

**TOWN OF EUREKA
POLK COUNTY WISCONSIN
CODE OF ORDINANCES**

Chapter 18

***SUBDIVISION
&
PLATTING***

**Adopted by the
Town Board of Eureka
April 13, 2006
Ordinance 1-06**

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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 no 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 Eureka.

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.

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18.02 Authority

This chapter is adopted pursuant to §60.61, Wisconsin Statutes, by authority given under §60.62, Wisconsin Statutes, which was granted by resolution #04-2 on the 13th of April, 2004, to establish a Planning Commission of the Town of Eureka.

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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 sec. §236.34, Wisconsin Statutes, and this Chapter.

Clerk: The Town of Eureka 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, 66.945 or 236.46 of Wisconsin Statutes.

Conceptual/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 might affect the development and/or surrounding area.

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.

Impervious Surface: Surfaces that do not allow the infiltration of water to occur.

Lot: A parcel of land numbered in sequence with other parcels shown on a plat or CSM used for a dwelling, commercial, industrial, or other business uses. No more than one (1) dwelling may be placed on a lot.

Major subdivision: A subdivision creating five (5) or more lots and/or outlots, any of which are nineteen (19) acres or less in size, within a 5-year period. Subdivisions that have five (5) or more lots or outlots of 1½ acres or less shall be considered state subdivisions.

Minor subdivision: A subdivision creating one (1) to four (4) lots and/or outlots, any of which are nineteen (19) acres or less in size, within a 5-year period.

Net Project Area: The area of a lot exclusive of wetlands, ponds, lakes, drainage ways, dedicated road rights-of-way or road easements, utility easements, impervious surfaces, floodplains, and slopes of 20% or greater. (Note: Building within floodplains and on slopes of 20% or greater is not restricted, however, further erosion control measures may be necessary, and in shore land areas, Special Exception Permits may be required.)

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

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

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.

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

with 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 the Town of Eureka Ordinances.
- (2) Cul-de-sacs 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.

Town: The Town of Eureka, Polk County, Wisconsin.

Town Board: The Town Board of the Town of Eureka.

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18.04 General Provisions

- (A) 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.
- (B) 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.
- (C) All replats, vacations or alterations of subdivisions shall be in compliance with the provisions of §236.40 through 236.445, Wisconsin Statutes.

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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.
- (2) Transfers of interest in land by will or pursuant to court orders
- (3) Leases creating less than 5 parcels for terms not to exceed ten (10) years;
mortgages; or easements.
- (4) The sale or exchange of parcels of land between owners of adjoining
abutting property if additional lots, parcels or building sites are not
thereby created.
- (5) Lots created by Certified Survey Map for utility and/or telephone
transmission facilities not to exceed 10,000 square feet in size.
- (6) Cemetery plats made under section 157.07, Wisconsin Statutes.
- (7) Assessor's plats made under section 70.27, Wisconsin Statutes.
- (8) 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.

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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

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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.

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18.08 Land Suitability

No land shall be subdivided which is held unsuitable for the proposed use by the Town Planning 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 or the proposed subdivision or the Town. The Town Planning 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 sub-divider an opportunity to present evidence regarding sub suitability at a public hearing. Thereafter, the Town Planning Commission may affirm, modify or withdraw its determination of unsuitability.

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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 Planning 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 right-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 Planning Commission and /or Town Board may require the construction of service roads or access roads servicing a plurality or building sites in order to minimize congestion of existing roads.

- (5) All roads, public or private, must be in accordance with The Town of Eureka Public Works Ordinances and must have a 66 ft. wide right-of-way.

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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.)

