

TOWN OF SCOTT
CRAWFORD COUNTY, WI
LAND DIVISION ORDINANCE

1.01 DISCLAIMER

- (1) Multiple Jurisdictions. All persons reviewing the provisions of this Ordinance should be aware that the Town of Scott is only one of a number of governmental bodies that may have jurisdiction over proposed land divisions or development. The Town of Scott cannot make any representations on behalf of any other governmental body. No land division may be made unless all required approvals have been given.
- (2) Binding Acts. No statement or actions by any official, employee, agent, or committee of the Town of Scott should be construed or taken as a binding act of the Town of Scott except as a resolution, motion, or ordinance that has been adopted by the Town of Scott at a lawfully conducted Town Board meeting, or by the Town electorate at a duly constituted Annual or Special Town Meeting. This includes, but is not limited to, interpretation of this Ordinance.
- (3) Compliance Assurance. The Town of Scott expressly states that it has no responsibility whatsoever for assuring that land and/or buildings sold in the Town are in compliance with any ordinances, regulations, or rules. The Town also assumes no responsibility for the suitability of any property whose land division has not been approved by the Town Board.

1.02 AUTHORITY

These regulations are adopted under the statutory authority granted pursuant to section 236.45 of the Wisconsin Statutes.

1.03 PURPOSE AND INTENT

The purpose and intent of this Ordinance are to regulate and control the division of land within the limits of the Town of Scott, Crawford County, Wisconsin, in order to:

- (1) Promote the public health, safety, and general welfare of the community.
- (2) Supplement county-and state land division controls to implement the Town's comprehensive plan/master plan/land use plan.
- (3) Promote the planned and orderly layout and use of the land.

- (4) Encourage the most appropriate use of the land throughout the Town.
- (5) Minimize the public impact resulting from the division of large tracts into smaller parcels of land.
- (6) Facilitate adequate provision of transportation, water, sewerage, health, education, recreation, and other public requirements.
- (7) Provide the best possible environment for human habitation.
- (8) Enforce the goals and policies set forth in the Town's comprehensive plan/master plan/land use plan.
- (9) Ensure that the design of the road system will not have a negative long-term effect on neighborhood quality, traffic flow, and safety.
- (10) Realize goals, objectives, policies, and development standards set forth in plans, codes, and ordinances adopted by the Town.
- (11) Secure safety from fire, flooding, and other dangers.
- (12) Avoid the inefficient and uneconomical extension of governmental services.
- (13) Conserve the value of prime agricultural soils.
- (14) Provide for the conservation of the Town's agriculturally important lands by minimizing conflicting land uses.
- (15) Promote the rural and agricultural character, scenic vistas, and natural beauty of the Town.
- (16) Provide for the administration and enforcement of this Ordinance.

1.04 ABROGATION AND GREATER RESTRICTIONS

It is not the intent of this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations, permits, or approvals previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, and such restrictions do not contravene rights vested under law, the provisions of this Ordinance shall govern.

1.05 INTERPRETATION

The provisions of this Ordinance shall be interpreted to be minimum requirements and shall be liberally construed in favor of the Town, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.06 AMENDMENTS

The Town Board may, upon recommendations of the Town Plan Commission, amend, supplement, or repeal any of these regulations after public notice and hearing and as may be required by Chapter 236 of the Wisconsin Statutes.

1.07 SEVERABILITY

The provisions of this Ordinance shall be deemed severable. It is expressly declared that the Town Board would have passed the other provisions of this Ordinance irrespective of whether one or more provisions may be declared invalid. If any section, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

1.08 REPEAL

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

1.09 JURISDICTION

This Ordinance shall apply to all lands within the Town of Scott.

1.10 APPLICABILITY

- A. Any division of land within the Town that results in a land division as defined in Section 1.11 of this Ordinance.
- B. The provisions of this Ordinance, as it applies to divisions of tracts of land shall not apply to the following:
 - (1) Land division resulting in the creation of lot(s) of 35 acres or more
 - (2) Transfers in interest in land by will or pursuant to court order.
 - (3) Leases for a term of not more than ten (10) years, mortgages, or easements.
 - (4) The sale or exchange of land between owners of adjoining property if

additional lots are not thereby created and if the lots resulting are not reduced below the minimum size required by this ordinance.

- (5) Cemetery plots under Wisconsin Statute section 157.07.

1.11 DEFINITIONS

For the purposes of this Ordinance, the following definitions shall apply. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular. Any words not defined in this Section shall be presumed to have their customary definitions as given in standard reference dictionaries.

