

ORDINANCE 2019-01

AN ORDINANCE TO AMEND CHAPTER 6 OF THE CODE OF ORDINANCES OF THE TOWN OF SPRINGFIELD, DANE COUNTY, WISCONSIN TO ADDRESS STATE LAW CHANGES AND IMPLEMENT COMPREHENSIVE PLAN RECOMMENDATIONS, INCLUDING REVISION OF PARK FEES TO MEET THE STATE IMPACT FEE LAW

Section 1. Section 6.02(2) of the Town Code of Ordinances is hereby amended to read as follows:

(2) **AUTHORITY.** The Town of Springfield has elected to exercise Village powers. Therefore, these regulations are adopted under the authority granted by Sections 61.35, 62.23, 66.0217, and 236.45 of the Wisconsin State Statutes.

Section 2. Section 6.03(25) of the Town Code of Ordinances is hereby amended to read as follows:

(25) **SUBDIVISION.** A division of a parcel of land where the act of division creates either:

- (A) Five or more lots, parcels or building sites of 39 acres each or less in area; or
- (B) Five or more lots, parcels or building sites of 39 acres each or less in area by successive divisions within a period of five years.

Section 3. Section 6.05(4) of the Town Code of Ordinances is hereby repealed, and Sections 6.05(5) and (6) are renumbered as Sections 6.05(4) and (5), respectively.

Section 4. Section 6.06(1) of the Town Code of Ordinances is hereby repealed and recreated to read as follows:

(1) **Compliance.** No subdivision, land division, replat, or condominium development within the jurisdiction of this chapter shall be entitled to be approved or recorded without compliance with all requirements of this chapter that are in effect when a subdivider submits a preliminary plat, certified survey map, or condominium plat, and with the following:

- a. The provisions of Wis. Stats. Chapters 703, 80.08, and 236, including § 236.45(2)(ac).
- b. All other Town ordinances that are in effect when a subdivider submits a preliminary plat, certified survey map, or condominium plat, including but not limited to the zoning ordinance and any official map ordinance.
- c. The comprehensive plan in place when a subdivider submits a preliminary plat, certified survey map, or condominium plat.
- d. All other master plans, comprehensive plans, and components of such plans prepared by state, regional, county or municipal agencies, when such plans have been

duly adopted by the Town Board when a subdivider submits a preliminary plat, certified survey map, or condominium plat.

e. The provisions of Wis. Admin. Code Chapter SPS 385 for subdivisions, land divisions, or replats not served by public sanitary sewer.

f. All other applicable state statutes, administrative rules, county ordinances, and all intergovernmental agreements to which the Town is a party.

Section 5. Section 6.07 of the Town Code of Ordinances is hereby renamed from “Growth Management and Transfer of Development Rights” to “Transfer of Development Rights, Sections 6.07(1), (2), and (3) are hereby repealed, and Section 6.07(4) is hereby renumbered as Section 6.07(1).

Section 6. Section 6.08(1) of the Town Code of Ordinances is hereby amended to read as follows:

(1) It is recommended that, prior to the filing of an application for the approval of a certified survey map or a preliminary plat, the developer or divider shall consult with the Town Plan Commission to obtain its advice and assistance. This consultation is neither formal nor mandatory, but is intended to inform the developer of the purpose and objectives of these regulations, any applicable master plans and plan implementation devices and to otherwise assist the developer in planning the development. No such consultation shall in any manner bind the Town Plan Commission or the Town Board to approve a plat or certified survey map. Further, no developer may rely upon or cite any advice or information provided by the Town Plan Commission or Town Board as evidence of the official actions of the Town.

Section 7. Sections 6.09(3)(g) and (h) of the Town Code of Ordinances are hereby created to read as follows:

(g) All preliminary and final plat submittals shall include components, and/or be accompanied by narrative, demonstrating how applicable provisions of the Town’s transfer of development rights program and comprehensive plan will be met, including but not limited to applicable conservation neighborhood design standards.

