

**TOWN OF CYLON LAND DIVISION ORDINANCE
ST. CROIX COUNTY, WISCONSIN
2007 - 01**

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1. STATEMENT OF PURPOSE

The purpose of this Ordinance is to regulate and control land divisions within the Town of Cylon in order to promote the public health, safety, general welfare, esthetics, environmental quality and to implement the goals, objectives and policies of the adopted Town of Cylon Comprehensive Plan.

2. EFFECTIVE DATE, AUTHORITY, JURISDICTION, VIOLATIONS

A. Effective Date

- 1) This Ordinance shall be effective on July 14, 2007. This Ordinance shall repeal and replace in its entirety the Town’s Subdivision Ordinance as previously approved, effective August 17, 1978.

B. Authority

- 1) This Ordinance is adopted under the statutory authority granted pursuant to the Village Powers of the Town of Cylon, to Wisconsin Statutes §§ 60.10 (2) (c), 60.22 (3), 61.34 (1), 236.03, and 236.45.
- 2) Any amendments, repeals or recreations of the statutes relating to this Ordinance are incorporated into this Ordinance by reference as of the effective date of the amendment, repeal or recreation.

C. Jurisdiction

- 1) This Ordinance applies to all divisions of land which occur or are proposed to occur in the Town of Cylon, St. Croix County, Wisconsin, and contains standards for selected aspects of land division.

- 2) Land in the Town is also under the jurisdiction of the St. Croix County Land Division Ordinance. The County ordinance is more comprehensive in character and addresses aspects of land division that are not addressed in this Ordinance. Land divisions shall comply with both ordinances. The Town Board may disapprove any applications that have not had review and action by appropriate agencies.
- 3) The approving authority under this Ordinance shall be the Town Board of the Town of Cylon, after receiving the recommendation of the Town of Cylon Plan Commission.
- 4) Approval by the Town Board shall be required prior to the subdivision of a lot, parcel or tract of land in the Town of Cylon where the act of division creates one or more new lots or parcels of less than 35 acres in area unless the subdivision activity falls under one or more exemptions listed in Wisconsin Statutes §§ 236.03 (2) or 236.45 (2)(a)(1-3).

D. Violations

- 1) The following activities are declared to be violations of this Ordinance:
- 2) To convey, offer to convey or contract to convey a subdivided lot, tract or parcel without having had the act of subdivision creating the said lot, tract or parcel approved pursuant to this Ordinance; or
- 3) To record a certified survey map, a plat or a metes and bounds description of a lot, parcel or tract, thereby attempting to effect the subdivision of land, without such subdivision having been approved pursuant to this Ordinance; or
- 4) To fail to comply fully with this Ordinance or any other Town ordinance regulating the development of land or to fail to comply fully with all conditions imposed by the Town Board during its review and action on any subdivision application before it; or
- 5) Any violation of Wisconsin Statutes Chapter 236.

3. DEFINITIONS OF TERMS

A. Interpretation

- 1) For the purpose of administering and enforcing this Ordinance, the terms or words used herein shall be interpreted as follows:
 - a. Words used in the present tense include the future; in the singular include the plural and in the plural include the singular.
 - b. The word “shall” is mandatory, not permissive.
 - c. All distances, unless otherwise specified shall be measured horizontally.
 - d. All definitions that refer to Wisconsin Statutes shall incorporate any revisions or amendments to statutory language.
 - e. All definitions other than those referenced below shall be as defined in the St. Croix County Land Division Ordinance or as the normal definition found in a standard dictionary.

B. Definitions

- 1) Certified Survey Map (C.S.M.): A map showing division of land prepared in accordance with Wisconsin Statutes § 236.34 and this Ordinance.
- 2) Development Right: The right of a property owner to construct one or more residential dwelling units.
- 3) Dwelling Unit: A self-contained living unit consisting of sleeping quarters, bathroom(s) and kitchen, more than one of which may be located on one lot, parcel or building site.
- 4) Lot: A parcel of land numbered in sequence with other parcels shown on a certified survey map.
- 5) Major Subdivision: A subdivision resulting in the creation of three or more lots from a parcel that existed 5 years prior to the date of the application.
- 6) Minor Subdivision: A subdivision resulting in the creation of two or less lots from a parcel that existed 5 years prior to the date of application.
- 7) Parcel: Contiguous land under single ownership, not separated by public roads or railroad rights-of-way. Creation of private or public roads after April 19, 1991, does not create separate parcels eligible for treatment under the minor subdivision provisions of this Ordinance.

