

TOWN OF TURNER SUBDIVISION ORDINANCE



Amended March 17, 1990
Amended March 17, 1990
Amended March 9, 1991
Amended March 14, 1992
Amended June 20, 1992
Amended June 12, 1993
Amended June 11, 1994
Amended April 13, 1996
Amended July 21, 1997
Amended April 18, 1998
Amended April 10, 1999
Amended April 8, 2000
Amended April 7, 2001
Amended April 6, 2002
Amended April 5, 2003
Amended April 3, 2004
Amended April 9, 2005
Amended April 8, 2006
Amended April 5, 2008
Amended April 4, 2009
Amended April 10, 2010
Amended April 5, 2014
Amended May 19, 2018
Amended May 22, 2021

TABLE OF CONTENTS

ARTICLE I. PURPOSES	1
ARTICLE II. AUTHORITY, ADMINISTRATION, EFFECTIVE DATE REPEAL OF EXISTING ORDINANCE.....	1
2.1 Authority.....	1
2.2 Administration.....	1
2.3 Effective Date.....	1
2.4 Repeal of Existing Subdivision Ordinance.....	1
2.5 Conflict with Other Ordinances.....	1
2.6 Validity and Severability	1
ARTICLE III. DEFINITIONS.....	2
ARTICLE IV. ADMINISTRATIVE PROCEDURE	5
4.1 Purpose	5
4.2 Agenda.....	5
4.3 Joint Meetings	5
ARTICLE V. PREAPPLICATION FOR MINOR AND MAJOR SUBDIVISIONS	5
5.1 Submission	5
5.2 Ownership Interest.....	6
5.3 Proposed Road Name and Numbering System.....	6
ARTICLE VI. MINOR SUBDIVISIONS	7
6.1 General	7
6.2 Procedure.....	7
6.3 Submissions.....	8
ARTICLE VII. PRELIMINARY PLAN FOR MAJOR SUBDIVISION	10
7.1 Procedure.....	10
7.2 Submissions.....	12
ARTICLE VIII. FINAL PLAN FOR MAJOR SUBDIVISION.....	15
8.1 Procedure.....	15
8.2 Submissions.....	16
8.3 Final Approval and Filing.....	18
ARTICLE IX. ENFORCEMENT	18
9.1 Inspection of Required Improvements	18
9.2 Violations and Enforcement	20
ARTICLE X. GENERAL STANDARDS	21
10.1 Conformance with Comprehensive Plan	21
10.2 Open Space Provisions	21
10.3 Land Not Suitable for Development.....	22
10.4 Blocks	22
10.5 Lots	22
10.6 Utilities	23
10.7 Required Improvements	23
10.8 Land Features	25
10.9 Phosphorous Export.....	25
10.10 Lake Protection Level	26
10.11 Construction in Flood Hazard Areas.....	26
10.12 Mobile Home Parks.....	27
10.13 Municipal Services.....	27

10.14	Open Space Development	27
10.15	Traffic Conditions	27
10.16	Ground Water Quality	29
10.17	Protection of Significant Wildlife Habitat	30
10.18	Scenic Locations	30
10.19	Archaeological Sites.....	31
10.20	Solid Waste	31
10.21	Financial and Technical Capacity	31
ARTICLE XI. STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTION		
STANDARDS.....		
11.1	General Requirements	31
11.2	Storm Water Management Design Standards.....	32
11.3	Storm Drainage Construction Standards	32
11.4	Certification of Construction	33
ARTICLE XII. PERFORMANCE GUARANTEES.....		
12.1	Types of Guarantees	33
12.2	Contents of Guarantee	34
12.3	Escrow Account.....	34
12.4	Performance Bond.....	34
12.5	Letter of Credit	34
12.6	Conditional Agreement.....	34
12.7	Phasing of Development.....	35
12.8	Release of Guarantee	35
12.9	Default	35
12.10	Privately-Owned Roads.....	35
12.11	Improvements Guaranteed	35
12.12	35
ARTICLE XIII. WAIVERS.....		
13.1	Waiver requests	35
13.2	Where the Board makes written findings of fact.....	35
13.3	When the Board grants a waiver.....	36
ARTICLE XIV. AMENDMENTS		
14.1	Initiation of Amendments	36
14.2	36
14.3	Adoption of Amendment.....	36
ARTICLE XV. APPEALS.....		
15.1	36
ARTICLE XVI. SUBDIVISION AMENDMENTS.....		
16.1	Fees.....	36
16.2	Revisions to approved plans	37

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 Turner, 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 Turner, 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 State Subdivision Law.

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 Turner, Maine."

2.2 Administration

- A. The Planning Board of the Town of Turner, 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 Turner.

2.3 Effective Date

The effective date of this Ordinance is July 8, 1988, which was the date of preparation of the Final Draft. The ultimate enactment authority rests with a majority vote of a town meeting.

2.4 Repeal of Existing Subdivision Ordinance

Adoption of this Ordinance shall repeal any and all previous subdivision ordinances. 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. DEFINITIONS

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

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

Creative Design Subdivision: A subdivision layout that considers the natural and cultural features of the parcel to be developed and the intent of the Town of Turner Comprehensive Plan. Design elements may include but not be limited to set aside of open space, conservation easements, building envelopes, and setbacks.

