

TOWN OF OTISFIELD
NEW ROAD
CONSTRUCTION
ORDINANCE

Adopted and Effective: March 5, 2005

Amended:

06/27/2020

TOWN OF OTISFIELD
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PHONE: 207.539.2664 FAX: 207.539.2246

TOWN OF OTISFIELD

NEW ROAD CONSTRUCTION ORDINANCE

SECTION I. STATEMENT OF PURPOSE

The purpose of this "New Road Construction Ordinance" (the "Ordinance") is to promote the health, safety, and public welfare of the residents of Otisfield through establishing minimum construction standards for new roads, streets, and other public and private ways.

SECTION II. AUTHORITY, ADMINISTRATION AND EFFECTIVE DATE

A. AUTHORITY: This Ordinance is enacted pursuant to and consistent with Article VIII, Part 2 of the State of Maine Constitution, and with Title 30-A, M.R.S.A., Section 3001, et seq.

B. ADMINISTRATION: This Ordinance shall be administered by the Planning Board of the Town of Otisfield with the input of the Road Commissioner and/or a Maine licensed professional engineer employed by the Town, and the Code Enforcement Officer.

C. EFFECTIVE DATE AND REPEAL OF FORMERLY ADOPTED ROAD ORDINANCE SPECIFICATIONS: The effective date of this Ordinance is March 5, 2005. This Ordinance repeals and replaces all previously enacted road construction and road standard ordinances.

SECTION III. APPLICABILITY

A. CONSTRUCTION: This Ordinance shall apply to the construction of all new roads within the Town whether public or private. No road, whether new or existing, shall be accepted as a Town way unless it meets the provisions of this ordinance.

B. HIGHER DESIGN AND CONSTRUCTION STANDARD: Nothing in this Ordinance shall be construed to prevent the design and construction of roads which meet higher standards, use improved methods, or use higher quality materials.

SECTION IV. APPLICATION PROCEDURES

Prior to the construction of any new road, approval of the Planning Board is required. An application shall be submitted to the Town of Otisfield Planning Board and Code Enforcement Officer with the following information:

A SUBMISSION REQUIREMENTS:

1. The name(s) of the applicant(s)
2. The name(s) of the owner(s) on record of the land upon which the proposed road is to be located
3. A statement of any legal encumbrances on the land upon which the proposed road is to be located, and a deed to the road in favor of the Town with a metes and bounds description of the road and an attached plan of the road prepared by a Maine licensed professional land surveyor and/or a Maine licensed professional engineer.
4. The anticipated starting and completion dates of each major phase of construction.
5. A statement indicating the nature and volume of traffic expressed in average daily traffic (ADT) expected to use the proposed road.
6. Appropriate nonrefundable application fee.

B. DRAWINGS

The plans and illustrations submitted as part of the application shall be prepared by a Maine licensed professional land surveyor and/or a Maine licensed professional engineer to include the following information:

1. Roadway plan, profile, and typical cross-section views of all proposed roads. Plan drawings shall be drawn to a scale not to exceed 1 inch = 50 feet, profile drawings shall be drawn to a scale not to exceed 1 in = 50ft horizontal and 1in = 5ft vertical, and cross-section drawings shall be drawn to a scale not to exceed 1 in = 5 foot horizontal and 1 inch = 1 foot vertical;
2. The direction of magnetic north;
3. A plan with topography before and after for a distance of 100ft beyond the right of way, a profile, and typical cross section views of all proposed roads;
4. Intersections of the proposed road with existing roads, and the starting and ending point with relation to established roads and any planned or anticipated future extensions of same roads. (All terminal points and the center line alignment shall be identified by survey stationing;)
5. The roadway, roadway limits, and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, curbs and with relation to existing buildings and established landmarks;
6. Dimensions, both lineal and angular, necessary for locating boundaries, and necessary for locating subdivisions, lots, easements, and building lines;
7. The lots, if any, as laid out and numbered on said road showing the names of all owners of abutting property;
8. All natural waterways and watercourses in or on land contiguous to said road;
9. The kind, size, location, material, plan profile, and cross section of all existing and proposed drainage ways and structures and their relationship

to existing natural waterways and proposed drainage ways;

