

ORDINANCE No. 1-2010

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

The Town Board of the Town of Cady, St. Croix County, Wisconsin, do ordain as follows:

**SECTION I. RENUMBERING AND ADOPTION OF PROVISIONS.**

Section 14-1-33(b)(4) of the Town of Cady Code of Ordinances is created to read as follows:

- (4) 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.**

The third sentence of Section 14-1-33(a)(1) of the Town of Cady 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; the applicant shall file eight (8) copies of the Final Plat with the Town Clerk.

**SECTION III. AMENDMENT OF PROVISIONS.**

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

- (3) 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.**

The last sentence of Section 14-1-33(c)(4) of the Town of Cady 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.**

Sections 14-1-51(b) of the Town of Cady Code of Ordinances is repealed and recreated and Section 14-1-51(c) as follows:

- (b) **Subdivider's Agreement; Security for Improvements.**
  - (1) 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 ("Subdivider's Agreement") with the Town of Cady 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 a bond, irrevocable letter of credit, or certified check in the amount equal to one hundred and twenty percent (120%) 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) 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 Subdivider's Agreement.

- (3) 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, water mains, and other necessary public improvements within and between the phases.
  - (4) The Town may allow for the reduction of the bond, irrevocable letter of credit, or certified check as work is completed on the project or phases of the project.
  - (5) In addition, the following requirements shall apply:
    - a. Contracts and contract specifications for the construction of street and utility improvements on dedicated street rights-of-way, as well as the contractors and subcontractors providing such work, shall be subject to the inspection of construction by the Town of Cady or its agent, and approval of the Town Board or its representatives.
    - b. Governmental units to which these bond and contract provisions apply may file, in lieu of said contract and bond/security, a letter from officials authorized to act on their behalf agreeing to comply with the provisions of this Section, subject to the approval of the Town Attorney.
  - (6) The Subdivision, Condominium or Certified Survey Map Developer (as applicable) shall agree in the development contract to pay all street and sidewalk assessments, specifically all area charges for sanitary sewer mains and all water main assessments (if such services are available), including where the land division abuts existing streets which are not improved within the Town standard street improvements (including, but not limited to, ditches, curb and gutter (where required by Town), local storm sewer (where required by Town), and bituminous pavement).
  - (7) The time for completion of the work and phases thereof shall be determined by the Town Board upon the recommendation of the Town Engineer after consultation with the Developer. The completion date shall be a component of the contract.
  - (8) The Developer shall pay the Town for all costs incurred by the Town for review and inspection of the project. This would include review, and preparation at the Town Board's discretion, of plans and specifications by the Town Engineer, Planner, and Attorney, as well as other administrative and professional costs of a similar nature.
- (c) **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 Cady, 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 percent (120%) 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 (water, sanitary sewer, street, sidewalk, greenway 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 percent (120%) 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 as specified in Subsection (d) below 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(d) to "six (6) 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 4<sup>TH</sup> day of October, 2010.

TOWN OF CADY, WISCONSIN

  
\_\_\_\_\_  
Chairperson

  
\_\_\_\_\_  
Town Clerk

INTRODUCED: Aug 19, 2010 Plan Commission

POSTED: Sept 19, 2010

PASSED: 10/4/10

State of Wisconsin:  
County of St. Croix:

I hereby certify that the foregoing ordinance is a true, correct, and complete copy of an ordinance duly and regularly passed by the Cady Town Board on the 4 day of Oct, 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 4 day of October, 2010

  
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Town Clerk