

THE TOWN OF SPRING LAKE SUBDIVISION ORDINANCE

ORDINANCE NO: 2012 - 002

1. GENERAL PROVISIONS

- 1.1 **Title.** These regulations shall officially be known, cited, and referred to as the Town of Spring Lake Subdivision Ordinance ("Ordinance").
- 1.2 **Purposes.** This ordinance is adopted for the following purposes:
- a. To guide the future growth and development of the town consistent with the Town of Spring Lake's ("Town") comprehensive plan.
 - b. To guide the detailed analysis of the development parcel so as to locate and coordinate appropriate areas for development and conservation.
 - c. To preserve the rural character of the Town through the permanent preservation of meaningful open space and sensitive natural resources.
 - d. To preserve scenic views by minimizing views of new development from existing roads.
 - e. To preserve prime agricultural land by concentrating housing on lands that have low agricultural potential.
 - f. To provide commonly-owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.
 - g. To provide for a diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups.
 - h. To provide buffering between residential development and non-residential uses.
 - i. To provide for the most efficient use of infrastructure and related public facilities.
 - j. To provide for the most efficient use of lands deemed suitable for development.
- 1.3 **Statutory Authorization.** This ordinance is adopted pursuant to the Village Powers of the Town under sections 60.10(2)(c) and 60.22(3) of the Wisconsin Statutes, and the authority contained in section 236.45 of the Wisconsin Statutes.
- 1.4 **Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the Town. The Town, is only one of a number of governmental bodies that may have jurisdiction over proposed land divisions or development. The Town cannot make any representations on behalf of any other governmental body. No land division may be made unless all required approvals have been given from all governmental authorities having jurisdiction.

1.5 Applicability and Compliance.

No person shall divide any land located within the Town which results in a land division, subdivision, certified survey map or replat; and no such land division, subdivision, certified survey map or replat shall be entitled to be recorded; and no street be laid out or improvements placed therein without compliance with all requirements of this ordinance and the following:

- a. The provisions of Pierce County Ordinance Chapter 237 as of May 1, 2012, which are incorporated by reference (amendments to Chapter 237 must be separately adopted).
- b. The provisions of Wis. Stats. Chapter 236 as of May 1, 2012, which are incorporated by reference (amendments to Chapter 236 must be separately adopted except where compliance with amendments is required by statutory preemption in which case such amendments are adopted by reference).
- c. The Town comprehensive plan.
- d. All applicable local, county and state regulations, including zoning, sanitary, building and official mapping ordinances.

1.6 Abrogation and Greater Restrictions.

- a. **Public Provisions.** These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision that is more restrictive or imposes higher standards shall control.
- b. **Private Provisions.** These regulations are not intended to abrogate any easement, covenant or any other lawful private agreement or restriction, provided that where the provisions of these regulations are more restrictive than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement impose duties and obligations more restrictive than these regulations, and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

1.7 Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly in favor of the Town to promote the purposes for which they are adopted.

1.8 Severability. If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered. It shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Town Board hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

1.9 Enforcement, Violations, Penalties.

- a. **Violations.** It shall be unlawful to build upon, divide, convey, record, or monument any land in violation of this ordinance or state law, and no person shall be issued a building permit by the town authorizing the building on or improvement of any subdivision within the jurisdiction of this ordinance not of record as of the effective date of this ordinance until the requirements of this chapter have been fully met. The town may institute appropriate action or proceedings to enjoin violations of this ordinance or applicable state law.
- b. **Penalties.** Penalties for violation of this ordinance shall be as follows:
 - 1. Any person who fails to comply with this Ordinance shall, upon conviction, be subject to the penalties as provided by the town. The Town may issue citations or seek any other legal action, and any enforcement actions taken shall not exclude any other legal remedies available to the Town.
 - 2. Recordation improperly made has penalties provided in section 236.30 of the Wisconsin Statutes.
 - 3. Conveyance of lots in unrecorded plats has penalties provided for in section 236.31 of the Wisconsin Statutes.
 - 4. Assessor's plat made under section 70.27 of the Wisconsin Statutes may be ordered by the town as a remedy at the expense of the subdivider when a subdivision is created by successive divisions.
- c. **Appeals.** Any person aggrieved by an objection to a plat or a failure to approve a plat under this ordinance may appeal therefrom, as provided in sections 236.13(5) and 62.23(7)(e)10, 14, and 15, of the Wisconsin Statutes, within 30 days of notification of the rejection of the plat. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable, or discriminatory.

