

# LAND USE ORDINANCE 2008-04

## CHAPTER 21

### SUBDIVISIONS

Amended by Ordinance 2009-20

---

#### 21.1. GENERAL.

- 21.1.1.** Purpose. The purpose of this Subdivision Ordinance is to amplify the Leeds General and Zoning Plans and to set forth detailed regulations which will ensure that Leeds develops into the attractive, well planned residential area that the residents desire as detailed in our General Plan.
- 21.1.2.** Background. It is the desire of Leeds residents to have as few regulations as possible but still have a beautiful town in which to live. Areas that detract from, rather than add to Leeds' attractiveness, can for the most part be dealt with as "eyesores" or "a nuisance" by the Town Council; however, it is necessary to have some regulations so that housing will be safe and achieve the long range plan the residents of Leeds have formulated in the General Plan.
- 21.1.3.** This Ordinance therefore, has been written mainly to ensure that anyone desiring to develop a subdivision will be required to meet The Leeds Standard Specifications for Design and Construction. In addition developers will be held responsible for providing the necessary potable water, sewage disposal, drainage, streets, public areas, etc., so that the development will not later become a problem for the Town of Leeds ("Town"). If a conflict exists between this Ordinance and the Leeds Standard Specification for Design and Construction the higher requirement will be used.

#### 21.2. APPLICATION.

- 21.2.1.** The Planning Commission of the Town is the Advisory Board with respect to subdivisions and shall review all preliminary maps thereof, and shall follow the procedures which are specified in this Ordinance, and make recommendations to the Town Council.
- 21.2.2.** The provisions of this Ordinance shall be applicable to all divisions of land in which two or more parcels are created. These divisions shall be termed "subdivisions," and are wholly within the Town limits. It shall be unlawful for

any person to offer to sell or lease, to contract to sell or lease, or to sell or lease any such subdivision, or any part thereof, which is located in the town until a final map thereof, in full compliance with the provisions of this Ordinance, has been approved by the Town Council and duly recorded and filed in the office of the Town Clerk.

- 21.2.3.** Construction shall not commence until all required construction plans have been approved by the Town, appropriately recorded and all applicable Town permits have been issued. All subdivision improvements are subject to inspection by the Town Representative and Planning Commission and shall comply with Town requirements approved by the Town Council. All subdivisions shall comply with all established standards.

### **21.3. APPROVAL PROCESS.**

- 21.3.1.** No parcel of land shall be transferred, sold, or offered for sale, contracted for sale, deeded, conveyed, or divided for conveyance, nor shall a building permit be issued for a structure thereon; nor shall the terrain be altered or any vegetation be removed from the proposed subdivision site or engage in any site development until:

- 21.3.1.1.** A Preliminary Plat and Final Plat of such subdivision are approved in accordance with the requirements set forth in this chapter.

- 21.3.1.2.** The approved Final Plat is recorded in the Office of the Washington County Recorder by the Town Recorder, with all recording costs paid by the applicant.

- 21.3.1.3.** The improvements required in connection with the subdivision have been constructed.

### **21.4. PROCEDURE.**

- 21.4.1.** Before dividing any parcel or acreage into two or more building lots, an applicant shall:

- 21.4.1.1.** Determine whether proposed subdivision is consistent with current zoning of the property.

- 21.4.1.2.** If proposed subdivision is consistent with zoning designation, meet with the Town Engineer and Planner or Planning Commission Chairman and review the proposed subdivision.

- 21.4.1.3.** Obtain a preliminary plat application form and complete the application and have a Preliminary Plat prepared by a licensed

engineer or surveyor in conformance with the provisions of this Ordinance.

- 21.4.1.4.** Submit completed application, file seven (7) copies of the Preliminary Plat and required filing fee to the Town Clerk.
- 21.4.1.5.** Appear at a regularly scheduled meeting of the Planning Commission to discuss the proposed subdivision. The Planning Commission shall request additional information, if needed. Upon reviewing all submitted information, including any additional information requested by the Planning Commission, the Planning Commission may recommend the Town Council approve, approve with conditions or disapprove the Preliminary Plat.
- 21.4.1.6.** After a recommendation by the Planning Commission, appear at a regularly scheduled meeting of the Town Council to discuss the proposed subdivision. The Town Council may approve the Preliminary Plat, approve with conditions, recommend changes, request additional information, send back to the Planning Commission or deny the Preliminary Plat. If the Town Council requests additional information or requires significant changes, the Preliminary Plat will be returned to the applicant so that the additional information can be provided and required changes can be made. Once additional information is gathered or changes are made, applicant must reappear before the Town Council at a regularly scheduled meeting.
- 21.4.1.7.** If the Preliminary Plat is approved by the Town Council, the Town Council shall return one (1) copy of the plat signed by the Planning Commission Chairman to the applicant with any conditions attached. The Planning Commission shall retain one (1) signed copy of the Preliminary Plat for its files. If the Preliminary Plat is not approved by the Town Council, the Town Council shall indicate its disapproval by returning one (1) copy of the plat to the applicant along with the reason(s) for disapproval.
- 21.4.1.8.** The receipt of a signed copy of the approved Preliminary Plat shall authorize the applicant to proceed with the preparation of construction drawings and the Final Plat. No construction is authorized to commence until the Final Plat is approved by the Town Council and properly recorded.
- 21.4.1.9.** Not more than one (1) year after receiving approval of the Preliminary Plat, submit the original and one reproducible copy of the Final Plat to the Planning Commission for review. The Planning commission may extend the one-year time limit for just cause.

## **21.5. AUTHORITY TO DELAY APPROVAL.**

**21.5.1.** The Planning Commission may withhold approval of a Preliminary Plat for one (1) year if all or part of the area to be subdivided may be needed for a park, school, street, or other public purpose. The Planning Commission should notify the appropriate agency in writing of the proposed subdivision. If proper means have not been initiated to acquire the desired property within one year, the owner may request that the request for the subdivision go forward without consideration of the area that was to be set aside for public purposes. The review will then be continued in compliance with the provisions of this Ordinance.