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

Farmland: "Farmland" means a parcel consisting of 5 or more acres of land that is:

- a. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or
- b. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2. ("Agricultural products" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.)

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

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.

High Intensity Soil Survey: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

Infrastructure Improvements: Roads, drainage and stormwater systems, common water and sewer systems whether public or private.

Liquidation Harvesting: Has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

Low Impact Development. “Low impact development” or “green infrastructure” means site planning and design strategies intended to replace or replicate predevelopment hydrology through the use of source control and relatively small-scale measures integrated throughout a site to disconnect impervious surfaces and enhance filtration, treatment, and management of stormwater runoff as close to its source as possible. Low impact development strategies may be either nonstructural or structural, except that low impact development strategies utilizing structural stormwater management techniques shall be limited to an impervious contributing drainage area equal to or less than 1 acre. Low impact development strategies include, but are not limited to: bioretention filters, grass swales and channels, vegetated filter strips, permeable pavements, rain gardens and vegetated rooftops.

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.

Mobile Home Park: A parcel of land under unified ownership approved by the Town of Turner's Planning Board pursuant to the Town of Turner's Subdivision Ordinance for the placement of three (3) or more manufactured homes.

Mobile Home Park Lot: Mobile home park lot means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality shall require a lot to be designated on a mobile home park plan.

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

Open Space Development: 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.

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.

Recording Plan: Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds.

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.

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

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

Stream, River or Brook: River, stream or brook means a channel between defined banks. A channel is created by the action of surface water and has two (2) or more of the following characteristics.

- A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topography map or if that is not available, a 15-minute series topography map.
- B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
- C. The channel bed is primarily composed of material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present in the stream bed.
- E. The channel bed contains aquatic vegetation and is essentially devoid of upland vegetation.

River, stream or brook does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water or a grassy swale.

Subdivision: The division of a tract or parcel of land into three or more lots as defined by Title 30-A M.R.S.A. Section 4401. In addition shall include developments where there are three or more units involved such as mobile home parks, multiple family housing, apartment houses, multiple housing units, and condominiums.

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

Subdivision, Minor: Any subdivision containing not more than four lots or dwelling units, and in which no street is proposed to be constructed.

Substantial Construction: Completing of at least 30% of the required infrastructure improvements measured as a percentage of total estimated cost of improvements.

Tract, or Parcel, of Land: All contiguous land in the same ownership, whether or not the land is separated at any point by: an intermittent or non-navigable stream, provided that lands on the 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 after September 22, 19971.

ARTICLE IV. ADMINISTRATIVE PROCEDURE

- 4.1 Purpose.** The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.
- 4.2 Agenda.** In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least twenty eight (28) days in advance of a regularly scheduled 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.
- 4.3 Joint Meetings.** If any portion of the proposed subdivision crosses the boundary of an adjacent municipality, the Planning Board shall meet jointly with that municipality's planning board to discuss the application.

ARTICLE V. PREAPPLICATION FOR MINOR AND MAJOR SUBDIVISIONS

5.1 Submission.

- A. 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 freehand 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
1. 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.
 2. A statement concerning timber harvesting resulting in any violation of the Liquidation Harvesting Rule.

- B. When the proposed subdivision will encompass twenty (20) or more acres and five or more lots and is located in the Rural I or Rural II District as defined in the Town of Turner Zoning Ordinance, the applicant shall submit sketch plans of both a traditional subdivision layout and open space or creative design subdivision layout.
- C. The sketch plan for an open space or creative design subdivision will show how the following applicable provisions will be incorporated in subdivision design.
 - 1. The policy of the Town of Turner to encourage use of prime agricultural land for farming;
 - 2. The policy of the Town of Turner to use residential development techniques that conserve land, significant natural areas and reduce construction costs;
 - 3. The policy of the Town of Turner that development that takes place in forested areas to conserve forest lands and resource values;
 - 4. The policy of the Town of Turner to minimize impacts of development upon recognized historic buildings and natural sites/areas;
 - 5. The policy of the Town of Turner to minimize the loss of the values of significant scenic areas and sites from encroaching development;
 - 6. The parcel's unique features that may include but not be limited to agricultural land, forest land, fields, ridges, stone walls, tree lines, streams, wetlands, wildlife habitat, and scenic views and how such features will be conserved and integrated into the subdivision design.

5.2 Ownership Interest. The developer will furnish written evidence showing his interest (option, contract for sale, etc.) in the property to be subdivided to the Planning Board.

5.3 Proposed Road Name and Numbering System. The developer shall submit to the Board the name proposed for any new public or privately owned road and a numbering system that complies with Section 5 of the Turner Addressing Ordinance.

ARTICLE VI. MINOR SUBDIVISIONS

6.1 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 Planning Board may require the applicant 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.

