

## **Town of Thorndike Subdivision Ordinance**

*(Enacted 3/21/87; amended 3/19/88, 3/16/91, 3/18/95, 3/16/96 and 3/19/16)*

### **Article I       PURPOSES**

The purposes of this ordinance are to assure the comfort, convenience, safety, health and welfare of the people in the town of Thorndike, 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 Thorndike, 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 guidelines of Title 30-A, M.R.S.A. §4404. The subdivision:

- 1.1 Will not result in the pollution of the air and/or water.
- 1.2 Has sufficient potable water available for the reasonable foreseeable needs of the subdivision.
- 1.3 Will not cause soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- 1.4 Will not cause unreasonable public road congestion or unsafe conditions with respect to use of the public roads existing or proposed.
- 1.5 Will allow for adequate sewage waste disposal.
- 1.6 Will allow for adequate fire protection.
- 1.7 Will not have an undue adverse impact on the scenic or natural beauty of the area.
- 1.8 Will not cause drainage problems on neighboring properties or roads.
- 1.9 Will require construction of dwellings with their lowest floors, including basements, at least one foot above the 100-year flood elevation.
- 1.10 Will be implemented by a subdivider who has adequate financial and technical capacity to meet the above stated standards.

### **Article II       PREAPPLICATION**

- 2.1 The applicant shall submit to the Planning Board, at least 10 days prior to its scheduled monthly meeting, a sketch plan showing the proposed layout of the subdivision and other features in relation to existing conditions. It is recommended that the sketch plan showing the outline of the proposed subdivision be superimposed on an aerial photograph of the land where it is located.
- 2.2 Within 30 days the Board will hold an on-site inspection of the property if deemed necessary and inform the applicant of anticipated problems and/or recommendations concerning the subdivision.
- 2.3 The submittal or review of the sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title I, M.R.S.A., §302.

### **Article III      PRELIMINARY PLAN**

- 3.1 Within six months after the sketch plan has been reviewed by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least 10 days prior to a scheduled meeting of the Board. Failure to act within the six month time frame may require the subdivider to resubmit the sketch plan to the Board for reasons including but not limited to possible changes in Board membership, changes in local or state regulations, and subsequent development in the town that could have an impact on the proposed plan. The Preliminary Plan shall approximate the layout shown on the Sketch Plan and may include recommendations made by the Board based upon the Purposes in Article I of this ordinance.
- 3.2 All applications for Preliminary Plan approval shall be accompanied by the application fee established by the Board of Selectmen payable to the Town of Thorndike.
- 3.3 The subdivider or his/her duly authorized representative shall attend the meeting of the Board to discuss the Preliminary Plan.
- 3.4 The Board, assisted by the Town Clerk, shall notify by certified mail the owners of all property abutting the proposed subdivision of the pending proposal before the Board and when the Board will be discussing the proposal. The applicant shall be billed for the postage costs.
- 3.5 Within 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.
- 3.6 The Preliminary Plan shall be submitted in seven copies to the Board chairman and shall be drawn at a scale of not more than 200 feet to an inch. The plan shall include:
  - A. An aerial photograph of the land, to a scale of not more than 200 feet to an inch, either marked or with an acetate overlay showing the general configuration of the subdivision lots.
  - B. A diazo print (blueprint) of the lots showing the number of acres within the proposed subdivision, location of the property lines, contour intervals at maximum intervals of five feet, wooded and clear land, watercourses, wetland areas, existing buildings, utility poles, location of culverts, soil test sites, and other essential existing physical features.
  - C. 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.
  - D. 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.
  - E. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
  - F. A soil analysis for a subsurface sewage disposal system shall be prepared by a licensed site evaluator and the location of test sites marked on the plan. On each lot there must be an area of at least 1,000 square feet of suitable soil determined by a minimum of five test pits, one in each corner and one near the center.
  - G. The location of any open space to be preserved for public or private use and a proposal for its improvement and management.