## **21.6. PRELIMINARY PLAT.**

The Preliminary Plat shall comply with the following requirements:

### **21.6.1. Preliminary Plat Description.**

The following shall appear in a title block located in the lower right hand corner of the sheet:

- 21.6.1.1.** The proposed name of the subdivision.
- 21.6.1.2.** The location of the subdivision including the address and the section, township and range.
- 21.6.1.3.** The names and addresses of the owners or applicants if other than the owner.
- 21.6.1.4.** Date of preparation, north point, scale, contour interval, source and date of existing contours.
- 21.6.1.5.** Scale shall be of sufficient size to adequately describe in legible form all required conditions of this Ordinance.
- 21.6.1.6.** Sufficient legal description to define the boundary of the proposed subdivision.
- 21.6.1.7.** A minor subdivision (less than five lots) may be eligible for the streamlined approval process referenced in Section 21.7.1. if the following criteria are met:
  - 21.6.1.7.1.** Town Staff has reviewed the application;

- 21.6.1.7.2.** A recommendation has been received by the Planning Commission and a Public Hearing is held;
- 21.6.1.7.3.** The applicant shall provide or guarantee a provision of improvements, such as curb, gutter and sidewalks, on existing streets as are normally required by the Leeds Construction and Design Standards and Specifications;
- 21.6.1.7.4.** The subdivision has been approved by the Town Council;
- 21.6.1.7.5.** The subdivision is not traversed by the mapped lines of a proposed street as shown in the General Plan, or in a Town Road Master Plan showing future collector and arterial streets and does not require the dedication of any land for street or other public purposes;
- 21.6.1.7.6.** If the subdivision is located in a zoned area, each lot in the subdivision meets the frontage, width and area requirements of the Land Use Ordinance or has been granted a variance from those requirements by the Board of Adjustment;
- 21.6.1.7.7.** If the lots front a fully improved public street serviced by necessary utilities;
- 21.6.1.7.8.** If this subdivision is not a continuation of a previous subdivision;
- 21.6.1.7.9.** If the plat is completed by a licensed surveyor and shows the location of existing and required utilities; and
- 21.6.1.7.10.** If the plat meets the Town of Leeds Title Block standards.

**21.6.2. Preliminary Plat Existing Conditions.**

The Preliminary Plat shall show:

- 21.6.2.1.** The location of the nearest survey monument.
- 21.6.2.2.** The boundary of the proposed subdivision and the acreage included. A statement of present land use designation(s) as defined in the General Plan and the existing and proposed zoning of the property as shown on the zoning map.

- 21.6.2.3.** Where the submitted plat covers only a portion of the parcel owned by the applicant, the preliminary plat shall include a sketch of the applicant's remaining land. The street system of the portion of the applicant's parcel submitted for preliminary plat approval shall 1) conform to the Leeds Master Road Plan and 2) contemplate expansion into the remaining portion of the applicant's land not included for preliminary plat approval.
- 21.6.2.4.** The location, pavement, and right-of-way width, grade and name of all existing streets within two hundred (200) feet on the subdivision and of all prior platted streets or other public ways, utility rights-of-way, parks, and other public open spaces, permanent buildings, structures, houses, or permanent easements and sections and corporation lines, within and adjacent to the subdivision.
- 21.6.2.5.** Existing ditches, canal, natural drainage channels and open waterways and proposed realignments.
- 21.6.2.6.** The names and boundary lines of adjacent subdivisions and the names of owners of adjacent unplatted land.
- 21.6.2.7.** A vicinity map showing roads, adjoining subdivisions, cities, creeks, railroads and other data sufficient to locate the proposed subdivision and show the relation to the community.
- 21.6.2.8.** The location and outline of existing structures identified by type. Structures to be removed shall be so marked.
- 21.6.2.9.** The widths, location and identity of all existing easements.

**21.6.3. Preliminary Plat Map.**

The Preliminary Plat Map shall show the following information:

- 21.6.3.1.** The layout of streets, showing location, pavement, right-of-way width and dimensions of (designated by actual or proposed names and numbers) proposed streets, alleys and easements. The location and radius of all curb returns and cul-de-sacs shall also be shown.
- 21.6.3.2.** The layout, number and typical dimensions of lots. Multifamily projects shall demonstrate building footprints in addition to lot dimensions. Each lot shall identify a "do not disturb" area upon which the natural vegetation shall remain undisturbed.

- 21.6.3.3.** Parcels of land or common areas intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the subdivision.
- 21.6.3.4.** Builder setback lines required by the Leeds Land Use Ordinances.
- 21.6.3.5.** Easements for water, sewers, drainage, utility lines and other purposes.
- 21.6.3.6.** Approximate radius of all center line curves on streets and angle of intersecting streets if the angle deviates from a right angle by more than two (2) degrees.
- 21.6.3.7.** Subdivision improvements outside of the boundary including right-of-way, existing topography, and proposed work.
- 21.6.3.8.** Proposed recreation sites, bike paths, trails and parks for private or public use, shall be identified.
- 21.6.3.9.** Existing topography of the proposed subdivision site at least one hundred(100) feet beyond its boundary, including but not limited to existing contours at one (1) foot intervals if the existing ground slope is less than fifteen percent (15%) and no less than five (5) foot intervals for existing ground slopes equal to greater than fifteen percent (15%). Existing contours shall be represented by dashed lines or by screened lines. A separate grading plan may be required to be submitted.
- 21.6.3.10.** If the applicant plans to develop the site in units or phases, the proposed units or phases and their proposed sequence of construction shall be shown.
- 21.6.3.12.** Upon the written request of the applicant, the Planning Commission may recommend to the Town Council to waive any of the above Preliminary Map content requirements if the Planning Commission determines that the type of subdivision does not justify compliance with these requirements, or if the Planning Commission determines that other circumstances justify a waiver for the Preliminary Plat. If a waiver is granted it applies only to the Preliminary Plat and not the Final Plat. The Planning Commission or Town Council may require other drawings, data, or information as deemed necessary to review the request.

