

**Town of Prairie du Sac
Sauk County, WI**

Land Division Ordinance 07-3

1.01 DISCLAIMER

(1) Multiple Jurisdictions. All persons reviewing the provisions of this Ordinance should be aware that the Town of Prairie du Sac is only one of a number of governmental bodies that may have jurisdiction over proposed land divisions or development. The Town of Prairie du Sac 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 Commission of the Town of Prairie du Sac should be construed or taken as a binding act of the Town except a resolution, motion, or Ordinance that has been adopted by the Town of Prairie du Sac Town Board 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 Prairie du Sac 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 division has been approved by the Town Board.

1 02 PURPOSE

The purpose of this Ordinance is to promote the public health, safety, and general welfare of the community, and to preserve agricultural land and productivity. The regulations are designed to further the orderly layout and use of land; to avoid undue concentration of population; to facilitate adequate provision of water, sewerage, schools, conservation areas and other public requirements; to minimize the public impact from division of large tracts into smaller parcels of land; to encourage the most appropriate use of land throughout the Town; to provide the best possible environment for human habitation; and to enforce the goals and policies set forth in the Comprehensive Plan.

1.03 JURISDICTION

Jurisdiction of these regulations shall include all lands within the Town of Prairie du Sac regardless of whether the land is already divided by natural boundaries. The provisions of this Ordinance shall not apply to the following which are not considered land divisions under this ordinance:

- (1) Transfers of interest in land by will or pursuant to court order.
- (2) Leases for a term of not more than 10 years, mortgages, or easements.

- (3) 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 sizes of 35 acres.

1.04 AUTHORITY

These regulations are adopted under the general police powers authority granted pursuant to Sections 60.22(3), 61.34(1), and 236.45 of the Wisconsin Statutes.

1.05 DEFINITIONS

- (1) Buildable Parcel. A Parcel that is not restricted for building purposes by the presence of wetlands, floodplains, restrictive easements, rights of way, access, or other physical or legal limitations to development.
- (2) Certified Survey Map (CSM). A map of a Land Division prepared in accordance with Sections 236.34 of the Wisconsin Statutes and in full compliance with the applicable provisions of this Ordinance.
- (3) Cluster Density Credit. A point system used as part of the application of a Cluster Development. One cluster density credit is assigned for each 35 acres of land zoned as exclusive agricultural and under contiguous single ownership, rounded down to the nearest whole number, except for any entire $\frac{1}{4}$ - $\frac{1}{4}$ section (as determined by the original Land Survey System) that is deemed not buildable. Cluster Density Credits shall be determined for a Parcel when an application is made to Sauk County for a Conditional Use Permit for a PUD on the Parcel, and shall be assigned to the Parcel when the Conditional Use Permit is approved. Cluster Density Credits, once assigned to a Parcel, are carried with the Parcel when a land transfer of the Parcel occurs.
- (4) Cluster Development. A PUD that concentrates buildings or lots on a Parcel to allow the remaining lands to be preserved as open space for agricultural, recreational, and environmental resource protection and other open space uses. A Cluster Development is further defined as the creation of not more than 3 Lots in a 10-year period on a Parcel. Each Lot created requires 1 Cluster Density Credit. Lots exceeding 5 acres will require 1 additional Cluster Density Credit for each additional 5-acre increment or partial increment. Each existing dwelling unit or other non-residential principal use on the Parcel shall utilize 1 Cluster Density Credit. A Cluster Development is inclusive of a PUD Development Area and a PUD Preservation Area. A Cluster Development requires a Conditional Use Permit from Sauk County.
- (5) Comprehensive Plan. Sauk Prairie Comprehensive Plan.
- (6) Development Plan. A plan showing the siting of all buildings, structures, homes and their associated utilities including septic systems and driveways. In addition, for a PUD, any other information and analysis required by Sauk County.

(7) Farm Consolidation. An act combining 2 or more farms to create a smaller number of farms. On the farm(s) being sold for consolidation, farm dwellings and accessory structures may be separated from the farm into a Parcel (farmette) of not less than 2 ½ acres and not more than 5 acres. The farmette must include a home built prior to October 1986 and must be on a farm of record prior to that date. Only one Farm Consolidation is allowed per farm. Creation of the farmette requires a Conditional Use Permit from Sauk County, but shall not require a PUD or the establishment or use of a Cluster Density Credit.