- H. A soil erosion and sedimentation control plan. The acceptability of the proposed and employed methods of erosion and sedimentation control will be judged utilizing the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991.
  - I. A storm water management plan, prepared by a registered professional engineer in accordance with *Urban Hydrology for Small Watersheds, T.R. 55, 1986 edition*, published by the U.S. Soil Conservation Service. Another methodology may be used if the applicant can demonstrate it is equally or more applicable to the site. The plan should anticipate the volume of water generated by the 25-year, 24-hour storm event.
  - J. If any new or improved road is proposed as part of the subdivision plan, the applicant shall submit information as required in the *Road Ordinance for the Town of Thorndike. Note: In addition to subdivision approval from the Planning Board, a Road Permit will be required from the Road Commissioner.*
  - K. 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.
- 3.7 The Board may waive any submission requirement that it feels is unnecessary for reaching its findings of fact in approving or disapproving the proposed subdivision in accordance with the provisions of this ordinance and State statute.
- 3.8 If a public hearing is deemed necessary by the Board for reasons including but not limited to expressed public concern, a dramatic physical change of the environment or a population increase of considerable proportions that may result from the proposed subdivision, the hearing will be scheduled within 30 days of determining that the Preliminary Plan application is complete. The Board shall have notice of the date, time and place of the hearing given to the applicant and published at least 2 times in a newspaper of general circulation, with the first notice published at least 7 days before the hearing. An additional fee shall be charged to the subdivider to cover the costs of advertising.
- 3.9 The Board shall within 30 days of a public hearing, if held, or within 60 days of a complete Preliminary Plan application, 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. If the Board finds that any of the standards of the statute or this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met by the subdivision.
- 3.10 The Board reserves the right to require an independent review by a professional of its choice of any proposed plans, specifications, surveys, improvements, or environmental impact reports submitted by the subdivider as part of the application. If the Board feels such an analysis is necessary, the Board shall choose a professional, obtain an estimate for the work, and notify the subdivider that the amount of the estimate must be paid to the Town of Thorndike before any further consideration is given to the application. No work will be initiated until the subdivider pays the estimated amount to the Town. Following the completion of the work, the subdivider will be billed for any cost incurred over the estimate or will be refunded any remaining balance from the estimate. Refusal to pay for the professional assistance will result in automatic denial of the application.
- 3.11 Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan. 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.

#### **Article IV FINAL PLAN**

- 4.1 The subdivider shall, within six 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 six 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 include the same information and approximate the layout shown on the Preliminary Plan, plus any required written approvals from state agencies such as the Maine Department of Environmental Protection, and recommendations made by the Board.
- 4.2 The subdivider or his/her duly authorized representative shall attend the meeting of the Board to discuss the Final Plan.
- 4.3 The subdivider shall notify the Town's road commissioner, fire chief, and the official in charge of solid waste disposal of the proposed subdivision, the number of house lots or dwelling units planned, and request comments upon the adequacy of their department's existing facilities to service the subdivision. Their comments, if any, shall be submitted as part of the Final Plan, and will be considered in regard to minimizing any potentially adverse impact of the subdivision to the town based on the Purposes stated in Article I of this ordinance.
- 4.4 The Board, within 60 days of receiving a complete Final Plan application, 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, the Board 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 that all of the standards will be met by the subdivision.

#### **Article V ENFORCEMENT**

- 5.1 Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require Final Plan approval as provided by these regulations.
- 5.2 Any person, firm, corporation, or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2,500 for each conveyance, offering or agreement. The Town of Thorndike may institute proceedings to enjoin the violation of this ordinance, and may collect attorney's fees and court costs if is the prevailing party.

#### **Article VI GENERAL STANDARDS**

- 6.1 Lots shall conform to the requirements in the *Thorndike Land Use Ordinance*. In a subdivision, dwellings may be clustered in a residential development up to a density not to exceed the average minimum lot size in the land use district in which it is located.
- 6.2 If the land proposed for subdivision contains land that is currently being or *has* recently been used for agricultural production, the subdivider shall demonstrate that the proposed subdivision design minimizes adverse impact and that all feasible options to continue agricultural use of undeveloped portions of the farmland shall be pursued. This standard shall not be construed to obstruct purposeful alternative uses of land, but shall seek to prevent land from being permanently removed from agricultural production unnecessarily.

