

ARTICLE III

TOWN OF LEEDS

SUBDIVISION ORDINANCE

Adopted: December 14, 1991

Amended: June 7, 2014

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## ARTICLE III

### TOWN OF LEEDS SUBDIVISION ORDINANCE

#### SECTION 1. Purposes

The purposes of this Ordinance are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Leeds, 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 Leeds, 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 law (see Appendix I).

#### SECTION 2. Authority, Administration, Effective Date, Repeal of Existing Ordinance

##### A. Authority

1. This Ordinance is adopted pursuant to Title 30-A, M.R.S.A. §4403, Home Rule Powers as provided for Article VIII-A Part 2, Section 1 of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.

2. These standards shall be known and may be cited as "Town of Leeds Subdivision Ordinance."

B. Administration

1. The Planning Board of the Town of Leeds, hereinafter called the Board, shall administer these standards.
2. The provisions of these standards shall pertain to all land and buildings proposed for subdivision, as defined by this Ordinance within the Town of Leeds.

C. Effective Date

The effective date of this Ordinance is December 14, 1991.

D. Repeal of Existing Subdivision Ordinance

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

E. Conflict with Other Ordinances

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.

F. Validity and Severability

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.

### SECTION 3. Administrative Procedure

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

B. 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 one (1) week in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

- C. 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.

## SECTION 4. Preapplication Meeting Sketch Plan and Site Inspection

### A. Procedure.

1. The application presents a sketch plan and make a verbal presentation regarding the site and the proposed subdivision.
2. When a proposed residential subdivision will encompass ten or more acres, the applicant shall submit a sketch plan of both a traditional subdivision layout and a cluster/open space layout. The sketch plans shall be accompanied by a written narrative of advantages and disadvantages of both layouts in relation to the particular site. Based upon this information, the Board shall inform the applicant within 30 days which is the most appropriate for the site and meets the provisions contained in the comprehensive plan.

B. Submission. The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand pencilled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, and a copy of the county soil survey covering the subdivision and showing the outline of the subdivision.

C. Contour Interval and On-Site Inspection. Within thirty days, the Board shall

determine and inform the applicant in writing of the required contour interval on the Preliminary Plan, and determine whether or not to hold an on-site inspection of the property at this phase.

- D. 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 and the status of property tax payment.

## SECTION 5. Preliminary Plan

### A. Procedure

1. Within six months after the on-site inspection, if one has been conducted, by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least one (1) week prior to a scheduled meeting of the 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.
2. All applications for Preliminary Plan approval shall be accompanied by an application fee of \$100.00 plus \$25.00 per lot, dwelling unit, or unit contained in a shopping center or similar commercial establishment payable by check to the Town of Leeds. The Selectmen shall have the authority to revise the fee schedule after holding a public hearing. The Preliminary Plan shall not be found to be complete until application fees are paid. If the services of outside consulting engineers are required by the Board to assist in review of the plan, the Board shall notify the applicant of the nature of services, the firm or individual selected and the estimated cost of the services. The costs of such services shall be paid by the applicant and evidence of such payment furnished to the Planning Board before the final plans for the project will be approved.
3. The subdivider, or his duly authorized representative, shall attend the

meeting of the Board to discuss the Preliminary Plan. Failure of the subdivider, or his representative, to attend the meeting shall delay any action on the application until the next Board meeting.

4. Upon receipt of an application for Preliminary Plan approval, the Planning Board shall notify in writing all owners of property within 500 feet to the proposed subdivision.
  
5. Within thirty (30) days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.

6. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. Notice of the public hearing shall be mailed to all owners of property within 500 feet of the proposed subdivision seven (7) days prior to the hearing by the Town of Leeds.
7. The Board shall, within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, 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.
8. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
  - a. The specific changes which it will require in the Final Plan;
  - b. 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
  - c. The amount of all performance guarantees which it will require as

prerequisite to the approval of the Final Plan.

9. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

B. Submissions

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 within 1,000 feet 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. Preliminary Plan: The Preliminary Plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than 100 feet to the inch. The Board may allow plans for subdivision containing more than 100 acres to be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. In addition, one copy of the plan(s) (may be reduced to a size of 8 1/2 by 11 inches) and all accompanying information shall be mailed to each Board member no less than one (1) week prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany the application for

preliminary approval:

- a. 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.
  
- b.
  - b. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.

