

TOWN OF TURNER, MAINE

STREET CONSTRUCTION ORDINANCE

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**TOWN OF TURNER, MAINE
STREET CONSTRUCTION ORDINANCE**

SECTION I. Statement of Purpose

The purpose of this Ordinance is to promote the health, safety, and public welfare of the residents of Turner through establishing minimum construction standards for streets.

SECTION II. Authority, Administration, and Effective Date

- A. Authority: This Ordinance is enacted pursuant to and consistent with Article VIII-A of the State of Maine Constitution and Title 30-A, M.R.S.A. Section 3001.
- B. Administration: This Ordinance shall be administered by the Planning Board.
- C. Effective Date: The effective date of this Ordinance is July 8, 1988 which was the date of preparation of the final draft of this Ordinance. The ultimate enactment authority rests with its adoption at a Town meeting. Adoption of this Ordinance shall repeal any previously adopted road construction and acceptance standards.

SECTION III. Applicability

- A. New Construction: This Ordinance shall apply to the construction of all new streets within the Town whether public or private. No street shall be accepted as a town way unless they meet the provisions of this Ordinance.
- B. Alterations: Alterations, widening, and improvements shall be consistent with Sections VI and VII Street Construction Standards of this Ordinance.
- C. Higher Design and Construction Standard: Nothing in this Ordinance shall be construed to prevent the design and construction of streets which meet higher standards, use improved methods, or higher quality materials.

SECTION IV, Application Procedures

Prior to the construction of any new street or the reconstruction or lengthening of an existing street, the applicant shall request to be placed on the Board's agenda at least twenty-eight (28) days in advance of the meeting by contacting the Chair or the Planner. 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. Every application shall be accompanied by the written certificate of the Town's Code Enforcement Officer that the applicant is not in violation of any Town Ordinance regulating land use. No application shall be considered complete, nor shall any application be in order for review or approval unless accompanied by this written certificate. The Board shall not waive this requirement.

Applications for street construction or reconstruction shall be submitted on application forms provided by the Town. Ten (10) copies of the completed application form, required plans, and related information shall be submitted to the Planning Board no less than twenty-eight (28) days prior to the regular meeting.

The Planning Board shall make available at Town Hall documents for review by the Fire Department, Rescue Chief, Road Commissioner, and Superintendent of Schools. The Planning Board can request that the Fire Chief, Rescue Chief, The Road Commissioner and Superintendent of Schools provide the Planning Board with official comments upon the adequacy of their department's existing capacity to service the proposed development.

A. Submission Requirements

1. The name(s) of the applicant(s);
2. The name(s) of the owner(s) on record of the land upon which the proposed street is to be located;
3. A statement of any legal encumbrances of the land upon which the proposed street is to be located;
4. The proposed starting and completion dates of each major phase of street construction/reconstruction;
5. A statement indicating the nature and volume of traffic expressed in Average Daily Traffic expected to use the proposed street;
6. The estimated cost of the project and a written statement of the applicant's financial and technical capacity to carry out the project as proposed to include:

a. Financial Capacity.

The applicant shall demonstrate the availability of financial resources sufficient to implement the proposed plan. In determining the applicant's financial capacity, the Board shall consider cost estimates for implementation of the plan, letters from prospective sources of financing, the proposed time frame for construction, and performance guarantees required of the applicant.

b. Technical Ability.

- i. The applicant shall demonstrate the qualifications of the contractors and consultants who will supervise, construct and inspect the improvements associated with the proposed street.
- ii. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the number and nature of any violations of previous approvals granted to the applicant.

