

**LAND USE/DIVISION ORDINANCE  
STATE OF WISCONSIN  
TOWN OF SCOTT  
COLUMBIA COUNTY**

**SECTION 1 - TITLE/PURPOSE**

The Title of this Ordinance is the Town of Scott Land Division Ordinance. The purpose of this Ordinance is to regulate and control the division of land within the limits of the Town of Scott, Columbia County, Wisconsin, in order to accomplish all of the following purposes:

- A. Promote the public health, safety, and general welfare.
- B. Supplement County, State, and Federal land division controls to implement any Town Comprehensive plan, master plan, or other land use plans.
- C. Promote the planned and orderly layout and use of the land.
- D. Encourage the most appropriate use of the land throughout the Town of Scott
- E. Obtain the wise use, conservation, and protection of the Town's soil, water, wetland, woodland, farmland and wildlife resources.
- F. Conserve the value of prime agricultural soils
- G. Provide for conservation of the Town's agriculturally important lands by minimizing conflicting land uses.
- H. Promote the rural and agricultural character, scenic vistas, and natural beauty of the Town.
- I. Evaluate the further division of larger tracts into smaller parcels of land based on the agricultural economy and natural resources of the town.
- J. Facilitate the adequate provision of transportation, water, sewage, health, education, recreation, and other public requirements in the Town of Scott.
- K. Provide the best possible environment for human habitation in the Town of Scott.
- L. Ensure that the design of the street system will not have a negative long-term effect on neighborhood quality, traffic flow, and safety in the Town of Scott.
- M. Ensure the proper legal descriptions and proper survey documentation of subdivided land.
- N. Secure safety from fire, flooding, and other dangers in the Town of Scott.
- O. Avoid the inefficient and uneconomical extension of governmental services in the Town of Scott.
- P. Ensure that future development is consistent with the Town of Scott's Comprehensive Plan and other plans adopted by the Town of Scott.
- Q. Regulate the development of condominium projects.
- R. Provide for administration and enforcement of this Ordinance by the Town Board.

**SECTION 2 - AUTHORITY**

This Ordinance was adopted under the statutory authority granted pursuant to the Town Powers of the Town of Scott, to ss. 60.10(2) (c), 60.22 (3), 61.34 (1), 236.03, and 236.45, Wis. Stats. This Ordinance was adopted by the Town Board after its receipt of a formal written recommendation of this Ordinance dated \_\_\_\_\_, 20\_\_\_\_ from the Town Planning Commission under ss.61.35, 62.23 and 236.45 (2), Wis. Stats, which for the Town of Scott is the Town of Scott Plan Commission.

### SECTION 3 - ADOPTION OF ORDINANCE

The Town Board, by this Ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town Board to regulate and approve certain land divisions and certified surveys in the Town of Scott. Pursuant to s. 236.45 (4), Wis. Stats., a public hearing was held before the adoption of the Ordinance and notice of the hearing was given by publication of a Class 2 notice, under Ch. 985, Wis. Stats.

### SECTION 4 - INTERPRETATION:

In their interpretation and application, the provisions of this Ordinance shall be liberally construed in favor of the Town of Scott and shall not be deemed limitation or repeal of any power granted by the Wisconsin Statutes. Wherever this Ordinance imposes greater restrictions, the provision of this Ordinance shall govern.

### SECTION 5 - DEFINITIONS

In this Ordinance, the following definitions shall apply:

- A. Agricultural Use as provided in s. 91.01 (1), Wis. Stats., means beekeeping; commercial feed lots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming, placing land in federal programs in return for payments in kind, owning land, at least thirty five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in a milk conservation reserve program under 7 USC 1466(d); and vegetable raising.
- B. Certified Survey or Certified Survey Map means a certified survey with the map of a minor land division of less than 35 acres prepared in accordance with sec. 236.34, Wis. Stats., and in full compliance with the applicable provisions of this Ordinance. A Certified Survey Map has the same legal force and effect as a land division plat. All minor land divisions of less than 35 acres require a Certified Survey Map by a registered land survey.
- C. Class 1 Notice requires just one insertion of a legal notice published in a local newspaper.
- D. Contiguous means parcels of land that is, or at any time since the original adoption date of this Ordinance was, in the same ownership. Contiguous parcels in the same ownership are considered to be one (1) parcel for purposes of this definition, even though the separate parcels may have separate tax identification numbers or were acquired at different times or from different persons. The presence of a road, drive, easement, river, stream, channel, ditch, etc. through a parcel does not destroy contiguity, or create multiple parcels, for purposes of this provision.
- E. Deed restriction means a restriction on the use of a property set forth in a deed or other instrument of conveyance, including, but not limited to, a restrictive covenant, conservation easement, transfer of development rights, or any restriction placed on undeveloped land as a condition for the division or development of the undeveloped land.
- F. Final Plat means a map prepared in accordance with requirements of Chapter 236 of the Wisconsin State Statutes and this Ordinance for the purpose of precisely dividing larger parcels into lots and used in conveying these lots.

