

TOWN OF OSCEOLA
POLK COUNTY WISCONSIN

**CHAPTER 18 SUBDIVISION AND PLATTING ORDINANCE
OF THE TOWN OF OSCEOLA CODE OF ORDINANCES**

Adopted 03/08/1999, Amended 05/12/2003, 07/09/07 and 07/11/11

The Town Board of Supervisors of the Town of Osceola do ordain as follows:

18.01 Purpose

This chapter is adopted pursuant to §236.45, Wisconsin Statutes, to achieve the purposes of Chapter 236, Wisconsin Statutes, and to provide safe and orderly subdivision layouts.

The intent of this Ordinance is to promote the public health, safety, convenience and general welfare of the community. The regulations are designed to lessen congestion in the highways and streets, to foster the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to discourage overcrowding of the land; to protect the community's agriculture base; to facilitate adequate provision for transportation, public water and sewerage, schools, parks, playgrounds and other public necessities; and to facilitate the further division of large tracts of land into smaller parcels. The regulations are made with the reasonable consideration of, but not limited to, the present character of the Town and its environs, with the objectives of conserving the value of the land and improvements placed thereon, providing the most appropriate environment for human habitation, protecting farming and open spaces, and providing for the most appropriate use of land in the Town of Osceola.

This ordinance shall not be construed to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements rules, regulations or permits previously adopted or issued pursuant to laws. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

In their interpretation and application, the provisions of this ordinance shall be held 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 or Polk County Ordinances.

18.02 Authority

This Chapter is adopted pursuant to §61.35 and 60.61, Wisconsin Statutes, by authority given under §60.62, Wisconsin Statutes, which was granted by resolution #3-93 on the 27th day of January, 1993, to establish a Plan Commission for the Town of Osceola.

18.03 Definitions

For the purpose of these regulations, the following terms are defined as indicated below:

Certified Survey Map. A map showing division of land prepared in accordance with section §236.34, Wisconsin Statutes, and this Chapter.

Clerk. The Town of Osceola Clerk/Treasurer.

Comprehensive Plan. A plan for guiding and shaping the growth or development of a community or area which has been adopted by a governmental unit and whose preparation is authorized by Section §62.23, or 236.46 of Wisconsin Statutes.

Conceptual Plan. A Conceptual Plan is a plan of a subdivision showing similar information as required by a Preliminary Plan but without the need to have final property line surveys completed, driveway locations known, and road plans completed at the time of presentation.

Developer. Any person, partnership, corporation, or other entity creating a subdivision. For the purposes of this ordinance, any references to Subdividers include Developers.

Development Agreement. A written agreement between the Town of Osceola and the Developer outlining specific requirements and obligations of the subdivision development. See Chapter 17 of the Town of Osceola Code of Ordinances for details.

Divide. To convey, record, survey, parcel, split or in any other manner alter an interest in real property so as to cause a parcel of land to be allotted, allocated, severed, split or rendered into smaller parcels of land.

Driveway. An access used for purposes of ingress and egress, to or from a private or public road, serving not more than two (2) lots.

Easement. That part of a lot so designated on a Certified Survey Map or plat and utilized for a specific purpose.

Lot. A parcel of land numbered in sequence with other parcels shown on a concept map, preliminary and final plat or Certified Survey Map.

Parcel. Contiguous land not separated by road or railroad rights-of-way.

Plan. A concept drawing, preliminary or final plat, Certified Survey Map or other conveyance showing a graphic illustration of the subdivision.

Plan Commission. The Town of Osceola Plan Commission.

Plat. A detailed, surveyed map of a subdivision including the overall area of the development, the recorded owner of the property, size and location of each lot, location of any existing buildings, location of any private, public or other existing roads, location of proposed new driveways, location of any public or private roads and driveways adjacent to or across a road from the subdivision, size and location of any easements or outlots, location of any topographical features which may affect the development and/or surrounding area..

Preliminary Plan. A preliminary plan of a subdivision showing the overall area of the development, the recorded owner of the property, size and location of each lot, location of any existing buildings, location of any private, public or other existing roads, location of proposed new driveways, location of any public or private roads and driveways adjacent to or across a road from the subdivision, size and location of any easements or outlots, location of any topographical features which may affect the development and/or surrounding area.

Public Way. Any public road, street, highway, walkway, drainageway, or part thereof.

Private Road. A road built to Town standards, with or without blacktop, and designated on the plan as a “Private Road”.

