

ORDINANCE NO. 01-10-11-01

**An Ordinance to Impose a Temporary Moratorium or Stay
on the Acceptance, Review and Approval of
Rezone, Land Division and Subdivision Applications and
Condominium Plat Applications on Village Properties.**

WHEREAS, the adoption of this Ordinance 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 located in the Village.
2. The Village intends to initiate a process by this Ordinance of updating its zoning and subdivision 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.
3. A temporary moratorium or stay on the acceptance, review and approval of rezone, land division and subdivision applications and condominium applications for all properties located in the Village will provide the Village with an opportunity to stabilize development and residential density during the process of reviewing the Village master plan and the Village Municipal Code of Ordinances, and such temporary moratorium or stay will eliminate residential development pressures among properties 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.
5. A temporary moratorium or stay has been recommended by the Village's principal planner as stated in a June 25, 2010, Memo titled: "Moratorium During the Ordinance Rewrite Process", which said Memo is incorporated herein by reference as if set forth at length herein.
6. The Village Plan Commission has met and considered a recommendation to the Village Board, and the Village Board has considered the Village Plan Commission's action.
7. Subsequent to a Class 2 published notice, a public hearing was held on January 10, 2011, regarding the adoption of the temporary moratorium or stay.
8. 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 and properties in the Village.
9. This temporary moratorium or stay shall not apply to the issuance of building permits, conditional use permits or occupancy 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 sections 61.34, 61.32, 62.23, and 236.45 Wis. Stats., the Village

Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, does hereby ordain 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. REZONE, 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 rezone, land division, minor subdivision, subdivision or condominium affecting properties in the Village on or after the effective date of this Ordinance. Except as provided herein at Section 3., this Ordinance shall apply to any and all minor subdivisions, subdivisions and condominiums affecting properties in the Village 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 rezone, 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 Ordinance.
- B. A complete rezone application that was submitted in conformity with the Village's existing Zoning Ordinance on or before the effective date of this Ordinance.
- C. Amendments to condominium applications necessary for the Cliffs of Fontana Development pursuant to their Development Agreement obligations.
- D. Certified survey maps that do not create additional building sites.
- E. Divisions of land or condominiums that are necessary to avoid a property owner being denied all economic use of his or her land.
- F. 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.
- G. Divisions of land or condominiums located entirely within the Village's currently

active TIF District.

SECTION 4. REQUEST FOR EXEMPTION FROM MORATORIUM OR STAY.

- A. Any property owner or their agent may apply for an exception to the temporary moratorium or 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 moratorium or 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 rezone, division of land or condominium under the Village's Land Division and Subdivision Ordinance.

SECTION 5. DURATION.

This Ordinance shall expire 12 months after its effective date, unless an earlier or later date is subsequently adopted.

SECTION 6. INCONSISTENT ORDINANCES VOIDED.

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

SECTION 7. SEVERABILITY.

If any section or part of this Ordinance 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.

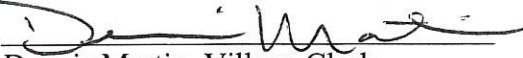
This ordinance shall be in full force and effect upon and from its passage, approval and

publication as required by law.

PASSED AND ADOPTED by the Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin this 10th day of January, 2011.

VILLAGE BOARD OF THE VILLAGE
OF FONTANA-ON-GENEVA LAKE

By: 
Arvid E. Petersen, Village President

Attest: 
Dennis Martin, Village Clerk