10. The soil erosion and sedimentation control plan showing temporary construction and interim and final stabilization and control provisions;
11. Curve data for all horizontal and vertical curves shall be the central angle, center line radius, arc length, beginning of curve and end of curve points;
12. All center line gradients shall be shown and expressed as a percent;
13. All curve and property line radii of intersections;
14. The limits and location of any proposed sidewalks and curbing;
15. The size, type and location of all existing and proposed overhead and underground utilities, to include, but not limited to, the following:
(NOTE - When a location, in the case of any underground utility, is an approximate location, it shall be noted on the plan as such.)
 - a. storm drains;
 - b. telephone line poles or underground vaults;
 - c. cable and fiber optic;
 - d. electrical power line poles or underground vaults;
 - e. street lights;
 - f. public water supply lines;
 - f sanitary sewer lines;
 - g. gas mains;
16. The names of each proposed road (NOTE: See Section VII C)
17. Monuments (NOTE: See Section VII D)
18. Estimated costs and technical and financial capacity.

C. REVIEW AND COMMENT

Upon receipt of an application and plans for a proposed road, the Planning Board shall forward one copy each to the Board of Selectmen, the Road Commissioner, the Code Enforcement Officer, and the Fire Chief for review and comment. The deed to a proposed public road shall be sent to the Town attorney for review and comment.

D. ROADS WITHIN PROPOSED SUBDIVISION

Roads proposed as part of a subdivision as defined in the Subdivision Ordinance of the Town of Otisfield shall be submitted to the Planning Board as an integral part of the subdivision application. Plans shall conform to the provisions of this ordinance as well as those required by the Subdivision Ordinance of the Town of Otisfield.

E. APPLICATION AND REVIEW FEES

1. The nonrefundable application fee of \$ (See Town Fee Schedule) shall be paid to the Town of Otisfield upon submission of an application. The Board of Selectmen shall have the authority to review and revise the

application fee. The application fee shall be waived if the road is being reviewed as an element of a subdivision application.

2. A Design Review and Inspection Fee shall be paid to the Town of Otisfield upon submission of an application. The fee shall be for the amount of two
(2) percent of the estimated costs of the construction and improvements to be for the design and inspection of the same by a licensed professional engineer in the State of Maine of the Town's choosing. If upon satisfactory (to the Town) completion of construction and cleanup there are funds remaining, the surplus funds shall be refunded to the applicant within thirty
(30) calendar days. If the inspection account shall be drawn down by seventy-five (75) percent, the applicant shall deposit an additional one (1) percent of the estimated cost of construction and improvements.

F. APPLICATION REVIEW

1. Complete Application: Within thirty (30) calendar days from the date of receipt, the Planning Board shall notify the applicant in writing either that the application is complete, or if incomplete, the specific additional material needed to make the application complete. Determination by the Planning Board that the application is complete in no way commits or binds the Board as to the adequacy of the application to meet the requirements of this Ordinance.
2. Application approval: The Planning Board shall, within thirty (30) calendar days of a public hearing, or within sixty (60) calendar days of having received the completed application or within such other time limit as may be mutually agreed to, deny or grant approval on such terms and conditions as it may deem advisable to satisfy this Ordinance and to preserve the public health, safety, and general welfare. In all instances, the burden of proof shall be upon the applicant. In issuing its decision, the Planning Board shall make a written finding of fact establishing that the application does or does not meet the provisions of this Ordinance.
3. Public Hearing: The Planning Board may hold such public hearing within thirty (30) calendar days of having notified the applicant in writing that a complete application has been received and shall cause notice of the date, time, and place of such hearing to be given to the applicant, all owners of abutting property, published in a newspaper of general circulation in the Town of Otisfield at least two (2) times: the date of the first publication shall be at least seven (7) (calendar) days prior to the hearing.

