

# TOWN OF BROOKLYN, GREEN COUNTY, WI

## **ORDINANCE #2.1**

**Adopted: August 11, 2014**

Ordinance # 6-7-93 as later amended on February 20, 1995, June 19, 1998, August 14, 2006 and January 13, 2014 is hereby repeated and recreated with changes to formatting and numbering.

Ordinance #2.1 is amended by the addition of Section 3.4 b (3)

Ordinance #2.1 Section 3.4a is amended on 11-9-2015

Ordinance #2.1 Section 3.4 and 3.5b is amended on 8-8-2016

### **Title: Land Divisions**

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#### **Section 1 Authority and responsibility**

The Town Board has specific statutory authority, powers and duties pursuant to the Wisconsin Statutes including WI Statute 236.45 and duly adopted (1992) village powers under WI Statute 60.22(3) granting to the Town Board powers to regulate, control, license, prevent or permit certain uses and activities for the good order of the town and for the health, safety and welfare of the public.

#### **Section 2 Purpose and scope**

The purpose of this ordinance is to promote the public health, safety and general welfare of the community. The regulations are designed to further the orderly layout and use of land to avoid undue concentration of population; to facilitate adequate provision for water, sewerage, schools, parks, playgrounds, and other public requirements to minimize the public impact from subdivision of large tracts into smaller parcels of land; to encourage the most appropriate use of land throughout the Town; to provide the best possible environment for human habitation; to facilitate the goals given in the Town of Brooklyn Land Use Plan.

#### **Section 3 Specific Provisions**

##### **3.1 JURISDICTION**

Jurisdiction of these regulations shall include all lands within the Town of Brooklyn. The provisions of this ordinance, as it relates to divisions of tracts of land into less than five (5) parcels shall not apply to:

- a. transfers of interest in land by will or pursuant to court order;
- b. leases for a term not to exceed ten (10) years, mortgages or easements;

- c. the sale or exchange 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 ordinance; and
- d. the redrawing of lot lines by the owner of a parcel so as to create the same number or fewer lots within that parcel, so long as each of the resulting lots are of equal or greater size than the minimum sizes required by this ordinance

### 3.2 COMPLIANCE

No person, firm, corporation, partnership or legal entity of any sort shall divide any land located within the Town which results in a land division as defined herein without compliance with all requirements of this ordinance and with:

- a. Chapter 236 of the Wisconsin Statutes
- b. Green County Zoning Regulations, Sanitary Code, and Subdivision regulations
- c. State of Wisconsin rules on sewers and septic systems
- d. State of Wisconsin rules on pollution abatement
- e. State of Wisconsin Department of Transportation rules relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the sub-divider abuts on a state trunk highway or connecting street; and
- f. All applicable master plans, zoning ordinances, official maps adopted under Section 62.33 Stats and any other ordinances and regulations.

Where provisions of this ordinance impose greater restrictions than a - f above, it is intended that the provisions of this ordinance shall apply.

### 3.3 DEFINITIONS

- a. Certified survey map – A map of land prepared in accordance with Sec 236.34 of the Wisconsin Statutes and in full compliance with applicable provisions of this ordinance. A certified survey has the same legal force and effect as a subdivision plat.
- b. Commission – The Town of Brooklyn Plan Commission.
- c. Board – The Brooklyn Town Board.
- d. Land Division – The division of a parcel of land by the owner thereof or the owner's agent where the act of division creates two or more lots.
- e. Lot – Land five (5) acres or larger created by land division.
- f. Land divider – Any person, corporation, or other entity requesting review or action on a land division.
- g. Parcel – Contiguous land under the control of a land divider regardless of whether it is separated by streets, highways, railroad right-of-ways, utility easements, or other easements.
- h. Land Use Plan – The Town of Brooklyn Land Use Plan.
- i. Town Clerk – Clerk of the Town of Brooklyn.
- j. Adjoining property – Parcels of land under the control of separate owners that share common border lines or points regardless of whether they are separated by streets, highways, or railroad right-of-ways.
- k. Setback lot – A lot not contiguous to a road except for that portion that serves as the access driveway and not less than 450' at its closest point from any Town road, County Road or State Highway. The area of the driveway serving the setback lot shall be excluded for the purpose of calculating the minimum five (5) acre lot size.
- l. Standard lot – A lot that is contiguous to a road and does not meet the definition of a Setback lot.