#### **21.6.4. Accompanying Data and Reports.**

The applicant may, at the Town's sole discretion, be required to submit the following accompanying data and reports:

**21.6.4.1. Soils Report.**

**21.6.4.1.1.** In most cases a preliminary soils report will be required by the Town. If a preliminary soils report is required, it shall be prepared by a Civil Engineer registered in Utah and based upon adequate test borings. Percolation tests are required as part of the soils analysis. When complete the report shall be presented to the Planning Commission and the Town Council with the Preliminary Plat.

**21.6.4.1.2.** If the Town has knowledge of, or the preliminary soils report indicates, the presence of critically expansive soils, liquefaction, or other soil problems which, if not corrected, would lead to structural defects, a soils investigation of each lot in the subdivision may be required by the Planning Commission or the Town Council. This soils investigation shall be done by a civil engineer registered in Utah, who shall recommend the corrective action which will prevent structural damage to each structure proposed to be constructed in the area where the soil problems exist.

**21.6.4.1.3.** The Planning Commission may recommend specific actions based upon recommendation(s) of the Town Engineer relative to the subdivision, or portion(s) thereof, where a soil problem exists if it determines that the recommended action will prevent structural damage to each structure to be constructed, and a condition to the issuance of any building permit shall require that the approved recommended action will be incorporated into the construction of each structure.

**21.6.4.2. Drainage Report.**

A tentative Drainage Plan or method by which the applicant proposes to handle storm water drainage for the subdivision including the proposed locations and sizes of storm water runoff retention basins.

**21.6.4.2.1.** Wash or swampy areas including the approximate location of all areas subject to inundation of storm water overflow; the location, width, and direction of flow of each water course; and the flood zone

designation as indicated on the Flood Insurance Rate Map(s) (Flood Hazard Boundary Maps) prepared by the U. S. Department of Housing and Urban Development.

**21.6.4.3. Title Report.**

A preliminary title report, acceptable to the Planning Commission, Town Council, and Town Attorney showing the legal owners at the time of filing the tentative map is required.

**21.6.4.4. Other Reports.**

Where necessary, copies of any agreements with adjacent property owners relevant to the proposed subdivision shall be presented to the Planning Commission and Town Council.

**21.6.5. Expiration of Preliminary Plat Approval.**

**21.6.5.1.** Application for Final Plat approval shall be made within twelve (12) months after approval of the Preliminary Plat by the Town Council. The time period may be extended for no more than an additional twelve (12) months if the applicant petitions for and the Town Council grants an extension prior to the expiration date. Only one extension may be granted. Failure to submit the Final Plat within the allotted time period shall cause the previous approvals to be null and void.

**21.7. CONSTRUCTION DRAWINGS:** After Preliminary Plat approval by Town Council, the applicant shall have construction drawings prepared by a licensed engineer for all onsite and required offsite improvements in accordance with the following:

**21.7.1.** Except for in the case of a minor subdivision which may proceed to the final plat approval process referenced in Section 21.8 below, construction drawings must be prepared in accordance with:

**21.7.1.1.** Leads Design and Construction Standards and Specifications; including but not limited to:

**21.7.1.1.1.** Engineering data shall show the proposed finished grade of each lot, the preliminary design of all grading, numeric estimate of grading activity relating to excavation and fill, the elevation of proposed building pads, the top and the toe of cut and fill slopes to scale, the number of each lot, and the elevation of adjacent parcels.

**21.7.1.1.2.** The location and size of proposed and existing wells, septic tanks, sanitary sewers, fire hydrants, water mains, and storm drains proposed, active or abandoned, and of all reservoirs within the tract and to a distance of at least one hundred (100) feet beyond the

subdivision boundaries. Proposed slopes and approximate elevations of sanitary sewers and storm drains shall be indicated. All water and wastewater disposal systems are required to have project feasibility approval from the Utah Department of Environmental Quality Division of Drinking Water prior to submittal. Final approvals are subject to the Planning Commission, the Town Engineer and Town Council.

- 21.7.1.2.** Ash Creek Special Service District construction standards;
  - 21.7.1.3.** Electric power provider's standards and specifications;
  - 21.7.1.4.** Applicable fire code in consultation with the Leeds Area Special Service District;
  - 21.7.1.5.** Natural gas provider's and telecommunication providers' standards and specifications, if applicable.
  - 21.7.1.6.** Culinary water authority design and construction standards and specifications.
  - 21.7.1.7.** Irrigation water authority design and construction standards and specifications.
  - 21.7.1.8.** Specific geotechnical and drainage recommendations established by the soils report, if required.
- 21.7.2.** Eight (8) sets of complete construction drawings must be submitted to the Town Planner or authorized Town Representative. Construction drawings shall be a minimum of twenty-two inches by thirty-four inches (22" x 34") and must contain a signature block for all Joint Utility Committee members, including:
- 21.7.2.1.** Town Engineer
  - 21.7.2.2.** Town Public Works Director
  - 21.7.2.3.** Culinary Water Authority
  - 21.7.2.4.** Irrigation Water Authority
  - 21.7.2.5.** Leeds Area Special Service District
  - 21.7.2.6.** Sewer Authority
  - 21.7.2.7.** Electric Power Provider

**21.7.2.8.** Natural Gas Provider

**21.7.2.9.** Telecommunications Provider(s)

**21.7.3.** Applicant shall request placement on a Joint Utility Committee agenda for initial review of the plans.

**21.7.4.** Applicant or applicant's authorized representative shall attend the Joint Utility Committee meeting when the item is on the agenda. Joint Utility Committee members will take copies of plans to redline and will return redlined copies of plans to the Town and/or applicant within seven (7) days.

**21.7.5.** All street grades shall be noted on the construction drawings.

**21.7.6.** When redlines are completed, Town Planner or Town Representative shall prepare a summary of the needed changes and return redlined plans to applicant.