- c. 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.
- d. A copy of any covenants, deed restrictions or mobile home park regulations intended to cover all or part of the lots in the subdivision.
- e. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
- f. 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.
- g. Indication of the type of sewage disposal to be used in the subdivision.
  - 1. 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.
- h. Indication of the type of water supply system(s) to be used in the subdivision and the location of common water supply wells.
- i. The date the Plan was prepared, magnetic north point, and date of reading, 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 professional engineer, surveyor or planner, or all of them, as the case may be.

- j. The names and addresses of owners of record of property within 500 feet of the proposed subdivision.
- k. The location of any zoning boundaries affecting the subdivision.
- l. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

- m. 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. (Proposed streets shall comply with the standards set forth in the Town of Leeds Street Construction Ordinance.)
- n. An estimate of the amount of and type of vehicular traffic to be generated on a daily basis and at peak hours. The Planning Board may require a roadway impact capacity analysis.
- o. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- p. The proposed lot lines with approximate dimensions and lot areas.
- q. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- r. The location of any open space to be preserved and an indication of its improvement and management.
- s. A soil erosion and sedimentation control plan.
- t. A plan for the disposal of surface drainage waters, prepared by a Registered Professional Engineer.
- u. 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.

- v. 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.
  
- w. The location of fresh water wetlands as defined by the Natural Resource Protection Act.
  
- x. The location of river, stream or brook within or abutting the proposed subdivision.

- y. The location and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife or the Town of Leeds that is in or adjacent to the proposed subdivision.
- z. Any portion of the subdivision which is located within the direct watershed of a lake or pond shall be identified.
- aa. A phosphorus impact analysis and control plan when determined as necessary by the Board (when the proposed subdivision is in the direct watershed of a great pond).
- bb. The location of known or potential archaeological resources, significant scenic areas, mapped sand and gravel aquifers, historic buildings or sites with a description of how such features will be maintained or impacts upon them minimized.
- cc. A statement of the applicant's technical and financial capacity to carry out the project as proposed.
- dd. The applicant shall notify the Public Works Director, School Superintendent, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The applicant shall provide the Board with these officials' written comments upon the adequacy of their department's existing capacities to service the proposed subdivision.

## SECTION 6. Final Plan

### A. Procedure

1. 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.

2. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
3. Within thirty (30) days of the Board issuing a dated receipt of a Final Plan application, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application and determine whether to hold a public hearing on the Final Plan application.
4. Prior to approval of the Final Plan application, the following approvals shall be obtained in writing, where applicable, provided, however, that the Board may approve development plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of development's review.
  - a. Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resource Protection Act, or if a Wastewater Discharge License is needed.
  - b. 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).
  - c. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.

5. A public hearing may be held by the 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 owners of property within 500 feet 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 Board shall notify the Clerk and the Board of the adjacent municipality involved, at least ten days prior to the hearing.

6. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Section 10.
7. 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.
8. 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.

B. Submissions

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than seventy-five acres may be drawn at a scale of not more than two hundred feet to the inch. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. Two reproducible, stable based transparent originals, one to be recorded at the

Registry of Deeds, the other to be filed at the Municipal Offices, and three copies of the plan shall be submitted. The subdivider may, instead submit one reproducible stable based transparent original of the Final Plan and one Recording Plan with three copies of the Final Plan. In addition, one copy of the Final Plan, (may be reduced to a size of 8 1/2 by 11 inches) and all accompanying information shall be mailed to each Board member no less than one (1) week prior to the meeting.

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

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot Numbers.

2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
3. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
4. Indication of the type of sewage disposal to be used in the subdivision.
5. Indication of the type of water supply system(s) to be used in the subdivision.
  - a. When water is to be supplied by private wells evidence of adequate ground water supply and quality shall be submitted by a written statement from either a well driller or a hydrogeologist familiar with the area.
6. The date the Plan was prepared, magnetic and true north point, date of reading, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
7. The location of any zoning boundaries effecting the subdivision.
8. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

9. 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 as set forth in the Town of Leeds' Street Construction Ordinance.
  
10. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.

11. 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.
  
12. 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.
  
13. The seal of a registered professional engineer or registered land surveyor certifying to the accuracy of the plan.
  
14. Suitable space to record in the final plan by the five (5) Board members with conditions, if any, and also the date of such approval as follows:

Approved:                      Town of Leeds Planning Board

\_\_\_\_\_ Chairman

\_\_\_\_\_ Date

\_\_\_\_\_ Secretary

15. There shall also be suitable space for:

a. Endorsement of the plan by the Town Selectmen.