SECTION V. ROAD DESIGN STANDARDS

- A. These design standards shall be met by all roads and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, ditches, other appurtenances, and areas disturbed for grading and construction of same. These design standards for erosion and sediment control, shall be in accordance with the Maine Erosion and Sedimentation Control Best Management Practices (BMPs): Manual for Designers and Engineers, published by the Maine Department of Environmental Protection, October 2016, and as amended.
- B. Roads shall be designed to discourage through traffic within a residential subdivision.
- C. The character, extent, width, and grade of all roads shall be considered in their relation to existing or planned roads.
- D. Reserve strips controlling access to roads shall be prohibited except where their control is definitely placed in the Town of Otisfield
- E. Where a subdivision borders an existing narrow road (not meeting the width requirements of the standards for roads in this ordinance), or when the Comprehensive Plan or any capital improvement plan or multi-year road improvement plan indicated plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Realignment (Widening) Purposes". Land reserved for such purposes may not be included in computing lot area or setback requirements. When such widening or realignment is included in the municipality's Comprehensive Plan, capital improvement plan or multi-year road improvement plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
- F. Privately Owned Roads - Where roads are to remain privately owned, the following words shall appear on the recorded plan: "All roads shall remain private roads to be maintained by the developer or the lot owner and shall not be accepted or maintained by the Town of Otisfield."
- G. Any privately owned road serving four dwellings units or less will not require pavement.
- H. Driveways off any Town way need a Road Opening Permit. Anyone installing a driveway or entrance along a State highway must get a permit from the Maine DOT.
- I. The following design standards apply according to road classification:

ROAD DESIGN STANDARDS

TYPE OF ROAD

| Description | Collector | Local | Industrial/ Commercial | Mobile Home Parks |
|-------------|-----------|-------|---------------------------|-------------------------|
|-------------|-----------|-------|---------------------------|-------------------------|

| | | | | |
|--|--------------|--------------|-----------------------------|----------------|
| Minimum ROW width | 60ft | 60ft | 60ft | <u>23 feet</u> |
| Minimum traveled width | 24 ft | 20ft | 24ft | <u>20 feet</u> |
| Minimum width of Shoulders (each side) | 3ft | 3ft | 3ft | 3 ft |
| Sidewalk width ⁽⁶⁾ | 5ft | 5ft | 5ft | N/A |
| Minimum Grade | .5% | .5% | .5% | .5% |
| Maximum Grade ⁽¹⁾ | 6% | 10% | 5% | 10% |
| Minimum centerline radius: | 200 ft | 150 ft | 200 ft | 150 ft |
| Without super elevation | 280ft | 280ft | 400ft | |
| With super elevation | 175ft | 175ft | 300ft | |
| Roadway Crown ⁽²⁾ | 1/4in per ft | 1/4in per ft | 1/4in per ft ⁽³⁾ | 1/4in per ft |
| Minimum angle of street Intersections ⁽⁴⁾ | 90 degrees | 90 degrees | 90 degrees | 90 degrees |
| Maximum grade within 75ft of intersection | 3% | 3% | 3% | 3% |
| Minimum curb radii at intersections | 20ft | 15ft | 30ft ⁽⁵⁾ | 15 ft |
| Minimum ROW radii at intersections | 10ft | 10ft | 20ft | 10 ft |
| | | | | |

- (1) Maximum grade may be exceeded for a length of 100ft or less
- (2) Roadway crown is per foot of lane width
- (3) Gravel surfaces shall have a minimum crown of $\frac{3}{4}$ in per ft of lane width
- (4) Road intersection angles shall be as close to 90 degrees as feasible but no less than the listed angle
- (5) should be based on turning radii of expected commercial vehicles, but no less than 30ft.
- (6) If required by subdivision ordinance

1. MDOT specifications will be used to establish material quality specifications. These material thicknesses presume a suitable native soil below sub-grade. Fine-grained soils having a California Bearing Ratio of less than fifteen (15) percent will generally require additional sub-base material.
2. Culvert sizes to be determined based on hydrologic computations performed by a licensed professional engineer in the State of Maine
3. A diagram and chart for cross sections of the roads for each of the categories is included in Attachment A.
Note: For road definitions see Town of Otisfield document titled "Definition's for the Town of Otisfield's Ordinances."

J. TRIP GENERATION RATES

Trip generation shall be based on current traffic engineering practices.

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

L. In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: 65ft to property lines and 50ft to the edge of pavement. Dead-end roads may provide a permanent "T" turn-around in lieu of a cul-de-sac. Such turn-arounds shall be a minimum of 50ft in length, in each direction, from the centerline of entrance road and 30ft in width.