- (1) Agricultural Use. As defined in sec. 91.01(1) of the Wisconsin Statutes to mean beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk production termination program under 7 USC 1446(d); and vegetable raising.
- (2) Certified Survey Map. A map of a land division prepared in accordance with sec. 236.34 of the Wisconsin Statutes and in full compliance with the applicable provisions of this Ordinance. A Certified Survey Map has the same legal force and effect as a land division plat.
- (3) Comprehensive or Master Plan. The plan, as defined by Section 66.1001 of the Wisconsin Statutes, adopted by the Town of Scott.
- (4) Conservation Easement. Property rights transferred to a third party that permanently prevent the development of the land for purposes inconsistent with the easement. See Wis. Stats. Sec. 700.40.
- (5) Deed Restriction. A restriction on the use of a property set forth in the deed, including, but not limited to, a restriction placed on undeveloped land as a condition for the division or development of adjacent land.
- (6) Land Divider. Any person, partnership, corporation, or other legal entity, dividing or proposing to divide land resulting in a land division, as defined by this Ordinance. The person, partnership, corporation, or other legal entity must have ownership or another legal interest in the subject land.
- (7) Land Division. The division of a lot, parcel, or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development where the

act of division creates two or more parcels or building sites, inclusive of the original remnant parcel, any of which is less than 35 acres in area, by a division or by successive divisions of any part of the original property within a period of five years.

[Note: sometimes lenders will want a mortgage to apply to only the part of a larger parcel that has the house and buildings on it. The recording of a survey to accomplish this would be exempt.]

- (8) Land Use Plan. The plan, concerning issues of land use in the Town, adopted by the Town of Scott, including any subsequent amendments.
- (9) Lot. A parcel of land that is more than 1 acre, and is created by a land division. Designated parcel, tract, or area of land established by plat, land division or as otherwise permitted by law to be conveyed, used, developed, or built upon as a unit.
- (10) Master Plan. The plan, concerning issues of land in the Town, adopted pursuant to section 62.23 of the Wisconsin Statutes.
- (11) Natural Resource. Air, land, water, groundwater, drinking water supplies, wildlife, fish, biota, and other such resources belonging to, managed by, appertaining to, or otherwise controlled by the United States, Wisconsin and/or the Town of Scott.
- (12) Parcel: All of a contiguous area of land to which legal or equitable title is held by a single owner, regardless of whether the owner acquired the land by one conveyance or by more than one conveyance and regardless of whether the land is separated into parts by roads, streams, railroad crossing right of ways, and other barriers.
- (13) Subdivider. The term subdivider, when incorporated by reference herein from Chapter 236 of the Wisconsin Statutes, shall mean land divider as defined in this Ordinance.
- (14) Town. The Town of Scott, Crawford County, Wisconsin.
- (15) Town Board. The Board of Supervisors for the Town of Scott.
- (16) Town Clerk. The Clerk of the Town of Scott.
- (17) Wetland. An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation, and which has soils indicative of wet conditions.

1.12 COMPLIANCE

No person, partnership, corporation, or legal entity of any sort shall divide any land subject to the requirements of this Ordinance and no such land division shall be entitled to record unless such land division is in full compliance with:

- (1) All requirements of this Ordinance;
- (2) Chapter 236 of the Wisconsin Statutes;
- (3) The Town Comprehensive Plan or any component thereof;
- (4) Crawford County Zoning Regulations, Building Code, Sanitary Code, erosion control regulations, and land division regulations;
- (5) State of Wisconsin Department of Natural Resources rules on wetlands, shorelands, sewers, septic systems, and pollution abatement;
- (6) All applicable state and local sanitary codes;
- (7) Applicable Town of Scott ordinances
- (8) State of Wisconsin Department of Transportation and/or Crawford County Highway Department rules relating to safety of access and the preservation of the public interest and investment in the highway system, if the land owned and controlled by the land divider abuts on a state or county trunk highway or connecting road or street; and
- (9) All applicable master plans, zoning ordinances, or official maps adopted pursuant to sec. 62.23 of the Wisconsin Statutes, and any other pertinent town or county ordinances and regulations.

Where provisions of this Ordinance impose greater restrictions than (2) through (9) above, it is intended that the provisions of this Ordinance shall apply.

1.13 LAND SUITABILITY

- (1) Minimum Lot Size. All lots created by a land division occurring after the effective date of this Ordinance shall be at least one acre in size.
- (2) Successive Land Divisions. No land division shall be made that creates more than one lot from a single parcel within a 5 year period. Lots created by land division after the effective date of this ordinance shall not be divided within 5 years.
- (3) Natural and Preexisting Divisions. No land will be divided solely because the parcel is bisected by a road, railroad, right of way, stream, or other natural feature on the land.