Replat. Process of changing, of the map or plat which changes, the boundaries of a recorded subdivision plat or a part thereof. The division of a block, lot or outlot within a recorded subdivision plat without changing the exterior boundaries of said block, lot or outlot is not a replat but a land division.

Road. A public or private way for vehicular traffic which includes the following:

- (1) Compliance with Town of Osceola Ordinances.
- (2) Cul-de-sac or hammerhead roads have a turn-around at one end.
- (3) Dead-end roads are closed at one end.

Subdivider. Any person, partnership, corporation, or other entity creating a subdivision.

Subdivision. A subdivision is a division of a lot or parcel or tract of land by the owner thereof or his agent for the purpose of transfer of ownership or building development where the act of division creates one or more new lots, parcels or

tracts, any one of which is 19 acres or smaller. Subdivisions, as defined above, are classified for purposes of this ordinance as follows:

- (1) Standard subdivisions are those subdivisions which create 2 or more parcels or building sites less than 19 acres and at least 1 acre.
- (2) Cluster subdivisions are those subdivisions which create any lots less than 1 acre but at least ½ acre and where at least 20 percent of the total subdivision area is designated as non-development space which may be used for farming, recreation, or open land. The cluster subdivision development proposal must contain an engineered plan for a common sanitary waste disposal system which may be part of the 20% non-development space.
- (3) Commercial lots will be sized according to the needs of the business and related infrastructure, and shall be approved, on an individual basis, through recommendation of the Plan Commission and approval of the Town Board.

State Subdivision. The division of a lot, parcel or tract of land by the owners thereof, or their agents, for the purpose of transfer of ownership or building development where the act of division creates five (5) or more parcels or building sites of one and one-half (1-1/2) acres each or less in area, or where the act of division creates five (5) or more parcels or building sites of one and one-half (1-1/2) acres each or less in area by successive division within a period of five (5) years. For the purposes of this ordinance, and unless specifically stated otherwise, references to Subdivisions in the body of this ordinance include State Subdivisions.

Town. The Town of Osceola, Polk County, Wisconsin.

Town Board. The Town Board of the Town of Osceola.

18.04 General Provisions

- (1) Any division of land which results in a subdivision as herein defined shall be in compliance with all of the provisions of this chapter. A subdivision which creates five (5) or more parcels or building sites shall be required to comply with those sections of Chapter 236, Wisconsin Statutes, relating to subdivisions, as well as comply with the provisions of this chapter.
- (2) All subdivisions that create parcels or building sites shall be required to provide a Certified Survey Map or Certified Plat to be recorded at the Register of Deeds' office. A copy of the recorded Certified Survey Map or Certified Plat is to be filed with the Town Clerk/Treasurer as detailed in section 18.11 and 18.17 of this Ordinance.

- (3) Unless a waiver is granted by the Town Board as authorized by Chapter 17 of this Code of Ordinances, anyone proposing to create a certified survey map or a subdivision in the Town of Osceola shall enter into a Development Agreement with the Town.
- (4) All replats, vacations or alterations of subdivisions shall be in compliance with the provisions of §236.40 through 236.445, Wisconsin Statutes.

18.05 Exemptions

- (A) In so far as this chapter applies to divisions of parcels, it does not apply to:
 - (1) The single division of a fractional or full quarter-quarter section in two (2) equal parcels.
 - (1) Transfers of interest in land by will or pursuant to court orders.
 - (2) Leases creating less than 5 parcels for terms not to exceed ten (10) years; mortgages; or easements.
 - (3) The sale or exchange of parcels of land between owners of abutting property if additional lots, parcels or building sites are not thereby created.
 - (4) Lots created by Certified Survey Map for utility and/or telephone transmission facilities not to exceed 10,000 square feet in size.
 - (5) Cemetery plats made under section 157.07, Wisconsin Statutes.
 - (6) Assessors' plats made under section 70.27, Wisconsin Statutes.
 - (7) Easements
- (B) The document, plat, or Certified Survey Map shall identify the specific exemption claimed. Anyone using an exemption described in this section shall be subject to prosecution under this Chapter if the Town Board subsequently determines that the exemption was not available.
- (C) A parcel created by virtue of any exemption under this section is not exempt from other applicable regulations. Any parcel that does not satisfy the standards of any regulation or law as to

characteristics, such as parcel size or dimension, standards governing waste disposal, or the like, shall not be eligible for relief from such standards by variance.