C. Final Approval and Filing

1. No plan shall be approved by the Board as long as the subdivider has outstanding violations on any approved subdivision plan within the Town of Leeds.
2. 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 and one copy of the signed plan shall be forwarded to the Code Enforcement Officer by the subdivider. 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.
3. 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.
4. 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, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Section 7.A.3 findings that the revised plan meets the standards of Title 30-A, M.R.S.A. §4401, 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.

5. 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.
  
6. Failure to commence substantial construction of the subdivision within one year of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

## SECTION 7. Enforcement

### A. Inspection of Required Improvements

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

subdivider shall obtain permission to modify the plans from the Board.

4. 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.
5. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
6. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed townway to a town meeting for acceptance, a written certification signed by a professional engineer registered in the State of Maine may be required by the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of the Town of Leeds, Street Construction Ordinance.
7. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks and maintenance until acceptance of the improvements by the municipality.

B. Violations and Enforcement

1. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.
2. 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.
3. 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.
4. No person shall establish or develop a subdivision without first having a final plan thereof approved by the Board. "Develop" shall include grading or construction of roads, grading of land or lots, or construction of any buildings.
5. No lot in a subdivision may be sold, leased or otherwise conveyed before the street is completed in accordance with Leeds' Street Construction Ordinance. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.
6. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452. The Municipality may institute proceedings to enjoin the violation

of this section, and may collect attorney's fees and court costs if it is the prevailing party.

7. 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.

## SECTION 8. 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, 1-17, have been met prior to the approval of the Final Plan. In all instances, the burden of proof shall be upon the applicant.

- A. Conformance with Comprehensive Plan and other enacted local ordinances.  
All proposed subdivisions shall be in conformity with the Comprehensive Plan and with the provisions of all pertinent state and local codes and ordinances.
- B. Open Space Buffer Provisions
  1. The Board may require that a proposed subdivision design include a plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, streams and the preservation of identified scenic, archeological, historic or environmentally desirable areas.
  2. The Board may require a buffer of up to 200 feet between dwellings located in a subdivision and agricultural land.
  3. 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.

- a. 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.
- b. Included in the instrument of conveyance to each property owner of the subdivision shall be a statement of:

- 1) The manner of providing for the cost of development and maintenance and for property taxes of the reserved land.
  - 2) If appropriate, the individual property owner's pro rata share of development costs, maintenance cost and property taxes of the reserved land.
  - 3) 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.
  - 4) Any area designated for common use shall be so arranged that each property owner has access to it.
4. 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.
  5. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
- C. 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 subdivisions including cluster developers, mobile home parks, multi-family developments of three or more units.

1. Land which is part of a right-of-way or easement including utility easements.
  2. Land that has been created by filling or draining a pond or wetland.
  3. The lands identified in Section 3.G. of the Town of Leeds Zoning Ordinance.
- D. 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.

E. Lots

1. Wherever possible, side lot lines shall be perpendicular to the street.
2. 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 division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division regardless of the amount of time that has lapsed since original subdivision approval shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the Subdivision Statute, the standards of this Ordinance and conditions placed on the original approval.
3. If a lot on one side of a road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the road to meet the minimum lot size.
4. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
5. 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.
6. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. In addition the numbering system

shall comply with 911 number system established by the Fire Department.

F. Utilities

1. The Board may require utilities serving the subdivision to be installed underground. The applicant will furnish or cause to be furnished to the Planning Board the plans prepared by utility companies for the installation of utilities. Acceptance of the Final Plan of a subdivision is conditioned upon receipt of these utility plans.
2. 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.

G. Monuments

1. Stone or precast concrete 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. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
3. Stone or precast concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes 1/2 inch deep shall locate the point or points described above.

4. 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.

#### H. 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. If individual wells are to be used, lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules.

#### I. Sewage Disposal

1. The applicant 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.
2. The Site Evaluator shall certify, in writing, that all test pits which meet the requirements for a new system represent an area large enough to install a

disposal area on soils which meet the Disposal Rules.

3. On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
4. The Board may require subsurface sewage disposal system design(s).
5. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

J. 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 stormwater management system shall be designed by a Registered 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. The developer shall provide a statement from the designing engineer that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or with respect to adjoining properties. Where the peak runoff from the subdivision onto abutting properties is increased either in volume or duration, easements from the abutting

property owners, allowing such additional discharge shall be obtained.

