

ORDINANCE NO. 8-21-12

**TOWN OF SARATOGA
Interim Zoning Ordinance to Preserve Existing Land Use
Within the Jurisdiction of the Town of Saratoga
Pending the Completion of the Town Zoning Ordinance**

RECITALS

WHEREAS, on August 15, 2007, the Town of Saratoga (“Town”) in Wood County, Wisconsin, adopted Comprehensive Plan 2007-2025 (“Comprehensive Plan”) pursuant to Ordinance No. 8-15-2007A. A copy of the adopting ordinance is attached as Exhibit A and incorporated by reference;

WHEREAS, the Comprehensive Plan’s Action Plan includes a short-term (5 years) directive to the Town Board and Plan Commission to adopt a Town of Saratoga Zoning Ordinance (*see* Comprehensive Plan, page 39);

WHEREAS, following adoption of the Comprehensive Plan, the Plan Commission began working on a Zoning Ordinance;

WHEREAS, the Plan Commission has held numerous working meetings on development of the Zoning Ordinance, such as the April 11, 2012 meeting where a comprehensive draft of the Zoning Ordinance was distributed;

WHEREAS, the Town has not yet adopted a Zoning Ordinance pursuant to Wis. Stat. §§ 60.10(2)(c), 60.10(2)(h) and/or 60.22(3), and/or Wis. Stat. §§ 60.23, 60.61, and/or 60.62;

WHEREAS, the Town and its residents have invested a substantial amount of time, money and effort in the land use planning process, and it is in the best interests of the Town and the public health, safety and general welfare of its residents to complete the Zoning Ordinance by the end of 2012 and in accordance with the schedule and land use planning set forth in the Comprehensive Plan;

WHEREAS, the Town wishes to initiate the formal process to enact a Zoning Ordinance, and the Town Board finds that an Interim Zoning Ordinance is necessary to preserve the status quo while allowing the Town to engage in procedural review and deliberation of the proposed Zoning Ordinance, as may be amended during the final phases of review;

WHEREAS, preservation of the status quo during this interim period is essential to permit the Town adequate time to complete its study of the possible impacts that adoption of the Zoning Ordinance may have on the health, safety, and general welfare of the residents of the Town, including impacts on air quality, water quality, public infrastructure, property values, and the local economy;

WHEREAS, the Town Board finds that an Interim Zoning Ordinance is necessary to allow Town residents and other members of the public an opportunity to fully participate in this important phase of the Town's land use planning and Zoning Ordinance review;

WHEREAS, in further support of these objectives, the Town Board adopted Ordinance No. 07-19-12 imposing a moratorium on the issuance of building approvals of site plans or construction inconsistent with existing land use pending the study of possible legislative action;

WHEREAS, in accordance with the Town's authority as granted and set forth in Wis. Stat. §§ 60.10(2)(c), 61.35 and 62.23, the Town Board also finds that regulation of certain areas within the Town's jurisdiction is reasonable and necessary for the purpose of promoting health, safety, morals and the general welfare of the community, along with the general purpose to lessen the congestion on public highways; to secure safety and promote health and the general welfare; to encourage the protection of groundwater quality, public water supply, streams and springs, and air quality; to avoid undue concentration of land uses that may adversely impact public health, adjacent land uses and/or land values;

WHEREAS, in order to provide meaningful implementation of the Comprehensive Plan and complete the statutorily required process for adoption of a Zoning Ordinance, the Town Board finds that it is prudent, reasonable and necessary to preserve the existing uses as detailed in the Comprehensive Plan in 2007, and control the administration and enforcement of said existing uses, by adoption of an Interim Zoning Ordinance; and,

NOW, THEREFORE, IN CONSIDERATION OF THE FINDINGS AND RECITALS SET FORTH ABOVE, WHICH ARE INCORPORATED HEREIN BY REFERENCE, THE TOWN BOARD OF THE TOWN OF SARATOGA, WOOD COUNTY, WISCONSIN, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1 – TITLE AND PURPOSE

1.1 **Title.** The title of this Ordinance is the Town of Saratoga Interim Zoning Ordinance to Preserve Existing Land Use Within the Jurisdiction of the Town of Saratoga Pending the Completion of the Town Zoning Ordinance (“**Interim Zoning Ordinance**”).

1.2 **Purpose.** The purpose of the Interim Zoning Ordinance is to promote health, safety, and general welfare; to preserve the existing land uses as set forth in the Comprehensive Plan; and, to provide for prudent land use planning and implementation based on the findings and reasons set forth in more detail in the above Recitals, which are incorporated by reference.

Section 2 – AUTHORITY

The Town Board relies on its general police powers, as conferred on the Town Board pursuant to Wis. Stat. §§ 60.10(2)(c), 60.22(3) and 61.34, and the powers set forth in Wis. Stat. §§ 60.23, 60.61, and 60.62. The Town Board further relies upon Wis. Stat. § 62.23(7)(da) with respect to the exercise of interim zoning authority.