1. All roads constructed within a subdivision shall have either one entrance/exit with a looped interior road or two entrances/exits with a U shaped road within the interior. A cul-de-sac or "T" turn-around is not to be used.

M. GRADES, INTERSECTIONS, AND SIGHT DISTANCES

1. Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
2. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.
3. Where new road intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distance is measured to and from the point on the centerline of the proposed access that is located 10 feet from the edge of the traveled way. The height of the person's view is considered to be 3 ½ feet above the pavement and the height of the object being viewed to be 4 ½ feet above the pavement.

| Posted Speed Limit & Sight Distances: | | | |
|---------------------------------------|---------|--------|---------|
| 20 mph | 155 ft. | 45 mph | 425 ft. |
| 25 mph | 200 ft. | 50 mph | 495 ft. |
| 30 mph | 250 ft. | 55 mph | 570 ft. |
| 35 mph | 305 ft. | 60 mph | 645 ft. |
| 40 mph | 360 ft. | | |

4. Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.
5. Cross (four-cornered) road intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of 150 ft shall be maintained between centerlines of side roads.
6. The maximum number of accesses on to a single street is controlled by the available site frontage and the following criteria which shall limit the number of accesses independent of frontage length.
 - a. Accesses with 50 vehicle trips per day or less shall have no more than one two-way access onto a single roadway.
 - b. Accesses with more than 50 vehicle trips per day shall have no more than two two-way accesses or three accesses in total onto a single roadway.

N. Sidewalks.

Sidewalks shall be installed where the Planning Board requires the installation of sidewalks and within all subdivisions within areas designated as growth areas in the comprehensive plan. Where sidewalks exist adjacent to a proposed subdivision outside of growth areas, sidewalks shall be installed connecting to existing sidewalks. Where installed, sidewalks shall meet these minimum requirements.

1. Location.
Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2 ½ feet from the curb facing or edge of shoulder if the road is not curbed.
2. Bituminous Sidewalks.
 - a. The "subbase" aggregate course shall be no less than twelve inches thick after compaction.
 - b. The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.
3. Portland Cement Concrete Sidewalks.
 - a. The "subbase" aggregate shall be no less than twelve inches thick after compaction.
 - b. The portland cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

- O. Curbs shall be installed within all subdivisions within areas designated as growth areas in the comprehensive plan. Granite curbing shall be installed on a thoroughly compacted

gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

SECTION VI. ROAD CONSTRUCTION STANDARDS

A. PREPARATION

1. Before any clearing has started on the traveled way, the centerline and side lines of the new road shall be staked or flagged at 50ft intervals
2. Before grading is started the entire Right-of-way, width necessary for travel way, shoulders, sidewalks, drainage ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders, and tree stumps protruding above the natural profile of the land shall be removed from the travel way, shoulders, sidewalks and drainage ways.
3. All organic materials shall be removed to a depth of two (2) feet below the sub grade of the roadway. Rocks and boulders shall also be removed to a depth of two (2) feet below the sub grade of the roadway. On soils, which have been identified as not suitable for roadways, by the design engineer, the subsoil and organic materials shall be removed from the travelway, shoulders, sidewalks and drainage areas to a depth of two (2) feet below the sub- grade and replaced with material meeting the specifications for gravel aggregate sub- base below. In lieu of removal of all organic material, a Maine DOT approved stabilization geotextile may be used to stabilize the road base.
4. Side slopes shall be no steeper than a slope of three (3) feet horizontal to one (1) foot vertical. Ditch slopes shall be no steeper than a slope of two (2) feet horizontal to one (1) foot vertical. All disturbed areas shall be stabilized structurally or vegetatively in compliance with the appropriate Best Management Practice according to the specifications of the erosion and sedimentation control plan. Roadside ditches shall be designed in accordance with Maine DOT design guidelines and BMP's.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections should be installed to the edge of right-of-way prior to paving.
6. Culverts shall not be less than fifteen (15) inches in diameter (unless for a driveway and then it may be twelve (12) inches) and shall be reinforced concrete, corrugated metal or plastic pipe. Culverts shall be sized to meet drainage conditions and shall be properly installed at both ends of the ditch. Additionally, culverts shall be placed so as not to cause erosion.