6.2 Procedure.

- A. Within six months after receipt of the sketch plan by the Board the sub divider shall submit an application for approval of a Final Plan at least twenty-eight (28) days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board. The Board shall provide the sub divider 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. 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.
- B. All applications for Final Plan approval for a minor Subdivision shall be accompanied by an application fee of \$100 per lot, dwelling unit, payable by check to the Town of Turner. There shall be an additional payment of \$150.00 for each lot or dwelling unit. This portion of the application fee shall be known as the Planning Board Review Escrow Account, a dedicated 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 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 subdivision application. Such services may include, but need not be limited to, consulting engineering fees, architectural fees, land uses planner fees and attorney fees. All 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%, the Board shall require that an additional \$50.00 per lot or dwelling unit or unit contained in a commercial or business complex be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$50.00 per lot or unit be deposited as necessary whenever the balance of the account is drawn down to 75% of the original deposit. The Town at the request of the Planning Board shall refund all the remaining monies in the account upon the payment of all costs and services related to the Planning Board review. Such payment of remaining monies shall be made no later than 30 days after the approval of the application, denial of application, or approval with condition of application. Such refund shall be accompanied by final accounting of expenditures from the fund. The monies in such fund shall not be used by the Planning Board for any enforcement purposes.
- C. Upon receipt of an application for approval of a Minor Subdivision, the Planning Board shall notify in writing all owners of abutting property to the proposed subdivision.
- D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

- E. 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.
- F. The Board shall hold a public hearing on each application 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 subdivision seven (7) days prior to the hearing by the Town of Turner Planning Board.
- G. Within thirty days of receipt of a complete application, or within another time limit as may be otherwise mutually agreed to by the Board and the sub divider, 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.

6.3 Submissions.

Applications for a Minor Subdivision shall be submitted on the application forms provided by the Town. Ten (10) copies of the completed application form, required plans, and related information shall be submitted to the Chair or Planner no less than twenty-eight (28) days prior to the regular scheduled meeting.

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 paper copies of one or more maps or drawings drawn to a legible scale such that 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. The Applicant shall provide copies of the application 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

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 professional 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 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. Evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro geologist familiar with the area.
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 seal by the professional engineer, surveyor or planner, or all of the above, as the case may be.
8. A copy of the portion of the county Soil Survey covering the subdivision.
9. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
10. If any portion of the subdivision is in a flood-prone area, the 100-year flood elevation shall be delineated on the plan. The final plan shall include a condition of approval that principal structures will be constructed with their lowest floor, including the basement, at least one foot above 100- year flood elevation.
11. A soil erosion and sedimentation control plan.
12. A plan to control surface drainage prepared by a Licensed Professional Engineer.
13. The location of any fresh water wetlands.
14. The location of river, stream or brook within or abutting the proposed subdivision.
15. The location and nature of significant wildlife identified by the Maine Department of Inland Fisheries and Wildlife or the Town of Turner.
16. Any portion of the subdivision which is located within the watershed of a lake or pond shall be identified.
17. A phosphorus impact analysis and control plan when determined as necessary by the Board.
18. The location of any zoning boundaries affecting the subdivision.

19. The location known of potential archaeological resources.
20. Identification of known rare and endangered species and measures to protect them.
21. The location of documented historic buildings and sites on or adjacent to the site and measures to minimize impacts of them.
22. The location of scenic sites or views as identified in the Town of Turner Comprehensive Plan.
23. The estimated cost of infrastructure improvements and a statement of the applicant's technical and financial capacity to carry out the project as proposed.
24. A copy of the approved Driveway or Entrance permit issued by the Maine Department of Transportation if a driveway or entrance will enter onto Route 4, Route 117, Route 219, Center Bridge Road, Upper Street or Weston Road.
25. A statement indicating if the applicant will install utilities above or below ground.
26. A map or plan of the subdivision identifying farmland.

ARTICLE VII. PRELIMINARY PLAN FOR MAJOR SUBDIVISION

7.1 Procedure.

Procedure. Preliminary Plan review is optional at the Applicant's request. Should the Applicant elect to forego Preliminary Plan review, then the Final Plan review must include all of the requirement submission information of the Preliminary Plan review along with the requirements of the Final Plan review. A Public Hearing will be required.

- A. Within six months after receipt of the sketch plan by the Planning Board, the subdivider shall submit an application for approval of a Preliminary Plan at least twenty-eight (28) days prior to a regular scheduled meeting of the Planning Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board. 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. 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.
- B. All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee of \$100.00 per lot, dwelling unit, or unit contained in a shopping center or similar commercial establishment payable by check to the Town of Turner. There shall be an additional payment of \$150.00 for each lot or dwelling unit or

for each unit contained in a shopping center, mini mall, business complex or similar commercial establishment. This portion of the application fee shall be known as the Planning Board Review Escrow Account, a dedicated account. The initial payment into the Planning Board Review Escrow Account shall in no case exceed \$3,000.00. 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 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 subdivision application. Such services may include, but need not be limited to, consulting engineering fees, architectural fees, land uses planner fees and attorney fees. All fees must relate to the review of the application pursuant to the review criteria of the balance in the applicant's portion of the Planning Board Review Escrow Account shall be drawn down by 75%, the Board shall require that an addition \$50.00 per lot or dwelling unit or unit contained in a commercial or business complex be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$50.00 per lot or unit be deposited as necessary whenever the balance of the account is drawn down to 75% of the original deposit. The Town at the request of the Planning Board shall refund all the remaining monies in the account upon the payment of all costs and services related to the Planning Board review. Such payment of remaining monies shall be made no later than 30 days after the approval of the application, denial of application, or approval with condition of application. Such refund shall be accompanied by final accounting of expenditures from the fund. The monies in such fund shall not be used by the Planning Board for any enforcement purposes.