**21.7.7.** Applicant shall then submit one (1) copy of the corrected construction drawings, addressing all redlined items, to the Town Engineer for review and possible signature. After Town Engineer signs the construction drawings, applicant must obtain all required signatures and return eight (8) copies of the signed plans to Town Planner or Town Representative.

## **21.8. FINAL PLAT REQUIREMENTS.**

The Final Plat must comply with the Leeds Standard Specifications for Design and Construction requirements, Federal Codes, State Codes and other Leeds Ordinances. Any conflict between the Leeds Standard Specification for Construction and Design requirements, Federal Codes, State Codes, and other Town Ordinances the higher of these requirements shall apply. The Final Plat must be prepared by a licensed land surveyor on a standard tracing lined sheet, 24" x 36" in size, drawn with waterproof black India ink. The top of the plat shall be either north or east, whichever accommodates the drawing best. The plat shall contain all information required as set forth below:

**21.8.1.** Description and Delineation. The Final Plat shall show everything required on the Preliminary Plat, items required by the Leeds Standard Specification for Design and Construction requirements and the following information:

**21.8.1.1.** The name of the subdivision, which name must be approved by Town Council;

**21.8.1.2.** An identification system for all lots and blocks and names of streets. Lot lines shall show dimensions in feet and hundredths;

- 21.8.1.3.** True angles and distances to the nearest established street line or official monuments, which shall be accurately described in the plat and shown by appropriate symbol;
- 21.8.1.4.** All street centerline data must be shown together with its relationship to the property lines, corners, etc.;
- 21.8.1.5.** The accurate location of all monuments shall be shown on the plat, and shall be identified, including all United States, State, County, or other official monuments;
- 21.8.1.6.** The dedication to the public of all streets and highways included in the proposed subdivision.
  - 21.8.1.6.1.** Street survey monuments shall be installed by the developer in accordance with the requirements of the Leeds Standard Specification for Design and Construction requirements, the locations indicated and become the property of the Town .
- 21.8.1.7.** Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least one hundred (100) feet beyond the tract boundaries, indicating the pipe sizes, including slope, grades, manholes, and exact location.
- 21.8.1.8.** The layout of streets, showing location, grade centerline radius and arc length of curves, pavement, right-of-way width and dimensions of (designated by actual or proposed names and numbers) proposed streets, crosswalks, alleys and easements. The location and radius of all curb returns and cul-de-sacs shall also be plotted.
- 21.8.1.9.** Accurate outlines and legal descriptions of any area to be dedicated or reserved for public use with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common uses of all property owners.
- 21.8.1.10.** Where it is proposed that streets be constructed on property controlled by a public agency or utility company, approval for the location, improvement and maintenance of such streets shall be obtained from the public agency or utility company and entered on the Final Plat in a form approved by the Town Attorney.
- 21.8.1.11.** List the applicable agencies that provide service to the proposed subdivision (i.e., school district(s), gas, electric, water and sewer, telephone, internet, cable TV, etc.)

### **21.8.2. Standard Forms.**

The Final Plat shall require:

- 21.8.2.1.** A registered professional land surveyor's "Certificate of Survey;"
- 21.8.2.2.** The owner's "Certificate of Dedication" or a "Corporate Certificate" for corporations;
- 21.8.2.3.** A notary public's acknowledgment;
- 21.8.2.4.** The Leeds Planning Commission's "Certificate of Approval;"
- 21.8.2.5.** The Leeds Engineer's "Certificate of Approval;"
- 21.8.2.6.** The Leeds Attorney's "Certificate of Approval;"
- 21.8.2.7.** The Leeds Town Council "Certificate of Approval;"
- 21.8.2.8.** A one-and-one-half by five-inch (1 ½ x 5") space in the lower right corner of the drawing for the use of the County Recorder.

### **21.8.3. Other Required Information.**

A full Title Report that includes as a minimum the following:

- 21.8.3.1.** A statement that all taxes or special assessments payable on all property within the limits of the subdivision are paid in full, or a letter stating that a satisfactory bond has been filed to secure such payment.
  - 21.8.3.2.** An original copy of the proposed deed restriction in final form and signed by all of the owners of any interest in the subdivision who sign the Final Map. This copy shall be acknowledged by a Notary Public and shall be recorded in the office of the County Recorder along with the Final Plat.
  - 21.8.3.3.** Evidence of ownership of the property being subdivided.
- 21.8.4. Approval Process of Final Plat.** All applicants seeking final plat approval shall complete the following process:
- 21.8.4.1.** Concurrent with the submittal of the construction drawings, applicant shall submit a completed final plat application, paper copy of Final Plat in full size, an electronic copy of Final Plat, required fee, and any other required documents to Town Planner or Town

Representative on or before deadline for submissions established by this Ordinance.

- 21.8.4.2.** The Town Engineer, Town Attorney and Town Planner (collectively “Town Staff”) shall preliminarily review Final Plat and then, in written and redline form, notify the Town of any recommended changes. The Town Planner shall review the changes recommended by the Town Engineer and Town Attorney and then, in written and redline form, communicate required changes to applicant or applicant’s authorized representative. Applicant shall make required changes and resubmit electronic and paper copies of Final Plat, one full size and one 11”x17” for second review.
- 21.8.4.3.** If Final Plat is not approved by the Town Staff after second submittal, an additional fee must be paid before any subsequent reviews. The Town Planner or Town Representative shall communicate Town Staff approval of Final Plat to applicant in written form.
- 21.8.4.4.** After Town Staff approval of Final Plat and Joint Utility Committee approval of construction drawings, the applicant shall submit six (6) paper copies of Final Plat to Town. The final plat application shall be placed on the next appropriate Planning Commission agenda according to required notices.
- 21.8.4.5.** The Planning Commission shall review the final plat application, , make a recommendation to the Town Council and forward to the Town Council for consideration.
- 21.8.4.6** Once the Planning Commission provides a recommendation to the Town Council, the applicant shall submit six (6) paper copies of Final Plat to the Town Council for consideration.
- 21.8.4.7.** The final plat application shall be placed on the next regular Town Council meeting agenda for review and approval. If the Town Council requests additional information or other than minor changes are required, Final Plat will be returned to the applicant so that the additional information can be provided and the changes made. Once additional information is provided, the applicant shall request being placed on the next regular Town Council meeting agenda for review and consideration. If other than minor changes are required, the applicant shall submit six (6) copies of the revised Final Plat to the Town Council for consideration once required changes are made.
- 21.8.4.8.** If the Final Plat is approved by the Town Council, applicant shall submit a paper copy of Final Plat and an updated copy of the title