7. When necessary a written statement on how owners of property that utilize the street will be notified as to when construction/reconstruction will begin and completed;
 8. When necessary a written narrative and/or plan explaining how traffic and pedestrians will be moved through the project limits, including transitions during the change from one phase of construction to the next, as applicable; and
 9. When necessary a written procedure for notifying users of the street, local emergency officials, and local government officials (including the names and phone numbers) whenever significant traffic impacts are anticipated to occur.
 10. A written statement of the applicant's plan to address stormwater control and erosion control measures in Section VIII.
- B. Plans: The plans and illustrations submitted as part of the application shall be prepared by a Licensed Professional Engineer to include the following information.
1. The scale of the plan. (All streets and roadway plan and profile drawings shall be drawn to a scale 1" = 50' horizontal and 1" = 5' vertical;
 2. The direction of magnetic north;
 3. A plan profile and typical cross section views of all proposed streets;
 4. The starting and ending point with relation to established roads, streets, or ways and any planned or anticipated future extensions of the streets. (All terminal points and the center line alignment shall be identified by survey stationing.);
 5. The roadway and roadway limits with relation to existing buildings and established landmarks;
 6. Dimensions, both lineal and angular, necessary for locating boundaries and necessary for locating subdivisions, lots, easements, and building lines;
 7. The lots, if any, as laid out and numbered on said street showing the names of all owners of abutting property;
 8. All natural waterways and watercourses in or on land contiguous to the said streets or ways;
 9. The kind, size, location, profile, and cross-section of all existing and proposed drainage ways and structures and their relationship to existing natural waterways;
 10. A soil erosion and sedimentation control plan showing interim and final control provisions;
 11. Curve data for all horizontal and vertical curves shall be the center line radius, arc

length, beginning of curve, and end of curve points;

12. All center line gradients shall be shown and expressed as a percent;
 13. All curve and property line radii of intersections;
 14. The limits and location of any proposed sidewalks and curbing;
 15. The location of all existing and proposed overhead and underground utilities to include, but not limited to, the following: (Note: When a location, in the case of any underground utility, is an approximate, it shall be noted on the plan as such.)
 - a. Storm drains;
 - b. Telephone line poles or underground vaults;
 - c. Electrical power line poles or underground vaults;
 - d. Street lights.
 16. The name(s) of each proposed new road or street.
 17. Lines or dots in the center line of the proposed road at intervals of every fifty (50) feet beginning at the intersection with the existing street.
- C. Upon receipt of plans for a proposed public street, the Board shall forward one copy to the Municipal Officers and one copy to the Road Commissioner for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the Road Commissioner for review and comment.
- D. Streets Within Proposed Subdivisions: Streets proposed as part of a subdivision as defined in the Town of Turner's Subdivision Ordinance shall be submitted to the Planning Board as an integral part of the Subdivision Application. Plans shall conform to the provisions of this Ordinance as well as that required by the Town of Turner's Subdivision Ordinance.
- E. Application Fee: An application fee of \$50.00 shall be paid to the Town of Turner upon submission of an application. The Selectmen shall have the authority to review and revise the application fee.

There shall be an additional payment of \$500.00. This portion of the application fee shall be known as the Planning Board Review Escrow Account. The monies shall be made by check payable to the Town of Turner, Maine. These funds or portion thereof may, from time to time, be used by the Town, at the request of the Planning Board, for purposes to be determined by the Planning Board in order to make payments for reasonable costs, expenses and services incurred by, or contracted for by the Town through the Planning Board at its discretion which relates directly to the review of the application. Such services may include, but need not be limited to, consulting engineering fees, architectural fees, land use planner fees and attorney fees. All such fees must relate to the review of the application pursuant to the review criteria of the Town of Turner Ordinances and the laws of the State of Maine. If the balance in the applicant's portion of the Planning Board Review Escrow Account shall be drawn down by 75 percent, the Planning Board shall require that an additional 50 percent of the original Planning Board Review Escrow Account Fee be deposited. The Planning Board shall continue to notify and require an additional 50 percent of the original Planning Board Review Escrow Account Fee be deposited as necessary whenever the balance of the account

is drawn down by 75 percent of the original deposit. The Town, at the request of the Planning Board shall refund all the remaining monies in the account upon payment of all costs and services related to the Planning Board review. Such payment of remaining monies shall be made no later than thirty (30) days after the approval of the application, denial of application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Planning Board for any enforcement purposes.