- C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. The Board shall hold a public hearing on the Preliminary Plan application 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 subdivision seven (7) days prior to the hearing by the Town of Turner.

When a subdivision is located within 500 feet of a municipal boundary, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the Public Hearing.

- E. 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.
- F. Within sixty days of receipt of a complete application, 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.
- G. 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 and type of all performance guarantees which it will require as prerequisite to the approval of the Final Plan.
- H. 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 this Ordinance 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 or in 30-A M.R.S.A. §4404 for subdivision approval.

7.2 Preliminary Plan Submissions.

- A. Applications for preliminary plan approval shall be submitted on the 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 scheduled meeting.
- B. The preliminary plan shall consist 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 legible scale such that all necessary detail can easily be read. The Applicant shall provide copies of the application 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.

The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:

1. **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:
 - a. Existing subdivisions in the proximity of the proposed subdivision.
 - b. Locations and names of existing and proposed streets.
 - c. Boundaries and designations of any zoning districts.

- d. 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.
2. 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.
3. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
4. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
6. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
7. 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.
8. 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.
9. Indication of the type of water supply system(s) to be used in the subdivision. Evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro geologist familiar with the area.
10. 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 stamped or sealed by a licensed engineer, surveyor or planner, or all of them, as the case may be.
11. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.
12. The location of any zoning boundaries affecting the subdivision.
13. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
14. The location, names and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

15. The width and location of any streets or public improvements shown upon the Comprehensive Plan, if any, within the subdivision.
16. The proposed lot lines with approximate dimensions and lot areas.
17. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
18. The location of any open space to be preserved and an indication of its improvement and management.
19. A soil erosion and sedimentation control plan.
20. A plan to control surface drainage, prepared by a Licensed Professional Engineer.
21. 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.
22. 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.
23. The location of any fresh water wetlands.
24. The location of river, stream or brook within or abutting the proposed subdivision.
25. The location and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife or the Town of Turner.
26. Any portion of the subdivision which is located within the watershed of a lake or pond shall be identified.
27. A phosphorus impact analysis and control plan when determined as necessary by the Board.
28. The location known or potential archaeological resources.
29. Identification of known rare and endangered species and measures to protect them.
30. The location of documented historic buildings and sites on or adjacent to the site and measures to minimize impacts on them.
31. The location of scenic sites or views as identified in the Town of Turner Comprehensive Plan.
32. The estimated cost of infrastructure improvements and a statement of the applicant's technical and financial capacity to carry out the project as proposed.
33. A Traffic Impact Analysis when required by the Board prepared by a Professional Engineer.

34. A copy of the approved Driveway or Entrance permit issued by the Maine Department of Transportation if a driveway or entrance will enter onto Route 4, Route 117, Route 219, Center Bridge Road, Upper Street or Weston Road.
35. A statement indicating if the applicant will install utilities above or below ground.
36. The location of farmland.

ARTICLE VIII. FINAL PLAN FOR MAJOR SUBDIVISION

8.1 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. 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.
- B. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- C. At the first meeting held on a Final Plan, 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 and determine whether to hold a public hearing on the Final Plan application.
- D. Prior to approval of the Final Plan application, the following approvals shall be obtained in writing, where applicable.
 1. Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resource Protection Act, Stormwater Management Law, or if a Wastewater Discharge License is needed.
 2. Maine Department of Human Services, if the subdivider proposes to provide a Community Water System as defined by the State of Maine Rules of the Department of Human Services Relating to Drinking Water (10-144A. C.M.R. 231).
 3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
 4. An approved Driveway or Entrance permit issued by the Maine Department of Transportation if a driveway or entrance will enter onto Route 4, Route 117, Route 219, Center Bridge Road, Upper Street or Weston Road.

- E. A public hearing may be held by the Planning Board within thirty days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing, and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. Notice of public hearing shall be mailed to all abutters of the proposed subdivision seven (7) days prior to the hearing.

When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing.

- F. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article XII.
- G. If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.
- H. The Board, within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in Title 30-A M.R.S.A. §4404 and in this Ordinance. If the Board finds that all standards of the Statute and this Ordinance have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute and this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be slated in the records of the Board.

8.2 Submissions.

The Final Plan shall consist of one or more maps or drawings drawn to a legible scale such that all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. One reproducible, stable based transparent originals, embossed with the seal of the professional who prepared the plan, to be filed at the Municipal Offices, and three paper copies of the plan shall be submitted. The applicant shall have a subdivision plan filed and recorded at the Registry of Deeds. The Applicant shall provide copies of the final plan no less than twenty-eight (28) days prior 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.

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 professional land surveyor. The

corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.

- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, 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.
- F. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
- G. The location of any zoning boundaries 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. The final plan showing a proposed road shall indicate by lines or dots in the center of the proposed road intervals of every fifty (50) feet beginning at the intersection with the existing street.
- J. If not provided during Preliminary Plan review, the width and location of any streets or public improvements shown upon the Comprehensive Plan, if any, within the subdivision.
- K. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.
- L. If any portion of the subdivision is in a flood-prone area, the 100-year flood elevation shall be delineated on the plan. The final plan shall include a condition of approval that principal structures will be constructed with their lowest floor, including the basement, at least one foot above 100- year flood elevation.
- M. The location of wetlands.