report (if the title report submitted with the final plat application is older than 60 days) to the Town Engineer and Town Attorney for final review and acceptance. Upon written acceptance by the engineer and the attorney (as to form), the Town Planner or Town Representative shall notify applicant or applicant's authorized representative of final acceptance. Applicant shall then provide Town with a Mylar version of Final Plat, executed and notarized by the applicant and/or any party of whom consent to record is required, for signature by Planning Commission Chairman, Mayor and other appropriate Town and governmental officials.

**21.8.5. Submittals for Recording and Copies.**

**21.8.5.1.** Applicant shall submit two (2) paper copies of the signed Mylar version of Final Plat, and one electronic copy to Town. These copies shall be an exact copy of the signed Mylar version of Final Plat as approved by the Town Council.

**21.8.6. Recording.**

**21.8.6.1.** No Final Plat of subdivision of land shall be recorded without having been signed by the Mayor of Leeds, Utah, certifying that all conditions of sections 21.6., 21.7., and 21.8. of this Ordinance have been met and that the bonds as required by Paragraph 21.10. have been posted with the Town Clerk.

**21.9. IMPROVEMENTS AND IMPROVEMENTS STANDARDS.**

**21.9.1.** Once the Town Council has given approval of a final plat and a bond or other financial security is in place in accordance with Section 21.9 of this chapter, the applicant and/or the applicant's contractor may schedule a pre-construction meeting with the Town Planner and/or Town Engineer and the Joint Utility Committee. Upon receipt of written notice to proceed from the Town, construction of the subdivision may proceed. No construction shall be permitted prior to receipt of written notice to proceed.

**21.9.2.** The cost of all improvements in any form including but not limited to inspections, testing, material, equipment, permits, filing fees, fines, disposing of material, etc., shall be the responsibility of the developer with no cost incurred by the Town.

**21.9.3.** Where improvements are required that are not covered by the Leeds Standard Specification for Design and Construction they shall be developed by the Town Engineer and approved by the Town Council. If the developer observes such a condition he shall immediately report it to the Mayor and Town Engineer.

**21.9.4.** All improvements shall comply with the Leeds Standard Specification for Design and Construction requirements, Leeds Ordinances, Federal Codes and State Codes. If conflicts exist between the various codes, ordinances and requirement the higher requirement shall apply.

**21.9.4.1.** The subdivider as a condition of approval of Preliminary Plat (tentative map), shall provide and install adequate sanitary sewer facilities, either within and/or outside the subdivision, in compliance with the policies and procedures of the Town Engineer, General Plan, Land Use and subdivision Ordinances. The plan for a sanitary sewer system shall be approved in writing by the Town Engineer, and shall be constructed throughout the entire subdivision and shall be connected to an adequate sewer outfall line. The developer shall provide a service line to each lot within the subdivision, except where conditions will permit the use of septic tanks. This paragraph becomes effective immediately following the Town's approval of a sewer system plan.

**21.9.5. Fences and Guards.**

The following may be required if recommended by the Planning Commission and approved by the Town Council.

**21.9.5.1.** In locations where land subdivision abuts or is adjacent to public or private grazing land, a fence of material and quality satisfactory to the Planning Commission shall be affected around the outer limits of the subdivision as it is shown on the subdivision map. The Planning Commission may also require the installation of cattle guards on any street entering the proposed subdivision from other existing streets.

**21.9.5.2.** An applicant, as a condition of approval, for a subdivision located within an area subject to high wind erosion may be required to comply with the following standards.

**21.9.5.2.1.** A solid masonry wall with a height of six (6) feet and subject to design and materials recommended by the Planning Commission and approved by the Town Council shall be constructed on the peripheral boundary of the subdivision to protect it from the prevailing wind. Where the required wall extends over a future street opening, a fence, six (6) feet in height, and subject to design and materials approval by the Planning Commission and Town Council, may be substituted for the masonry wall.

**21.9.5.2.2.** Lots within and/or outside the subdivision that have had soil disturbed during construction shall be covered with protective landscaping material, subject to the approval of the Planning Commission.

**21.9.5.2.3.** Prior to and during construction, streets and disturbed open areas within and/or outside of the subdivision shall be treated by water or other approved method to prevent fugitive dust.

### **21.9.6. Temporary Rock Crushing Operations**

Temporary rock crushing operations in any Zoning District within the Town require a conditional use permit according to Section 7 of the Leeds Land Use and Subdivision Ordinance 2008-04.

### **21.9.7. As Built Drawings.**

Within thirty (30) days following completion of the subdivision project and prior to release of any bond, the developer or his engineering firm shall provide to the Town the Drawings of Record which show all improvement dimensions as they were constructed in the field. The developer or his engineering firm may request a reasonable time extension from the Town Representative if appropriate justification is given as determined at the Town's sole discretion. The Drawings of Record shall be submitted on two (2) twenty-four (24) inch by thirty-six (36) inch mylar sheets and in electronic format in AutoCAD .dxf or .dwg format. The drawings at a minimum shall include all infrastructure items (roads, drainage, waterlines and controls, electrical, phone, internet, television, sewer, etc.), complete dimensions of each lot identifying the allowed building areas and areas that are not to be disturbed, all open areas and trails.

### **21.9.8. Infrastructure Report.**

The developer shall hire an agency qualified to witness, examine, test, and authorize continuation/stop work, of any infrastructure within or being performed in conjunction with the development of the subdivision. Copies of all test results will be provided to the Town Engineer and to the Town weekly. Delivery of the test results to be within seven days of the test. The Town may hire an inspector to monitor all tests, the fee for this inspector will be paid by the developer. If this is done, the developer or testing agency hired by the developer are required to notify the Town inspector two (2) days prior to any testing.

