

ORIGINAL

**TOWN OF KINNICKINNIC  
St. Croix County, Wisconsin**

**Ordinance 2004-1  
An Ordinance Requiring Developer Agreements**

In the interest of the public health, safety, and welfare, the Town Board of the Town of Kinnickinnic hereby ordains as follows:

**Section 1: Purpose**

This ordinance is enacted to ensure that public improvements that are proposed to be made in the Town of Kinnickinnic 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 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 benefitted 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.

Accordingly, and 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, 236.13, 236.45 and the remainder of Chapter 236, the Town Board of the Town of Kinnickinnic 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 St. Croix County subdivision ordinance or the Town=s Subdivision Ordinance or that will result in the creation of a certified survey map (CSM) as defined and regulated by Wis. Stats. ' 236.34 or in the Town=s or St. Croix County Subdivision Ordinance shall enter into a developer agreement with the Town as a condition of the Town=s preliminary and final plat or CSM approval, and in accordance with the requirements of this ordinance, and the Town=s Subdivision Ordinance.

**Section 2: Developer Agreements Required**

Anyone proposing to create a certified survey map or a subdivision in the Town of

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subject property.

- F. Where any platted area in a subdivision or CSM will serve as open or buffer space and be jointly maintained and controlled by the owners of the platted lots or where private roads, erosion control or storm water management devices, or other private improvements will be installed in the area being subdivided that will require ongoing maintenance, the developer agreement shall require that a homeowner=s association be created with membership on an equal basis of all platted lots not commonly owned and on an equal basis that association bylaws be developed and that a restrictive covenant or other perpetual, binding legal device be employed that will create, administer and enforce the collective responsibilities of the individual members of the said homeowner=s association concerning commonly held areas and/or private roads, erosion control or storm water management devices, or other private improvements serving the subdivision. The restrictive covenants, homeowners association bylaws shall provide that no change to the maintenance responsibilities of the homeowners association as described above shall be effective without Town Board approval.
- G. The developer agreement and its exhibits shall contain information regarding the nature, extent, design, construction, quantity, location and other relevant characteristics, in such detail as requested by the Town, concerning all planned public or private infrastructure or improvements including, but not limited to, sanitary sewer service, water service, public or private ways and roads, suggested speed limits, cul-de-sacs, intersections and road connection, storm water and erosion control measures, conservation easements, parks, berms, plantings, ponds, streams, paths, lighting, monumentation, outbuildings and all other public or private improvements that may be proposed by a developer or required by then existing state, county or Town statutes, regulations or ordinances.
- H. The developers agreement shall address the timing of joint driveway paving, shall require shared maintenance agreements concerning shared driveways and shall address the control and removal of debris and rubbish during initial construction on lots being created.
- I. The developer agreement shall refer to or include as exhibits the following information:
- (1) Preliminary plat;
  - (2) Final plat, to be added once approved and recorded;

**Section 4: When Developer Agreements Shall Be Executed And Delivered To The Town.**

- A. For a major subdivision, the developer agreement shall be executed and delivered to the Town Board prior to preliminary plat approval.
- B. For certified survey maps, the developer agreement shall be executed and delivered to the Town Board prior to Town Board final approval of the said certified survey map.
- C. Failure to execute and deliver a developer agreement to the Town within 90 days of the time of valid submission of an application to the Town Board for CSM or preliminary plat approval shall be grounds for rejection of the said application by the Town unless the time is extended by written agreement with the developer.

**Section 5: Waiver.**

- A. The Town Board may, but is not required to, waive the requirement of a developer agreement in a situation where:
  - (1) The application for subdivision of land complies with the Town=s master plan, with all applicable local and county ordinances and state law, and no variances or rezoning will be required;
  - (2) No significant public or private improvements, facilities or dedication of facilities or areas for public use or common private use among the lot owners will be required by the Town as a result of the development being proposed; and
  - (3) No utilities will be significantly altered.
- B. The Town Board shall have sole discretion in determining whether to waive the requirement of a developer agreement. It shall consider the recommendation of the Plan Commission in making this decision.

**Section 6: Violations and Penalties**

- 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

Public Hearing held April 5<sup>th</sup> 2004  
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