

ORDINANCE 2006-04 - CREATING A MORATORIUM
ON CERTAIN LAND DIVISIONS

The Town Board of Supervisors of the Town of Brooklyn, Green Lake County, do hereby ordain as follows:

Article 1: Findings.

The Town Board of the Town of Brooklyn does hereby find as follows:

1. The Town of Brooklyn has adopted a comprehensive plan which addresses the future growth and development of the Town;
2. The City of Green Lake has, as part of its planning process, identified areas of the Town which the City believes may ultimately be annexed to the City and subdivided for development with a full range of urban services.
3. The City has expressed concerns that the Town, by acquiring a site for a new Town Hall at the intersection of Highway 23 and County A and as an option to acquire additional land there, has sought to limit the City's ability to grow;
4. The Town expressly states that its actions concerning the Town Hall site have been taken for the purpose of maintaining the new Town Hall at a location which has proven to be convenient for Town residents, and expressly indicates the Town has no intention of using the Town Hall site or the option to purchase additional land for the purpose of limiting the City's ability to grow.
5. The Town believes that all issues between the City and the Town can be addressed and resolved by negotiations aimed at developing an agreement for orderly development of both the City and the Town, an agreement which would provide the City with a clear opportunity to grow and meet the area's need for development requiring a full range of urban services.
6. The Town is willing to impose a moratorium on Land Divisions within the extraterritorial area of the City in order to provide the City with assurance that the City's interests will not be prejudiced by negotiating with the Town rather than unilaterally adopting extraterritorial plat review. There currently is a sufficient supply of lots to meet the demand for new housing in the Town for a substantial period of time such that a moratorium would not impose any significant hardship on the community.
6. The Town finds that imposing a moratorium on approval of Land Divisions in the Town during the process of discussing an intergovernmental agreement with the City is in the public interest, and is necessary to protect the public health, safety and welfare.
7. The Town has authority to adopt this ordinance pursuant to the authority granted in secs. 60.22 (3), 61.34, 236.10 and 236.45, Wis. Stats..

Article 2: Land Division Moratorium

1. Definitions. In this ordinance, the following terms are defined as stated:
 - a. "Land Division" means the act of creating a lot, parcel, condominium unit, or subdivision from a parcel or parcels of real estate. The term does not include the divisions which are exempted by Wisconsin law from plat review, which are:
 1. Transfers of interests in land by will or pursuant to court order;
 2. Leases for a term not to exceed 10 years, mortgages or easements;
 3. The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this chapter or other applicable laws or ordinances;
 - b. "Effective date" means December 12, 2006.

c. "Formally Submitted" means that a proposal was embodied in an application for approval of a certified survey map or a subdivision plat which had been filed with Green Lake County and the Town of Brooklyn.

d. "Expiration Date" means the earliest of the following:

i. the date on which the City of Green Lake adopts an ordinance purporting to exercise extraterritorial plat review over any part of the Town of Brooklyn;

ii. Ninety days from the date of its adoption, or such longer time as the Town Board may vote to extend this moratorium. The Town Board may vote to extend the moratorium by motion at any meeting of the Town Board.

e. "Extraterritorial Area" means the area lying within one and one-half miles of the boundaries of the City of Green Lake, Wisconsin.

2. Moratorium. No Land Division in the Extraterritorial Area may be approved by the Town of Brooklyn before the Expiration Date unless:

(a) the Land Division was contained in a proposal which was Formally Submitted for plat review on or before the Effective Date; or

(b) the Land Division is essential for the correction of a problem or remediation of a situation which imminently threatens the public health and welfare and is the subject of an order to correct from a federal, state or county agency; or

(c) the Land Division is necessary to avoid the property owner being denied all economic use of their land such that in the absence of the division, the Town would be liable for a taking without just compensation; or

(d) the Land Division is necessary to meet unforeseen emergencies identified by the Town Board, with concurrence from the City of Green Lake, which cannot be deferred until the Expiration Date.

Article 4: Request For Exception From Moratorium

1. Any property owner or their agent may apply for an exception to the moratorium on the grounds stated in Article 3, sections 2 (b) through (d). The application shall be filed with the Town Clerk on a form approved by the Board, accompanied by a fee of \$250.00.

2. The Town Board may grant allow an application for a Land Division to be considered only if it finds, after hearing, that an exception is necessary for one or more of the reasons stated in Article 3, section 2 (b) through (d).

3. The decision by the Town Board to allow an exception to the moratorium does not mandate the Town Board to approve the Land Division, nor limit the Town Board's power to impose conditions on the proposed Land Division.

Article 5:

If any portion of this ordinance is determined to be unlawful or invalid, the remaining portion shall stand.

Article 6: Publication and Effective Date

This ordinance shall be published in the official newspaper, but shall be effective on on the effective date stated herein.

Adopted: December 12, 2006

Published: December 21, 2006

THE TOWN OF BROOKLYN, GREEN LAKE COUNTY, WISCONSIN,

By:

Mike Wuest, Chairperson

Susan McConnell, Supervisor

Ronald Benson, Supervisor

CERTIFICATION

I hereby certify that the above ordinance was adopted by majority vote of the Town Board of the Town of Brooklyn at a properly noticed meeting thereof, on December 12, 2006.

Marian Mildebrandt, Clerk