4. PROCEDURE FOR TOWN REVIEW OF SUBDIVISIONS

A. Compliance

- 1) Subdivision proposals shall be located, designed and constructed in a manner that supports compatibility between agricultural and non-agricultural development, that protects the public safety, health and general welfare and that takes into account the economical and efficient provision of public services, consistent with the purpose of this Ordinance.
- 2) The Town Board may impose standards and conditions upon its approval intended to accomplish these objectives.
- 3) All such conditions shall be stated in writing and given to the applicant and shall be based upon requiring compliance with the standards of this Ordinance, other Town ordinances, St. Croix County ordinances, and Chapter 236 of the Wisconsin Statutes.

B. Submittals

- 1) The subdivider shall submit ten copies of the certified survey map and accompanying materials in the same form as submitted to St. Croix County for the Town of Cylon Plan Commission and Town Board.
- 2) All applicants shall pay a review fee of an amount set by the Town Board.

C. Review Process

- 1) The Town of Cylon Plan Commission shall make a recommendation to the Town Board after review of the application and certified survey map.

- 2) The Town Board shall approve, conditionally approve, or reject the certified survey map within 90 days of its submission. Failure of the Town Board to act within 90 days or any agreed upon extension of that period constitutes approval of the application. Upon written request by the applicant, the Town Clerk shall execute a certificate to that effect on the face of the certified survey map.
- 3) Action by the Town Board may be postponed past the 90-day limit by written agreement between the Town Board and the subdivider, or upon determination by the Town Board that additional information is required.
- 4) Postponements shall not constitute approval.
- 5) The Plan Commission recommendation and Town Board decision will be submitted to the St. Croix County Planning and Zoning Department.
- 6) Upon submittal of the certified survey map, the Town Board shall conduct a first inspection of road paving, if applicable. Road paving shall be approved prior to certifying approval of the certified survey map.
- 7) The Town Board may approve conditionally if the road paving is not complete but shall not certify the approval as provided in § 4.C.9) below.
- 8) When the Town Board determines to reject a subdivision application for a certified survey map, it shall place a written statement of the reasons for the rejection in the minutes of the meeting at which the decision was made and shall supply the applicant with a copy of the minutes or a written statement of the reasons contained therein within 15 days of the action.
- 9) If the certified survey map is approved, the Town Board Chair will certify the approval on the final certified survey map upon the request of the applicant.

5. STANDARDS FOR SUBDIVIDING LAND

A. Suitability

- 1) No land shall be subdivided that is held unsuitable for such use by the Town Board for reason of flooding, inadequate drainage, adverse soil or rock formation severe erosion potential, unfavorable topography, inadequate water supply or septic system capabilities, or any other feature or circumstance likely to result in the imposition of unreasonable costs to remedy severe or avoidable problems or to be harmful to the health, safety or general welfare of the present or future residents of the Town.
- 2) No land shall be subdivided which because of its soil characteristics, aggregate acreage, proximity to other farms or other pertinent characteristics, has a high value for continued farm use. To promote the orderly use of land, preserve the character of agricultural areas of the town and encourage the use of land most appropriate to the essential nature of the land itself, land divisions shall be prohibited from intruding on agricultural lands identified by the Soil Conservation Service as Class I through III, or where there is a history of farming or where the site is accessible for farming.
- 3) The Town Board 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 shall then afford the subdivider an additional opportunity to present evidence regarding such suitability. Thereafter, the Town Board may affirm, modify or withdraw its determination of unsuitability.

B. Requirements for all Subdivision Activity

- 1) Land in the Town of Cylon, zoned Exclusive Agriculture under the St. Croix County Zoning Ordinance, shall have a density allocation of one residential development right for every quarter-quarter section of land as depicted by the Public Land Survey System or approximately every 40 acres owned.
- 2) All subdivisions shall be done by minor subdivision as defined in § 3.B.6) of this Ordinance.
- 3) Minimum lot size shall be two acres.
- 4) Major Subdivisions shall not be allowed.
- 5) Each lot created by the subdivision of land shall have usable access to an existing public road or to a town-approved new public road.
- 6) New public roads shall only be allowed when lots are grouped together over time and accomplish the following:
 - a. To reduce the proliferation of driveways onto existing roads;
 - b. To allow the grouping of minor subdivisions lots over time in a manner similar to a major subdivision, thereby improving the layout and functionality of the lots;
 - c. To discourage scattered development;
 - d. To preserve larger tracts of agricultural land;
 - e. To protect natural resources; and
 - f. To reduce the visibility of development.
- 7) New public roads shall not be designed to end in a dead-end unless no other alternative is possible as determined by the Town.
- 8) To facilitate public hunting on publicly-owned lands, lots created adjacent to publicly-owned lands shall have a principal structure setback of at least 150 feet from the publicly-owned land. Publicly owned land includes all land owned by a Town, a County, the State of Wisconsin or the Federal government. This setback shall be shown on the Certified Survey Map for the Minor Subdivision.
- 9) To protect and preserve shorelines and their related environmentally sensitive areas and thereby maintain surface and ground water quality and protect fishing resources, lots created adjacent to the Willow River shall have a structure setback of at least 75 feet from the Ordinary High Water Mark of the Willow River. This setback shall be shown on the Certified Survey Map for the Minor Subdivision.