(h) All preliminary and final plat submittals shall be accompanied by proposed private covenants, and the following shall be included in such covenants and on the face of the plat: “Through Section 823.08 of Wisconsin Statutes, the Wisconsin Legislature has adopted a right-to-farm law. This statute limits the remedies of owners of later established residential property to seek changes to pre-existing agricultural practices in the vicinity of residential property. Active agricultural operations are now taking place and may continue on lands in the vicinity of the Plat of _____. These active agricultural operations may produce noises, odors, dust, machinery traffic, or other conditions during daytime and evening hours.”

Section 8. Section 6.09(6) of the Town Code of Ordinances is hereby repealed and recreated to read as follows:

(6) Approval or conditional approval of a preliminary plat shall entitle the final plat to approval provided the final plat conforms substantially to the preliminary plat, including any conditions of that approval, conforms to applicable requirements in Section 6.06, and is submitted within 36 months of the last required approval of the preliminary plat, unless extended by the Town Board. Previous preliminary plat approvals shall not constitute grounds for approval upon resubmission.

Section 9. Section 6.10(3) of the Town Code of Ordinances is hereby amended to read as follows:

(3) All improvements required by this Chapter shall be made or guaranteed in the manner described in this Chapter. If the final plat meets the requirements listed in Section 6.09(6), the Town shall approve the final plat of the subdivision within sixty (60) days from the date officially submitted to the Town Clerk.

Section 10. Section 6.10(10) of the Town Code of Ordinances is hereby amended to read as follows:

(10) After the final plat has been approved by the Town Board, all associated conditions satisfied, state agency review under Section 236.12 of Wisconsin Statutes completed, all required fees paid, any required covenants and deed restrictions filed, and a development agreement and sureties insuring their installation filed, the Town Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the County Register of Deeds. The plat must be recorded within 12 months after the date of the last Town Board approval of the plat and within 36 months after the first approval, or the Town approval shall be deemed void. Recording fees shall be paid by the subdivider. The subdivider shall provide a recorded copy of the plat to the Town Clerk in the requested format(s) within 10 days of its recording.

Section 11. Section 6.10(8) of the Town Code of Ordinances is hereby repealed, and Sections 6.10(9) and (10) are hereby renumbered as Sections 6.10(8) and (9) respectively.

Section 12. Sections 6.11(1) and (2) of the Town Code of Ordinances are hereby amended to read as follows:

(1) A certified survey map which has been approved by the Town Board, and meets all of the requirements of Section 236.34 of the Wisconsin Statutes and of this ordinance, may be utilized to create a land division as defined in Section 6.03. The Board resolution approving the certified survey map shall be reproduced legibly on the face of the certified survey map. All unpaid or outstanding taxes, assessments and special assessments shall be paid prior to the approval unless determined otherwise by the Town Board.

(2) An applicant for a land division by CSM shall file ten (10) copies of the certified survey map and a written application for approval with the Clerk. An applicant shall submit ten (10) copies of the Town's site assessment checklist and all supporting

documentation. The certified survey map must be prepared in conformance with the submittal requirements of Chapter 236 of the Wisconsin Statutes and the Dane County Subdivision Ordinance, and also include or be accompanied by the following:

a. Demonstration of how applicable provisions of the Town's transfer of development rights program and comprehensive plan will be met, including but not limited to applicable residential development siting standards.

b. The following note on the face of the certified survey map: "Through Section 823.08 of Wisconsin Statutes, the Wisconsin Legislature has adopted a right-to-farm law. This statute limits the remedies of owners of later established residential property to seek changes to pre-existing agricultural practices in the vicinity of residential property. Active agricultural operations are now taking place and may continue on lands in the vicinity of this certified survey map. These active agricultural operations may produce noises, odors, dust, machinery traffic, or other conditions during daytime and evening hours."

Section 13. Section 6.11(5) of the Town Code of Ordinances is hereby repealed and recreated to read as follows:

(5) After the certified survey map has been approved by the Town Board, all associated conditions satisfied, any required state agency review completed, all required fees paid, and any required covenants, deed restrictions, development agreement, and surety filed, the Town Clerk shall cause the certificate inscribed upon the map attesting to such approval to be duly executed and the map returned to the subdivider for recording with the County Register of Deeds. The certified survey map must be recorded within 12 months after the date of the last Town Board approval of the map and within 36 months after the first approval, or the Town approval shall be deemed void. Recording fees shall be paid by the subdivider. The subdivider shall provide a recorded copy of the map to the Town Clerk in the requested format(s) within 10 days of its recording.