- 6.3 Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus soil from roads, parking areas, and building excavations.
- 6.4 Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion.
- 6.5 The subdivision shall be designed so as to minimize access points to any public road, utilizing side roads and combining driveways where feasible. Subdivision lots shall be accessed from the least busy road available (e.g. a corner lot shall have its driveway on the less busy road, unless hazardous).
- 6.6 Subdivision roads shall conform to the provisions of the *Road Ordinance for the Town of Thorndike*. If any waiver from the emergency vehicle access standard is granted, an appropriate notation will be drafted by the Board and required to be placed on the deed to each lot as a condition of subdivision approval. Also, the Board may require that the developer, a Homeowners' Association, or other responsible party with the ability to collect revenue from lot owners be made legally responsible for the maintenance of the road as a condition of subdivision approval.
- 6.7 The subdivision will provide for adequate off-road parking for anticipated residents, customers, guests and deliveries. Any parking areas other than for single-family homes on individual lots will be designed to provide safe and convenient circulation within the lot and to prevent vehicles from backing out onto a road. Parking lots designed for over 10 cars shall be screened year-round to effectively block at least 50% of the parking area from view from any public way. Screening may be achieved by placing the parking area behind buildings and/or vegetation; fences are not an acceptable substitute for natural screening, although they may be incorporated into the landscaping plan. Plantings should grow to the point of providing the desired screening within 5 years.
- 6.8 For residential developments of over five units (other than single family homes located on individual lots), a buffer strip of at least 50 feet shall be maintained along the exterior property boundaries (see possible exception for mobile home parks in 7.7 below). No structures, roads or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the development. Within the first 25 feet of the buffer strip, as measured from the exterior boundary of the development, visual screening shall be provided. The screening must consist of natural or landscaped vegetation, and must effectively screen at least 80% of the development's structures from view of the adjacent properties and exterior roads on a year-round basis. New plantings will be given 5 years to accomplish the effective screening and shall be maintained by the development owner or maintenance association throughout the life of the project.
- 6.9 The conversion of an existing building to three or more dwelling units or the construction of a building containing three or more dwelling units are considered subdivisions and are subject to the requirements of this ordinance.
- 6.10 All multi-unit buildings shall conform to applicable rules of the State Fire Marshal.

**Article VII MOBILE HOME PARK STANDARDS**

- 7.1 Mobile home park subdivisions must be accessed from either Route 139 or Route 220. All mobile home lots must have driveways to the mobile home park road and may not directly access Route 139 or Route 220.
- 7.2 Individual lots within a mobile home park shall be at least:
  - A. If served by an individual septic system: 20,000 square feet with a minimum lot width of 100'
  - B. If served by a central septic system: 12,000 square feet with a minimum lot width of 75'
  - C. If within the shoreland zone, as required within the Shoreland Zoning Ordinance for the Town of Thorndike.
- 7.3 The overall density of a mobile home park served by a central subsurface wastewater disposal system shall be no greater than one unit per 20,000 square feet of total park area.
- 7.4 Mobile homes shall be set back from public roads the same distance as other residential dwellings.
- 7.5 No lot within a mobile home park may be sold or conveyed without the prior approval of the Planning Board. All such lots must meet the lot creation requirements of the *Thorndike Land Use Ordinance*.
- 7.6 At least 300 cubic feet of enclosed tenant storage facilities shall be conveniently provided on or near each mobile home lot for the storage of materials and equipment.
- 7.7 For mobile home parks with more than five units, a 50-foot wide buffer strip, meeting the standards of 6.8 above, shall be provided along all property boundaries that abut land used for residential purposes if the per-acre density of homes within the mobile home park is at least 2 times greater than:
  - A. The density of residential development on immediately adjacent parcels of land; or
  - B. If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted according to the *Thorndike Land Use Ordinance*.

**Article VIII PERFORMANCE GUARANTEES**

If any proposed subdivision is of a size or nature requiring significant investment in road, drainage or other improvements, and if the Board feels that the Town and/or purchasers of subdivision lots need assurance that the improvements will be made, the Board may require a performance guarantee as a condition of subdivision approval. With the submittal of the application for the Final Plan, the subdivider shall provide one of the following performance guarantees, as approved by the Planning Board, for an amount adequate to cover construction costs of all required improvements:

- A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account.
- B. A performance bond payable to the Town issued by a surety company.
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is deemed inadequate.
- D. An agreement between the subdivider and the Board limiting the number of units built or lots sold until all required improvements have been made.

**Article IX      WAIVERS**

Where the Board makes written findings of fact that there are special circumstances involving a proposed subdivision or a portion thereof, it may waive certain requirements or standards to permit a more practical and economical development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of this ordinance.

**Article X      SEVERABILITY**

If any portion of this ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

**Article XI      APPEALS**

All decisions of the Planning Board, pursuant to this ordinance, may be appealed within 30 days to the Board of Appeals in accordance with the *Board of Appeals Ordinance for the Town of Thorndike*. This Board shall have the authority to grant a variance from the terms of this ordinance, where necessary, to avoid undue hardship, provided there is no substantial departure from the intent of this ordinance.

**Article XII      AMENDMENTS**

At any time this ordinance is amended, the Town Clerk, upon advice from the Planning Board, is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct typographical errors, provided such changes do not result in any substantive alteration in the meaning of the ordinance and further the clear intent of such amendment.