

ORDINANCE No. 2010-03

**AN ORDINANCE
REGARDING AMENDMENTS TO
TOWN LAND DIVISION AND SUBDIVISION CODE**

The Town Board of the Town of Lucas, Dunn County, Wisconsin, do ordain as follows:

SECTION I. ADOPTION OF PROVISIONS.

Section 14-1-33(e)(1) of the Town of Lucas Code of Ordinances is amended with the addition of the following language as new second and third sentences:

The Final Plat shall be examined by the Town Engineer, Town Planner, Town Attorney or other qualified staff to determine whether the Final Plat conforms substantially to the Preliminary Plat. Any such conclusions shall be made a part of the record of any meeting at which the Final Plat is considered, pursuant to Section 236.11(1)(e), Wis. Stats.

SECTION II. AMENDMENT OF PROVISIONS.

and s2

Section 14-1-33(e)(2)d of the Town of Lucas Code of Ordinances is amended and adopted to read as follows:

If the Final Plat is not submitted within thirty-six (36) months of the last required approval of the Preliminary Plat, the Town Board may refuse to approve the Final Plat, unless the Town Board and the applicant have agreed, in writing, to an extension.

SECTION III. AMENDMENT OF PROVISIONS.

Section 14-1-33(f)(1)c of the Town of Lucas Code of Ordinances is created and adopted to read as follows:

- c. If the Final Plat is not submitted within thirty-six (36) months of the last required approval of the Preliminary Plat, the Town Board may refuse to approve the Final Plat.

SECTION IV. AMENDMENT OF PROVISIONS.

Section 14-1-33(g)(2) of the Town of Lucas Code of Ordinances is amended and adopted to read as follows:

Pursuant to Sec. 236.25(2)(b), Wis. Stats., the County Register of Deeds cannot record the Final Plat unless it is offered within twelve (12) months from the date of last approval of the Final Plat or thirty-six (36) months from the last required approval of the Preliminary Plat.

SECTION V. REPEAL AND RECREATION OF PROVISIONS.

Subsections 14-1-51(a)(1) and (2) of the Town of Lucas Code of Ordinances are repealed and recreated as follows, with existing Subsections (a)(3)-(9) remaining unchanged; Subsections (b)-(d) are renumbered to Subsections (c)-(e) respectively and Subsection (b) is created as follows:

(a) **Developer's Agreement Required; Financial Security for Improvements.**

- (1) **Condition of Approval.** Prior to the final approval and recording of any Certified Survey Map, Subdivision Final Plat, or Condominium requiring improvements located within the jurisdictional limits of this Chapter, and prior to the installation of any required improvements, and as a condition of said approval, the Subdivision, Condominium or Certified Survey Map Developer (as applicable) shall enter into a contract ("Developer's Agreement") with the Town of Lucas agreeing to furnish, construct, and install the required improvements at the sole cost of the Subdivision, Condominium or Certified Survey Map Developer (as applicable) and shall file with said contract an irrevocable letter of credit, cash escrow deposit, or certified check in the amount equal to one hundred and twenty-five percent (125%) of the Town Engineer's estimate. Such security amount determination shall be made by the Town Board after review and recommendation of the Town Engineer; security phasing, pursuant to Subsection (b) below, shall be utilized if the project is to be completed pursuant to an approved phasing plan.
- (2) **Purpose.** The purpose of the guarantee is to ensure that such required improvements will be completed by the Subdivision, Certified Survey Map or Condominium Developer (as applicable), or the Developer's subcontractor or agent, and serves as a further guarantee that all

obligations to subcontractors for work on the development are satisfied. Such improvements shall be completed by the Developer of the Subdivision, Certified Survey Map or Condominium project, or by his/her subcontractor, as set forth in the Developer's Agreement.

- (3) **Contract Form.** The contract form shall be approved by the Town Attorney and provided by the Town and may provide for a phasing of public improvements construction, providing such phasing is approved by the Town Board. The Town reserves the right to control the phasing through limits and sequencing so as to provide for continuity of streets, sewers and water mains (if available), and other necessary public improvements within and between the phases.