4. A storm water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements, meeting the standards of Article 2-3 shall be submitted.

K. Soil Erosion

1. 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.

2. The proposed subdivision shall prevent soil erosion from entering water bodies, freshwater wetlands and adjacent properties.
3. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction and clean-up stages.

L. Phosphorus Export

When a proposed subdivision is within the direct watershed of Androscoggin Lake and Allen, Little Sabattus, Bonny, Sabattus and Island Ponds, the phosphorous export from development shall be equal to or less than that which is calculated using the methodology established by the Maine Department of Environmental Protection using the data provided by that Department and those in the table below, as revised from time to time by the Board to reflect any changes in the data or methods of computation promulgated by the Department of Environmental Protection. Notice of the revision of such standards by the Board shall be given by publication in a newspaper having general circulation in the Town of Leeds and by posting the same at the Town Hall. A copy of any such revised standards shall be on file with the Town Clerk.

PHOSPHOROUS			
Watershed	Lake Protection Level	lbs/ppb	Allowable Per Acre Phosphorous Load (lbs/acre/year) <sup>1</sup>

Andros. Lake	Medium	128.6	0.193
Sabattus	Medium	25.7	0.027
Allen	Medium	0.088	0.055
L. Sabattus	Low	4.6	0.105
Bonny	Low	1.1	0.098
Source: Androscoggin Valley Council of Governments			
<sup>1</sup> Per acre phosphorous allocation - amount of phosphorous each developed acre is allowed to export (lbs/acre/yr)			

M. Impact on Ground Water

1. When a hydrogeologic assessment is required, the assessment shall be prepared by a Certified Geologist and contain at least the following information:
  - a. A map showing the basic soil 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 development, nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a lake, projections of the subdivision's impact on ground water phosphate concentrations shall also be provided.
  - f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
4. 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.

5. 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.
6. Subsurface wastewater 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 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.

N. Road Standards

1. Road patterns shall give due consideration to public safety and convenience, to contours and natural features and their relation to existing and planned streets. Proposed roads shall be in harmony and conformance with existing and future roads.
2. Residential roads shall be laid out so that their use by through traffic will be discouraged.
3. Sidewalks, or pedestrian easements, may be required by the Board to provide safe and convenient access to transportation centers, playgrounds, common areas or public facilities.
4. Duplicate name(s) closely similar to existing road name(s) shall not be permitted. The Board, with input from the fire chief, shall approve all road names.

5. The design and construction of all streets and roads shall be in accordance with the Town of Leeds Street Construction Ordinance in effect at the time of the application submittal. Plans for road construction, grading and ditching should be reviewed by the Public Works Director for his recommendations prior to Board approval.

O. Access Control and Traffic Impacts

1. General: Provisions shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision, to avoid traffic congestion on any road and to provide safe and convenient circulation on public roads and within the subdivision. More specifically, access and circulation shall also conform to the following standards and the design criteria below.
  - a. The vehicular access to the subdivision shall be arranged to avoid traffic use of existing local residential roads.
  - b. Where a lot has frontage on two or more roads, 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.
  - c. The road giving access to the subdivision and neighboring roads which can be expected to carry traffic to and from the subdivision shall have traffic carrying capacity and, if traffic studies indicate improvements are necessary, the applicant shall pay a proportional share to accommodate the amount and types of traffic generated by the proposed subdivision. No subdivision shall reduce the streets Level of Service to "D" or below.

- d. Where necessary to safeguard against hazards to traffic and pedestrians and/or a void traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, and traffic controls within public roads.
  - e. Where topographic and other conditions allow, provision shall be made for circulation access connections to adjoining lots of similar existing or potential use:
    - 1. when such access connection will facilitate fire protection services as approved by the Fire Chief; or
    - 2. when such access will enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a street.
  - f. Any subdivision expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with an existing public street or streets on an approved subdivision plan. A minimum of 200 feet shall be maintained between centerlines of such street to any other street.
2. Where the subdivision lots will be accessed by off-site public roads, the use of common driveways shall be used where appropriate to minimize the number of curbcuts.

- a. Common driveways shall meet the design standards set forth in the Leeds Street Design Ordinance.
- b. All lots using common driveways shall provide a driveway maintenance agreement to be reviewed by the Board.

P. Preservation of Significant Wildlife Habitat

Applicants proposing to subdivide land in or within 250 feet of significant wildlife habitat as defined in the Town of Leeds Comprehensive Plan must consult with the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Board. Any conditions to the approval relating to wildlife habitat preservation shall appear as notes on the plan and as deed restrictions to the affected lots.