- G. Land divider means any person, partnership, corporation, or other legal entity that has an ownership or other legal interest in the subject land that the land is being divided or is proposed to be divided, resulting in a land division.
- H. Land division means the division of a lot, out lot, parcel, or tract of land by the owner of the land, or the owner's agent, for the purpose of sale or for development when the act of division creates two or more parcels or building sites, inclusive of the original remnant parcel, any of which is 35 acres or less in area, by a division or by successive divisions of any part of the original property within a period of 5 years, including any land division by or for a Conservation Subdivision, a Cluster Development, a Statutory Subdivision, a Minor Land division, a Condominium, Condominium Plat, Re plat, and Certified Survey Map, and any other land division. Any residual parcel resulting from any division of land shall be included in the land division if said parcel is less than 2 acres in size.
- I. Land Use Plan means the Town of Scott Comprehensive Plan, concerning issues of land use in the Town, adopted by the Town of Scott, including any subsequent amendment, but does not include any Town Comprehensive Plan adopted under s. 66.1001, Wis. Stats.
- J. Lot means a parcel of not less than 2 acres [**NOTE: This number is the Town's minimum lot size or minimum density standard.**] but less than 35 acres, which is created by a land division, with the designated parcel, tract, or area of land established by land division plat, Certified Survey Map, or as otherwise permitted by law to be conveyed, used, developed, or built upon as a unit.
- K. Master plan means the plan, concerning issues of land in the town, adopted pursuant to s. 62.23, Wis. Stats.
- L. Minor Land Division means any division of land other than a statutory subdivision as defined herein of less than 35 acres in size. Any residual parcel resulting from any division of land shall be included in the minor land division if said parcel is less than 2 acres in size. The minimum land division under this Ordinance shall comply with the Certified Survey requirements in Section 11.
- M. Natural resource means air, land, water, groundwater, drinking water supplies, wildlife, fish, biota, and other such resources, belonging to, managed by, appertaining to, or otherwise controlled by the United States, State of Wisconsin, or the town.
- N. Navigable Waters means any body of water, which is navigable under the laws of the State.
- O. Out lot means a parcel of land other than a lot or block so designated on a land division plat or Certified Survey Map.
- P. Parcel means contiguous lands under the control of a land divider not separated by streets, highways, navigable rivers, or railroad rights-of-way.
- Q. Re-plat means the process of changing the map or plat which changes the boundaries of a recorded Statutory Subdivision Plat, Minor Land Division, Certified Survey Map, or other land division or part thereof. The division of a large block, lot, or out lot within a recorded subdivision plat or certified survey which changes the exterior boundaries of said lot, block, or out lot is a re-plat.
- R. Restrictive Covenant means a deed restriction on the use of the land usually set forth in the deed. A restrictive covenant runs with the land and is binding upon subsequent owners of the property.
- S. Single-family use means a dwelling unit designed for, converted to or occupied by one family, located on one lot, and not attached to another dwelling unit.
- T. Sketch Plan means a conceptual layout of a proposed development on a topographic map, which is submitted for formal review.
- U. Statutory Subdivision means the division of a lot, as defined by §236.02(12) Wis Stats therein, by the owner, sub-divider, or his successor in title, for the purpose

of transfer of ownership or building development where the division creates more than five (5) parcels or building sites of any size within five (5) years.