8.3 Final Approval and Filing

- A. No plan shall be approved by the Planning Board as long as the subdivider has outstanding violations on any approved subdivision plan within the Town of Turner.
- B. 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.
- C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan.
- D. 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.
- E. Failure to commence substantial construction of the required infrastructure improvements for the subdivision within two years of the date of approval and signing of the final Plan shall render the Plan null and void. A statement of this effect must appear on any final plan. Upon good cause shown, the Board may extend the approval for additional two year periods. The extension request must be made to the Board at least thirty days prior to the time of expiration. 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 infrastructure improvements, the sub divider or builder shall:
 - 1. 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 infrastructure improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 - 2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of construction and infrastructure 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 infrastructure improvements.

- B. If the inspecting official finds, upon inspection of the infrastructure improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required infrastructure 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 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 Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of 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 6.2.
- 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 sub divider shall provide the Board with a letter from a Professional 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 town way to a town meeting, a written certification signed by a licensed 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 the Town of Turner, Maine, Street Construction Ordinance. "As built" plans shall be submitted to the Municipal Officers.
- G. The subdivider or builder shall be required to maintain all infrastructure improvements and provide for snow removal on streets and sidewalks and maintenance 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 Title 30-A, M.R.S.A. §4404 and 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 penalized in accordance with Title 30-A M.R.S.A., Section 4452. Each day the violation exists shall be considered a separate violation. The Municipality may institute proceedings to enjoin the violation of this section, and may collect attorneys' fees and court costs if it is the prevailing party.
- E. No public utility 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.
- G. Once a preliminary plan for a subdivision approval has been received by the Planning Board no lot or lots shall be sold or developed until the final plan has been approved and recorded in the Registry of Deeds.
- H. Consent Agreements: The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and collecting fines without court action.
- I. Legal Actions: When the above action does not result in the complete correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.
- J. Fines: Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A., Section 4452. Each day the violation exists shall be considered a separate violation.

ARTICLE X. GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general 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 Comprehensive Plan of the municipality 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 landscape plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable 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. The developer may instead make a payment in lieu of dedication into a municipal land acquisition fund. A payment in lieu of dedication shall be calculated at the market value of land at the time of the subdivision, as determined by the municipal tax assessor, and deposited into a municipal land acquisition or improvement fund.
 - 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 Planning 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, etc.

- D. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
- E. The proposed subdivision shall provide safe pedestrian access within the subdivision and interconnection with existing facilities on abutting properties including connection and/or preservation of existing snowmobile trails to accomplish the goals of the Comprehensive Plan.

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 of Mobile Home Parks and Multi-family Developments of three or more units.

- A. Land which is located within the 100-year frequency floodplain as identified by the Federal Emergency Management Agency, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Professional Land Surveyor which show that the property in question lies above the 100-year flood level. The elevation of filled or made land shall not be considered.
- B. Land which is part of a right-of-way, or easement, including utility easements.
- C. Land that has been created by filling or draining a pond or wetland.

10.4 Blocks. Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width. Maintenance obligations of the easement shall be included in the written description of the easement.

10.5 Lots

- A. All lots shall meet the minimum requirements of the Town of Turner's Zoning Ordinance. The lot configuration should be designed to maximize the use of solar energy on building sites with suitable orientation. Lack of restrictive covenants may necessitate larger lots.
- B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.
- C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.
- D. Wherever possible, side lot line shall be perpendicular to the street.
- E. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future resubdivision.
- F. In the Rural I and II Districts, as defined in the Town of Turner Zoning Ordinance, each lot shall contain a minimum of 20,000 square feet of land area that is not located in the 100-year floodplain, does not contain slopes greater than 20 percent and considered a fresh water wetland.

10.6 Utilities

- A. The Planning Board may require utilities serving the subdivision to be installed underground.
- B. Underground utilities shall be installed prior to the installation of the final gravel base of the road. All underground utilities shall be properly marked to avoid damage by future excavations.
- C. Street lighting, if required by the Planning Board, shall meet specifications established by the Planning Board.

10.7 Required Improvements. The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of this Ordinance.

A. Monuments

- 1. Permanent granite or cement monuments not less than four (4) inches square in width or iron reinforcement rods at least 5/8 inches across the top and at least four (4) feet in the ground shall be installed as follows:
 - 1. Monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
 - 2. Monuments shall be set at all corners and angle points of the subdivision boundaries and all lot boundary and angle points.

B. Water Supply

- 1. If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the State of Maine Rules of the Department of Human Services Relating to Drinking Water (10-144 A.C.M.R. 231).
- 2. Based on the recommendations of the Fire Department the Board may require the subdivider to install systems to provide water for fire fighting purposes or to pay for such systems.

C. Sewage Disposal

- 1. The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

D. Surface Drainage

- 1. Where a subdivision is traversed by a stream, river, or surface water drainage way, or where the Board has determined that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This storm water management system shall be designed by a Licensed Professional Engineer.