Section 14. Section 6.12(13)(c) of the Town Code of Ordinances is hereby amended to read as follows:

(c) Security Release The security furnished pursuant to Section 6.13(9) shall remain in full force for a period of one year after the completion of the project and acceptance by the Board unless partially released as provided therein, subject to the limitations in Section 6.13(9)(g). The security shall be held to guarantee the work performed pursuant to private contracts against defects in workmanship and materials. If any defect appears during the period of the guarantee, the developer or its contractor shall, at its expense, install replacements or perform acceptable repairs. In the event that the developer fails to install the replacement or perform the repairs, the Town may do so and deduct the cost thereof from the security. Unless defects have appeared and have not been repaired, the Town shall release the security to the developer upon expiration of the one year guarantee period.

Section 15. Section 6.12(16) of the Town Code of Ordinances is hereby repealed.

Section 16. Section 6.13(6)(C) and (J) of the Town Code of Ordinances are hereby amended to read as follows:

(C) Residential lots to be served by private sewage disposal facilities shall comply with the rules of the State of Wisconsin and the Dane County Sanitary Code.

(J) Lot Sizes.

1. Each lots served by a private on-site wastewater treatment system shall have a minimum area of 1.0 acre if in the agricultural preservation area designated in the Town comprehensive plan and 1.5 acres in all other areas. The Town may require a recorded restriction on or with a final plat or certified survey map to assure such minimums are maintained.

2. Notwithstanding subsection 1, the Town Board may allow lots as small as 0.5 acre each if at least one of the following conditions is present:

- i. the existing size of a redevelopment area would not allow for lots of the minimum prescribed in subsection 1..
- ii. the development is served by a wastewater treatment system which uses one or more group drain fields.
- iii. the development will provide affordable single-family lots or homes that will be priced below the average per acre Dane County rural lot or home price.
- iv. smaller lot sizes would aid in the implementation of the Town's transfer of development rights program.

3. In preparing proposed developments, the developer shall plan the lots sizes with due regard for the adjacent uses and lots. In the case of land divisions which abut other development with larger lot sizes, the lots which abut the existing development shall have a lot size which transitions from the existing development to the smaller lots which predominate in the development. The transitional lots shall be sized at least halfway between the average size of the existing platted lots and the average of the remaining new lots.

Section 17. Section 6.13(9) of the Town Code of Ordinances is hereby amended to read as follows:

(9) Security Required. (a) At the time the development agreement is executed, the developer shall file security with the Town in an amount equal to one hundred twenty percent (120%) of the estimated cost of the required improvements as determined under the procedure in Section 236.13 (2) (am) 1d of the Wisconsin Statutes. If the developer's project will be constructed in phases, the amount of security is limited to the phase of the project that is currently being constructed.(b) The type of security may be a certificate of deposit, certified check, performance bond, or irrevocable letter of credit, as determined by the developer. When a certificate of deposit or certified check is posted as security, the instrument must be negotiable by the Town. When a letter of credit is posted as security, the Town must be the beneficiary. When a performance bond is posted, the requirements of Section 236.13 (2) (am) 1m of the

Wisconsin Statutes apply. Each security shall otherwise be subject to Town Board and Town Attorney approval.

(c) Such security shall guarantee that such improvements will be completed according to Town specifications by the developer or its contractors not later than eighteen (18) months from the date that the plat is recorded or, where phasing is included or permitted, that each phase will be completed by the date specified in the installation and completion schedule. (e) Such security shall be held by the Town and either released or used in the manner specified in this section. The provision of security by the developer shall not release the developer from its obligations under the development agreement nor prejudice the right of the Town to recover the full cost of completion of the improvements if the developer fails to complete the same.