[Note: Subsections (a)(3)-(9) remain unchanged]

(b) **Phasing.**

- (1) Pursuant to Sec. 236.13(2)(a), Wis. Stats., if the project is approved to be constructed in phases, which approval shall not be unreasonably withheld, the security required to be deposited shall be limited to the phase of the project currently being constructed. The agreement shall provide a reasonable time by which such security shall be provided, which shall be no sooner than is reasonably necessary before the commencement of the installation of the improvements. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) may elect, with the approval of the Town of Lucas, to install the improvements in construction phases provided that:
 - a. The phases are specified in the contract for land division improvements;
 - b. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) submits surety in an amount equal to one hundred and twenty-five percent (125%) of the estimated costs of improvements required for the installation and construction schedules for that phase. Improvements constructed during that phase shall not be accepted nor shall any building permit be issued for construction within the completed area of that phase of the land division unless required infrastructure for that phase has been properly installed pursuant to this Chapter.
 - c. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) records deed restrictions approved by the Town Attorney which specify that the lots which are included in future construction phases of the land division will not be transferred or sold unless the Town's approval is obtained;
 - d. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) minimizes grading and other

disturbances to lands included in future construction phases in order to prevent erosion; and

- e. Erosion control plans and measures submitted and approved herein shall address the individual phases of construction.
- (2) The time limit for completion of a phased improvement program shall take into account the needs and desires of the Town and adjacent property owners for street and other improvements to serve lands adjacent to and within the land division.
- (3) As work progresses on installation of improvements constructed as part of the contract, the Town Engineer, upon written request from the Subdivision, Condominium or Certified Survey Map Developer (as applicable) from time to time, is authorized to recommend to the Town Clerk a reduction in the amount of surety as hereinafter provided. When portions of construction (streets, sidewalks, greenways or other improvements) are completed by the Subdivision, Condominium or Certified Survey Map Developer (as applicable) and determined acceptable by the Town Engineer, the Town Clerk is authorized, upon submission of lien waivers by the Subdivision, Condominium or Certified Survey Map Developer (as applicable)'s contractors, to reduce the amount of surety. The amount of surety may be reduced at the time all underground utilities are installed and tested. The amount of surety remaining shall be equal to one hundred and twenty-five percent (125%) of the estimate of the Town Engineer of costs of work remaining to be completed and accepted and to insure performance of the one (1) year guarantee against defects in workmanship and materials on work accepted. When the work on the major components of construction has been substantially completed, except for work which cannot be completed because of weather conditions or other reasons which, in the judgment of the Town Engineer are valid for noncompletion, the Town Clerk, in his/her sole discretion, is authorized to accept a reduction in the amount of surety to an amount in the estimate of the Town Engineer, sufficient to cover the work remaining to be completed, including performance of the one (1) year guarantee period against defects in workmanship and materials. As a further guarantee that all obligations under contract for work on the development are satisfied, the contractor and subcontractors who are to be engaged in the construction of utilities or street improvements on the street right-of-way to be dedicated shall be approved for such work by the Town Engineer prior to commencing construction. The Town Board at its option, may extend the security or additional periods not to exceed two (2) years each.

SECTION VI. REFERENCES AMENDED.

The reference in Section 14-1-32(f) to "twenty-four (24) months" shall be changed to "thirty-six (36) months".

SECTION VII. SEVERABILITY.

If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or applications.

SECTION VIII. CONFLICTING PROVISIONS REPEALED.


All Ordinances in conflict with any provision of this Ordinance are hereby repealed.

SECTION IX. EFFECTIVE DATE.

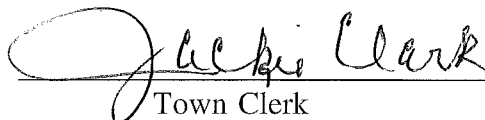
This Ordinance shall take effect upon passage and publication as provided by law.

ADOPTED this 14 day of December, 2010.

TOWN OF LUCAS, WISCONSIN



Chairperson



Town Clerk

INTRODUCED: December 14, 2010

POSTED: December 22, 2010

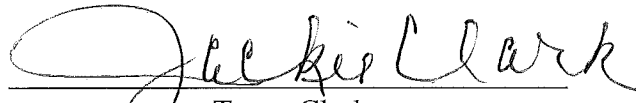
PASSED: December 14, 2010

State of Wisconsin: Dunn County

County of Dunn:

I hereby certify that the foregoing ordinance is a true, correct, and complete copy of an ordinance duly and regularly passed by the Lucas Town Board on the 14th day of December, 2010, following a recommendation from the Plan Commission and public hearing on the proposed ordinance amendment, and that said ordinance is now in full force and effect.

Dated this 14th day of December, 2010


Town Clerk