The application fee shall be waived if the street is being reviewed as an element of a Subdivision Application.

F. Application Review

1. **Public Hearing:** The Board shall hold a public hearing at the first meeting the application is presented 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 street seven (7) days prior to the hearing by the Town of Turner.
2. **Complete Application:** At the first meeting held, the Board shall notify the applicant whether or not the application is complete, and what, if any, additional submissions are required for a complete application. Determination by the Board that the application is complete in no way commits or binds the Board as to the adequacy of the application to meet the requirements of this Ordinance.
3. **Application Approval:** The Board shall, within thirty (30) days of a public hearing or within sixty (60) days of having received the completed application or within such other time limit as may be mutually agreed to, deny or grant approval on such terms and conditions as it may deem advisable to satisfy this Ordinance and to preserve the public health, safety, and general welfare. In all instances, the burden of proof shall be upon the applicant. In issuing its decision, the Board shall make a written finding of fact establishing that the application does or does not meet the provisions of this Ordinance.

SECTION V. Public Acceptance of Streets

The approval by the Planning Board of a proposed public street shall not be deemed to constitute or be evidence of any acceptance by the Municipality of the street. Final acceptance of a proposed public street shall be by an affirmative vote at a Town Meeting.

SECTION VI. Street Design Standards

- A. These design standards shall be met by all streets and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
- B. Streets shall be designed to discourage through traffic within a residential subdivision.
- C. The character, extent, width, and grade of all streets shall be considered in their relation to existing or planned streets.

- D. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this ordinance), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements.
- E. Any subdivision expected to generate average daily traffic of more than 300 trips per day shall have at least two street connections with existing public streets or streets on an approved subdivision plan for which performance guarantees have been filed and approved, for fire, rescue, and safety reasons. On subdivisions with only one access where expected trip generation will exceed 200 average daily trips per day, the Planning Board shall require a written or verbal statement from the fire chief relating to the ability or need for water supply for firefighting and his/her recommendation to provide water supply, if needed. The Board may waive this requirement to allow for open space development as provided for in Section 4.I of the Town of Turner Zoning Ordinance.
- F. Any privately-owned street serving four dwelling units or less will not require pavement.
- G. The following design standards apply according to street classification:

Description	Collector	Minor	Privately Owned Street ¹	Industrial/ Commercial	Mobile Home Park
Minimum right-of-way width	60 feet	60 feet	60 feet	60 feet	23 feet
Minimum pavement width/travelway width	24 feet	20 feet	20 feet	24 feet	20 feet
Sidewalk width	5 feet	5 feet	N/A	5 feet	N/A
Minimum grade	.5 percent	.5 percent	.5 percent	.5 percent	.5 percent
Maximum grade	8 percent	10 percent ²	10 percent ²	8 percent	10 percent
Minimum centerline radius	200 feet	150 feet	150 feet	200 feet	150 feet
Minimum tangent between curves of reverse alignment	200 feet	100 feet	100 feet	200 feet	100 feet
Roadway crown	1/4"/ft.	1/4"/ft.	1/4"/ft.	1/4"/ft.	1/4"/ft.
Minimum angle of street intersections	90 degrees	90 degrees	90 degrees	90 degrees	90 degrees
Maximum grade within 75 feet of intersection	3 percent	3 percent	3 percent	3 percent	3 percent
Minimum curb radii at intersections	20 feet	15 feet	15 feet	20 feet	15 feet
Minimum r-o-w radii at intersections	10 feet	10 feet	10 feet	10 feet	10 feet
Minimum width of shoulders (each side)	3 feet	3 feet	3 feet	3 feet	3 feet

¹ Standards for Privately-owned streets in Open Space Subdivisions as provided for in Section 4.I of the Town of Turner Zoning Ordinance shall not be required to meet minimum right-of-way width or minimum pavement width/Travel way width contained herein.