### 3.4 LAND DIVISIONS WITH OR WITHOUT A CERTIFIED SURVEY

a. A certified survey map (CSM) prepared by a land surveyor registered in this state shall be required for all land divisions. The remainder is not required to be surveyed until the landowner uses his or her last division allowed. The CSM shall comply in all respects with the requirements of Sec. 236.34 of the Wisconsin Statutes and shall, in addition and on its face, show correctly the following:

- (1) All existing buildings, water courses, drainage ditches, and other features pertinent to property division, including the location of water wells, dry wells, drain fields and pipes;
- (2) Setbacks or building lines required by the Town Planning Commission;
- (3) Date of the CSM;
- (4) Graphic scale;
- (5) Name and address of the owner, land divider and surveyor;
- (6) Accurate depiction of the size and location of any joint driveway which will serve the lots.
- (7) The survey's certification that he or she has fully complied with all provisions of this ordinance.
- (8) The following certificate, which shall be typed, lettered, or otherwise reproduced legibly and signed as follows:

***APPROVED BY THE TOWN OF BROOKLYN***

\_\_\_\_\_  
Chairperson

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk

Dated: \_\_\_\_\_

b. **Recording.** The land divider shall record the certified survey map with the Green County Register of Deeds after it has been approved, and shall file a certified copy of the recorded map with the Town Clerk within ten (10) days after the CSM is recorded.

c. **Number of Permitted Land Divisions.** One land division shall be allowed for every thirty-five (35) contiguous acres of land under a common owner as of June 11, 1993, the original effective date of this ordinance. No land division of a parcel may occur after the use or transfer of all allowable land divisions thereof.

d. **Lot Sizes and Frontage.** No land division shall result in the creation of any lot less than five (5) acres in size, except in the case of resultant setback lots when the minimum lot size shall be five (5) acres excluding the area dedicated to the access driveway. Standard lots created by divisions shall have a minimum of two hundred (200) feet of frontage on an existing town road, county highway or state highway; Setback lots shall have a minimum of fifty (50) feet of frontage on an existing town road, county highway or state highway.

e. **Transfer of Land Divisions.** The owner of a parcel may transfer any land division remaining available under this section to any lot or lots that resulted from an earlier land division of that original parcel, provided that the subsequent land division of those resultant lots conforms to the minimum lot size requirements of this section. No lot may divide except as permitted by the transfer of an allowable land division from the owner of the parcel from which the lot was divided.

f. **Clerk Duties and Recording Requirements.** The town clerk shall maintain a database tracking the number of divisions of each original parcel, any permitted transfer of an available division to a lot, and the remaining number of permitted divisions available to each parcel. A land divider shall include a statement on any conveying instrument that includes the number of land divisions of the parcel or lot being conveyed that remain allowable under this section.

g. **Number of Residential Structures.** There shall be no more than one (1) residential structure on any parcel or lot. Owners of any parcel or lot that contains or is intended to contain more than one (1) residential structure must use available divisions to create multiple lots, including the remainder, each with no more than one residential structure. If the owner of a parcel or lot with more than one residential structure has no available divisions, then said parcel shall be conveyed only as a single parcel without division. To ensure compliance with this section, the owners of any parcel that contains more than one residential structure, prior to the first division of said parcel, shall present to the Plan Commission a Certified Survey Map that displays, in addition to the items listed in Section 3.4(a), a land division that results in no parcel containing more than one residential unit.

h. The requirements and restrictions of this section shall run with any land affected thereby in perpetuity, regardless of ownership.