C. Road Standards

- 1) All roads which are proposed to be reconstructed, upgraded, or built and dedicated to the public shall meet the design and construction standards of the St. Croix County Land Division Ordinance or the Town of Cylon standards for town roads, as may be established from time to time. Town roads shall have right of way width and grade characteristics that qualify the road for receipt of state highway funds pursuant to Wisconsin Statutes §§ 86.30 - 86.31 and any other applicable portions of the Wisconsin Statutes.
- 2) All designated public roads shall be offered for dedication to the Town.
- 3) Before a proposed public road can be accepted by the Town, such road shall be paved with hot mix blacktopping material, according to standards provided by the Town and of a type and quality equivalent to the hot mix blacktopping material in use by the Town of Cylon.
- 4) The first inspection of paving and material shall be approved by the Town Board prior to its acceptance of the road and the Town Board Chair certification of the final certified survey map.
- 5) The Town shall specify the standards for signage, lighting, culverts, posts and guard rails along roads. The cost of such lights, signs, culverts, posts or rails shall be paid by the subdivider.
- 6) The road is accepted when the final certified survey map is approved and recorded.

6. ROAD PAVING MAINTENANCE FINANCIAL ASSURANCE

A. Assurance Standards

- 1) As a condition of road acceptance, the developer shall provide a paving assurance to the Town.
- 2) The assurance shall be an irrevocable Letter of Credit from a reputable bank or lending institution acceptable to the Town.
- 3) The amount shall be 50% of the verified paving costs and the assurance shall be good for one year following approval of the final certified survey map by the Town Board.

B. Release Process

- 1) Final inspection of the paving shall occur within one year of the final approval of the certified survey map and acceptance of the road.
- 2) Release of the assurance shall occur after final paving inspection and approval by the Town.
- 3) If the paving is rejected the responsible party will correct the condition or the Town may utilize the financial assurance to complete the corrective action.
- 4) If the Town takes no action to approve or reject the paving within one year of the acceptance of the road, the paving shall be deemed to have been approved and the responsible party shall be released from the assurance for paving maintenance.

7. ENGINEERS' APPROVAL

- A. The adequacy of all proposed public improvements in the nature of roads, storm water management, erosion control, and the proper design, construction and installation thereof, including any necessary maintenance plans, may be subject to the review and approval of a professional engineer, if necessary, hired for that purpose by the Town of Cylon.
- B. All costs and expenses incurred in the hiring of such engineer by the Town Board shall be paid by the subdivider. The Town Board may require payment of a reasonable advance deposit against the costs and expenses of the Town's hiring an engineer.

8. ISSUANCE OF BUILDING PERMITS

- A. No building permit for any lot shall be issued by the Town of Cylon until all improvements required by §§ 5, 6 and 7 have been completed in compliance with the requirements herein.
- B. No building permits shall be issued concerning any lot created in violation of any requirement of this Ordinance.

9. ENFORCEMENT

- A. Any subdivision or land development activity not in compliance with this Ordinance shall be a violation of this Ordinance regardless of whether knowledge of or intent to violate was present.
- B. Ordinance violations shall subject the party or parties responsible for and/or participating in non-compliance to an injunction action demanding that the condition constituting the violation be ceased or cured and that remedial actions to achieve compliance be undertaken, and/or a forfeiture in an amount of not less than \$500 nor more than \$1,000, plus actual costs of prosecution.
- C. Each day during which such violation exists is a separate offense.
- D. In addition, the Town Board may order an assessor's plat pursuant to the provision of Wisconsin Statutes. § 70.27 whenever the conditions specified in that section are found to exist.

10. SEVERABILITY

- A. If any section, clause, 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.

Date of Approval by Town Board: 7-11-07

By: _____
Thomas Dorsey, Town Chairman

ATTEST:

By: _____
Sharleen Croes, Town Clerk

DATE POSTED: 7-14-07

EFFECTIVE DATE: 7-14-07

Effective 7-14-07