18.06 Disclaimer of Liability

The Town does not guarantee, warrant, or represent that only those areas delineated as flood lands on plats and Certified Survey Maps will be subject to periodic inundation. Nor does the Town guarantee, warrant, or represent that the soils shown to be unsuitable for a given land use from tests required by this Chapter are the only unsuitable soils on the parcel. The Town asserts that there is no liability on the part of the Town, its agencies, or employees for flooding problems, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this Chapter.

18.07 Severability

If any section, provision or portion of this Chapter is determined to be invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

18.08 Land Suitability

No land shall be subdivided which is held unsuitable for the proposed use by the Town Plan Commission or the Town Board, for reasons of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, inadequate ingress or egress, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the Town. The Town Plan Commission in applying the provisions of this section shall recite in writing the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing. Thereafter, the Town Plan Commission may affirm, modify or withdraw its determination of unsuitability.

18.09 Dedication

All subdivision layouts shall be developed in proper relation to existing and proposed roads, the topography, surface water, vegetative cover and other natural features as the most advantageous development of adjoining areas. The Town Plan Commission may require that suitable sites not to exceed ten percent (10%) of the total area of the subdivision be dedicated or

reserved for future public use such as parks, playgrounds, public access and open spaces as needed by the subdivision, subject to acceptance thereof by the Town Board. Any part of a street, drainage way or other public way which is indicated on a comprehensive plan or plan component shall conform to the arrangement, width and location indicated and shall be offered for dedication to the Town in accordance with the following:

- (1) All roads hereafter constructed shall include as part of their basic construction plan provisions for control of erosion and sedimentation.
- (2) All road rights-of-way shall be sodded or seeded at the time of construction or if constructed after September 15, temporary seeding shall be planted followed by a permanent seeding the next growing season to prevent erosion and sedimentation. Side slope shall be no greater than a one foot drop in a two foot run.
- (3) Driveways shall not exceed six degree (6°) downgrade from the road within the limits of the public road right-of-way. Culverts must be placed under driveways, where needed, to carry the natural flow of run-off water.
- (4) The Town Plan Commission and/or Town Board may require the construction of service roads or access roads servicing a plurality of building sites in order to minimize congestion of existing roads.

18.10 Survey Required

Any division of land creating a lot or outlot of less than 19 acres in size, or the division of a parcel resulting in the remaining parcel being reduced to less than 19 acres in size, shall require that such division be done by a Certified Survey Map or Certified Plat conducted by a Wisconsin registered land surveyor. (Note: If such division requires the construction of a public or private road, the design standards found in Chapter 8, Public Works shall apply.)

18.11 Procedures for Application of Plans

The applicant may request either a Concept Plan review or a Preliminary Plan review. If a Concept Plan review is selected, then the review of the concept is to ensure the applicant understands the issues involved and can obtain Plan Commission comments prior to formally designing a plan. The applicant may choose to bypass Concept Review and instead prepare a Preliminary Plan.

- 1) Concept Review

In order to ensure that all applicants are informed of the procedural requirements, the minimum standards of this chapter, and the requirements or limitations imposed by other Town regulations prior to the development of a preliminary plat, the subdivider shall meet with the Plan Commission to discuss a concept plan. The applicant shall provide the information identified in 18.11(3), Table #1 and follow the schedule outlined in 18.11 (4). No action of recommendation by the Plan Commission shall occur.

2) Preliminary Review

The preliminary plan shall incorporate Plan Commission comments from the concept review. Unless waived at the Concept Review, the plan shall include the entire area owned or controlled by the subdivider even though only a portion thereof is proposed for development at the time. The plan shall be prepared in accordance with this Ordinance, Chapter 236, Wisconsin Statutes and Public Works, Chapter 8, of the Town of Osceola Code of Ordinances.

3) Information Required

Table #1: Information To Be Shown on Plans		
Description	Concept	Preliminary
Air Photos of area	X	With lot lines shown
Subdivider contact information	X	X
Land Owner of record	X	X
Property lines	Sketched	Surveyed
Proposed road locations	X	X
Adjacent landowners and structures	X	X
Driveway locations		If required
Shared driveways		X
Entire area plan		X
Topographic contours		If required
Engineered road plans		X

4) Scheduling Plan Commission Review

The subdivider shall file ten copies of the plan with the Clerk/Treasurer at least ten (10) working days prior to the meeting of the Town Plan Commission at which action is desired. The Plan Commission shall not be obligated to review, until a future meeting, any changes made to the plan by the subdivider after submission and before the meeting.

