10.3 Land Not Suitable for Development. The following lands shall not be included in the calculations of building density for the purpose of meeting the requirements, Mobile Home Parks and Multi-family Developments of three or more units.

ARTICLE XIII. WAIVERS

- 13.1** Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in this ordinance, provided the applicant has demonstrated that the performance standards of this ordinance and the criteria of the Subdivision Statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Town of Eustis Land Use Ordinance, Town of Eustis Shoreland Zoning Ordinance or this ordinance.
- 13.2** Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision, of certain required improvements is not requisite to provide for the public health, safety or welfare, are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Town of Eustis Land Use Ordinance, Town of Eustis Shoreland Zoning Ordinance or this ordinance, and further provided the performance standards of this ordinance and the criteria of the Subdivision Statute have been or will be met by the proposed subdivision.

In granting waivers in accordance with Article 13.2., the Board shall require such conditions as will assure the purposes of this ordinance are met.

13.3 Waivers to be shown on Final Plan

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

13.4 Certificate of Waiver

1. In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the registry of deeds. This certificate must:
 - a. Indicate the name of the current property owner;
 - b. Identify the property by reference to the last recorded deed in its chain of title; and

- c. Indicate the fact that a waiver, including any conditions of the waiver, has been granted and the date of the granting.
2. The waiver is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval or approval under Title 38, chapter 3, subchapter 1, article 6, where applicable, whichever date is later, or the waiver is void.

ARTICLE XIV. AMENDMENTS

- 14.1 Initiation of Amendments.** An amendment to this Ordinance may be initiated by:
- A. The Planning Board, provided a majority of the Board has so voted;
 - B. Request of the municipal officers; or
 - C. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.
- 14.2** The Planning Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least seven days prior to the hearing.
- 14.3 Adoption of Amendment.** An amendment to this Ordinance may be adopted by a majority vote of any Town Meeting.

ARTICLE XV. APPEALS

- 15.1** An aggrieved party may appeal any decision of the Board under this Ordinance within 30 days from the date of that decision to Franklin County Superior Court.

ARTICLE XVI. PLAN AMENDMENT FEES

- A. The fee for any amendment when the number of lots remain the same, and there is no substantial change to roads or drainage systems, shall be \$25.
- B. The fee for any amendment, when three or less new lots are created, shall be a \$25 publishing and notice fee and \$50 for the first new lot created and \$25 for each additional lot.

- C. The fee for amendment, when there are substantial changes to roads and drainage systems or more than three lots are created, shall be all fees required by a new application.

ARTICLE XVII. DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Arterial Street: A thoroughfare which serves as a major traffic way for travel between and through Eustis. The following roadways shall be considered arterial streets: Routes 16 and 27.

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

Basement: Means any area of the building having its floor subgrade (below ground level) on all sides.

Building Envelope: That portion of the lot within the prescribed front, rear, and side yard setback distances.

Collector Street: A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets and collectors of traffic from minor streets.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance 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.

Comprehensive Plan: Comprehensive plan means a document or interrelated documents containing the elements established under Title 30-A, M.R.S.A. Section 4326, subsection 1 to 4, including the strategies for an implementation program which are consistent with the goals and guidelines established under subchapter II.

Conservation Easement: A nonpossessory 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 wildlife habitat and forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Constructed: Built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

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

Direct Watershed: That portion of the watershed which does not first drain through an upstream lake.

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

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

Floodway: See regulatory floodway.

Fresh Water Wetland: Means fresh water swamps, marshes, bogs and similar areas which are:

- a. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- b. Not considered part of great pond, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria.

Historic Structure: Means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places or in the comprehensive plan.

100 Year Flood: The flood having a one percent chance of being equalled or exceeded in any given year.

Industrial Park or Development: A subdivision developed exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Manufactured Housing: Means a structural unit or units designated 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 which 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 types of manufactured housing are included. Those two types are:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes", which 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, which in the traveling mode are 14 body feet or more in width and are 750 or more sq.ft., and which 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;
 - a. This term also includes any structure which 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
2. Those units commonly called "modular homes" which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which 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.

Minor Street: A street with average daily traffic of less than 200 vehicles per day.

Mobile Home Park: A parcel of land under unified ownership approved by the Town of Eustis Planning Board for the placement of three (3) or more mobile homes.

Multi-unit residential: A residential structure containing three (3) or more residential dwelling units.

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

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

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

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

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

Privately-Owned Street: A street which is not intended to be dedicated as a public way.

Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts, and building lines.

Regulatory Floodway: means:

1. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
2. In Zone A is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

Significant Scenic View Locations: Points where scenic views can be accessed as identified in Eustis Comprehensive Plan.

Stream, River or Brook: River, stream or brook means a channel between defined banks including the floodway and associated floodplain wetlands where the channel is created by the action of the surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock.

Street: Public and private ways such as alleys, avenues, highways, roads and other rights-of-way for vehicular access other than driveways, or logging roads.