## **21.10. PERFORMANCE BONDS.**

**21.10.1.** As outlined in this Chapter, the applicant shall file with the Town Clerk or Treasurer a surety or cash bond, or letter of credit in an amount approved by the Town Engineer and the Town Council to cover up to one hundred percent (100%) of the total estimated cost of all required improvements. Additionally, a labor and material security to cover up to fifty percent (50%) of the total estimated cost of all required improvements shall also be required as a condition of approval of the subdivision plat. If the applicant fails to complete the subdivision improvements within the specified time limits, the Town Council may cause any or all uncompleted improvements to be completed and the parties executing the security or securities shall be firmly bonded for payment of all necessary and appropriate costs.

**21.10.2. Indemnification.**

In addition to the performance bond, the applicant shall also release the Town from all liability incurred by the applicant and payment for all reasonable attorney's fees that the Town may incur because of any legal action resulting from the subdivision. All such improvements shall be installed within a period of two (2) years and shall be installed in a manner satisfactory to the Town Representative and Town Council. Upon completion of the improvements for which a surety, cash bond, or letter of credit has been filed, the applicant shall call for final inspection by the Town Representative, Engineer and Planning Commission.

**21.10.3.** Surety bonds, cash bonds, or letters of credit are subject to the Town Council and Town Attorney as to final form, but should include the following basic language:

**Bond Form:**

Whereas, the Town Council of the Town of Leeds in Washington County in the State of Utah and \_\_\_\_\_ (hereinafter designated as "principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated \_\_\_\_\_, 2\_\_\_\_\_, and identified as Project \_\_\_\_\_, is hereby referred to and made a part hereof; and

Whereas, said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we, the principal and \_\_\_\_\_ as surety, are held and firmly bound unto the Town of Leeds hereafter called ("\_\_\_\_\_"), in the penal sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) lawful money of the United States, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly be these presents.

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and will and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and

performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Town of Leeds, its officers, agents, and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the town in successfully enforcing such obligations, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder of the specifications accompanying the same shall in any-wise affect its obligations on this bond. And it does hereby waive notice of any such change, extension of time, alteration of addition to the terms of the agreement or to the work or to the specifications.

In witness thereof, this instrument has been duly executed by the principal and surety above named, on \_\_\_\_\_.

a. **BONDS.** All bonds shall be executed by a surety company authorized to transact business as a surety, and have an agent for service in Utah, together with an "A" policy holder's rating and a financial rating of at least "V" in compliance with the current "Best's Ratings." The bond(s) shall contain the nearest street address of the institution providing the bond(s).

b. **CASH DEPOSITS.** In lieu of the faithful performance and labor and material bonds, the principal may submit cash deposits of negotiable bonds of a kind approved for securing deposits of public monies with the Town for a responsible escrow agent or trust company under the conditions hereinafter described. Disbursements from cash deposits shall be made in compliance with a separate agreement between the principal and the Town. A bookkeeping fee of one percent (1%) of the total amount deposited with the Town for each cash deposit shall be submitted with each security. Disbursements from a cash deposit in any instance shall not be permitted unless and until authorized in writing by the Mayor and Town Council.

c. **LETTER OF CREDIT.** In lieu of faithful performance and labor and material bonds or cash deposits, the principal may submit an irrevocable instrument of credit subject to the Utah Commercial Code and under the conditions hereinafter described. The letter of credit shall be issued by a financial institution organized and doing business in, and subject to regulations by, the state of Utah or Federal Government, in a form, content, and duration as approved by the Town Attorney and Town Council, and shall pledge that the funds necessary to meet the performance are on deposit and guaranteed for payment and can only be released upon written instruction from the Town, and shall become secured trust funds for the purpose set forth in the instrument. The letter of credit shall contain the nearest street address of the institution providing the instrument of credit.

**Instrument of Credit Form:**

RE: Letter of Credit No. \_\_\_\_\_  
Effective Date \_\_\_\_\_  
Expiration Date \_\_\_\_\_

Gentlemen:

Please consider this letter an instrument of credit pledging that \$\_\_\_\_\_ is deposited by \_\_\_\_\_ and guaranteed for payment of improvements conditioned in the approval of (name of subdivision-legal description should be attached as well as conditions of approval). In compliance with the Leeds Subdivision Ordinance, we are regulated by the Federal or State Government, and agree that the funds designated by this instrument shall become a trust fund for the purpose set forth in this instrument.

It is a condition of this letter of credit that sixty (60) days prior to any such expiration date we shall notify you by registered letter that we elect not to consider this letter of credit renewed. Notice hereunder shall be deemed to have been given when received by you. Upon receipt of such notice you may draw on said letter of credit.

RESPECTFULLY SUBMITTED  
(Bank or Financial institution)

By \_\_\_\_\_  
(Title)

By \_\_\_\_\_  
(Title)

Note: Show bond identification and individual number for the letter of credit. All signatures must be notarized.

1. The Planning Commission, Town Engineer, Town Attorney, and Town Council shall not endorse or sign the "Certificate of Approval" contained on the final map unless and until improvements security as herein above specified has been posted.

2. No final map shall be presented to the Town Council for acceptance until the requirements of this section have been met and until all charges established by the Council and pertaining to the property being subdivided have been paid.

## **21.11. RELEASE OF SECURITY.**

Security provided may not be released. In the case of a letter of credit, the issuing bank or association will receive a copy of the Notice of Completion.

### **21.11.1. Progress Payments.**

Progress payments may be made to the developer and/or contractor from any deposit of money or letter of credit which the developer and/or contractor may have made in lieu of providing a security bond; provided however, that no progress payment shall be made for more than 90% of the value of any installment of work. No progress payments from cash deposits shall be made except upon certification by the Town Engineer, the Town Representative and approved by the Town Council, and the developer and/or contractor that work covered thereby has been completed.