² The maximum 10% grade maybe increased to 12% for not more than 100 feet, as measured from the end of a vertical curve to the beginning of the next vertical curve, within any 1,000 feet of road length.

³ When privately owned streets will be gravel the roadway crown shall be 1/2"/ft.

H. The centerline of the roadway shall be the centerline of the right-of-way.

I. Dead End Streets: In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii. Property line 65 feet; outer edge of pavement 50 feet. A use of a hammer-head turn-around may be permitted as an alternative to a cul-de-sac turn-around. In the case of a hammer-head turn-around, the width shall be 30 feet wide and 60 feet long/measured from the center line of the abutting street and shall be located at least 50 feet from the end of the travel way. The Board may require the reservation of a 20-foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a 60-foot easement in line with the street to provide continuation of the road where future subdivision is possible.

J. Grades, Intersections, and Site Distances

1. Grades of all streets shall conform in general to the terrain so that cut and fill are minimized while maintaining the grade standards above.
2. All changes in grade shall be connected by vertical curves to provide for the minimum site distances below.
3. Where new street intersections or driveway curb-cuts are proposed, site distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below.

Posted Speed Limit (MPH)	25	30	35	40	45	50	55
Sight Distance (feet)	200	250	305	360	425	495	570

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

4. Cross (four-cornered) street intersections shall be avoided insofar as possible except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of 600 feet shall be maintained between centerlines of proposed and existing streets which enter on same side and 150 feet shall be maintained between centerlines of streets which enter on the opposite side of an existing or proposed street. The 600-foot distance between centerlines shall not apply to the Village District, and Open Space Subdivisions as defined in the Town of Turner Zoning Ordinance. In the Village District and Open Space Subdivisions, the minimum distance of 150 feet shall be maintained between centerlines of proposed and existing streets.

K. Sidewalks: Where the Planning Board requires the installation of sidewalks, they shall meet these minimum requirements.

1. Bituminous Sidewalks

- a. The gravel aggregate sub-base course shall be no less than 10 inches thick.
- b. The crushed aggregate base course shall be no less than 2 inches thick.
- c. The hot bituminous pavement surface course shall be no less than 2 inches after compaction.

2. Portland Cement Concrete Sidewalks

- a. The sand base shall be not less than 6 inches thick.
- b. The Portland Cement concrete shall be reinforced with 6 inch square, number 10 wire mesh and shall be no less than 4 inches thick.

L. Common Driveways:

1. Common driveways may serve two single-family dwelling units. The Code

Enforcement Officer shall review and approve all plans for common driveways.

2. The following design and construction standards shall apply to common driveways.

Minimum travel width	12 feet
Minimum angle of street intersections	75 degrees
Maximum grade within 30 feet of intersections	2 percent

3. Erosion and sedimentation Control: Adequate provisions shall be undertaken to minimize erosion and sedimentation.
4. Common driveway entrances shall comply with Section VI.J.3 to the greatest extent practical as determined by the Code Enforcement Officer.
5. Common driveways shall comply with the Town of Turner Application for Driveway Entrances.

SECTION VII. Street Construction Standards

A. Minimum thickness of material after compaction:

	Collector	Minor	Privately Owned Street	Industrial Commercial	Mobile Home Parks
Aggregate Sub- base Course	24"	18"	18"	24"	18"
Crushed Aggregate Base Course	3"	3"	3"	4"	3"
Hot Bituminous Pavement					
Total Thickness	3"	2 1/2"	2 1/2"	3"	2 1/2"
Surface Course	1"	2 1/2"	2 1/2"	1 "	2 1/2"
Base Course	2"			2"	

