

Sec. 14-61. Purpose for acceptance of private ways.

The town may accept title in fee for a private way to promote the public benefit, including, but not limited to, public safety and provision of town services. For the purposes of this division the terms private way and street shall be as defined in [section 14-40](#) of division 1 of this chapter.

(Ord. of 7-12-2010)

Sec. 14-62. Procedure.

(1) Prior to submittal of a formal application, the applicant must present to the parks and public works department the following documentation:

- (a) Proof of unencumbered fee simple title in the private way being proposed for acceptance;
- (b) Proof that all improvements required by the planning board have been satisfactorily completed and that all performance guarantees associated with those improvements have been released; and
- (c) Proof that the private way has endured without damage at least two (2) consecutive freeze/thaw cycles after construction.

(2) An application packet including an original application form as prescribed by the director of parks and public works and all required documents and items specified in [section 14-63](#) plus three (3) copies, shall be submitted to the parks and public works department. Applications may contain multiple streets within a development.

(3) The director of parks and public works, or their designee, shall determine if the application is complete within thirty (30) business days of receipt.

(4) If the application is determined incomplete, the parks and public works staff shall notify the applicant of the missing information. When an application is determined to be complete, the department shall forward the application to the community development director, police chief and fire chief.

(5) The community development director, director of parks and public works, police chief, and fire chief shall provide written reports within thirty (30) days of receipt of the determination of completeness. Reports shall address the following:

- (a) Conformance with the town's comprehensive plan as well as other adopted plans that address desired street patterns;
- (b) Budget impact regarding provision of adequate municipal services;
- (c) Expenditures by the town for upgrading or extending water and/or sewer mains, storm drains, sanitary sewers, gas mains, culverts, underdrains and all underground and overhead utilities;
- (d) Town liability for damage to private property such as, but not limited to, walks, fences, lawns and other items that encroach within the proposed right-of-way; and
- (e) Any concerns for providing public safety and access to the street and its occupants.

(6) At such time as the director of parks and public works determines that the application is ready for consideration by the town council, the town manager shall place the application on the next available town council agenda.

(7) If the town council determines that the street is in order for acceptance, an order shall be scheduled at such time as the director of parks and public works determines that all documents noted in subsection 14-63(11) are submitted and acceptable.

(Ord. of 7-12-2010)

Sec. 14-63. Application and documents required.

(1) A plot plan showing the as-built condition of the private way drawn to a scale of forty (40) feet to one (1) inch or a scale acceptable to the director of parks and public works and on one (1) or more sheets of paper not exceeding twenty-four (24) inches by thirty-six (36) inches in size. Subdivision plans approved by the planning board after May 30, 1984, may be considered acceptable for the above requirements, after being updated to reflect as-built conditions. The plan(s) shall include at a minimum:

- (a) Magnetic and true north;
- (b) Bar and ratio scale;
- (c) Current ownership, name of way and subdivision, if any;
- (d) Date of planning board approval, revision dates and other pertinent information;
- (e) The location, frontage lengths and current ownership of all adjoining lots of land;
- (f) Right-of-way width(s);
- (g) Location of easements with necessary metes and bounds for location in the field and deed reference;
- (h) Location of all underground and overhead utilities, including sanitary sewer and building laterals, transformers, electrical service, telephone service, cable and fiber optic service, water mains, fire hydrants, utility poles and street lights;
- (i) Locations of boundary monuments including type;
- (j) Location, species and size of street trees;
- (k) Location and schedule of any street signs, including name, speed limit, and caution signs;
- (l) Edge of pavement, edge of shoulders, edge of sidewalks and edge of curbs;
- (m) Pavement markings;
- (n) Original and finished contours associated with the private way, both within and outside of the right-of-way;
- (o) Natural and manmade drainage courses with contours at not greater than two-foot intervals plus all existing storm drainage systems, including any laterals installed for connecting to building foundation and /or floor drains;
- (p) All angles, bearings curve data and radii necessary for the plotting of the streets and lots and their reproduction on the ground, including turning radii;
- (q) The relative location to the nearest public street or way, together with the stations of their sidelines;