Q. 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 and complies with the Floodplain Management Ordinance for the Town of Leeds, Maine. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

R. Mobile Home Parks

Mobile home parks and expansions of mobile home parks shall be considered a

subdivision and shall comply with the provisions of this Ordinance, and with the provisions contained in this section. Where provisions of this ordinance conflict with specific provisions of this section, the provisions of this section shall prevail.

1. Prior to the establishment or expansion of a mobile home park, an applicant shall apply for subdivision approval. The application shall include information required under this article and the following:
  - a. Location of existing and proposed manufacturing housing units and other structures, and the location of each mobile home park lot.
  - b. Location of existing and proposed pedestrian walkways.
  - c. Location, intensity, type, size and direction of all outdoor lighting.
  - d. Location and proposed use of areas proposed for outdoor recreation.
  - e. Location and type of existing and proposed fences, hedges and trees of 6 inch diameter and over at a point 4.5 feet above ground level.
  - f. A report(s) by qualified professional(s) stating that the proposed mobile home park will have a sufficient quantity of drinking water that meets State water quality standards available for each manufactured housing unit within the mobile home park.
  - g. A ground water assessment meeting the standards set forth in



subsurface sewage disposal system shall be no greater than one unit per 20,000 sq.ft. of total park area.

- e. Where lots front on a curved right-of-way or are served by a driveway, the frontage requirement shall be measured in a straight line perpendicular to the front of the manufacturing home.
- f. Lots within the shoreland zone shall meet the lot area, lot width, setback and shore frontage requirements for that district.
- g. The overall density of the mobile home park shall be computed using the combined area of its mobile home lots plus:
  - 1. The area required for road rights-of-way;
  - 2. The area required for buffer strips, if any;
  - 3. For areas served by public sewer, an open space area for storage and recreation equal to 10% of the combined area of the individual lots; and
  - 4. The area within the municipality's shoreland setback.

### 3. Lot Setbacks

- a. The following lot setbacks shall apply to all manufactured housing units and accessory buildings:

Front setback 20 feet

Side setback 20 feet

Rear setback 10 feet

If these requirements conflict with the requirements of the shoreland zone, the stricter standards shall apply. If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to other residential dwelling units.

- b. For aesthetic purposes, the Planning Board may allow the front setback on a private road within a mobile home park to be varied provided that no home may be closer than 10 feet from the right-of-way and the average distance is at least 20 feet for all units.
  - c. Carports of noncombustible materials are not subject to side setback requirements.
  - d. The Planning Board may allow lot side yard setbacks to be reduced to 5 feet provided a distance of 40 feet is maintained between manufactured housing units for the purpose of providing more usable yard space on one side of the home.
4. Lot Coverage: All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.
5. Open Space Requirements for lots served by Public Sewer
- a. Open Space Suitability. At least 50% of the required open space shall consist of land that is suitable for active recreation or storage.

- b. Developed Open Space. All developed open space shall be designed and landscaped for the use and enjoyment of the park residents and shall be maintained for their long-term use. Plans for these areas shall be submitted by the developer.
- c. Undeveloped Open Space. To the maximum extent possible, undeveloped open space shall be left in its natural state. Improvements to provide trails for walking and jogging or to provide picnic areas is permitted.
- d. Open Space Ownership: The applicant shall submit, as part of the application, a copy of that portion of the proposed park rules and a plan which specify how the open space is to be used and maintained and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space, recreation and storage.
- e. Maintenance and Use. Open space shall be maintained and used for its stated purpose.

6. Buffer Strips

- a. A 50 foot wide buffer strip shall be provided along all property boundaries that:

1. Abut residential land which has a gross density of less than half of that proposed in the park, or
2. Abut residential land that is zoned at a density of less than half of that proposed in the park.

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.

- b. Within 25 feet of any property line and within the buffer strip, visual screening and/or landscaping shall be provided. The visual screening may consist of fences, berms, landscaping (such as shrubs and trees) and/or natural existing vegetation. This screening shall effectively screen at least 80% of the homes from view from the adjacent property and shall be maintained throughout the life of the project.
7. **Parking Requirements:** For each mobile home lot, there shall be provided and maintained, at least 2 off-street parking spaces. Each parking space shall contain a minimum area of 200 feet with minimum dimensions of 10 feet by 20 feet. This requirement may be waived if a parking lane is provided.