1.10 Fees and Costs.

- a. The Town Board may, by resolution, establish reasonable review fees for the administration of this ordinance, which shall be paid to the Town at the time of application.
- b. All costs to the Town related to any subdivision application shall be reimbursed by the applicant. An escrow fund in an amount to be determined

by the Town Board at the time of the application shall be deposited with the Town Clerk or Treasurer.

- 1.11 Repeal.** All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this ordinance, only to the extent of the inconsistency, are hereby repealed.

2. DEFINITIONS

The following definitions shall be observed and applied, except when the context clearly indicates otherwise. Words used in the present tense shall include the future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular. The word "shall" is mandatory and the word "may" is permissive.

- 2.1** Comprehensive plan. A plan for the future growth and change of the Town adopted under section 66.1001 of the Wisconsin Statutes.
- 2.2** Conservation Subdivision Design. Conservation subdivision design, also known as cluster or open space design, aims to conserve high-quality natural features by clustering development on limited areas of a site. Reduced lot sizes are offset by natural features maintained in common open space. A land trust or homeowners association may be needed to manage the open space.
- 2.3** Developer. Any person or entity of any sort dividing or proposing to divide land resulting in a land division (as defined in this Ordinance).
- 2.4** Land division. Any division of a parcel of land where the act of division creates new or additional lots of 15 acres or less.

3. APPLICATION AND APPROVAL PROCESS

- 3.1 Initial Conference.** Before submitting an application for any land division, the applicant shall schedule an appointment and meet with the Town Plan Commission at its next regularly scheduled meeting in order to obtain advice and assistance regarding the applicant's proposal. This consultation is not formal and there is no charge to the applicant for this initial conference. It is intended to inform the applicant of the purpose and objectives of the Town's ordinances, regulations and comprehensive plan, and to otherwise assist the applicant in planning the land division and any proposed development. In so doing, both the applicant and the Town may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the Town, and the applicant will gain a better understanding of the subsequent required procedures.

3.2 Conservation Subdivision Design. Any subdivision application shall contain a statement that the applicant has utilized conservation subdivision design concepts to the greatest reasonable extent to preserve open space and high-quality natural features of the land being subdivided. Such a statement shall describe how these design concepts have been utilized within the subdivision.

3.3 Town Review and Approval

1. **Application.** Any applicant for a proposed land division shall submit to the Town 8 copies of the proposal (whether for a certified survey map or plat) which has been or will be submitted to Pierce County in compliance with the applicable provisions of the Pierce County Subdivision Ordinance 237.
2. **Plan Commission Recommendation.** After review of the proposed division and negotiations with the applicant on changes and the kind and extent of public improvements that will be required, if any, the plan commission shall recommend to the Town Board disapproval, approval, or conditional approval of the proposal within 60 days of the filing date.
3. **Town Board Action.** After receipt of the Plan Commission's recommendation, the Town Board shall, at its next regularly scheduled meeting, approve, approve conditionally, or reject the proposal and shall state, in writing, conditions of approval or reasons for rejection (unless the time is extended by agreement with the applicant). Failure of the Town Board to act at its next regularly scheduled meeting shall constitute an approval of the proposal by the Town Board.

4. DEVELOPER'S AGREEMENT

If a proposed land division or subdivision includes roads (public or private), drainage ways or retention ponds serving more than one lot, or other common areas, or any public improvement which will be dedicated to the Town, the Town may require a Developers Agreement between the applicant and the Town.