- V. Town means the Town of Scott, Columbia County, Wisconsin.
- W. Town Board means the Board of supervisors for the Town of Scott, Columbia County, Wisconsin and includes designees of the board authorized to act for the board.
- X. Town Clerk means the clerk of the Town of Scott, Columbia County, Wisconsin.
- Y. Town Comprehensive Plan means the Comprehensive Plan adopted by the Town Board of the Town of Scott under §66.1001 Wis Stats.
- Z. Town Plan Commission means the Town of Scott Plan Commission appointed by the Town Chair of the Town of Scott, Columbia County, Wisconsin.
- AA. Wetland means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and that has soils indicative of wet conditions.
- BB. Wis. Stats. means the Wisconsin Statutes, including successor provisions to cited statutes.

## SECTION 6 - EXEMPTIONS

- A. The provisions of this Ordinance, as it applies to land divisions of tracts of land in the Town of Scott shall not apply to any of the following:
  - 1. Size of agricultural buildings, size of houses, size of garages, distances between buildings, home businesses that operate out of residences or agricultural buildings.
  - 2. Lots of record held in separate ownership from adjoining lands and having an approved Town of Scott building permit at the date of the adoption of this ordinance may be used for new dwellings (one per lot of record), that shall then be classified as pre-existing.
  - 3. Creation or realignment of a public right-of-way by a public agency.
  - 4. Division of land into lots, parcels or tracts each of which is thirty-five (35) acres in size or greater.
  - 5. Creation or realignment of an easement.
  - 6. Adjustment of the boundary line or the transfer of land between owners of adjoining properties.
  - 7. Carry out an order or any court or dividing land as a result of an operation of law.

## SECTION 7 - COVERAGE/COMPLIANCE

The Town Board may grant and the Town Plan Commission may recommend variances because of exceptional or undue hardship from the provisions of this Ordinance, after a public hearing with a Class 1 notice of the hearing with written notice from U.S. mail to owners of adjoining lands. The findings of the Town Plan Commission and the Town Board in recommending or permitting any variance shall be, at a minimum, that the variance will not violate the purpose of this Ordinance or provisions of Chapter 236 Wis. Stats, and that because of the unique topographic or other conditions of the land involved, literal application of this Ordinance will cause an undue hardship to the land divider.

- A. This Ordinance applies to all lands in the Town of Scott. The Town Board shall be responsible to administer this Ordinance unless it designates by Resolution such other authority.

- B. Lot Size: The minimum lot size required for the construction of a new residence is 35 acres. No lot having a residence shall be reduced in size such that the lot no longer complies with the minimum 35 acre lot size specified except: residences which existed prior to May 15, 2006 may be sold on a lot having a minimum size of 2 acres.
- C. This Ordinance allows the construction of additional single family residences on a property without sale or survey, provided that the property has 35 contiguous acres for each single family house.
- D. Any division of land subject to the requirements of this Ordinance shall not be entitled to recording and/or improvements to the land unless such division is in full compliance with all of the requirements of this Ordinance and the provisions of Chapter 236, Wisconsin Statutes. All approved certified survey maps and final plats shall be filed for recording with the Register of Deeds of Columbia County prior to transferring ownership of any parcel created by a land division.
- E. Lots of record held in common ownership to adjoining land whose total is 35 acres or more falls under the land division ordinance adopted May 15, 2006.
- F. Parcels of land which are of record (i.e. documented by a recorded metes and bounds description, a certified survey or platted subdivision) on the date of May 15, 2006, which are substandard size (less than 35 acres) shall be deemed to be (buildable) a conforming parcel as long as the parcel is two (2) acres in size or greater on the date of May 15, 2006; Additional Parcels of land that are substandard (less than 35 acres) on May 15, 2006 shall be joined with all other substandard contiguous parcels owned by the same person or entity and the combined contiguous parcels shall be treated as one buildable parcel, if the combined parcels meet the minimum two (2) acres in size.