- (r) Any private improvements which encroach within the right-of-way such as irrigation systems, fences, walls, etc.; and
 - (s) Seal and signature of a Maine registered land surveyor or Maine professional engineer and certification that the plans reflect an "as-built" condition.
- (2) A profile of the proposed street drawn to a horizontal scale of forty (40) feet to one (1) inch and vertical scale of four (4) feet to one (1) inch. The profile shall show:
- (a) The profile of the centerline of the proposed street;
 - (b) Centerline stationing;
 - (c) Street grades at critical points;
 - (d) Elevations of all underground utilities, drainage structures, including pipe sizes and materials, pipe slope and the location and inverts of all catch basins and manholes;
 - (e) Complete curve data for all vertical curves; and
 - (f) Seal and signature of a Maine professional engineer.
- (3) A cross section of the proposed street drawn to a horizontal scale of five (5) feet to one (1) inch and a vertical scale of one (1) foot to one (1) inch with the following details:
- (a) The location, size, materials and conditions of the existing and proposed water and/or sewer mains, storm drains, sanitary sewers, gas mains, culverts, underdrains;
 - (b) The location of all underground and overhead utilities; and
 - (c) Seal and signature of a Maine professional engineer.
- (4) Documentation on any deviations from the current street standards.
- (5) List of waivers granted by the planning board for street standards.
- (6) A digital copy of all plans and documents shall accompany the paper submission, one (1) file set in PDF format and one (1) in AutoCad (dwg) format.
- (7) Proposed warranty deed describing the right-of-way, all necessary easements, and paper street connections to other properties. Deed shall reference any existing easements encumbering the property being deeded.
- (8) Application fees as required by the town council (see land use fee schedule).
- (9) Copies of any documents containing restrictions or easements on the development, such as utility easements, declarations of covenants, and the like.
- (10) Public and private responsibilities for improvements within the right-of-way. If it is proposed that the town assume these costs, historical costs of maintenance shall be provided. Ownership or maintenance responsibility for detention ponds and common space outside of the right-of-way shall not be transferred to the town without specific approval of the town council. The request shall include a statement about the responsibility for:
- (a) Street lights and landscape lighting;
 - (b) Fire hydrants;
 - (c) Landscaping;
 - (d) Signs;
 - (e) Walls and fences; and
 - (f) Copy of, and if applicable, transfer of, any Maine Department of Environmental Protection, Army Corps of Engineers or other stormwater, wetlands or similar permits. Any transfer of

permits must be under conditions that the town does not agree to maintenance obligations over and above those required by the town's typical NPDES Phase 2 requirements.

(11) Defect guarantee.

(a) A defect guarantee shall be furnished prior to the order for acceptance by the town council to provide funds for a period of two (2) years from the date of acceptance for repair of any defects or conditions of the street that are determined by the director of parks and public works to be unsatisfactory to the town. The guarantee shall be in an amount as indicated in the land use fee schedule. This guarantee shall be in addition to and independent from any performance guarantee given to the town in connection with any other matter.

(b) The guarantee shall be tendered in the form of either a certified bank check made payable to the town, or an irrevocable letter of credit in a form satisfactory to the finance director. If a check is submitted, the town will enter into an escrow agreement with the account holder. All defect guarantees shall be drafted such that the town shall receive written notice at least sixty (60) days prior to their expiration.

(12) Documentation required prior to an order by the council to accept the street. Prior to the council scheduling an order to accept the street, the applicant shall produce the following documents as required:

(a) An executed warranty deed with a metes and bounds description of the property being offered to the town for acceptance as a street and as approved by the town;

(b) Recordable mylars and one (1) paper copy of the plans of the street for recording at the Cumberland County Registry of Deeds;

(c) Defect guarantee, amount as set by the town council;

(d) Executed light pole agreement;

(e) Title insurance; and

(f) Any other item as required by the town council.

(Ord. of 7-12-2010)

Sec. 14-64. Street design standards.

The council shall consider the following when reviewing private ways proposed for acceptance:

(1) The land subdivision ordinance's street construction and design objectives and standards which are currently in effect;

(2) The street design approved by the planning board and any waivers that may have been granted;

(3) The deviation between the current standard and the built condition;

(4) The ability to provide public services along and within the private way such as school bussing, trash pick-up, emergency services and plowing;

(5) E911 street addressing conformance; and

(6) Street connectivity. Street connectivity may be required for streets not yet approved by the planning board as of May 23, 2005. The town council shall review the proposal against the following standards:

- (a) Reduction of costs to provide waste collection, snowplowing, public transit and school-related transit including decrease in travel time and mileage,
 - (b) Shortening of emergency access response times and the provision of alternative routes;
 - (c) Diffusion of traffic and reduction of traffic impacts and congestion on public roadways and intersections;
 - (d) Connectivity between residential and commercial developments;
 - (e) Trail, bike and pedestrian connections; and
 - (f) Future connections to new developments.
- (7) Minimum thresholds required. Minimum thresholds required are:
- (a) For private ways serving residential development, certificates of occupancy have been issued for a minimum of sixty-five (65) percent of the approved units, with rounding to occur to the next highest whole number.
 - (b) For streets in commercial developments, certificates of occupancy have been issued for a minimum of sixty-five (65) percent the number of lots or buildings whichever is greater, with rounding to occur to the next highest whole number.

(Ord. of 7-12-2010)

Sec. 14-65. Acceptance of streets and private ways required by the public interest.

Notwithstanding the provisions of any other section of this article, the town may at any time lay out and accept any street or way in the town as a public street whenever the public interest requires pursuant to authority granted under 23 M.R.S.A. § 3022 and 3023.

(Ord. of 7-12-2010)

FOOTNOTE(S):

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***Editor's note**—An ordinance adopted July 12, 2010, amended Division 2 by repealing §§ 14-51—14-59 and enacting §§ 14-60—14-65. Former Division 2 pertained to the dedication and acceptance of city streets and derived from ordinances adopted Feb. 27, 1989; and Jan. 25, 1993. [\(Back\)](#)*