B. Preparation

1. Before any clearing has started on the right-of-way, the centerline and side lines of the new road shall be staked or flagged at 50-foot intervals.
2. Before grading is started, the entire right-of-way, width necessary for travelway, shoulders, sidewalks, drainageways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders, and tree stumps protruding above the natural profile of the land shall be removed from the travelway, shoulders, sidewalks, and drainageways.
3. All organic materials shall be removed to a depth of 2 feet below the subgrade of the roadway. If rocks and boulders are protruding from the sub-base, they shall be removed to two feet below the sub-grade. On soils which have been identified as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below. In lieu of removal of all organic material, engineering fabric (geotextile) shall be used to stabilize the road base.
4. Side slopes shall be no steeper than a slope of 3 feet horizontal to 1 foot vertical and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

C. Bases and Pavement

1. Sub-base

- a. The Aggregate Sub-base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps, or balls of clay and other deleterious substances. The gradation of the part that passes a 4-inch square mesh sieve shall meet the following grading requirements.

Sieve Designation	Percentage of Weight Passing Square Mesh Sieves
4 inch	100%
1/4 Inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the sub-base shall contain no particles of rock exceeding 6 inches in any dimension.

2. Base

- a. The Aggregate Base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps, or balls of clay and other deleterious substances. The gradation of the part that passes a 1 1/2-inch square mesh sieve shall meet

the following grading requirements.

Sieve Designation	Percentage of Weight Passing Square Mesh Sieves
1 ½ inch	100%
½ Inch	45-70%
1/4 Inch	30-55%
No. 40	0-20%
No. 200	0-5%

Aggregate for the base shall contain no particles of rock exceeding 3 inches in any dimension.

3. Pavement Joints: Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
 4. Curbs and Gutters
 - a. Street curbs and gutters shall be installed as required by the Board.
 - b. Curbs shall be vertical except when sloped curbs are specifically allowed by the Board.
 5. Pavements
 - a. Pavement shall be Hot Mix Asphalt as specified in Section 401 of the latest revisions of the Maine Department of Transportation, Standard Specifications for Highways and Bridges, or
 - b. Minimum standards for the base layer of pavement shall meet the former MDOT specifications for plant mix grade B with an aggregate size no more than ¾ inch maximum.

Minimum standards for the surface layer of pavement shall meet the former MDOT specifications for plant mix grade C with an aggregate size no more than ½ inch maximum.
- D. Scenic View Locations: When a proposed street or the reconstruction of an existing street will pass a scenic view locations as identified in the Town of Turner Comprehensive Plan, road design shall provide shoulders of suitable width or turn-outs to allow vehicles to safely leave the travelway at the scenic view location.

SECTION VIII. Additional Improvements and Requirements

- A. Erosion Control: The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages. Erosion of soil and sedimentation of water-courses and water bodies shall be minimized. The following measures shall be included, where applicable, as part of any Subdivision review and approval.
1. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
 2. Development shall keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and so as to adequately handle surface water runoff.
 3. The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
 4. Disturbed soils shall be stabilized as quickly as practical.
 5. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
 6. The permanent (final) vegetation and mechanical erosion control measure shall be installed as soon as practical on the site.
 7. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
 8. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense as quickly as possible.
 9. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.
 10. The standards set forth in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices (March 1991 and as amended) shall be employed.
 11. The most current standards set forth in the Stormwater Management Law administered by the Maine Department of Environmental Protection shall be employed.
- B. Storm Water Management Design Standards

1. All stormwater improvements for street construction shall be designed to be in compliance with the most current standards of the Stormwater Management Law as administered by the Maine Department of Environmental Protection.
 2. All street construction projects that fall below the minimum thresholds of the Stormwater Management Law shall comply with the Erosion Control Standards of this Section.
- C. Cleanup: Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan and be suitable covered with fill and topsoil, limed, fertilized, and seeded.
- D. Street Names, Signs, and Lighting: Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety, and control signs. Street lighting shall be installed as approved by the board.
- E. Street Reconstruction and/or Extension: When an existing street will be reconstructed and/or extended the developer/or contractor shall comply with the following.
1. The proposed construction phasing or sequence shall reasonably minimize traffic impacts.
 2. The developer/contractor shall ensure that emergency service vehicles have reasonable and timely access to and through the project site.
 3. The developer/contractor shall provide an adequate roadway surface at all times; taking into account traffic speed, volume and duration.
 4. At the end of each day of construction residents shall be provided with safe access and egress from their property.