(8) Land Division. Any division of a Parcel of land where the act of division creates a new Parcel or Lot equal to or less than 80 contiguous acres. The minimum size of a Parcel or Lot created by a Land Division shall be 35 acres unless the division is for a PUD, a Farm Consolidation, or the Parcel or Lot is zoned General Agriculture or Residential. The minimum size of a Lot or Parcel created by a Land Division in a PUD or General Agriculture zone is 2 ½ acres. Farm Consolidations may create a lot of not less than 2-½ acre and not more than 5 acres. Sauk County Ordinances governing lot sizes shall apply in Residential zones. A land division shall create no more than 3 lots and parcels in any 10-year period.

(9) Lot. A parcel of land with space necessary for one main building and its accessory buildings or uses, or a parcel occupied by such buildings. A lot shall be, or have been, created by a subdivision plat, or CSM, or a parcel described in a conveyance recorded with the Sauk County Register of Deeds, which complies with the minimum size required by zoning in effect at the time of the land division or recording of the conveyance. No land included in any street easement, highway easement, or railroad easement shall be included when computing the area for minimum or maximum lot sizes. No easement, river, stream, or water body shall constitute a break in contiguity.

(10) Lot of Record. A land area designated in a subdivision plat, plat of survey, or CSM, or described in a conveyance recorded in the Sauk county Register of Deeds office which complied with zoning laws in existence when the property was originally divided and /or recorded but which no longer complies with the current minimum land area within the applicable zoning district. Such land area shall be occupied by or designed to provide space necessary for one main building and its accessory buildings or uses.

(11) Parcel. A contiguous quantity of land in the possession of an owner, single or common interest. No easement, river, stream, or water body shall constitute a break in contiguity.

(12) Planned Unit Development (PUD). One or more lots or parcels of land to be developed as a single entity, the plan for which may propose intensity increases, mixing of land uses, open space conservation, or any combination thereof, but which still corresponds to the applicable zoning districts density and use requirements. For the purposes of this ordinance, the terms Planned Unit Development and PUD shall be interchangeable and have the same meaning.

(13) Planning Commission. The Town of Prairie du Sac Planning Commission.

(14) Preservation Area Easement. A legal agreement recorded with the Sauk County Register of Deeds which conveys an interest in real estate imposing limitations and affirmative obligations on the type and amount of development that may take place on a property. For the purposes of this ordinance said easement shall apply to PUD Preservation Areas as part of a PUD.

(15) PUD Development Area. Developed lands as part of a PUD application identified as the area to be improved or already improved so as to accommodate structural development and which includes roads and utilities, public or private, and the area and number of lots permitted therein.

(16) PUD Preservation Area. Undeveloped lands as part of a PUD identified as the balance of lands remaining once PUD Development Areas are designated, the area of which is calculated by subtracting the area of the PUD Development Area from the area of the PUD. The PUD Preservation Area shall be placed under a Preservation Area Easement.

(17) Subdivision. A Land Division that creates 4 or more lots and parcels, or that creates 4 or more lots and parcels by successive division within a 10-year period. New subdivisions shall not be allowed in the Town.

(18) Town. The Town of Prairie du Sac.

(19) Town Board. The Town of Prairie du Sac Board of Supervisors.

(20) Town Clerk. Clerk of the Town of Prairie du Sac.

1.06 COMPLIANCE

No person, partnership, corporation, or legal entity of any sort shall divide any land located within the Town which results in a land division as defined in this Ordinance without full compliance with all requirements of this Ordinance and applicable requirements of local, county, state, and federal entities. New subdivisions shall not be allowed in the Town. Where provisions of this Ordinance impose greater restrictions than those of the other entities noted, it is intended that the provisions of this Ordinance shall apply.

1.07 DIVISION BY CERTIFIED SURVEY

(1) General. A Certified Survey Map (CSM) prepared by a land surveyor registered in this state shall be required for all land divisions that create any lots or parcels 80 acres or less. All required CSMs shall comply in all respects with Section 236.34 of the Wisconsin Statutes and state survey standards and Chapter 22.25 of the Sauk County Code of Ordinances.

(2) Information Required on the Map Face Page. The map shall include the following on its face:

(a) All existing buildings, water courses, drainage ditches, and other features pertinent to the property division, including the location of water wells, dry wells, drain fields, and pipes.

(b) The building envelope and its distance to 2 property lines, if a building location was approved by the Town Board.

(c) Date of the map.

(d) Graphic scale.