B. BASES AND PAVEMENT SPECIFICATIONS

1. Sub-base material

All aggregate sub-base material shall be sand or gravel of hard durable particles free of vegetative matter, lumps, or balls of clay or other deleterious substances. The gradation of the part that passes a 4-inch square mesh sieve

shall meet the below grading requirements. Aggregate for the sub-base shall contain no particles of rock exceeding 6 inches in any direction.

It shall provide good drainage. Depth of fill material will be as measured after compaction. Compaction shall occur after each nine (9) inch lift and any partial lift that may be added.

Aggregate Subbase Grading Requirements

| Sieve Designation | Percentage by Weight Passing Square Mesh Sieves |
|-------------------|---|
| 4 inch | 100% |
| ¼ inch | 25-70% |
| NO. 40 | 0-30% |
| NO. 200 | 0-7% |

2. **Base material**

The aggregate base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps, or balls of clay and other deleterious substances. The gradation of the part that passes a 1 ½ inch square mesh sieve shall meet the following grading requirements. Aggregate for the base shall contain no particles of rock exceeding 3 inches in any dimension.

Aggregate Base Grading Requirements

| Sieve Designation | Percentage by Weight Passing Square Mesh Sieves |
|-------------------|---|
| 1 ½ inch | 100% |
| ½ inch | 45-70% |
| ¼ inch | 30-55% |
| No. 40 | 0-20% |
| No. 200 | 0-5% |

3. All base and sub base materials will be placed at a moisture content to achieve the desired compaction. Compact all base and sub base material to at least ninety (90) percent of the maximum density as determined in accordance with ASTM D698. Determine in place density using ASTM D 1556 or D 2022 or other method determined by the Planning Board. The Board shall determine the frequency of in-place testing required.
4. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
5. **Pavements**
 - a. Base mix: grade B base mix is required with an aggregate size no more than ¾ inch maximum, and a liquid asphalt content between 5.2% and 6% by weight.

- b. Surface mix: grade C or grade D mix with an aggregate size no greater than ½ inch and a liquid asphalt content between 6.0% and 7.0% by weight.
6. The minimum thickness of material after compaction shall meet the specifications in the table below:

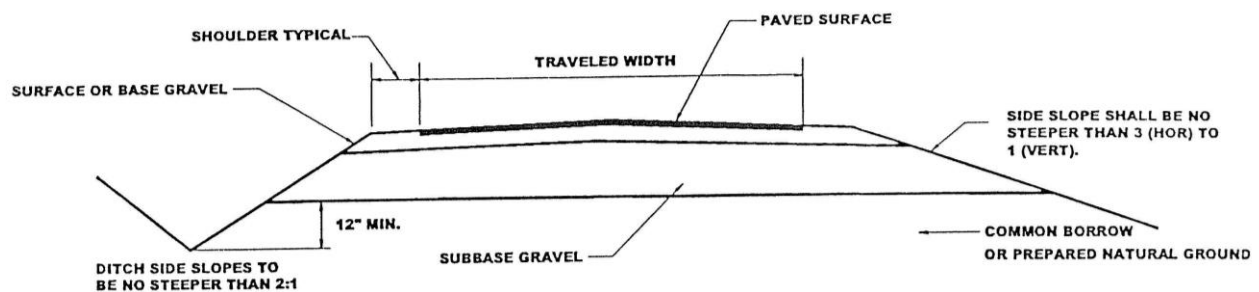
Minimum Thickness of Materials

| | Collector | Local | Industrial/ Commercial | Mobile Home Park | Unpaved Road | | |
|--|-----------|-------|---------------------------|---------------------|-----------------|----|-----|
| Minimum sub base (MDOT 703.06 Type D)** | 18in | 18in. | 18in. | 18in. | 18 in. | | |
| Minimum base MDOT 703.06 Type A** | 3in. | 3in. | 3in. | 3in. | 3 in. | | |
| Hot Bituminous Pavement: | | | | | | | |
| Total Thickness | 3” | 2 ½” | 3” | 3” | 2 ½” | 3” | n/a |
| Surface Course | 1” | 2 ½” | 1” | 1” | 2 ½” | 1” | n/a |
| Base Course | 2” | | 2” | 2” | | 2” | n/a |

** Minimum thickness after compaction. Compaction shall meet DOT standards. Materials testing and compaction testing shall be completed by an independent testing company, as selected by the Town of Otisfield, at the developer's expense. Documentation shall be provided to the town.

