Moratorium Ordinance

Regarding Subdivisions Accessed by Sub-Standard Private Roads

The TOWN OF LYMAN (Maine) adopts a Moratorium Ordinance as follows:

WHEREAS, areas of the Town or Lyman have experienced an increase in development proposals at a rate exceeding historical trends; and

WHEREAS, these increased development proposals have the potential to put an excessive number of vehicles on substandard private roads; and

WHEREAS, these development proposals were unanticipated and have not been adequately provided for in the Town’s current Land Use Ordinance or Subdivision regulations; and

WHEREAS, there is a strong likelihood that all areas of the Town of Lyman will continue to experience increased development pressure due to the amount of undeveloped land, the non-existence of any regulations or restriction on subdivisions accessed by substandard private roads; and

WHEREAS, continued development of subdivisions accessed by substandard private roads could pose serious threats to public health, safety and welfare of the residents of Lyman through the over burdening of existing substandard private roads; and

WHEREAS, the Town plans to develop a street design ordinance and revised Subdivision regulations to protect against this risk; and

WHEREAS, the Town will require at least one hundred eighty (180) days to develop and implement the necessary Street Design Ordinance and revised Subdivision regulations to adequately address the impacts of increased development on private roads; and

WHEREAS, the adoption of the Street Design ordinance requires a public hearing by the Planning Board and the Board of Selectmen, and then must be enacted; and

WHEREAS, 30-A M.R.S.A. § 4356 authorizes the Town to establish a moratorium on the processing or issuance of development permits or applications; and

WHEREAS, the adoption of revised subdivision regulations requires a public hearing by the Planning Board. This can’t be accomplished before the adoption of the Street Design ordinance because the proposed change makes reference to the Street Design ordinance; and

WHEREAS, in the Judgment of the Town, these facts create an emergency within the meaning of 30-A M.R.S.A 4356 (1) (A) and (B) and require the following Moratorium Ordinance as necessary for the preservation of the public health, safety and welfare;

WHEREAS, the Municipal Charter of the Town of Lyman sections 201.1 and 304 provide that the legislative authority of the Town shall be vested in the Selectmen, except as otherwise stated in the charter; and
WHEREAS, the Municipal Charter of the Town of Lyman section 305.4 authorizes the Board of Selectmen to enact ordinances;

NOW THEREFORE, The Town of Lyman hereby ordains that a moratorium is hereby imposed effective immediately and applicable, to the maximum extent permitted by law and subject to the severability clause below, to all proceedings and applications not pending on any subdivisions of 10 or more units accessed by substandard private roads.

BE IT FURTHER ORDAINED, that the Planning Board, Board of Appeals, Building inspector/CEO, and all Town agencies and all Town employees shall neither accept nor approve applications, plans, permits, licenses, and/or fees for any subdivisions governed by this Emergency Ordinance for such subdivisions accessed by substandard private roads.

BE IT FURTHER ORDAINED, that to the extent any provision of this Moratorium Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium Ordinance shall remain valid.

EMERGENCY CLAUSE:

In view of the circumstances cited in the preamble, this Moratorium shall take effect immediately upon passage by the Board of Selectmen, shall apply, to the maximum extent permitted by the law but subject to the severance clause above, to all proceedings, applications and petitions described herein.

Date: August 19th, 2019

BY: Town of Lyman Select Board

Witness:

[Signatures]

John E. Tibbetts, Chair
David Dulong, Vice-chair
William Single
Thomas A. Guillemette
Ralph Blackington