In addition to occupant parking, off-street parking and service parking areas shall be provided within the boundaries of the park at a ratio of 1 space for each 4 mobile home park lots. Such parking areas shall be hard-surfaced.

8. Road Standards: In addition to the standards contained in the Town of Leeds Street Construction Ordinance, the following shall be complied with:
  - a. For mobile home parks expecting to generate 200 trips/day or more, there shall be at least two entrances from public streets or roads.
  - b. On-street parking shall be prohibited unless an 8 foot parking lane is provided, in which case on-street parking may be permitted on the side of the road where the parking lane is located.
  - c. Curvilinear streets shall be utilized wherever possible. No street within the park shall be more than 200 feet without a curve or bend.
  - d. No mobile home lot may have vehicular access directly onto a public street.
  - e. Two-way park roads shall have a minimum right-of-way of 23 feet and a minimum paved surface of 20 feet. On-street parking shall be prohibited.
  - f. One-way streets shall have a minimum right-of-way of 18 feet and a minimum paved surface of 14 feet. On-street parking shall be prohibited.
  - g. Parking lanes shall be a minimum of 8 feet in width, if provided.
  - h. Cul-de-sac turn-arounds shall have a minimum radii of 50 feet at

the outer edge of the pavement, exclusive of any parking areas.

- i. If the applicant intends to dedicate roads within the mobile home park to the public, such roads shall meet all road construction standards contained in the Town of Leeds Street Construction Ordinance.

9. Sidewalks/walkways: The mobile home park shall contain pedestrian walkways that link all units and all service and recreational facilities. Such walkways shall be adequately surfaced and lit. A portion of the road surface may be reserved for walkways provided the roadway width is increased accordingly. Walkways shall be a minimum width of 3 feet.

10. Sanitary Standards - Sewage Disposal

- a. All water carried sewage shall be disposed of by means of one of the following:
  1. A public water sewer system. Any mobile home park located within 500 feet of an existing public sewer shall connect to that existing public sewer if the municipal system has the capacity to accept the volume of sewage to be produced by the mobile home park.
  2. A centralized private sewer system approved by the Department of Human Services, serving each mobile home lot in the mobile home park.

3. Individual subsurface sewage systems meeting the requirements of the State Plumbing Code.
  
11. Utility Requirements: All mobile home parks shall provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations.
  
12. Refuse Disposal: The storage, collection and disposal of refuse in the mobile home park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.  
  
Mobile home parks shall provide a centralized rubbish collection facility which shall be screened from view of neighboring properties and streets. Refuse shall be removed from the site no less than once per week.
  
13. Lighting: Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be sized and directed to avoid adverse impacts on adjacent properties.
  
14. Signs: Signs and advertising devices shall be prohibited in a mobile home park except:
  - a. One identifying sign at each entrance of the mobile home park no larger than 24 sq.ft. which may be indirectly lit, but not flashing.
  
  - b. Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc.

- c. Mobile/manufactured home "for sale" signs, provided that such signs that face a public road shall be no more than 10 sq.ft. and shall be limited to two signs per mobile home park.
- d. Mobile/manufactured homes address signs.

The styles and location of the identifying sign shall not interfere with vehicle sight distance and shall be constructed in accordance with the local sign regulations.

- 15. Storage: At least 300 cubic feet per lot of enclosed tenant storage facilities shall be conveniently provided near each mobile home lot for the storage of materials and equipment.
- 16. Fire Protection: Each lot shall be legibly marked for identification and easily accessible to emergency vehicles (permitting fire apparatus to approach within 100 feet).
- 17. Conversion: Restrictions: No subdivision which is approved under this Code and the Subdivision Ordinance as a mobile home park may be converted to another use without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements. The plan to be recorded at the Registry of Deeds and filed with the municipality shall include the following restrictions as well as any other notes or conditions of approval:
  - a. The land within the park shall remain in the unified ownership and the fee to lots or portions of lots shall not be transferred.
  - b. No dwelling unit other than a manufactured housing unit shall be

located within the park.

18. **Liability for Violations: Regulations:** The owner of the mobile home park or the applicant, its successor, or assigns shall be liable for violations of the conditions of subdivision approval for a mobile home park. The owner or applicant shall establish and enforce appropriate mobile home park regulations to assure compliance with such conditions, including off-street parking requirements on private roadways and refuse disposal.
  