2. Drainage easements for existing watercourses or proposed drainage ways shall be provided and indicated on the plan at least thirty feet wide, conforming substantially with the lines of existing natural drainage.
3. A storm water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements, meeting the standards of Article XI. 2-3 shall be submitted.

E. Conservation, Erosion and Sediment Control.

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.

- a. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
- b. 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.
- c. The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
- d. Disturbed soils shall be stabilized as quickly as practical.
- e. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
- f. The permanent (final) vegetation and mechanical erosion control measure shall be installed as soon as practical on the site.
- g. 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.
- h. 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.
- i. 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.
- j. 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.
- k. The most current standards set forth in the Stormwater Management Law

administered by the Maine Department of Environmental Protection shall be employed.

10.8 Land Features

- A. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
- B. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.
- C. The Board shall require a developer to take measures as contained in the Maine Erosion and Sediment Control Best Management Practices to correct and prevent soil erosion in the proposed subdivision.

10.9 Phosphorous Export

Projects proposed within the direct watershed of a lake or pond listed below shall be designed to limit phosphorous runoff to the levels defined below. The Board shall keep an accurate record of permits issued by watershed using an appropriate record keeping system, and shall review actual development rates and recommend adjustments to the table at five year intervals, subject to a reasonable appropriation by the Town to conduct such a reassessment, or the availability of adequate State or regional grant programs or technical assistance programs. Adjustments shall be made by amendment of this Ordinance and the Town's Comprehensive Plan.

10.10 Lake Protection Level

	LPL	Phosphorus Loads	Per Acre Phosphorus Load (pounds)
Bear Pond	High	2.31	0.035
Blacksnake Pond	High	0.13	0.024
Crystal Pond	High	3.04	0.035
Lake Auburn	High	3.74	0.082
Lard Pond	High	0.85	0.034
Lily Pond	High	2.16	0.039
Little Wilson Pond	High	7.27	0.031
Mud Pond (1)	Medium	8.11	0.025
Mud Pond (2)	High	0.39	0.037
Mud Pond (3)	High	0.39	0.042
Pleasant Pond	High	8.48	0.045
Round Pond	High	0.35	0.038
Sandy Bottom Pond	High	0.74	0.037
The Basin	High	0.13	0.020

- (1) North of Little Wilson Pond
- (2) Mud Pond in Buckfield
- (3) North of Sandy Bottom Pond

- a. Phosphorous export from a proposed development shall be calculated according to the procedures defined in "Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et al., September 1989 with revision in 1992 and as may be amended). Upon request, copies of all worksheets and calculations shall be made available to the Planning Board.
- b. Phosphorous control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended). The Planning Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing road lengths, and shall encourage the use of other non-structural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds.

10.11 Construction in Flood Hazard Areas

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principle structures on

lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

10.12 Mobile Home Parks

Proposed new mobile home parks and expansions to existing mobile home parks which would constitute a subdivision as defined shall comply with the provisions of this Ordinance, the Town of Turner's Zoning Ordinance, the Town of Turner's Street Construction Ordinance and the following:

- A. The mobile home park will be designed so that each mobile home is placed on a defined lot clearly marked having access from a roadway within the mobile home park. The roadways and lots will be laid out to provide safe and convenient access to every mobile home lot. The lot layout will be designed so that the vehicular access to each lot is from the internal road system of the mobile home park and not from existing public streets.
- B. Each lot within in a mobile home park shall be of such dimensions to provide for two (2) off-street parking spaces. Each park space shall contain minimum of 200 square feet. The Planning Board may require additional parking areas within the mobile home park.
- C. Lots within mobile home parks shall not be reduced below those required in the Town of Turner's Zoning Ordinance.
- D. Streets and walkways designed for the general use of the manufactured home community residents shall be lighted during the hours of darkness. Lighting shall be provided and maintained to produce a minimum of 0.1 footcandle (1.1 lux) at street level throughout the system.
- E. A 50-foot buffer strip shall be provided along all property boundaries. No structures, streets or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the park.
- F. No lot in a mobile home park may be sold or conveyed without prior approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirement for a single-family dwelling as contained in the Town of Turner's Zoning Ordinance.

10.13 Municipal Services

When the Board finds, based upon the recommendation of Department heads, that municipal services do not have sufficient capacity to service the proposed subdivision, the Board may require phasing of the subdivision to allow for the development of expanded municipal services, deny the application or require the applicant to assist in upgrading municipal services.

10.14 Open Space Development

Open space subdivisions shall comply with the provisions set forth in the Town of Turner's Zoning Ordinance.

10.15 Traffic Conditions

When conflicts exist between this Section and a Driveway Permit or Entrance Permit onto Route 4, Route 117, Route 219, Center Bridge Road, Upper Street or Weston Road, issued by the Maine Department of Transportation, the most stringent or restrictive shall apply.

- A. Where a subdivision will be accessed from Route 4 a common access or shared driveways should be developed.
- B. A subdivision to be located in a Commercial II, Rural I or Rural II Zoning District as defined in the Town of Turner Zoning Ordinance that will have lot access from an existing street that has a peak hour volume of 200 vehicle trips or greater as determined from available traffic counts from the Maine Department of Transportation shall be limited to one (1) access point for the first lot and one (1) additional access point for each 500 feet of frontage beyond the first lot on such street. Where the subdivision will have more than one (1) access point, spacing shall comply with Sections 10.15.E, F, and G.