- 4.1. The Developer's Agreement shall be:
 - a. Approved by the Town attorney prior to the start of construction.
 - b. Recorded, by the owner or developer in the office of the County Register of Deeds within 30 days of its approval and before construction commences.
 - c. Binding upon and enforceable by the Town, the owner and developer and all subsequent owners of the property for the term of the agreement.
- 4.2. The Developer's Agreement shall be mutually developed by the parties, be in writing, and include at a minimum the following:
 - a. A statement identifying the owner and the developer, and any agents or other responsible parties required to satisfy and/or enforce the terms of the Developer's Agreement.
 - b. The names of the parties to the Developer's Agreement.
 - c. A description of the property being developed.

- d. A statement detailing how the Developer's Agreement is consistent with the County and local comprehensive development plans.
- e. The effective date of the Developer's Agreement.
- f. The term of the Developer's Agreement.
- g. Identification of and a timeline for the installation of required temporary and permanent improvements.
- h. Identification of and a timeline for the removal of existing features and temporary erosion and sediment control and stormwater management structures.
- i. A description of all public improvements and any other areas which will be either dedicated to the public or be common areas within the development which serve more than one lot.
- j. Plans for all public and private common areas, including a statement of how any common areas will be maintained after completion of the development.

5. FINANCIAL ASSURANCE

For any public improvements which will be dedicated to the Town, the applicant shall provide financial assurance to the Town to ensure the proper construction, installation and maintenance of any required roads, utilities, stormwater management and erosion and sediment control measures, required landscaping and other improvements, removal of existing features, and temporary erosion and sediment control and stormwater management structures.

For any other land division or subdivision the Town may require financial assurance from the applicant to ensure the proper construction of any required or proposed private roads, utilities, stormwater management and erosion and sediment control measures, required landscaping and other improvements, removal of existing features, and temporary erosion and sediment control and stormwater management structures.

- 5.1. The developer shall be responsible for providing financial assurance.
- 5.2. The nature and duration of the assurance shall be structured to achieve installation and maintenance without adding unnecessary costs to the responsible party.
- 5.3. The Town may extend the time allowed for installation of an improvement for which the assurance has been provided.
- 5.4. The assurance shall be required before the construction of required improvements and as a condition of Town approval.
- 5.5. The assurance shall be 100 percent of the estimated cost of construction of the improvement.
- 5.6. The assurance shall remain in effect until substantial completion of all required improvements and the improvements have been approved by the Town.
- 5.7. The assurance shall be secured. The form of assurance must be approved by the Town. The Town may select from a variety of secure means including, but not limited to, the following:
 - a. A surety bond from a bonding company authorized to do business in Wisconsin.

- b. An irrevocable letter of credit from a reputable bank or lending institution acceptable to the Town.
- c. Cash or an instrument readily convertible into cash.

5.8. Release of Assurance

- a. Upon substantial completion of all required improvements, the responsible party shall notify the Town of the completion of and cost of the improvements in writing, by certified mail.
- b. The Town Building Inspector or Engineer, in consultation with appropriate persons, shall inspect the improvements and shall authorize approval, partial approval, or rejection of such improvements.
- c. A statement of reasons for rejection and corrective action shall be provided in writing.
- d. The responsible party shall correct the condition specified by the stated corrective action within the time stated.
- e. If the corrective action is not completed within the specified time, the Town may use the assurance to complete the corrective action.
- f. If the Town takes no action to approve, partially approve, or reject the improvements within 45 days of receipt of the notice of substantial completion, the improvements shall be deemed to have been approved, and the responsible party and/or surety, if any, shall be released from the assurance for such improvements.
- g. Where partial approval of the improvement is granted, the responsible party shall be released from liability under the assurance to the extent of the approval.
- h. If approval of the improvement is denied, the Town shall utilize the assurance to see that improvements are properly completed

6. Town Board Approval and Effective Date..

Adopted this 12th day of June, 2012, by a vote of 2 yes, 0 no.

Approved: Gary Peterson Chair Richard E. Johnson Supervisor
Gary Peterson Richard Johnson
Mike Jacobson, Supervisor
Mike Jacobson
Attest: Donna J. Borgschatz Clerk
Donna Borgschatz

Following passage by the Town Board, this Ordinance shall take effect the day after the date of publication or posting as provided by Wis. Stat. § 60.80.