19. **Safety Standards:** The purpose of these standards is to establish a condition of safety that will allow the home to perform in a manner that will greatly reduce hazards that present an imminent and unreasonable risk of the death or serious personal injury to its inhabitants or other residents of the park.
  - a. These standards shall apply to all manufactured housing built before June 15, 1976, or not built according to the national Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, to be located in a mobile home park.
    - i. All homes with roofs added after construction will require a professional engineer to inspect the roof to determine that the roof and home can withstand the rigors of a State of Maine winter or winds uplifts that may occur.

ii. A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall inspect and certify that the heating and fuel system meets the requirements of NFPA31 Installation of Oil Burning Equipment and adopted by that Board, or other applicable standards.

iii. A person holding a master license issued by the State of Maine Electricians Examining Board shall inspect and certify that the electrical system is safe and meets the National Electrical code in effect at the time the home was constructed.

#### S. Open Space Developments

1. Purpose: The purpose of these standards is to allow for flexibility in the design of housing developments to allow for the creation of open space which conserves agricultural and forestland, provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed unless specifically allowed. Notwithstanding provisions of the Zoning Ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances.
2. Application Procedure: The Board may allow lots within subdivisions to be reduced in area and width below the minimum normally required by this Ordinance in return for open space where the Board determines that the

benefits of the cluster approach will decrease development costs, preserve agricultural and forest land or prevent the loss of natural features without increasing the net density of the development. The number of buildable lots or dwelling units in the cluster/open space development shall not exceed the number of lots or dwelling units in a standard subdivision unless expressly permitted in the Zoning Ordinance.

Estimated costs of infrastructure development (roads, utilities, etc.) shall accompany the plan. The written statement shall describe the agricultural, forest land or natural features which will be preserved or enhanced by the cluster approach.

3. Basic Requirements: The Board, in reviewing and approving development proposals containing an area of at least ten acres, may modify the minimum requirements for lot area, lot width, road frontage and yard space which would otherwise apply pursuant to existing Town ordinances provided that the following standards are met:
  - a. Overall density of the development shall not exceed the number of units on land suitable for buildings which would otherwise be allowed if the land were subdivided in a conventional manner unless the Zoning Ordinance provides for a density bonus.
  - b. Residual open space created by reduction in lot sizes shall be permanently and legally preserved as open space. Land dedicated to permanent open space shall be in such condition, size and shape as to be readily usable for agriculture, forestry, recreation or conservation. The developer of any open space development shall make suitable provisions for the permanent maintenance of open

space areas, by one of the following methods:

- 1) dedication of such open space to public use, if the Town or other public agency has indicated, it will accept such dedication; or
- 2) provide for and establish one or more organizations for the ownership and maintenance of all common open space and property. Such organization shall be either a nonprofit homeowners corporation or land trust. If a homeowners corporation or open space trust is formed, it shall be governed by the following: (1) the organization shall be organized by the developer and operating, with financial subsidization by the developer if necessary, before the sale of any lots within the development; (2) membership in the organization shall be mandatory for all purchasers of homes therein and their successors; (3) the organization shall be responsible for maintenance of common open space and property and for insurance and taxes on such common open space and property; (4) the members of the organization shall share equitably the cost of maintaining and developing common open space and property in accordance with procedures established by them; and (5) the organization shall administer the common facilities and maintain the common open space; or
- 3) where the open space is comprised of woodlands, the Board may require the submission of a forestry management plan.

4. Procedures for review of open space development proposals.
  - a. The Board shall review any proposal for a open development as provided by this Subdivision Ordinance.
  - b. In addition to information required in other sections of this Ordinance, the following will be provided in the application:
    - 1) A legal description of the total site proposed for development including a statement of present and proposed ownership, present zoning, property tax map reference numbers, and the names and addresses of adjacent property owners.
    - 2) A description of the character of the proposed development and the rationale behind the assumptions and choices made regarding the development.
    - 3) A development schedule indicating the approximate date when construction of the cluster development can be expected to begin and be completed.
    - 4) Quantitative data for the following: total number and type of dwelling units; parcel size; proposed lot coverage of buildings and structures, approximate gross and net residential densities; total amount of improved open space; total amount of unimproved open space.
    - 5) Tentative proposal for the maintenance and conservation of common open space.