## **21.11.2. Release Process.**

### **21.11.2.1. Inspection prior to release of bond.**

The Mayor or Town Council may at their option request an on site inspection within two (2) weeks of the being notified that the project is complete. If it is found that the project is complete and the test results state that the job met all requirements then the bond will be released less twenty-five percent (25%) which will be held for one year as a guarantee following the next regularly scheduled Town Council meeting. If completion is not satisfactory one of the following will apply; 1) If the completed work is unsatisfactory and is judged to be significant the developer shall redo the unsatisfactory work to the Leeds Standard Specifications for Design and Construction requirements before any bond can be released. 2) If it is determined that only minor portions of the project were not completed satisfactorily and that these do not pose a considerable risk to the town. The Town with concurrence with the Town Engineer or Town Representative can estimate the amount of risk involved to correct the deficiencies or potential deficiencies and this amount will be added to the twenty-five percent (25%) guarantee as the amount of the bond to be held back. The portion being held back can be released once the effort is completed or it is no longer considered a risk. Release of any bond funds will be considered at the first regular Town Council meeting following the notification of the project being completed by the developer and the Towns two (2) week inspection period.

**21.11.2.2.** If inspection shows that standards have been met in the completion of such improvements, the bonds shall be released pursuant to the conditions outlined within this Chapter.

**21.11.2.3.** The labor and material bond shall be retained to secure payment to the contractor, the subcontractors, and to personal renting equipment or furnishing labor or materials for six (6) months after completion and acceptance of work. Following the six (6) month period the labor and material security may be reduced to an amount not less than the total of all claims on which an action has been filed and notice given in writing to the Town.

### **21.11.3. Maintenance Guaranty.**

The developer shall guarantee all public improvements for a period of one (1) year from the date of final acceptance and shall correct any and all defects of deficiencies arising during that period of limitation as a result of the acts or omissions of the developer, its agents, or employees. This subdivision guaranty shall be backed by a bond or each deposit in the amount of twenty-five percent

(25%) of the surety posted for improvements. The Town shall provide written notice of the defects or deficiency. In any instance where the developer fails to take action required to protect the public health, safety and/or welfare, the Town may cause the work to be performed and call on the surety for reimbursement. The maintenance security shall be submitted prior to final acceptance of the public improvements by the Town.

**21.11.4. Forfeiture of Surety.**

In the event that developer/contractor fails to complete all improvement work in compliance with the provisions of this section, and the Town shall have to complete the same, the Town shall call on the security for funds necessary to complete from any cash deposit funds for reimbursement. If the amount of any security shall be less than the cost and expense incurred by the Town, the developer/contractor shall be liable to the Town for such difference. Any cash remaining in the possession of the Town after completion of the improvement shall be returned to the originator minus normal administrative costs.

**21.12. AUTHORIZATION TO START CONSTRUCTION.**

Construction shall not commence until all required improvements plans have been approved by the Town Engineer and the Town Council and all applicable Town permits have been issued all fees paid and the full correct bond in place. All subdivision improvements are subject to inspection by the Town Engineer, Town Representative, and the Planning Commission and shall comply with Town requirements approved by the Town Council. All subdivisions shall comply with all established standards.

**21.13. FEES, INSPECTIONS, PERMITS, VIOLATIONS, ENFORCEMENTS, AND PENALTIES.**

**21.13.1. Fees.**

**21.13.1.1.** Any and all persons filing plats with the Town Clerk shall pay a fee according to the schedule adopted by the Town Council by resolution.

**21.13.2. Inspection.**

**21.13.2.1.** Appropriate agencies, departments of the Town and/or others appointed by the Town Council shall act as the Town Representatives and shall inspect or cause to be inspected all buildings, fire hydrants and water supply and sewage disposal and electrical systems during the course of construction, installation or repair. Excavations for fire hydrants and all utility mains and laterals shall not be covered or back-filled until such installations shall have been approved by the Town Representative or utility

company representative. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the Town Representative. All costs will be the responsibility of the developer.

**21.13.2.2.** The inspection may consist of on-site inspection as the developer is required to notify the Town Representative twenty-four (24) hours prior to the need for an inspection. Inspections may also be any combination of on-site, analysis of test results from developers test, material provider records, equipment records, in addition to other inspections considered necessary to adequately insure the quality of the development effort.

**21.13.2.3.** The developer/contractor shall pay to the Town Clerk or Treasurer an inspection fee as adopted by resolution by the Town Council to cover the cost of inspections in the subdivision. If the fund is exhausted before completion of all improvements, the developer/contractor shall pay the Town Clerk or Treasurer an amount estimated by the Town Engineer, Town Representative or the Town Building Inspector to be sufficient to cover completion.

### **21.13.3. Permits.**

**21.13.3.1.** From the time of the effective date of this Ordinance, the Building Inspector shall not grant a permit, nor shall any officer grant any license or permit for the use of any land or the construction or alteration of any building or structure on a lot which would be in violation of any provisions of this Ordinance until a subdivision plat thereof has been approved and recorded as herein required. Any license or permit issued in conflict with such provisions shall be void. No building permits will be issued until all improvements have been installed to the lot for which the permit has been requested.

### **21.13.4. Violations.**

**21.13.4.1.** No person shall subdivide any tract or parcel of land located wholly or in part in the Town except in compliance with the provisions of this Ordinance. No person shall purchase, sell or exchange any parcel of land which is in any part of a subdivision or a proposed subdivision submitted to the Planning Commission, nor offer for recording in the office of the County Recorder, a deed conveying such parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this Ordinance.

### **21.13.5. Enforcement.**

**21.13.5.1.** The Planning Commission, the Town Engineer, the Town Representative and other such departments and agencies of the Town as are designated by the Town Council are hereby authorized as the agencies charged with the enforcement of the provisions of this Ordinance. Failure of such departments to pursue appropriate legal remedies shall not legalize any violation of such provisions.