## SECTION 8 - SPECIFIC COMPLIANCE PROVISIONS

- A. All parcels, lots, or out lots that will be proposed to be divided for land division purposes under this Ordinance that are bisected or divided by a public road, public street, public trail, or a navigable water shall be divided along these natural or constructed features.
- B. No land shall be issued a land division approval if the Town Board of the Town of Scott determines that any proposed land division plat, or Certified Survey Map will materially interfere with existing agricultural uses or will conflict with other goals, objectives or policies as set forth in the Town Comprehensive Plan, master plan, or other land use plan. In addition, the land division approval must be determined to be, by the Town Board, consistent with the Town Comprehensive Plan, if any, and if any other land division plat approval or Certified Survey Map approval to the land applies, the most restrictive requirements to the land apply. The land division minimum lot size requirements in this Ordinance apply rather than any other applicable municipal zoning regulations related to minimum lot sizes.
- C. No land shall be issued a land division approval for a purpose that poses a significant threat to the quality or quantity of groundwater in the Town of Scott.
- D. No land shall be issued a land division approval if it is held unsuitable by the Town Board for its proposed use for reason of flooding, inadequate drainage, dangerous or hazardous land conditions, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal or maintenance capabilities, impairment of wildlife habitat and scenic vistas, archeological or historical value, improper utilization of prime farm soils, undue costs and inefficiencies in the provision of Town of Scott governmental services, or any other feature likely to be harmful to the health, safety, or welfare of current or future residents of the Town of Scott, or likely to cause a public nuisance in the Town of Scott. The Town Plan Commission may require any proposed land divider to furnish maps, data, and other information as may be necessary to determine land suitability.
- E. No person shall be issued any land division approval by the Town Board until the appropriate application fees have been paid to the Town Clerk.
- F. No person shall be issued any land division approval by the Town of Scott who has failed to properly and fully complete and submit to the Town Board the application form developed and provided by the Town of Scott.
- G. No person shall be issued a final land division plat approval by the Town Board unless all public improvements to be constructed or installed as required by the Town Board within the land division plat area or Certified Survey Map area to meet the requirements established in writing by the Town Board.
- H. The Town of Scott shall not be responsible, with respect to any final land division for any public improvements, [*if applicable* and shall not be responsible to accept any dedicated streets, roads, or other public areas and other public improvements until the Town Board, by resolution, accepts or approves such dedicated public improvements with or without conditions.]
- I. No person shall be issued a final land division approval by the Town Board unless any proposed Town of Scott roads have been specifically accepted for dedication approved by the Town Board. The applicant shall finish all shoulders and road ditches, if any, install all necessary culverts at intersections and, if required by the Town Board, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the Town of Scott Plan Commission, as recommended by the Town of Scott's Project Engineer.

## SECTION 9 - USES PROHIBITED

Prohibited uses include dog tracks, casinos, adult entertainment, race tracks, other commercial activities and land uses not corresponding to the Town of Scotts Comprehensive Plan; and confined livestock at or above levels requiring WDNR permit are prohibited.

## SECTION 10 - DEED RESTRICTION

- A. Any land divider who divides or proposes to divide land into parcels less than 35 acres in size for the purpose of constructing a single family home located in the Town of Scott will be required to submit to the Town Clerk a request for and received approval of a restriction for development of a single family home on the remaining 35 acre parcel, with the appropriate fee and with all of the following required attachments:
1. The name and address of the owner of the property and the land divider.
  2. The location and size of the property and the type of land division that is to be requested.
  3. The names and addresses of all adjacent landowners, [with help from town clerk]
  4. A statement of intended use.
  5. The name and address of the surveyor who will be doing the survey work.
  6. The present use of the land.
  7. The number and size of projected parcels, lots, or out lots upon a final land division.
  8. Existing zoning and other land use controls on and adjacent to the proposed land division.
  9. The estimated timetable for final development and requested timeline by the land divider for final approvals from the Town of Scott.
  10. The lot designated for the single family residence and lot(s) designed for restriction of future development.
- B. With any initial Land Division Application the land divider shall submit to the Town Clerk a sketch map at a scale of 1 inch= 200 feet or other appropriate scale. More than one attached sheet may be used but no sheet may be larger than 8 1/2 x 14 inches. Each submission shall include all contiguously owned land except the sketch map need not show more than 20 times the area of the intended certified survey.
- C. The sketch map shall show all of the following:
1. A north arrow, the date, the scale, and a reference to a section corner.
  2. The approximate dimensions and areas of the parcels, lots, out lots, and easements.
  3. The location and type of existing and proposed buildings and structures and uses.
  4. The location of drainage ditches, water wells, sewerage systems, and other features pertinent to the land division.
  5. The location of existing and proposed roads, highways, developments, navigable rivers, trails, and driveways and distances to the nearest adjoining highways, roads, or driveways on all sides of the proposed site.
  6. The location of general land cover types, such as woodlands, wetlands, agricultural, etc.
  7. The location of any slopes of 12% or greater.
  8. The setback of building lines required by any approving agency.
  9. The uses of the land adjacent to the property and any existing roads, easements and restrictions of record, public access to navigable water, dedicated areas and utilities on/or adjacent to the land.

