

RESOLUTION NO. 040907-01

Resolution to Adopt a Temporary Moratorium on the Acceptance, Review and Approval of Land Divisions and Subdivision Applications and Condominium Plat Applications for Lakefront Properties.

WHEREAS, the adoption of this Resolution is supported by the following findings by the Village Board for the Village of Fontana-on-Geneva Lake:

1. The Village of Fontana-on-Geneva Lake (“Village”) has and continues to experience development pressure as to those properties abutting the shores of Geneva Lake.
2. The Village intends to initiate a process by this Resolution of updating its zoning ordinances and, to the extent necessary or appropriate, its master plan, for the purpose of reviewing and implementing and replacing those land use policies reflected in the master plan and codified in the Village Municipal Code of Ordinances as to those properties abutting the shores of Geneva Lake.
3. A temporary moratorium or stay on the acceptance, review and approval of land division and subdivision applications and condominium applications for those properties abutting the shores of Geneva Lake will provide the Village with an opportunity to stabilize development and residential density in those areas during the process of reviewing the Village master plan and the Village Municipal Code of Ordinances, and such moratorium or stay will eliminate residential development pressures among those properties abutting Geneva Lake which would otherwise increase during the planning and code review process because land owners and developers might seek to rush their projects in order to gain approval before the planning and code of review process can be completed.
4. A temporary moratorium or stay will allow the Village sufficient time to implement additional new regulation elements, including zoning and subdivision and condominium regulations, by amending existing or creating new ordinances, if necessary. It is the intent of the Village Board that this resolution shall be temporary until the Village Plan Commission and the Village Board have an opportunity to hold a public hearing, generate a recommendation from the Plan Commission, and allow the Village Board to take action on an ordinance codifying this moratorium for a fixed period while the planning process continues, it being the purpose and intent of this Resolution to impose a temporary moratorium until the Village Plan Commission and Village Board has an opportunity to complete their work on a moratorium ordinance.
5. The Village Board believes that the adoption of a temporary moratorium or stay will promote the public health, safety and general welfare and convenience of the Village and encourage the most appropriate use of land for those properties abutting Geneva Lake.

6. This temporary moratorium or stay shall not apply to the issuance of building permits.

NOW, THEREFORE, based upon the findings set forth herein and pursuant to the authority of the Village granted by Wisconsin statutes and its inherent home rule authority, including, but not limited to §62.23 Wis. Stats., the Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, does hereby resolve as follows:

SECTION 1. INCORPORATION OF RECITALS AND FINDINGS

The recitals set forth above, and the findings set forth herein are hereby incorporated herein by reference as if set forth at length herein.

SECTION 2. TEMPORARY LAND DIVISION, SUBDIVISION AND CONDOMINIUM STAY.

There is hereby established a temporary moratorium and stay on the acceptance, review and approval by Village officials, staff, consultants, Village Plan Commission or Village Board of any application for a land division, subdivision or condominium affecting properties abutting Geneva Lake received by the Village on or after the effective date of this Resolution. Except as provided herein at Section 3., this Resolution shall apply to any and all minor subdivisions, subdivisions and condominiums affecting properties abutting Geneva Lake as those terms are used in the Village's existing subdivision ordinance.

SECTION 3. EXCEPTIONS.

The temporary moratorium or stay on the acceptance, review and approval of land division and subdivision applications and condominiums shall not apply to the following:

- A. A complete land division or subdivision or condominium application that was submitted in conformity with the Village's existing Land Division and Subdivision Regulations Ordinance on or before the effective date of this Resolution.
- B. Certified survey maps that do not create additional building sites.
- C. Divisions of land or condominiums that are necessary to avoid a property owner being denied all economic use of his or her land.
- D. Divisions of land or condominiums that are essential for the correction of a problem or remediation of a situation which immediately threatens the public health or welfare.

SECTION 4. REQUEST FOR EXEMPTION FROM TEMPORARY STAY.

- A. Any property owner or their agent may apply for an exception to the temporary stay on any of the grounds stated in Section 3. The application shall be filed with the Village Clerk accompanied by a fee of \$300.00 and shall be subject to the Village's Cost Recovery Ordinance and policy.
- B. Upon receipt of an application and filing fee, the Village Clerk shall refer the application for exception to the temporary stay to the Plan Commission which shall, after hearing, make the necessary findings and recommendation to the Village Board that an appropriate exception does or does not exist.
- C. Upon receipt of the Plan Commission's recommendation, the Village Board shall act upon the recommendation. The Village Board shall have the authority to reject, accept or modify the recommendation of the Plan Commission. The decision of the Village board shall be subject to appeal to the Village Board of Zoning Appeals. If the Village Board determines that a landowner has met an exception to the temporary stay, such action on the Village Board's part does not limit the Village's ultimate authority to approve, reject, or conditionally approve any proposed division of land or condominium under the Village's Land Division and Subdivision Ordinance.

SECTION 5. DURATION.

This Resolution shall expire at such time as the Village Plan Commission and thereafter the Village Board accepts an ordinance imposing a fixed term temporary moratorium by ordinance and after public hearing, but in no case shall this Resolution extend beyond June 5, 2007.

SECTION 6. INCONSISTENT ORDINANCES VOIDED.

All ordinances or provisions of Village ordinances inconsistent with or contravening the provisions of this Resolution are hereby temporarily voided and shall have no legal force or effect during the period this Resolution is in effect.

SECTION 7. SEVERABILITY.

If any section or part of this Resolution is judged to be unconstitutional, unlawful, or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

SECTION 8. EFFECTIVE DATE.

This Resolution shall take effect upon adoption or, if a later effective date is required by

law, upon the earliest date allowed by law.

The above and foregoing Resolution was duly adopted by the Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin on the 9th day of April, 2007.

VILLAGE OF FONTANA-ON-GENEVA LAKE

By: _____
Thomas Whowell, Village President

Attest: _____
Dennis Martin, Village Clerk