A professional engineer, planner or another person charged with the responsibility to review plats shall assist in

identifying any design problems with the plan and report his or her findings to the Plan Commission.

- 5) **Plan Commission Recommendation**
The Town Plan Commission shall recommend approval, conditional approval, including a recommendation of the need for Development Agreement, or rejection of the proposed plan to the Town Board. If approval or conditional approval is recommended, the plan shall be referred to the Board for consideration.

- 6) **Town Board Plan Review**
The Town Board, upon receiving a timely request from the subdivider, shall then approve, conditionally approve, or reject the plan. If the plan is rejected, the conditions of rejection shall be endorsed thereon or attached thereto. If the plan is resubmitted by the subdivider and unless time is extended by written agreement between the subdivider and the Town Board, failure of the Town Board to complete the action therein required within ninety (90) days constitutes an approval of the plan.

- 7) **Final Plan Approval**
A professional engineer, planner or another person charged with the responsibility to review plans shall provide the Town board with his or her conclusions as to whether the final plan conforms substantially to the preliminary plan approved by the Plan Commission. Any conditions of that approval, and any applicable Town plans and applicable ordinances are considered before recommending approval of the final plan.
If the final plan is not submitted within thirty six (36) months after the last required approval of the preliminary plan, any approving authority may refuse to approve the final plan regardless of prior action taken on the plan, or may extend the time for submission of the final plan.

18.12 Improvements

The subdivider may construct the project in such phases as is approved and may not be unreasonably withheld. If the subdivider's project will be constructed in phases, the amount of any surety bond or other security required shall be limited to the phase of the project that is currently being constructed. The subdivider is not to be required to provide any security for

improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.

Before final approval of any plan, the subdivider may install required future public roads and utility improvements subject to any conditions outlined in the Development Agreement. The subdivider shall file a surety bond or letter of credit, prior to the beginning of any construction, meeting the approval of the Town Board as a guarantee that such improvements shall be completed by the subdivider or his subcontractors. During construction of each improvement, the subdivider must notify the Town Board so that adequate inspections can be made. The developer shall pay all inspection fees.

18.13 Roads, Streets, and Driveways

All roads, streets and driveways must be in compliance with the Town of Osceola Code of Ordinances as detailed in Chapter 8, Public Works.

18.14 Survey Monuments

The subdivider shall install survey monuments in accordance with the requirements of §236.15, Wisconsin Statutes.

18.15 Storm Drainage Facilities

Storm drainage facilities, where needed, shall be designed to permit the unimpeded flow of natural watercourses; insure the drainage of all points along the line of streets; and provide positive drainage from on-site sewage disposal facilities. In designing storm drainage facilities, special consideration must be given to protection against shoreland erosion and siltation of surface waters and preventing excess runoff on adjacent property. The Town Plan Commission shall require that easements or drainage ways of widths sufficient to accommodate anticipated storm water run-off be provided.

18.16 Fees

The subdivider shall pay to the Town of Osceola the fee required. Such fees, paid according to the Town Fee Schedule, shall be used to defray the administrative expenses of the Town in connection with review of said plan.

Town expenses incurred in employment of the services of engineers, attorneys, planners and other professional consultants in connection with the review of plans and expenses incurred as a

result of impact on existing infrastructure shall be reimbursed to the Town by the subdivider.

18.17 Procedures for Review of Final Plats

- 1) The subdivider shall prepare and submit ten (10) copies of the final plan to the Clerk/Treasurer within thirty six months of the Plan Commission or the Town Board's last action and at least ten (10) working days prior to the meeting of the Town Board at which action is desired.
- 2) The Clerk/Treasurer shall forward copies of the final plan to the Town Board. The Town Board shall examine it for conformity with the Plan Commission's recommendation and any conditions, with the requirements of this ordinance, and with the requirements of any other ordinances, statutes, administrative rules and regulations, or local plans which may be applicable to it.
- 3) The Town Board shall approve, conditionally approve, or shall reject the plan. If rejected, the Town Board shall indicate the reasons for any rejection of the plan. One copy of the plan shall then be returned to the subdivider, the surveyor, or engineer with the date and action endorsed thereon. The conditions or requirements of rejection, or conditional approval, shall be endorsed thereon or attached thereto.
- 4) The final plan may, if permitted by the Town Board, include only that portion of the approved plan which the subdivider proposes to record at this time.
- 5) The final plan shall be approved if it conforms to the plan as recommended by the Plan Commission, including any conditions of that approval, and to any applicable Town plans and ordinances. If the final plan is not submitted within thirty six (36) months of the last action, the Town Board may reject the final plan regardless of any prior action, or may extend the time for submission of the final plan.
- 6) The subdivider shall file a certified copy of the final plan with the Clerk/Treasurer within ten days after it has been recorded.
- 7) Upon approval of the final plan, all fees listed in 18.16 shall be paid in full.