SECTION IX. Certification of Construction

Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine shall 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 this Ordinance. "As built" plans shall be submitted to the Municipal Officers.

SECTION X. Performance Guarantees

- A. Types of Guarantees: With submittal of the application for a street approval, the applicant shall indicate one of the following performance guarantees that will be provided for an amount adequate to cover the total construction costs taking into account the time-span of the

construction schedule and the inflation rate for construction costs.

1. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner for the establishment of an escrow account;
2. A performance bond payable to the Town issued by a surety company approved by the Municipal Officers;
3. An irrevocable letter of credit from a financial institution establishing funding for the construction from which the Town may draw if construction is inadequate approved by the Municipal Officers; or
4. An offer of conditional agreement limiting the number of units built or lots sold until all required street related construction have been constructed.

The conditions and amount of performance guarantee shall be determined by the Board with the advice of the Town Engineer, Road Commissioner and Municipal Officers.

- B. Contents of Guarantee: The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default, and the Town shall have access to the funds to finish construction.
- C. Escrow Account: A cash distribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant except for any portion of the interest earned which was needed in addition to the principal of the escrow account to pay for completion of the required improvements.
- D. Conditional Agreement. The Board, at its discretion, may permit for the applicant to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the application on the condition that no units be built or lots sold until either:
 1. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with this Ordinance regulations and the regulations of the appropriate utilities; or
 2. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be recorded by the applicant subdivider at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section X.G. Proof of recording shall be provided by the applicant to the Board.

- E. Performance Bond: A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the project for which approval is sought.
- F. Letter of Credit: An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the street and may not be used for any other project or loan.
- G. Release of Guarantee: Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
- H. Default: If, upon inspection, it is found that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the Code Enforcement Officer shall so report in writing to the Municipal Officers, the Board, and the applicant. The Municipal Officers shall take any steps necessary to preserve the Town's rights.
- I. Privately-Owned Roads: Where streets are to remain privately-owned roads, the following words shall appear on the recorded plan.

All roads shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town.

SECTION XI. Inspection

- A. Notification of Construction: At least five (5) days prior to commencing street construction or alteration of roads, the applicant shall.
 - 1. Notify the Code Enforcement Officer in writing of the time when (s) he proposes to commence construction so that the municipal officers can arrange for inspection to be made. The inspecting official shall assure that all municipal specifications, requirements and conditions of approval shall be met during the construction and shall assure the satisfactory completion of improvements required by the Planning Board.
 - 2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of construction and improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus funds shall be refunded to the applicant within 30 days. If the inspection account shall be drawn down by 90%, the applicant shall deposit an additional 1% of the estimated costs of construction and improvements.
 - 3. At least five days prior to commencing construction, the applicant shall provide the Town with the type and amount of the performance guarantee approved in Section 10 A. above
- B. Noncompliance With Plan: Upon finding that the improvements have not been constructed in

accordance with the approved plans and specifications, the inspector shall so report in writing to the Municipal Officers, Planning Board, Code Enforcement Officer and applicant. The Municipal Officers shall take any steps necessary to assure compliance with approved Plans.

- C. **Modification During Construction:** If at any time it appears necessary or desirable to modify the required improvements before or during construction of the of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Municipal Officers, Planning Board and Code Enforcement Officer. Revised plans shall be filed with the Planning Board for the record. For major modifications, such as relocation of rights-of-way, changes in grade by more than 1%, etc. the applicant shall submit to the Planning Board an amended application for review and approval in accordance with Section IV.