### **3.5 PROCEDURE FOR APPROVAL OF LAND DIVISIONS**

Any land divider who shall divide land located in the Town of Brooklyn which creates a land division as defined in this ordinance shall comply with the following procedure:

- a. The land divider shall prepare a Preliminary Parcel Division Inquiry. It shall be submitted to the Town of Brooklyn Plan Commission for review. The inquiry shall include a legible map showing boundaries and acreage of the original parcel and the lots to be created thereon, location of proposed improvements and location of natural waterways and other natural topographical features. Preliminary Parcel Inquiry forms and may be obtained from the Clerk.
- b. The Plan Commission shall review the proposed division and ensure its compliance with this ordinance. The Plan Commission's review shall include but not be limited to a review of the records of the Clerk to determine if the parcel in question has been subject to previous divisions, whether additional divisions of the parcel remain available under this ordinance, and whether the parcel is subject to other restrictions arising out of this ordinance.
- c. Upon approval of the Preliminary Parcel Division Inquiry by the Plan Commission, land divider shall submit to the Plan Commission a certified survey map (CSM) prepared by a registered surveyor if a CSM is required by paragraph 6 of this ordinance. The survey shall include an accurate legal description of the parcel from which the new lots are to be created, the acreage of each proposed lot locations of all proposed driveways, locations of public road frontage, locations of natural waterways or other natural topographical features, locations of proposed public and/or private easements, and descriptions of intended uses. If a CSM is not required for the division, the Plan Commission shall forward its recommendation for approval, conditional approval, or rejection of the proposed division to the Town Board.
- d. If the Preliminary Parcel Division Inquiry is rejected by the Plan Commission, the land divider may appeal that decision to the Town Board or resubmit an amended Inquiry to the Planning Commission.
- e. If a CSM is required, the Plan Commission shall review the CSM for compliance with the provisions of this ordinance and forward its recommendation for approval, conditional approval or rejection to the Town Board.
- f. Upon receiving the recommendation of the Plan Commission, the Town Board shall approve, approve conditionally or reject the land division on the determination as to its conformance with the provision of this ordinance and other applicable Town ordinances. As a condition of approval the Town Board may require the land divider to include deed restriction language on any instrument of conveyance.
- g. No construction shall commence on a lot created by a land division which does not comply with the provisions of this ordinance.
- h. In the event a proposed land division requires access by a "joint driveway" as defined in the Town of Brooklyn Driveway Ordinance, the land divider shall provide as follows:

- (1) Land divider shall include in the CSM, or CSMs as the case may be, to the Town Board's satisfaction, a depiction of the joint driveway showing the joint driveways location and all easements reasonably required for such joint driveway, such CSM(s) to be duly recorded with the Green County Register of Deeds following Town Board approval.
- (2) Land divider shall provide to the Town Board for approval, a joint driveway agreement to be used by those landowners having access to the joint driveway with such driveway agreement to be to be duly recorded with the Green County Register of Deeds following Town Board approval. Such driveway agreement shall run with the land.

### **3.6 LAND SUITABILITY**

No land shall be divided which is held unsuitable for the propose use by the Plan Commission for reasons of flooding, inadequate draining, soil and rock formations with severe limitations for development, sever erosion potential, unfavorable topography, inadequate septic or sewerage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the community. The Plan Commission in applying the provisions of this ordinance shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the land divider an opportunity to present evidence regarding suitability at a public hearing before the Town Board. Thereafter, the Town Board may affirm, modify, or withdraw the determination of unsuitability.

### **3.7 PENALTIES**

Any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon conviction, be subject to penalties and forfeitures as provided in Sections 236.30, 236.31, 236.32, 236.335 and 236.35 Wisconsin Stats.

## **Section 4 Standard provisions**

### **4.1 SEVERABILITY**

The provisions of this ordinance shall be deemed severable and it is expressly declared the Town Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the applicability thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

## **Section 5 Miscellaneous**

### **5.1 EFFECTIVE DATE**

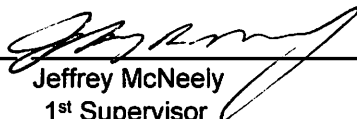
This ordinance is effective upon being published/posted.


**5.2 PUBLICATION AND POSTING**


The Town clerk shall properly publish and post this ordinance as required under s 60.80, WI statutes.

Adopted this 13<sup>th</sup> day of July 2016

  
\_\_\_\_\_  
Garth Langhammer  
Chairman

  
\_\_\_\_\_  
Jeffrey McNeely  
1<sup>st</sup> Supervisor

  
\_\_\_\_\_  
John Davis Jr.  
2<sup>nd</sup> Supervisor

Attest:   
\_\_\_\_\_  
Amy Ross  
Clerk

Posted: 8-16-16