(f) As work progresses on installation of improvements constructed as part of the contract, the Town Road Supervisor or designee, upon written request from the developer from time to time, is authorized to recommend, and the Town Board is authorized to approve, a reduction in the amount of surety. The amount of surety remaining shall be equal to 120% of the estimate of the Town Road Supervisor or designee of costs of work remaining to be completed and accepted and to insure performance of the one-year guarantee as specified in Section 6.12(13)(c) against defects in workmanship and materials on work accepted.

(g) Security shall be required for not more than 14 months after the date the public improvements for which the security is provided are substantially completed, as defined in Section 236.13 (2) (am) 2 of the Wisconsin Statutes, and upon such substantial completion, the amount of the security the developer is required to provide shall be reduced to be no more than an amount equal to the total cost to complete any uncompleted public improvements plus 10 percent of the total cost of the completed public improvements.

(h) Governmental Units. The State of Wisconsin, a school district, Dane County and a City, Village or Town of Dane County may, in lieu of the bond or security provisions of this ordinance, may file a resolution duly adopted by such governmental unit agreeing to comply with the provisions of this section.

Section 18. Section 6.13(13) of the Town Code of Ordinances is hereby repealed and recreated to read as follows:

(13) **DEVELOPMENT DESIGN STANDARDS.** The plat or certified survey map shall adhere to residential development design standards or conservation neighborhood design standards included within the comprehensive plan, as applicable and to the extent specified in the comprehensive plan.

Section 19. Section 6.15(4) of the Town Code of Ordinances is hereby repealed and recreated to read as follows:

(4) **PARK AND RECREATION FACILITY IMPACT FEE.**

a. Intent. This section is intended to impose an impact fee in an amount based upon the number of new residential dwelling units, in order to finance the acquisition of

parkland and development of park and recreational facilities, the demand for which is generated by new residential development. Collected fees shall be used to finance capital costs for new or enlarged capital improvements that substantially benefit those developments that pay the fees. The parks and recreational facility impact fee described in this subsection has been imposed under, and is authorized by, Section 66.0617 of the Wisconsin Statutes.

b. Timing. The impact fee shall be paid with each building permit application, except that a development agreement under this Chapter may provide for payment at an earlier date. As used in this section, the term "building permit" shall not include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, which result in no increase in the number of residential dwelling units.

c. Amount. The park and recreational facility impact fee shall be \$1,000 per residential dwelling unit. The Town Board may grant a waiver or exception to this amount if it determines that its imposition would have a substantial adverse effect on the availability of low-cost housing.

d. Basis. The fee amount in subsection c is per the public facility needs assessment adopted pursuant to Resolution 2019-01 and on file with the Town Clerk. The adopted needs assessment shall also be used as the basis for expenditure of collected impact fees pursuant to this section. At the time that the Town collects each impact fee, it shall provide to the applicant or developer from which it received the fee an accounting of how the fee will be spent, which may be the needs assessment or a summary thereof.

e. Accounting. The Town Treasurer shall place all collected impact fees in a separate segregated interest-bearing account, which shall be accounted for separately from the other Town funds. Each collected fee shall be identified by parcel number and date paid within the fund. Impact fee revenues and interest earned on impact fee revenues may be expended only for the particular capital costs for which the impact fee was imposed, unless the fee is refunded under subsection f.

f. Refunds. Any collected impact fee that is not used within 8 years after it is collected to pay the capital costs for which it was imposed shall be refunded to the payer of such fee, along with any interest that has accumulated.

g. Appeals. A developer or an applicant for a building permit may appeal the amount, collection, or use of the impact fee, and any property owner may appeal a decision on a claim for refund of unexpended impact fees, under the provisions of Chapter 68 of the Wisconsin Statutes. If the notice of appeal challenges the imposition of an impact fee, or the amount imposed, the developer or applicant may pay the fees imposed under protest and the building inspector shall issue any building permits withheld solely due to the nonpayment of the fees. If the applicant prevails on appeal, the Town Treasurer shall refund that portion of the fee so paid as finally determined in the appeal process.

Section 20. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. If an application of this ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

This ordinance shall take effect the day after passage and publication as provided by law.

PRESENTED: 2/5/2019
ADOPTED: 2/19/2019
POSTED: 3/5/2019

Jim Pulvermacher, Acting Town Chair

Dianah Fayas, Town Clerk