SECTION XII. Waivers

- A. Any requests for waivers from submission requirements and/or review standards shall be in writing. Waiver requests shall indicate the requirements requested to be waived and shall indicate what special circumstances exist that the required improvements or standards are not necessary to provide for the public health, safety, or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed development.
- B. Where the Board finds, based on written justification by the applicant, and makes written findings of fact that due to extraordinary and unnecessary hardships that may result from strict compliance with this Ordinance, or where there are special circumstances of a particular application, certain required improvements or review standards are not necessary to provide for public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed development, it may waive this requirement, subject to appropriate conditions provided that the performance standards of this ordinance have been or will be met. Waivers may not be granted if the waiver will have the effect of nullifying the intent and purpose of the Comprehensive Plan, this Ordinance, or any other ordinance or law, or if this ordinance expressly does not allow a waiver from the requirement a waiver is sought. In granting waivers, the Planning Board shall require such conditions as will assure the purpose of this ordinance is met.

SECTION XIII. Separability

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION XIV. Appeals

An appeal may be taken within 30 days from the Board's decision on the application, by any party to Superior Court in accordance with Rule 80B. of the Maine Rules of Civil Procedure.

SECTION XV. Amendments

- A. Initiation of Amendments: An amendment to this Ordinance may be initiated by:
 - 1. The Planning Board provided a majority of the Board has so voted;
 - 2. Request of the Municipal Officers; or
 - 3. Written petition of a number of voters equal to at least 10 percent of the number of voters cast in the municipality at the last gubernatorial election.
- B. The Planning Board shall conduct a public hearing on the proposed amendment. Notification of the hearing shall be posted in the Town Office at least thirteen (13) days before the hearing and published in a newspaper of general circulation in the municipality at least two (2) times with the date of the first publication at least twelve (12) days before the hearing and the date of the 2nd publication at least seven (7) days before the hearing. The Planning Board shall make a report and its recommendation on the proposed amendment within ten (10) days after the public hearing has been closed.
- C. Adoption of Amendment: An amendment of this Ordinance shall be adopted by a majority vote of the Town Meeting.

SECTION XVI. Violations and Enforcement

- A. No person, firm, corporation or other legal entity may undertake activities governed by this Ordinance without first having a final plan thereof approved by the Planning Board.
- B. Any person, including but not limited to a landowner, a landowner's agent or contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with the provisions of Title 30-A M.R.S. A. Section 4452. Each day a violation exists shall be considered a separate violation.

SECTION XVII Definitions

In this Ordinance, the following terms have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Terms not defined shall have their customary dictionary meaning.

Collector Street: A residential street expected to generate average daily traffic of more than 300 trips per day, or street which serves as feeder to arterial streets and collector of traffic from minor streets. Trip generation shall be based on the most current version of the Institute of Transportation Engineers "Trip Generation".

Common Driveway: A vehicle accessway serving two dwelling units.

Existing Public Street: Roads which are maintained by the Town of Turner and the State of Maine.

Industrial or Commercial Street: A street servicing industrial or commercial uses.

Minor Street: A street servicing expected to generate average daily traffic of not more than 300 trips per day. Trip generation shall be based on the most current version of the Institute of Transportation Engineers "Trip Generation".

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

Reconstructed: Reconstructed means the rebuilding of a road or section of a road to improve its serviceability.

Repair: Repair means to take necessary action to fix normal damage or storm damage.

Reserve Frontage Street: A street which provides residential frontage other than that on a through traffic street.

Street: Public and private ways such as alleys, avenues, highways, roads and other rights-of-ways, as well as areas on a subdivision plans designated as rights-of-ways for vehicular access, other than driveways, farm roads or logging roads.

Amended April 8, 1995
Amended April 13, 1996
Amended April 12, 1997
Amended April 18, 1998
Amended April 10, 1999
Amended April 6, 2002
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Amended March 31, 2007
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