**21.13.5.2.** The Town Representative shall have the authority to stop construction if he determines that the work completed or presently being performed does not comply with the requirements. Work will only continue to correct the defect. Once the defect is correct then normal work may proceed.

### **21.13.6. Penalties.**

**21.13.6.1.** Any person, firm or corporation (as principal, agent, employee or otherwise) violating, causing, permitting violation or failure to comply with the provisions of this Ordinance shall be guilty of a Class B misdemeanor. In addition, to any criminal prosecution, the Town may pursue any other legal remedy to ensure compliance with this Ordinance including, but not limited to, injunctive relief, under Utah Code Annotated "10-9a.-802. Enforcement". Each day a violation continues shall be considered a separate violation and offense.

## **21.14. VACATING OR AMENDMENT TO SUBDIVISION PLAT.**

**21.14.1.** The Town Council shall hear and consider, with or without a petition, any proposed vacation, alteration or amendment of a subdivision plat, any portion of a subdivision plat, or any street, lot or alley contained in a subdivision plat, at a public hearing, after receiving a recommendation from the Planning Commission.

**21.14.2.** Any fee owner of land within a subdivision plat, as shown on the last county assessment rolls, that has been laid out and platted as provided in this title, may in writing, petition the Town through the Town Clerk to have the plat, any portion of it, or any street or lot contained in it, vacated, altered or amended as provided in this section.

### **21.14.3. Petition requirements.**

Each petition to vacate, alter or amend an entire plat, or portion of a plat, or a street or lot contained in a plat, shall include:

- 21.14.3.1.** The name address of all owners of record of the land contained in the entire plat;
- 21.14.3.2.** The name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered or amended; and
- 21.14.3.3.** The signature of each of the owners under subsection 21.13.3.1. and 21.13.3.2. who consent to the petition.

**21.14.4. Requirements for a hearing following filing of a petition.**

When a petition is filed, the Planning Commission shall consider and provide a recommendation for a proposed vacation, alteration, or amendment within thirty (30) days of when the proposed vacation, alteration, or amendment was submitted. The thirty (30) days can be extended by agreement with the applicant. The Town Council shall hold a public hearing within forty-five (45) days after receipt of the Planning Commission recommendation if:

- 21.14.4.1.** The proposed plat change includes the vacation of a public street or alley;
- 21.14.4.2.** Any owner within the plat objects in writing to the petition within ten (10) days of mailed notification; or
- 21.14.4.3.** A public hearing is required because all the owners have not consented to the petition.

**21.14.5. Lack of consent of all owners.**

A petition that lacks the consent of all owners referred to in 21.13.3. above, may not be considered at a public hearing before the Town Council until the notice required by this section is given. The city may give the notice itself or require the petitioner to give such notice. In either case, the petitioner shall pay the cost of the notice. Additionally, if the petitioner is required to give the notice, an affidavit of the petitioner attesting to the notice shall be filed with the Town Clerk before the public hearing is held.

**21.14.6. Proposal by Town.**

If the Town proposes to vacate, alter or amend a subdivision plat, or any street or lot contained in a subdivision plat, the Board of Adjustment shall consider the issue at a public hearing after receiving a recommendation from the Planning Commission, and after giving the notice required by this section.

**21.14.7. Petitions to adjust lot lines.**

Petitions to adjust lot lines between adjacent properties may be approved and executed without hearing upon the recordation of an appropriate deed if:

**21.14.7.1.** No new dwelling or housing unit results from the lot line adjustment;

**21.14.7.2.** The adjoining property owners consent to the lot line adjustment;

**21.14.7.3.** The lot line adjustment does not result in remnant land that did not previously exist; and

**21.14.7.4.** The adjustment does not result in violations of applicable zoning requirements.

**21.14.8. Notice of hearing for plat change.**

Except as provided in 21.14.3. of this section, and except with respect of lot line adjustments under subsection 21.14.7., the Town Council shall give notice of the proposed plat change by mailing the notice to each owner of property located within three hundred (300) feet of the property that is the subject of the proposed plat change, addressed to the owners' mailing address's appearing on the rolls of the Washington County assessor. The Town Council shall ensure that the notice includes:

**21.14.8.1.** A statement that anyone objecting to the proposed plat change must file a written objection to the change within ten (10) days of the date of the notice;

**21.14.8.2.** A statement that if no written objections are received by the Town Clerk within the time limit, no public hearing will be held; and

**21.14.8.3.** The date, place and time when a hearing will be held, if one is required, to consider a vacation, alteration or amendment without a petition when written objections are received, or to consider any petition that does not include the consent of all landowners as required by 21.14.3.

**21.14.9. Notice of hearing for plat change involving vacation, alteration or amendment of street.**

If the proposed plat change involves the vacation, alteration or amendment of a street, the Town Council shall give notice of the date, place and time of the hearing by:

**21.14.9.1.** Mailing notice as required in 21.13.8.; and

**21.14.9.2.** Publishing the notice once a week for four (4) consecutive weeks before the hearing in a newspaper of general circulation in the Town.

**21.14.10. Grounds for vacating or changing plat:**

**21.14.10.1.** Within thirty (30) days after the public hearing required by this section, the Town Council shall consider the petition.

**21.14.10.2.** If the Town Council is satisfied that neither the public nor any person will be materially injured by the proposed action, alteration or amendment, and that there is good cause for the vacation, alteration or amendment, the Town Council may vacate, alter or amend the plat, any portion of the plat, or any street or lot.

**21.14.10.3.** The Town Council may approve the vacation, alteration or amendment by amended plat, administrative order, or deed containing a stamp or mark indicating approval by the Town Council.

**21.14.10.4.** Applications for an amended plat, lot split or other action under this chapter are not finalized until such is recorded in the office of the Washington County recorder.

**21.14.10.5.** An aggrieved party may appeal the Town Council decision to the Board of Adjustment and may appeal the Board of Adjustment Decision to the district court as provided in Utah Code Annotated section 10-9a-801.

**21.14.11. Lot Splits.**

Applications to split one lot into two (2) parcels shall be processed by the Town Council.