Section 3 – INTERIM ZONING

3.1 The Town Board does hereby declare that all existing uses of real property within the Town of Saratoga shall be maintained from the date of this Interim Zoning Ordinance until a permanent Zoning Ordinance is enacted, provided that said Zoning Ordinance is adopted by the Town no later than two years after the effective date of this Interim Zoning Ordinance. For purposes of this Interim Zoning Ordinance, the term “existing uses” means those uses described and depicted in the map adopted as part of the Comprehensive Plan, which map is attached hereto as Exhibit B, incorporated by reference and made a part of this Interim Zoning Ordinance.

3.2 During the period when this Interim Zoning Ordinance is in effect, no person owning real property in the Town shall erect or construct any improvement that is deemed by the Town to change the existing use, or change or attempt to change any existing use of real property in the Town. Notwithstanding the foregoing, a person may construct an improvement or use real property if such improvement or use is consistent with land uses previously existing or previously approved by the Town Board.

3.3 Any and all requests for construction of improvements or determinations as to whether an anticipated use of real property is consistent with this Interim Zoning

Ordinance shall require prior review and a determination that the request is consistent with the terms and conditions of this Interim Zoning Ordinance. To initiate the review process, a written application for a review and determination must be filed with the Town Clerk. At a minimum, the applicant should provide a description of the anticipated construction, improvement and/or use as well as an explanation sufficient for the Town to determine whether the request is consistent with the terms and conditions of this Interim Zoning Ordinance. The Town Clerk shall notify all adjoining property owners of such application, and shall forward the application to the Plan Commission for initial review and recommendation. The Plan Commission shall determine if the application is complete and may request additional information from the application. Following review of a complete application, the Plan Commission shall make a recommendation to the Town Board as to whether the anticipated construction, improvement or use is consistent with the Interim Zoning Ordinance and compatible with neighboring uses or uses previously approved by the Town Board. The Town Board shall review the Plan Commission's recommendation and make the final determination.

3.4 Any construction, improvement or use that is inconsistent with this Interim Zoning Ordinance is strictly prohibited. Any person who violates the terms of this Interim Zoning Ordinance, as determined in the sound discretion of the Town Board, shall be required to remove such improvement or construction, discontinue such inconsistent use, and restore the real property to its original condition. The Town shall have the right, but not the obligation, to pursue injunctive and compensatory relief for violations, along with the costs of prosecution, including actual attorney fees. Violations of this Interim Zoning Ordinance shall also be subject to a penalty of no less than \$500.00 per violation, along with the costs of prosecution, including actual attorney fees. Each day that a violation exists or continues shall be considered a separate violation.

Section 4 – MISCELLANEOUS PROVISIONS

4.1 Severability.

(a) Should any section, clause, provision or portion of this Interim Zoning Ordinance be adjudged unconstitutional or invalid, unlawful, or unenforceable by a final order of a court of competent jurisdiction including all applicable appeals, the remainder of this Interim Zoning Ordinance shall remain in full force and effect.

(b) If any application of this Interim Zoning Ordinance to a particular parcel of land is adjudged unconstitutional or invalid by a final order or a court of competent jurisdiction including all applicable appeals, such judgment shall not be applicable to any other parcel of land not specifically included in said judgment.

4.2 **Interpretation.** The provisions of this Interim Zoning Ordinance shall be liberally construed in favor of the Town and shall not be construed to be a limitation or a repeal of any other power now possessed or later granted to the Town.


Section 5 – EFFECTIVE DATE AND PUBLICATION

5.1 This Interim Zoning Ordinance shall be effective upon adoption by a majority of those present and voting at a duly noticed meeting of the Town Board.


5.2 Following adoption, this Interim Zoning Ordinance shall be properly published or posted, as required by law.

ADOPTED by a vote of 5 for and 0 against on this 21st day of August, 2012.

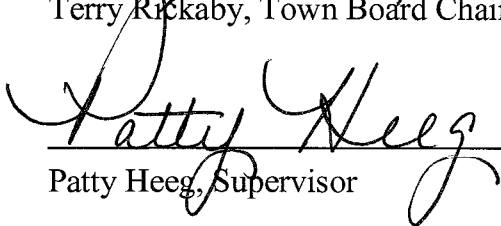
TOWN OF SARATOGA




Terry Rickaby, Town Board Chairperson



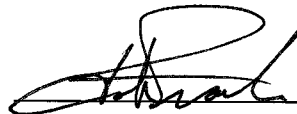
Dan Forbes, Supervisor



Patty Heeg, Supervisor

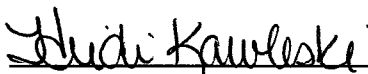


Douglas Passineau, Supervisor



John Frank, Supervisor

Attested to this 21st day of August, 2012.



Heidi Kawleski, Town Clerk