(e) Right to Farm Notification. A statement that reads as follows: "Through Section 823.08 of Wisconsin Statutes, The Wisconsin Legislature has adopted a right to farm law. This statute limits the remedies of owners of later established residential property to seek changes to pre-existing agricultural practices in the vicinity of residential property. Active agricultural operations are now taking place and are planned to continue on lands in the vicinity of the CSM. These active agricultural operations may produce noises, odors, dust, machinery traffic or other conditions during daytime and evening hours."

(3) Information Required on the Signature Page. The map shall include in its certifications, the following:

(a) A legal description of the parcel; the surveyor's name, address, and signature; and a statement from the surveyor that he has fully complied with all the provisions of this Ordinance.

(b) The owner's name, address, and signature.

(c) Signature lines and dates for approval by the Town Chairman and Town Clerk.

(4) Recording. The land divider shall record the CSM with the Sauk County Register of Deeds after it has been approved by the Town and Sauk County, and shall file a certified copy of the recorded map with the Town Clerk within 10 days after the map is recorded.

1.08 PROCEDURES FOR APPROVAL OF A LAND DIVISION WITHOUT A PUD

Any land divider who shall divide land located in the Town of Prairie du Sac that creates a land division (including a farm consolidation) as defined in this Ordinance, without creating a PUD, shall comply with the following procedure.

(1) County Pre-Consultation. Consult with the Sauk County Planning and Zoning Department to determine eligibility for a land division. Appropriate maps and information can be obtained from the County to meet the requirements in (2) for follow-up with the Town.

(2) Application. Submit a completed Land Division Application (available from the Town Clerk) with the appropriate fee and the following required attachments to the Town Clerk. The attachments (a) through (f) are described in the Town's Applications Guide, a copy of which is available from the Town Clerk.

- (a) Plat map.
- (b) Aerial photo/site analysis.
- (c) Soil/slope analysis.
- (d) Site Plan/Development Plan.
- (e) Intended Use.
- (f) List of easements, deed restrictions, and cluster density credits on the land being divided.

(3) Meeting with the Town. Appear before the Planning Commission to obtain their recommendation for approval of the Land Division. Appear before the Town Board to obtain their approval of the Land Division application.

(4) Submission of CSM. Upon approval of the Land Division Application by the Town Board, the land divider shall then submit to the Clerk a CSM prepared by a registered land surveyor.

(5) Town Review. After reviewing the CSM to ensure that it conforms to the Site Plan approved by the Town Board, and the Development Plan to ensure that it meets all Town guidelines and Ordinances and the Comprehensive Plan, the Town Chairman and the Town Clerk shall sign the CSM and issue a Land Division Approval.

(6) Hearing Procedure. When applying the provisions of this Ordinance, the Town Board shall afford the land divider an opportunity to present evidence regarding suitability of the proposed land division at a public hearing. At this hearing, the Planning Commission shall recite the particular facts upon which it bases its recommendation on the land's suitability for the proposed use(s). These facts shall be recorded in the minutes of that public hearing. The Town Board may affirm, modify, or override the Planning Commission's recommendation.

(7) Other Permits. No Driveway Permit, Building Permit, or Mobile Home Permit shall be issued for construction on a parcel not a buildable parcel or created by a land division which does not comply with the provisions of this section.

(8) Application Fee. An application fee of an amount determined by a resolution of the Town Board will be charged. This fee is specified in the "Application Fee Schedule" in the Applications Guide.

1.09 PROCEDURES FOR APPROVAL OF A LAND DIVISION FOR A PUD

Any land divider who shall divide land located in the Town of Prairie du Sac that creates a land division as defined in this Ordinance for the purpose of creating a PUD shall comply with the following procedure.

(1) County Pre-Consultation. Consult with the Sauk County Planning and Zoning Department to determine eligibility under the County's requirements for the proposed PUD. The County will provide appropriate maps of the PUD parcel to the land divider for follow-up with the Town.

(2) Town Application. Submit a completed Land Division Application (available from the Town Clerk) with the appropriate fee and the following required attachments to the Town Clerk. The attachments (a) through (f) are described in the Town's Applications Guide, a copy of which is available from the Town Clerk.

- (a) Plat map.
- (b) Aerial photo/site analysis including the proposed PUD Development and Preservation Areas.
- (c) Soil/slope analysis.
- (d) Site Plan/Development Plan.
- (e) Intended use.
- (f) List of easements, deed restrictions, and cluster density credits on the land being divided.

(3) Town Consultation. Meet with the Planning Commission to determine eligibility under the Town's requirements for the proposed PUD. Factors considered will include type and location of PUD, PUD Development and Preservation Areas, Cluster Development plans and Cluster Density Credits, and the number/size of lots being proposed.