18.18 Appeals

- 1) If the Town Plan Commission was acting at the request of the Town Board, the following recommendation of the Plan Commission may be appealed to the Town Board:
 - a. Requirement of a plan in connection with a land division;
 - b. Determination that the site land is unsuitable for subdivision;
- 2) A written Notice of Appeal must be filed with the Clerk/Treasurer within 14 calendar days of the date when notice of the action of the Plan Commission appealed from is presented to the subdivider.
- 3) The Notice of Appeal shall state the action of the Plan Commission appealed from, shall specify the reasons stated by the Plan Commission for taking such actions, shall specify the reasons why the subdivider believes said action was inappropriate, and shall state the names and addresses of the owners of all properties adjacent to the proposed land division or subdivision.
- 4) The Clerk/Treasurer shall file the Notice of Appeal with the Town Board and shall schedule the appeal for consideration by the Town Board at a meeting, open to the public, within forty-five (45) days of the filing of the Notice of Appeal. The Clerk/Treasurer shall send notice of the time scheduled for the consideration of the appeal to the subdivider and to all property owners adjacent to the proposed land division or subdivision at least ten (10) days prior to the hearing of appeal.
- 5) Within thirty (30) days of the appeal hearing, the Town Board shall affirm, modify, or reverse the action of the Plan Commission or shall refer the matter back to the Plan Commission for further consideration. Notice of the decision of the Town Board shall be sent to the subdivider and the Plan Commission.
- 6) The provisions of Chapter 68 of the Wisconsin Statutes shall not be applicable to any determination made pursuant to the provisions of this ordinance.
- 7) Any person aggrieved by an objection to a plan or a failure to approve a plan may, after review by the Town Board, appeal a determination, as provided in Sections §236.13(5) and 62.23(7)(e)10 to 15 of the Wisconsin Statutes.

When it is proposed to replat a recorded subdivision or part thereof so as to change the boundaries of a recorded subdivision or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in §236.40 through 236.44, Wisconsin Statutes. The subdivider or person wishing to replat shall then proceed as specified in §18.06 through 18.13 of this chapter.

18.20 Violation and Penalties

(1) Any person, partnership, corporation or other entity who violates this chapter shall be subject to a penalty as detailed in the Town of Osceola Schedule of Violations Fees and Penalties, in addition to any provisions allowed in §236.31, 236.32 and 236.335, and as provided in §25.04 of this Code of Ordinances. (Am. Res. #15-94)

(2) All provisions of §236.31, 236.32 and 236.335, Wis. Stats., are hereby incorporated by reference and any penalty set forth in such sections shall be imposed as a forfeiture payable to the Town Clerk/Treasurer.

18.21 Amendments

The Town Board may make amendments to this ordinance in the manner prescribed by the Wisconsin Statutes.

To the extent that this Ordinance contains time limits, deadlines, notice requirements, or other provisions that are more restrictive than time limits, deadlines, notice requirements, or other provisions that provide protections for a subdivider contained in Chapter 236 of the Wisconsin State Statutes, the time limits, deadlines, notice requirements, or other provisions that provide protections for a subdivider contained in Chapter 236 shall apply.

18.22 Effective Date

This Ordinance shall be effective upon adoption and publication or posting as provided by law.

Passed this 11th Day of July, 2011

By the Town Board of the Town of Osceola

Doug Schmidt, Chairman

Mike Wallis, Supervisor

Dan Burch, Supervisor

ATTEST:

I hereby certify that the Ordinance, of which the above is a copy, was duly passed by the Town Board of Supervisors of the Town of Osceola, Polk County, State of Wisconsin, on the 11th day of July, 2011, at a meeting duly called and held and at which a quorum was present and acted throughout.

Lorraine Rugroden, Clerk-Treasurer