A subdivision to be located in a Commercial I Zoning District as defined in the Town of Turner Zoning Ordinance that will have lot access from an existing street that has a peak hour volume of 200 vehicle trips or greater as determined from available traffic counts from the Maine Department of Transportation shall be limited to one (1) access point for the first lot and one (1) additional access point for each 400 feet of frontage beyond the first lot on such street. Where the subdivision will have more than one access point, spacing shall comply with Sections 10.15.E, F, and G.

- C. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians unless other factors make it not practical.
- D. The Planning Board may require, based upon site distances and volume of traffic, the use of shared or common driveways in the Rural I and Rural II Districts as defined in the Town of Turner Zoning Ordinance, where such lots will be accessed by off-site public streets.
- E. Minimum corner clearance shall be measured from the point of tangency for the corner to the point tangency for the access by type of driveway and meet the following.

Driveway	Minimum Corner Clearance (feet)	
	Intersection Signalized	Intersection Unsignalized
Low Volume <50 trips/day	150	50
Medium Volume >50-100 trips/day <200 trips/hour	150	50
High Volume >200 trips/hour	500	250

- F. Minimum distances between driveways serving the same parcel, measured from point of tangency to point of tangency by type of driveway, shall be as follows:

Driveway Type	Minimum Spacing to Adjacent Driveway by Driveway Type		
		High w/o RT (feet)	High w/RT (feet)
Medium Volume	75		
High Volume W/O RT (without right-turn channelization)	75	150	
High Volume W/RT (with right-turn channelization)	75	250	500

- G. The minimum distance between driveways and property line, as measured from point of tangency, shall be:

Driveway Type	Minimum Spacing to Property Line (ft.)
Low Volume	10
Medium Volume	20
High Volume (without right-turn channelization)	75
High Volume (with right-turn channelization)	75

For lots with shared access, the driveway may be located along the property line. The minimum spacing to property line may be varied if (1) the safest point of access to the site is closer to the property line and (2) there are at least 20 feet of separation between low volume driveways serving adjacent parcels, 40 feet of separation between medium volume driveways, and 150 feet of separation between high volume driveways.

- H. When the proposed development is to be located on the opposite side of an existing development, the driveway shall be directly opposite of the existing driveway or separated from the opposite driveway by a minimum of seventy-five (75) feet whenever possible.

10.16 Ground Water Quality

- A. 1. When a hydrogeologic assessment is submitted, by request of the Board, the assessment shall contain at least the following information:
- a. A map showing the basic soils types.
 - b. The depth to the water table at representative points throughout the subdivision.

- c. Drainage conditions throughout the subdivision.
 - d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance.
 - f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 100 feet of the subdivision boundaries.
2. The subdivision will not result in the existing ground water quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S.A., Section 601.
 3. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
 4. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
 5. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

10.17 Protection of Significant Wildlife Habitat

Applicants proposing to subdivide land in or within 75 feet to wildlife resources identified in the Town of Turner Comprehensive Plan or by the Maine Department of Inland Fisheries and Wildlife shall consult with a recognized wildlife or fisheries consultant or the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Board. The Board may consult with the Maine Department of Inland Fisheries and Wildlife and may impose any recommendations by the Maine Department or consultant as conditions of approval.

10.18 Scenic Locations

The Planning board shall consider the existence of a scenic site or view location as identified in the Town of Turner Comprehensive Plan and the impact of the proposed subdivision on such a site or view. The Board may require the placement or visual qualities of structures on lots in such locations as to minimize the negative impacts of the subdivision on such sites and views.

10.19 Archaeological Sites

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

10.20 Solid Waste

All Solid Waste shall be disposed of at a Department of Environmental Protection Licensed Facility.

10.21 Financial and Technical Capacity

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.

1. The applicant shall demonstrate the qualifications of the contractors and consultants who will supervise, construct and inspect the improvements associated with the proposed subdivision.
2. 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.

ARTICLE XI. STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS

11.1 General Requirements

- A. All streets proposed as an element of a subdivision shall comply with the Town of Turner's Street Construction Ordinance.
- B. All street designs as required by the Town of Turner's Street Construction Ordinance shall be submitted as an element of the Subdivision Application as required by this Ordinance.
- C. Street names shall be proposed by the applicant and approved by the Board. Streets that are continuations of existing streets shall be given the same name of the existing street. Names of new streets shall not duplicate nor bear the phonetic resemblance of the names

of existing streets with the Town. No street name shall be given the common name of a person.