(4) County Application. After the eligibility requirements of (1) and (3) are met, complete Sauk County Office of Planning and Zoning's "APPLICATION FORM, CONDITIONAL USE PERMIT for a PLANNED UNIT DEVELOPMENT" following the requirements and providing the attachments specified on the form. Sauk County and the Town will assist in the completion of the Application Form.

- (5) Submission of CSM. Upon approval of the Conditional Use Permit for a PUD and approval of the Land Division Application by the Town Board, the land divider shall then submit a CSM prepared by a registered land surveyor to the Town and Sauk County for their approval.
- (6) Preparation and Approval of the final Preservation Area Easement for the PUD. After the CSM is approved, the final Preservation Area Easement shall be prepared using the legal description of the area prepared by the surveyor. After the Preservation Area Easement is provided to Sauk County and the Town for review and is approved, the easement can be closed upon at the County with the Town Chair, the property owner, the County Planning and Zoning Director, the County Clerk, and Assistant Corporation Counsel in attendance to sign the necessary documents for the easement for recording.
- (7) Hearing Procedure. When applying the provisions of this Ordinance, the Town Board shall afford the land divider an opportunity to present evidence regarding suitability of the proposed land division at a public hearing. At this hearing, the Planning Commission shall recite the particular facts upon which it bases its recommendation on the land's suitability for the proposed use(s). These facts shall be recorded in the minutes of that public hearing. The Town Board may affirm, modify, or override the Planning Commission's recommendation.
- (8) Other Permits. No Driveway Permit, Building Permit, or Mobile Home Permit shall be issued for construction on a parcel not a buildable parcel or created by a land division which does not comply with the provisions of this section.
- (9) Application Fee. An application fee of an amount determined by a resolution of the Town Board will be charged. This fee is specified in the "Application Fee Schedule" in the Applications Guide.

1.10 LAND SUITABILITY

- (1) No land shall be divided if the Town Board determines that the division will materially interfere with existing agricultural uses or will conflict with other goals and policies as set forth in the Comprehensive Plan.
- (2) No land shall be divided that is found to be unsuitable as divided for the proposed use(s) by the Town Board for reasons of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate septic or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the community.
- (3) If land is divided and creates a parcel that has frontage on a public road, then the frontage shall be a minimum of 66 feet.

(4) For shared driveways, a legal agreement acceptable to the Town Board shall be in place establishing driveway access provisions and major responsibilities including maintenance, plowing, vegetation control, and cost sharing. This requirement applies to all driveway sharing agreements or arrangements established or changed after adoption of this ordinance.

(5) Access easements established after adoption of this ordinance shall be 66 feet wide unless a lesser width is approved in writing by the Town Board. This lesser width shall not be less than 16 feet.

1.11 PENALTIES

(1) Any person, partnership, corporation, or other legal entity who fails to comply with the provisions of this Ordinance shall, upon conviction, be subject to penalties and forfeitures as provided in Sections 236.30, 236.31, 236.32, 236.335 and 236.35 of the Wisconsin Statutes. Each day that the violation continues to exist shall constitute a separate offense.

(2) 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.

1.12 SEVERABILITY

The provisions of this Ordinance shall be deemed severable, and it is expressly declared that the Town Board would have passed the other provisions of this Ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this Ordinance is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

1.13 EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

(1) Town Board Approval. This Ordinance was adopted by the Town Board on this thirteenth day of November, two thousand and seven.

APPROVED BY:

s/ Ronald Lins
Ronald Lins, Chairman

s/ John Lichtenheld
John Lichtenheld, Supervisor

s/ Thomas Murphy
Thomas Murphy, Supervisor

s/ David Lundgren
David Lundgren, Supervisor

s/ Thomas L. Schneller
Thomas Schneller, Supervisor

ATTESTED BY:

s/ Richard Nolden
Richard Nolden, Clerk

(2) Public Notice

(a) Public Review. A notice was published in the Eagle-Capital newspaper on Oct. 31 & Nov. 7, 2007 to inform residents that a final draft of this Driveway Ordinance was on file with the Town Clerk for a two-week period (Oct. 31 thru Nov. 13, 2007) during which it was available for inspection.

(b) Posting. This Notice of Adoption of Ordinances relating to this Ordinance was posted on Oct. 31, 2007 at the Prairie du Sac Town Hall.

(c) Publication. A Notice of Adoption of Ordinances relating to this Ordinance was published in the Eagle-Capital newspaper, the publication of record for the Town of Prairie du Sac on Dec. 5, 2007.