- (4) Material Interference with Goals of Comprehensive Plan/Master Plan/Land Use Plan. No land shall be divided if the Town Board determines that it will materially interfere with existing agricultural uses or will conflict with other goals, objectives and policies as set forth in the Town of Scott comprehensive plan/master plan/land use plan.
- (5) Threat to Groundwater. No land shall be divided for a purpose that poses a significant threat to the quality or quantity of Town groundwater.
- (6) Unsuitable Conditions. No land shall be subdivided which is held unsuitable for its proposed use by the Town Plan Commission for reason of flooding, inadequate drainage, dangerous or hazardous land conditions, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal or maintenance capabilities, improper utilization of prime farm soils, undue costs and inefficiencies in the provision of governmental services, or any other feature likely to be harmful to the health, safety or welfare of future residents of the Town. The Plan Commission may require the land divider to furnish maps, data and other information as may be necessary to determine land suitability.

1.14 VIOLATIONS

It shall be unlawful to build upon, divide, convey, record instruments relating to any parcel created after the effective date of this Ordinance that has not been reviewed and approved under this Ordinance or that is otherwise in violation of this Ordinance or the Wisconsin Statutes. No person, partnership, corporation or other legal entity shall be issued a driveway permit or a building permit, authorizing the building on, or improvement of, any land division within the jurisdiction of this Ordinance not of record as of the effective date of this Ordinance until the provisions and requirements of this Ordinance have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this Ordinance.

1.15 ADMINISTRATION

- (1) The Administrative Procedures contained within sections 18.08 and 18.09 of the Crawford County Subdivision and Platting Ordinance are adopted herein by Reference, with the following exceptions and modifications:
 - (a) The reference to "15 acres" shall be changed to "35 acres" throughout Sections 18.08 and 18.09.
 - (b) References to County officials shall be changed to Designated Town Officials.
 - (c) If the Town has participated in the Preliminary Meeting required by

Sections 1808(2) and 1809(2), an additional meeting with the Town shall occur only if the Town officials request same. A Preliminary Meeting shall be held with the Town if the land division does not fall Under the jurisdiction of the County Ordinance.

- (d) The procedures of sections 18.08 shall apply where the format of the proposed land division is other than a subdivision plat; the procedures of section 18.09 shall apply where the format is a subdivision plat.
 - (e) Sections 18.08(4) and 18.09(5) (SUBDIVISION DESIGN STANDARDS) are inapplicable to land divisions that do not fall within the jurisdiction of the County Ordinance.
 - (f) The procedures of Town review shall be as designated by the Town Board, substituting for the provisions of subsections (6) of the two referenced County Ordinances. The Town review fee shall be \$10.00.
- (2) Variances can be granted by the Plan Commission in cases involving family circumstances, natural disasters or other unforeseen situations.
- (a) Requests for variances shall be filed with the chairman of the Plan Commission.
 - (b) The chairman shall call a meeting of the Plan Commission to consider a request for variance within 30 days of receiving such a request.
 - (c) The Plan Commission shall make a decision by majority vote within 30 days of the initial meeting. The commission shall notify the person or persons involved in the request for a variance within 15 days of the decision.
 - (d) Decisions of the Plan Commission may be appealed to the Town Board. Any appeal must be filed with the Town Clerk, who will place the appeal on the agenda of the next Town Board meeting. The Town Board will make a final decision by majority vote within 30 days of the filing of the appeal.

1.16 PENALTIES

- (1) Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$ 100 plus any additional applicable costs incurred by the Town for each offense. Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant penalties shall include the following:
 - (a) Recordation improperly made carries penalties as provided in Section

236.30 of the Wisconsin Statutes.

- (b) Conveyance of lots in unrecorded plats carries penalties as provided in Section 236.31 of the Wisconsin Statutes.
- (c) Monuments disturbed or not placed carries penalties as provided in Section 236.32 of the Wisconsin Statutes.

(2) Enjoinment. No person shall sell land in lots unless the lots have been lawfully approved pursuant to the terms of this Ordinance or any predecessor procedure. The unlawful sale of lots is deemed to be a public nuisance, which may be enjoined by a court of record.

1.17 PLAN COMMISSION RECOMMENDATION

The Town Plan Commission recommended adoption of this Land Division Ordinance at a meeting held on the ____ day of _____, 20__.

1.18 TOWN BOARD APPROVAL

The Town Board of the Town of Scott held a public hearing on this Ordinance on the ____ day of _____, 2006, preceded by a Class 2 notice under Wisconsin Statutes ch. 985, and concurred with the recommendations of the Plan Commission and adopted the Land Division Ordinance at a meeting held on the ____ day of _____, 20__.

APPROVED BY:

(name), Chairperson

(name), Supervisor

(name), Supervisor

ATTESTED BY:

(name), Clerk