Subdivision: The division of a tract or parcel of land into three or more lots as defined by State law and in addition shall include developments where there are three or more units involved such as in mobile home parks, multiple family housing, apartment houses, multiple housing units, shopping plazas, business complexes, condominiums, shopping centers and industrial parks. All lots of less than 500 acres shall be considered as lots within the proposed subdivision unless exempted by Title 30-A, M.R.S.A. Sections 4401.4 A.1, 4.B., 4.D., and 4.E.

Subdivision, Major: Any subdivision containing more than four lots or dwelling units, or units in a shopping center or similar commercial establishment or any subdivision containing a proposed public or private street.

Subdivision, Minor: Any subdivision containing not more than four lots or dwelling units, and in which no street is proposed to be constructed or units in a shopping center or similar commercial establishment or any subdivision containing a proposed street.

Subdivision with Open Space: A subdivision in which the lot sizes are reduced below those normally required which in return for the provision of permanent open space owned in common by lot/unit owners, the Town, or a land conservation organization.

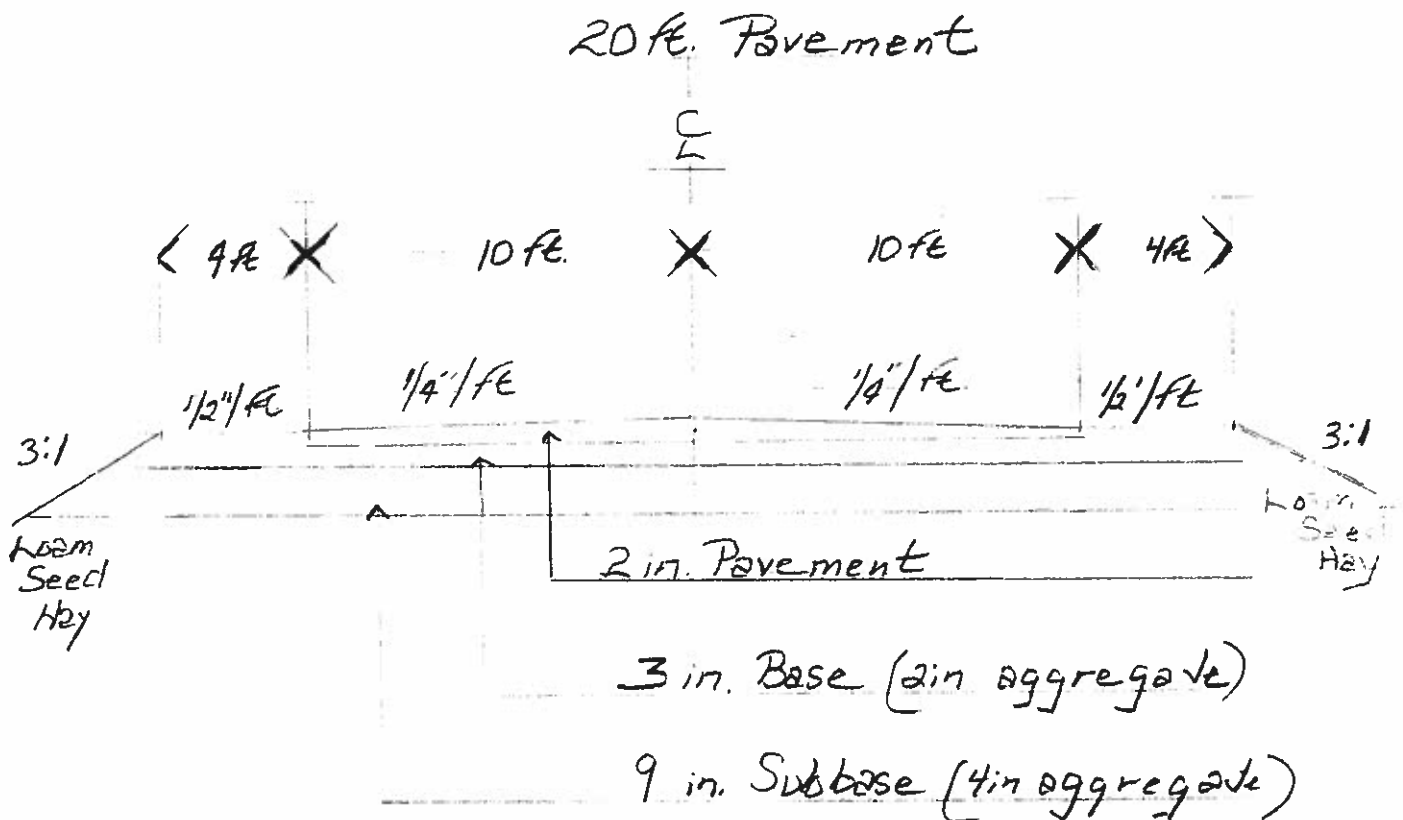
Tract, or Parcel, of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

APPENDIX A

Town of Eustis Standard Road Profile

Appendix A.

Town of Eustis Standard Road Profile



- 2" Pavement
- 3" Base (2" aggregate)
- 9" Sub-Base (4" aggregate)

These are minimum standards for road and street construction. Driveway/entrances onto town roads shall be constructed so as to eliminate water runoff onto town roads by such means as flattening of approaches to road, water turnouts, or other means acceptable to the Road Commissioner.