



TOWN OF HERMAN, DODGE COUNTY

STATE OF WISCONSIN

ORDINANCE NO. 15-03

AN ORDINANCE AMENDING PROVISIONS OF  
CHAPTER 251 RELATED TO LAND DIVISION

WHEREAS, the Town of Herman has enacted Land Division regulations which are located in Chapter 251 of the Town of Herman Code; and,

WHEREAS, the Plan Commission has recommended minor changes to some provisions in the Chapter; and,

WHEREAS, a public hearing was held on the proposed regulations on April 21, 2015 preceded by a Class 2 notice of the hearing; and

WHEREAS, the Town Board concurs with the recommendation of the Plan Commission. NOW THEREFORE, the Town Board of the Town of Herman, Dodge County, Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Section 251-6 entitled "Jurisdiction" subsection (C) is hereby repealed and recreated to read as follows:

(C) 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 minimize sizes and meet all specifications required by these regulations, the Zoning Ordinances, and other applicable laws and ordinances, subject to the review procedures described in Section 251-195.

SECTION 2: Section 251-195 entitled "Prior review of sales or exchanges of parcels between adjoining landowners" is created to read as follows:

**251-195 Prior review of sales or exchanges of parcels between adjoining landowners.** In every situation, regardless of circumstances, that a property owner seeks to convey land in a manner that would adjust a lot line or create or eliminate a lot line, and that conveyance does not require a certified survey map or subdivision plat pursuant to this ordinance, and where an adjacent property owner intends to acquire such interest in land, the proposed action shall be submitted to the Town Plan Commission for prior review, before the conveyance documents are signed and before the conveyance is

recorded in the office of the County Register of Deeds. Such application must be filed with the Town Clerk along with a fee payment to offset all or part of the cost of this limited review, in an amount to be determined from time to time by separate resolution of the Town Board. The Town Plan Commission review shall be limited to considering whether the conveyance is in compliance with Wisconsin Statutes Section 236.45(2)(am)(3) and the applicable laws cited therein, including these regulations, the Zoning Ordinances, and other applicable laws and ordinances. Such conveyance can only be approved if the same number of lots exist prior to the conveyance as would exist after the conveyance. Such conveyance can only be approved if the resulting lots would all be both legal and conforming, even if any such lots are legal nonconforming prior to the conveyance, because the conveyance creates new lots which do not predate the ordinance and therefore have no legal non-conforming rights. Such conveyance must not be approved if the conveyance includes land that has a legal nonconforming use, because the legal nonconforming rights are limited to use of the preexisting lot. Such conveyance shall not be approved if any of the resulting lots and the existing improvements on the lots would be in violation of applicable open space requirements. Such conveyance shall not be approved if the conveyance would make an existing conforming structure illegal or nonconforming, or would increase the extent of any preexisting legal nonconformity of an existing structure.

SECTION 3: Section 251-9 entitled “Improvements”, shall be amended by repealing and recreating the first paragraph as follows:

Before final plat approval located within the jurisdictional limits of this chapter, the owner shall install improvements as hereinafter provided. The owner shall, before commencing with any improvements, enter into a developer's agreement with the municipality agreeing to install the required improvements. If the owner wishes final plat approval before completion of the improvements, the owner shall file with said cash or a letter of credit meeting the approval of the Municipal Attorney in an amount equal to the estimated construction cost of the improvements plus 15% of said cost and the fees, said estimate to be made by the Municipal Engineer, as a guarantee that such improvements will be completed by the owner or its subcontractors not later than the date or dates provided in the agreement and as a further guarantee that all obligations for work on the development are satisfied.

SECTION 4: Section 251-10 entitled “Request for waiver or modification; monument deferral”, subsection (B) entitled “Monument deferral” shall be repealed and recreated as follows:

B. Monument deferral. The governing body may defer the placing of monuments, required under § 236.15(1)(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the owner provide the municipality with surety bond, in an amount

specified by the governing body, to ensure the placing of such monuments within the required time limits established by the municipality.

SECTION 5: Section 251-37 entitled “Required information and documentation”, subsection (C)

entitled “Public improvements”, subdivision (2) shall be repealed and recreated to read as follows:

(2) The developer must submit, subject to approval of the Town Attorney, Town Planner and Town Engineer, a letter of credit or cash to guarantee full and timely completion of the improvements, prior to commencing any construction of said improvements.

SECTION 6: Section 251-54 entitled “Street and storm sewer construction” shall be

repealed.

SECTION 7: Section 251-71 entitled “Installation of Improvements” , subsection (C) shall be repealed and recreated to read as follows:

C. Should the owner wish to receive final plat approval prior to completion of improvements, the owner shall supply the municipality with cash or an irrevocable letter of credit approved by the Municipal Attorney and the governing body in the amount of estimated cost of improvements and other fees as approved by the Municipal Engineer. The Municipal Engineer may from time to time raise the amount of the estimated costs of said improvements. Within 30 days of written notice of said change, the owner shall increase the financial security by that amount or any other amount acceptable to the governing body. Reduction of the financial security for any purpose shall be made only after written approval of the Municipal Engineer and the governing body. As the required improvements are installed and accepted, the governing body may authorize reduction of the financial security in the amount deemed appropriate.

SECTION 8: SEVERABILITY

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms

that conflict.

SECTION 9: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Passed and adopted this \_\_\_\_ day of \_\_\_\_\_.

Town of Herman Town Board

\_\_\_\_\_  
Joel Christ, Chairperson

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Stephanie Justmann, Supervisor #1

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Dale Ravanelli, Supervisor #2

ATTEST:

\_\_\_\_\_  
Diane Beine, Clerk

Published and posted this \_\_\_\_ day of \_\_\_\_\_ 2015.