- 6) The conditions of dedication of any parcels of land to be dedicated to public use.
5. Common Land Maintenance: Prior final approval by the Board, the Selectmen shall review all provisions for upkeep of common or public land or facilities within the open space development. In cases where land or facilities are to be deeded over to the Town, said transactions shall be finalized or a date for completion of improvements on said land or facilities and the finalizing of said transactions shall be set, and approval shall be granted. In cases where common land or facilities are not to be deeded to the Town, the Board shall grant final approval if the conditions of ownership and maintenance are consistent with those conditions set out and approved in the application.
6. In order to determine the maximum number of dwelling units permitted on a tract of land, the parcel shall be divided by the minimum lot size required by the zoning ordinance. For cluster developments in the Prime Agricultural and Rural Residential Districts, the provisions contained in Section 3.G. shall also be complied with. No building shall be sited on slopes steeper than 25%, within 100 feet of any water body or wetland, or on soil classified as being very poorly drained.
7. Maximum reduction in the size of individual lots and road frontage shall not be more than 50%. Shore frontage shall not be reduced.
8. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced

below the minimum lot area normally required by the zoning ordinance. No less than 50% of the reserved open space shall be usable open space.

9. Every building lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common land.
10. The distance between buildings shall not be less than 50 feet.
11. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
12. Shore frontage shall not be reduced below the minimum normally required by the Shoreland Zoning Ordinance.
13. Where a open space development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

## SECTION 9. Street and Storm Drainage Design and Construction Standards

### A. General Requirements

1. All streets proposed as an element of a subdivision shall comply with the Town of Leeds Street Construction Ordinance.
2. All street designs as required by the Town of Leeds Street Construction Ordinance shall be submitted as an element of the Subdivision Application as required by this Ordinance.

B. Storm Water Management Design Standards

1. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of ditches, swales, culverts, underdrains, and storm drains in conformance with the policies of the comprehensive plan. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains, except where retention basins are designed or ground water recharge is desirable.
2. Where a subdivision is traversed by a stream, river or surface water drainageway, or where the Board feels 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. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.
3. All components of the storm water management system shall be designed to limit peak discharge rates to predevelopment levels for the 2 year, 10 year and the 25 year frequency, 24 hour duration storms, based on rainfall data provided by the Soil Conservation Service. When the subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.
4. Downstream drainage requirements shall be studied to determine the effect

of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

5. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials which reduce water velocity.

## SECTION 10. Performance Guarantees

A. Types of Guarantees. With submittal of the application for Final Plan approval, the subdivider 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 Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account.
2. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers.
3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers.

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 performance guarantee shall be determined by the Board with the advice of a consulting engineer, Public Works Director and municipal officers.

- B. Contents of Guarantee. The performance guarantee shall contain construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default, and the Town shall have access to the funds to finish construction.
- C. Escrow Account. A cash 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 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 subdivider 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 subdivider, 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 permit for the subdivider 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 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 regulations and the regulations of the appropriate utilities; or

2. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be 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 10.G. Proof of recording shall be provided by the subdivider to the Board.

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, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
- I. Default. If, upon inspection, it is found that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the Code Enforcement Officer shall so report in writing to the Municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.
- J. 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."

- K. Improvements Guaranteed. Performance guarantees shall be tendered for all improvements required by Section 8. of these regulations, as well as any other improvements required by the Board.

## SECTION 11. Waivers

- A. Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of these regulations 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 regulations.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, 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 regulations, and further provided the performance standards of these regulations and the criteria of the Subdivision Statute have been or will be met by the proposed subdivision.

In granting waivers to any of these regulations in accordance with Article 11.A, the Board shall require such conditions as will assure the purposes of these regulations are met.

B. 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 Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

C. Certificate of Waiver

1. In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the registry of deeds. This certificate must:
  - a. Indicate the name of the current property owner;
  - b. Identify the property by reference to the last recorded deed in its chain of title; and
  - c. Indicate the fact that a variance, including any conditions of the variance, has been granted and the date of the granting.
2. The variance is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval or approval under Title 38, chapter 3, subchapter I, article 6, where applicable, whichever date is later, or the variance is void.

SECTION 12. Amendments

- A. Initiation of Amendments. An amendment to this Ordinance may be initiated by:

1. The Planning Board, provided a majority of the Board has so voted;
  2. Request of the municipal officers; or
  3. Written petition of at least 25 voters registered to vote in Leeds.
- 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 municipality at least ten (10) days prior to the hearing.
- C. Adoption of Amendment. An amendment to this Ordinance may be adopted by a majority vote of the Town Meeting.

#### SECTION 13. Appeals

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.

#### SECTION 14. Amendment Fees

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

- 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 required by a new application.