

TOWN OF OSCEOLA

ORDINANCE #07-03-ORD-02

CHAPTER 17

DEVELOPMENT AGREEMENT

In the interest of the public health, safety, and welfare, the Town Board of the Town of Osceola hereby ordains that Chapter 17 of the Town of Osceola Code of Ordinances, regarding Developer’s Agreements, shall be adopted as follows:

17.01 Purpose and Intent.

The purpose of Developer’s Agreement is to allow the Town, when appropriate, to enter into an agreement with a project developer that ensures that public and private improvements that are proposed to be made in the Town of Osceola due to proposed subdivision and land development activity will be designed and constructed in conformity with Town, County and State laws by requiring that developers agree to design and install public and private improvements at developer(s) expense and in conformity with all applicable governmental regulations, that adequate provisions are made by the developer for the future maintenance of storm water management and erosion control devices by benefited land owners, and that the health, safety and welfare of Town residents and taxpayers are not unnecessarily affected by subdivision and development activity in the Town. Such an agreement provides the opportunity for the Town and the developer to agree on the scope and timing of the project, applicable regulations and requirements, and other matters relating to the development process.

17.02 Adoption of Statutory Provisions.

Under the authority granted the Town under Wisconsin law, including, but not limited to, Wis. Stats. 60.10(2), 61.34, 61.35, 62.23, and Chapter 236, the Town Board of the Town of Osceola does hereby ordain that anyone proposing to create parcels of land in a manner that will result in the subdivision of land as defined by Wis. Stats. 236.02(12) or in the Polk County subdivision Ordinance or the Town’s Subdivision Ordinance, may enter into a developer agreement with the Town as a condition of the Town’s preliminary and final plat or CSM approval.

17.03 Developer Agreement Required.

Unless a waiver is granted by the Town Board as authorized by this ordinance, anyone proposing to create a certified survey map or a subdivision in the Town of Osceola shall enter into a developer’s agreement with the Town.

17.04 Developer Agreement Components.

The proposed development agreement shall, at a minimum, include provisions required by Chapter 18, Subdivisions and Platting, and Chapter 8, Public Works, of the Town of Osceola Code of Ordinances and shall set forth the development standards and other provisions that shall apply to and govern the use and development of the real property for the duration specified in the agreement. The Agreement may also contain such other provisions as the Town and the property owner or person controlling the property may mutually agree, such as, but not limited to: preconstruction meetings, construction schedules, driveway locations, construction securities, warranties, land dedications and covenants and agreements.

17.05 Waiver.

The Town Board shall have sole discretion in determining whether to waive the requirement of a Developer’s Agreement, but it shall consider the recommendation of the Planning Commission in making this decision.

17.06 Penalty Clause.

A. Anyone commencing the construction of any public or private improvements in an area for which preliminary plat approval has been requested and anyone causing or attempting to cause a plat or a certified survey map to be recorded without first executing a developer agreement with the Town shall pay a forfeiture in an amount as set by the Town Board plus the Town’s legal fees and costs of prosecution. The amount of the forfeiture shall be no less than \$150.00 and no more than \$300.00. Each day during which such violation exists constitutes a separate offense. Non compliance with this ordinance shall also constitute grounds for an injunction or other appropriate action or proceeding to stop a violation of any provision of this ordinance. No building permit shall be issued for any lot in any area for which a developer agreement is required and has not been executed by all required parties. These penalties are in addition to any other penalties provided by law.

B. Remedies for breach of a developer agreement or default in any obligation established in the developer agreement shall include, but not be limited to, unilateral suspension or withholding by the Town of all permits, licenses, or other authorization issued or to be issued by the Town in connection with the property shown on the plat. This is in addition to any other remedies to which the Town may be entitled by law.

17.07 Severability Clause.

If any portion, phrase or word of this ordinance is ruled by a court of competent jurisdiction to be invalid, unenforceable or unconstitutional, the remainder of this ordinance shall not be affected thereby.

17.08 Effective Date.

This Ordinance shall be effective upon adoption and publication as provided by law.

Passed this 10th Day of April, 2007

By the Town Board of the Town of Osceola

Robert L. Ingebrigtsen, Chairman

Ronald D. Gamache, Supervisor

Steven M. Stroshane, Supervisor

ATTEST:

I hereby certify that the Ordinance, of which the above is a copy, was duly passed by the Town Board of Supervisors of the Town of Osceola, Polk County, State of Wisconsin, on the 10th day of April, 2007, at a meeting duly called and held and at which a quorum was present and acted throughout.

Lorraine Rugroden, Clerk/Treasurer