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18.11 Procedures for Application of Conceptual Plans

- 1) Before submitting a plan for approval, the subdivider shall prepare a preliminary plan. The preliminary 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, Ch. 236, Wisconsin Statutes and Public Works, Chapter 8, of the Town of Eureka Code of Ordinances. The subdivider shall file two (2) copies of the plan with the Clerk/Treasurer at least ten (10) working days prior to the meeting of the Town Planning Commission at which action is desired may waive the requirement that the plan include the entire area owned by the developer where it is unnecessary to fulfill the purpose of the ordinance and undue hardship would result from strict enforcement of this provision. Where a subdivider has control of lands which are equal to or in excess of 80 acres in area, or are smaller parcels separated only by existing public roads, in lieu of a plan on the entire area, the developer may elect to submit a concept plan.
- 2) The Clerk / Treasurer shall forward copies of the plan, on the **Tuesday** preceding the meeting, to the Town Planning Commission members who shall visit the site of the plan, examine the plan for conformity with all ordinances, administrative rules and regulations and for compliance with the Town Comprehensive Plan.
- 3) The Town Planning Commission shall recommend approval, conditional approval 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. 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 to the Town Board, failure of the Town Board to complete the action therein required within ninety (90) days constitutes an approval of the plan.

- 4) Approval or conditional approval of a plan entitles the final plan to approval provided that the final plan conforms substantially to the original plan recommended by the Planning Commission, including any conditions of that recommendation, and conforms to any applicable Town plans and applicable ordinances. If the final plan is not submitted within six (6) months of the last approval of the plan, any approving authority may refuse to approve the final plan regardless of prior action taken on the plan.

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18.12 Improvements

Before final approval of any plan, the subdivider may install required future public roads and utility improvements or if such improvements are not installed at the time that the final plan is submitted for approval, the subdivider shall, before recording the plan, file a surety bond or letter of credit 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.

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18.13 Roads, Streets, and Driveways

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

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18.14 Survey Monuments

The subdivider shall install survey monuments in accordance with the requirements of S236.15, Wisconsin Statutes.

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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 Planning Commission shall require that easements of drainage ways of widths sufficient to accommodate anticipated storm water run-off be provided, shall also follow Polk County Storm Water Management and Erosion Control Ordinance.

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18.16 Design Standards for Subdivisions

Design criteria for any lot or lots shall meet the following minimum requirements unless county standards are more restrictive:

- (1) The size, shape, and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- (2) In a Minor Subdivision, the minimum size of each lot shall be 3 acres.
- (3) In a Major Subdivision, the average lot size shall be 5 acres and the minimum lot size shall be 3 acres.
- (4) Each lot shall have a minimum contiguous net project area of 2 acres (87,120 square feet). The Committee may require that the plat or certified survey map contain notice to prospective purchasers that wetlands, floodplains, or steep slopes within lots may limit building or driveway locations.
- (5) The ratio of depth to width of a lot shall not exceed 3:1.

Any Design Standards not addressed above shall follow Chap. 18.16 of the Polk County Subdivision Ordinance A,B,C,D,E and F-5,6,7,9,10,11,12.

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18.17 Utilities

The subdivider shall provide underground electric and telephone utilities to each lot within any Minor or Major Subdivisions.

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18.18 Fees

The subdivider shall pay to the Town of Eureka 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.

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18.19 Procedures for Review of Final Plats

- 1) The subdivider shall prepare and submit two (2) copies of the final plan to the Clerk/Treasurer within six months of the Planning Commission's or the Town Board's last action and at least then (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 Planning Commission's recommendation and any conditions, with the requirements of this ordinance, and with the requirements of any other ordinances, statues, 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 the 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 Planning commission, including any conditions of that approval, and to any applicable Town plans and ordinances.

If the final plan is not submitted within six (6) months of the last action, the Town Board may reject the final plan regardless of any prior action.

- 6) The subdivider shall file a certified copy of the final plan with the Clerk/Treasurer within ten days after it has been recorded.

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18.20 Appeals

- 1) If the Town Planning Commission was acting at the request of the Town Board, the following recommendation of the Planning Commission may be appealed to the Town Board:
 - a. Requirements 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 Planning Commission appealed from is presented to the subdivider.
- 3) The Notice of Appeal shall state the action of the Planning Commission appealed from, shall specify the reasons stated by the Planning 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 Planning Commission or shall refer the matter back to the Planning Commission for further consideration. Notice

of the decision of the Town Board shall be sent to the subdivider and the Planning 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 therefrom, as provided in Sections §236.13(5) and 62.23(7)(e)10 to 15 of the Wisconsin Statutes.

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18.21 Replats

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.

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18.22 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 Eureka Schedule of Violation Fees and Penalties, in addition to any provisions allowed in §236.31, 236.32 and §236.335.
- (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.

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18.23 Amendments

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