7. Gravel roads shall be constructed in conformance with the most current edition of the U.S. Department of Transportation Federal Highway Administration's Gravel Roads Construction & Maintenance Guide.

Typical Cross-Section



SECTION VII. ADDITIONAL IMPROVEMENTS AND REQUIREMENTS

- A. **EROSION CONTROL:** The procedures outlined in the erosion and sedimentation control plan shall be implemented before and during, the site preparation, during construction, and during clean-up stages.
- B. **CLEANUP:** Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street

right-of-way. If on site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

- C. **STREET NAMES, SIGNS, AND LIGHTING:** Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to, the names of existing streets within the Town of Otisfield. No street name shall be the common given name of a person. They shall be subject to the approval of the Board of Selectmen. All road name, traffic safety and control signs shall meet the specifications of the current Manual on Uniform Traffic Control Devices. The developer shall reimburse the Town of Otisfield for the costs of installing street-name, traffic-safety, and control signs. Street lighting shall be installed as approved by the Planning Board.
- D. **MONUMENTS:**
 - 1. Stone or pre-cast concrete monuments shall be set at all road intersections and points of curvature, but no further than 750 feet apart along road lines without curves or intersections.
 - 2. At least one sideline of any proposed roadway will be monumented.
 - 3. Stone or pre-cast concrete monuments shall be set at all corners and angle points of subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
 - 4. Stone or concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground such that they are visible. A ceramic magnet, one-foot length of iron or similar device shall be placed in the hole in order that the monument may be easily located. After they are set, a drilled hole ½ inch deep shall locate the point or points described above.
 - 5. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.
- E. Drainage easements for existing water courses or proposed drainage ways shall be provided at least 30 feet wide, conforming substantially with the lines of existing natural drainage.
- F. The minimum pipe size for any storm drainage pipe shall be twelve (12) inches for driveway entrances and fifteen (15) inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.
- G. Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.
- H. **Storm Drainage Construction Standards.**
 - a. **Materials.**

Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe.

- I. Upon completion, all pipes and structures shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

SECTION VIII. CERTIFICATION OF CONSTRUCTION

Upon completion of road construction and prior to a vote by the Town of Otisfield Selectmen to submit a proposed public way to the Annual Town Meeting, a written certification signed by a licensed professional engineer registered in the State of Maine shall be submitted to the Board of Selectmen at the expense of the applicant, certifying that the way meets or exceeds the design and construction requirements of this Ordinance. "As built" plans shall be submitted to the Board of Selectmen for roads to be accepted as a town way.

SECTION IX. PUBLIC ACCEPTANCE OF ROADS

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

Any developer who wishes to have a road accepted as a town road must meet the following requirements, and make a written petition to the Board of Selectmen.

1. Any new road must be paved and connect to an existing Town, County, or State Road to be considered for acceptance as a Town Road.
2. The road shall winter one season before being considered for acceptance to ensure proper construction.
3. An as-built plan suitable for recording showing boundaries and their markers, drainage, traveled ways, all underground utilities, etc. shall accompany the owners' petition for a Town Road which is to be submitted to the Board of Selectmen.
4. The required right-of-way will be deeded to the Town by warranty deed from the developer or quitclaim deed from each abutting land owner upon acceptance of the road. Any turnaround that may be required will also require deed for said turnaround and required right-of-way.
5. Monumentation shall be installed according to this ordinance.

SECTION X. PERFORMANCE GUARANTEES

A. Types of Guarantees.

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

1. Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;
2. A performance bond payable to the municipality issued by a surety company, approved by

- the municipal officers, or town manager;
3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Municipality may draw if construction is inadequate, approved by the municipal officers, or town manager; or
 4. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed. The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the municipal engineer, road commissioner, municipal officers, and/or municipal attorney.