11.2 Storm Water Management Design Standards

- A. All stormwater improvements within the subdivision 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.
- B. All subdivisions that fall below the minimum thresholds of the Stormwater Management Law shall comply with the Conservation, Erosion and Sediment Control Standards of Article X, Section 10.7. E.
- C. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
- D. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

11.3 Storm Drainage Construction Standards

A. Materials

- 1. **Reinforced Concrete Pipe.** Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTOM 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved performed plastic jointing material such as "Ramnek". Perforated Concrete Pipe shall conform to the requirements of AASHTOM 175 for the appropriate diameters.
- 2. **Asbestos Cement Pipe.** Asbestos Cement Pipe shall meet the requirements of ASTM Designation C-428 (AASHTOM 189). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.5 on the crushing strength. Joints shall be of the rubber gasket type meeting ASTM Designation D-1869-63, or of an approved performed plastic sleeve type.
- 3. **Corrugated Metal Pipe.** Corrugated Metal Pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.
- 4. **ABS Pipe.** ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTOM 264 and AASHTOM 265. Perforated pipe shall conform to the requirements of AASHTOM 36, Type III.
- 5. **Corrugated Plastic Pipe.** Corrugated Plastic Pipe shall conform to the requirements of AASHTO M-252.
- 6. **Manholes.** Manholes shall be of precast concrete truncated cone section

construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTOM 103 for carbon steel castings, AASHTOM 105, Class 30 for gray iron castings or AASHTOM 183 (ASTMA 283, Grade B or better) for structural steel.

7. **Catch Basins.** Catch Basins shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Casting shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTOM 103 for carbon steel castings, AASHTOM 105, Class 30 for gray iron castings or AASHTOM 183 (ASTMA 283, Grade B or better) for structural steel.

- B. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Municipal Engineer.
- C. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.
- D. Upon completion each catch basin or manhole shall be cleaned of all accumulation of silt, debris, or foreign matter and shall be kept clean until final acceptance.

11.4 **Certification of Construction**

Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a licensed professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations. "As built" plans shall be submitted to the Municipal Officers.

ARTICLE XII. PERFORMANCE GUARANTEES

12.1 **Types of Guarantees.** With submittal of the application for Final Plan approval, the subdivider shall indicate one of the following performance guarantees that will be provided for an amount adequate to cover the total construction costs of all required infrastructure improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs.

- A. 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.
- B. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers.

- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers.
- D. An offer of conditional agreement limiting the number of units built or lots sold until all required infrastructure improvements 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.

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

12.3 Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider except for any portion of the interest earned which was needed, in addition to the principle of the escrow account, to pay for completion of the required improvements.

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

12.5 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 subdivision and may not be used for any other project or loan.

12.6 Conditional Agreement. The Board, at its discretion may permit for the sub divider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that no units be built or lots sold until either:

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

Notice of the agreement and any conditions shall be on the Final Plan which is recorded by the subdivider at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 12.8. Proof of recording shall be provided by the subdivider to the Board.

- 12.7 Phasing of Development.** The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.
- 12.8 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 infrastructure improvements for which the release is requested.
- 12.9 Default.** If, upon inspection, it is found that any of the required infrastructure 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 sub divider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.
- 12.10 Privately-Owned Roads.** Where the subdivision streets are to remain privately-owned roads, the following words shall appear on the recorded plan.
- "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."
- 12.11 Improvements Guaranteed.** Performance guarantees shall be tendered for all infrastructure improvements required by Section 10.7 11.1 and 11.2 of this ordinance, as well as any other improvements required by the Board.
- 12.12** At least five days prior to commencing each major phase of construction of required infrastructure improvements, the sub divider or builder shall provide the Town with the type and amount of the performance guarantee approved in Section 12.1 above.

ARTICLE XIII. WAIVERS

- 13.1** 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.
- 13.2** 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 of 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.

- 13.3** 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 which they were granted.

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 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.

- 14.3 Adoption of Amendment.** An amendment to this Ordinance may be adopted by a majority vote of the 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 Androscoggin County Superior Court.

ARTICLE XVI. SUBDIVISION AMENDMENTS

- 16.1 Fees.**

- A. The fee for any amendment when the number of lots remains the same, and there is no substantial change to roads or drainage systems, shall be \$25 plus planner fees.
- B. The fee for any amendment, when three or less new lots are created, shall be a \$25

publishing and notice fee and \$100 for the first new lot created and \$50 for each additional lot plus planner fees.

- 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 and escrow accounts required by a new application.

16.2 Revisions to Approved Plans

No change, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, by the original subdivider at any time or within five years of the approval if other than the original subdivider, 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.

Title 30-A MRSA Section 4406.1.E

Any person who, after receiving approval from the municipal reviewing authority or approval under Title 38, chapter 3, subchapter I, article 6 and recording the plan at the registry of deeds, constructs or develops the subdivision or transfers any lot in a manner other than depicted on the approved plans or amendments or in violation of any condition imposed by the municipal reviewing authority or the Department of Environmental Protection, when applicable, must be penalized in accordance with section 4452.

3/12/91

Amended March 14, 1992

Amended June 20, 1992

Amended June 12, 1993

Amended June 11, 1994

Amended April 13, 1996

Amended July 21, 1997

Amended April 18, 1998

Amended April 10, 1999

Amended April 8, 2000

Amended April 7, 2001

Amended April 6, 2002

Amended April 5, 2003

Amended April 3, 2004

Amended April 9, 2005

Amended April 8, 2006

Amended April 5, 2008

Amended April 4, 2009

Amended April 10, 2010

Amended April 5, 2014

Amended May 19, 2018

Amended May 21, 2021