B. Contents of Guarantee.

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

C. 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 applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

D. Performance Bond.

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

E. 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.

F. Conditional Agreement.

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

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

Notice of the agreement and any conditions shall be on the final plan that is recorded at the Oxford County Registry of Deeds. Release from the agreement shall follow the procedures for release of

the performance guarantees contained below in Section X.H.

G. 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.

H. Release of Guarantee.

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

I. Default.

If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the code enforcement officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

J. Improvements Guaranteed.

Performance guarantees shall be tendered for all improvements required to meet the standards of these Ordinances and for the construction of the streets, stormwater management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

SECTION XI. INSPECTION

A. Notification of Construction: At least five (5) calendar days prior to commencing road construction of roads, the applicant shall:

1. Notify the Code Enforcement Officer in writing of the time when he proposes to commence construction so that the Selectmen can arrange for inspection to be made. The inspecting official shall assure that all Town specifications, requirements, and conditions of approval shall be met during the construction and shall assure the satisfactory completion of improvements required by the Planning Board.
2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of construction and improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus funds shall be refunded to the applicant within 30 calendar days. If the inspection account shall be drawn down by 90%, the applicant shall deposit an additional 1% of the estimated costs of construction and improvements.

3. At least five (5) days prior to commencing construction, the applicant shall provide the Town with the type and amount of the performance guarantee approved in accordance with Section X.A.
- B. Noncompliance With Plan: Upon finding the improvements have not been constructed in accordance with the approved plans and specifications, the inspector shall so report in writing to the Board of Selectmen, Planning Board, Code Enforcement Officer, and applicant. The Board of Selectmen shall take any steps necessary to assure compliance with the approved Plans.
 - C. Modification During Construction: If at any time it appears necessary or desirable to modify the required improvements before or during construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden crops 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 of Selectmen, Planning Board, and Code Enforcement Officer. Revised plans shall be filed with the Planning Board for the record. For major modifications, such as relocation of rights-of-way, changes in grade by more than 1%, etc. the applicant shall submit to the Planning Board an amended application for review and approval, in accordance with Section IV.

SECTION XII. WAIVERS

A. Waivers Authorized.

Where the Board makes written findings of fact that there are special circumstances of a particular application or unnecessary hardships that may result from strict compliance with this Ordinance, it may waive portions of the submission requirements, unless otherwise indicated in the ordinance, provided the applicant has demonstrated that the performance standards of these Ordinances and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these Ordinances.

B. Findings of Fact Required.

Where the Board makes written findings of fact that due to special circumstances of a particular application, the provision of certain required improvements is not requisite 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 subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these Ordinances, and further provided the performance standards of these Ordinances and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

C. Conditions.

Waivers may only be granted in accordance with Section XII. When granting waivers, the Board shall set conditions so that the purposes of these Ordinances are met.

D. Waivers to be shown on final plan.

When the Board grants a waiver to any of the improvements required by these Regulations, the final plan, to be recorded at the Oxford County Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

E. 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 the 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.”

SECTION XIII. SEPARABILITY

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

SECTION XIV. APPEALS

An appeal may be taken within thirty (30) calendar days from the Board's decision on the Application by any aggrieved party to Oxford County Superior Court in accordance with Rule 80 B of the Maine Rules of Civil Procedure.

SECTION XV. AMENDMENTS

- A. Initiation of Amendments: An amendment to this Ordinance may be initiated by
 1. The Planning Board, provided a majority of the Board has so voted;
 2. Request of the Board of Selectmen; or
 3. Written petition of a number of voters equal to at least 10% of the number of votes cast in the Town of Otisfield at the last gubernatorial election.
- B. The Planning Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the Town of Otisfield at least seven (7) calendar days prior to the hearing.
- C. Adoption of Amendment: An amendment of this Ordinance shall be adopted by majority vote of a Town Meeting.

SECTION XVI. VIOLATIONS AND ENFORCEMENT

- A. No person, firm, corporation or other legal entity may undertake activities governed by this Ordinance without first having a final plan thereof approved by the Planning Board.

- B. Any person, including but not limited to a landowner, a landowner's agent or contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with the provisions of Title 30-A M.R.S.A. Section 4452. Each day a violation exists shall be considered a separate violation.

SECTION XVI. DEFINITIONS

See Town of Otisfield Definitions Ordinance.