10. The lot designated for the single family residence and lot(s) designed for restriction of future development.
- D. The Town Clerk shall review for completion the initial Land Division Application and sketch map, including payment of applicable application fees, within ten (10) working days of receipt. The Town Clerk shall thereafter notify the land divider if the application is determined by the Town Clerk to be complete. The Town Clerk shall provide reasons for any alleged incompleteness of the application. The Town Clerk shall, within five (5) working days after filing, transmit the copies of any complete or incomplete Land Division Application and sketch map to the Town Board or the Town Plan Commission if so designated by the Town Board.
- E. The Town Clerk shall send to the land divider a notice and agenda of the scheduled date of the Town Board or Town Plan Commission meeting to review and consider the complete or incomplete application, and any preliminary approvals for land division no later than ten (10) days prior to the date of the meeting.
- F. The land divider or the land divider's designee shall attend the meeting and present the proposed Land Division, preliminary plat or map documents, and sketch map to the Town Board or Town Plan Commission, if so designated by the Town Board, for its consideration. Failure of the land divider or designee to attend the meeting or provide a complete Application may be used as grounds for the Town Board or Town Plan Commission to recommend denial of any later requested approvals for the land division.
- G. The requirement of filing and recording the land division plat shall not be waived by the Town Board.

#### SECTION 11 - CERTIFIED SURVEY MAP

- A. Prior to submittal of any Preliminary map or any Certified Survey Map, the land divider shall have submitted to the Town Clerk the Deed Restriction Application noted in Section Ten (10). A Certified Survey Map prepared by a land surveyor registered in the State of Wisconsin is required for all minor land divisions that create any parcels, lots or out lots less than 35 acres in area and any other land divisions noted in §236.34 Wis Stats. All required Certified Survey Maps shall comply in all respects with §236.10 Wis Stats, s. 236.34, Wis. Stats., where applicable, and State survey standards. The Town of Scott shall comply with the ninety (90) day requirement in §236.34 Wis Stats for final approval, final approval on condition, or rejection by the Town Board or its designee, as the approving authority for the final Certified Survey Map.
- B. The Certified Survey Map shall, at minimum, show correctly on its face, in addition to the information required by s. 236.24, Wis. Stats., all of the following:
  1. All existing buildings, fences, water courses, wetlands, lakes, navigable waters, ponds, drainage ditches, waste disposal systems, and other features pertinent to the property division, including the location of water wells, dry wells, drain fields, pipes, culverts, and existing easements, public streets, and any adjoining parks, cemeteries, public roads, streets, subdivisions, ponds, streams, lakes, flowages, wetlands, railroad rights of way, and easements, and public roads.
  2. The building envelope and its distance to 2 property lines, if a building location were required and approved by the Town Board.
  3. The area of parcels, out lots, and lots in acres.
  4. The date of the map.
  5. The graphic scale of the map and north arrow.
  6. The entire area contiguous to the plat owned or controlled by the owner or land divider.

7. Any floodplain limits.
- C. The Certified Survey Map shall include in its certification, in addition to the information required by s. 236.34, Wis. stats, all of the following:
  1. A legal description of the parcel; the surveyor's name, address, and signature; a statement from the surveyor that the surveyor has fully complied with all the provisions of this ordinance.
  2. The owner's name, address, and signature.
  3. Signature lines and dates for approval by the Town Chairperson and Town Clerk.
- D. The Certified Survey Map is entitled to final approval by the Town Board or the Town Plan Commission, if so designated, only if the Certified Survey Map, together with all required information, is submitted within twelve (12) months of the Land Division Application submitted to the Town Clerk and it substantially conforms and is consistent with all of the following:
  1. The Land Division Application and sketch map as determined complete and the preliminary documents submitted by the land divider.
  2. Any and all conditions of approval established by the Town Board, pursuant to this Ordinance.
  3. The adopted Town Comprehensive Plans or other applicable Town, County, or municipal land use plans and Ordinances, including any Town, County, or other applicable municipal zoning or plat review Ordinances.
  4. All appropriate requirements for Certified Survey Maps and Minor Subdivisions as noted in this Ordinance.

#### SECTION 12 - COSTS OF APPLICATION REVIEW

- A. All Land Division Applications and any other appropriate approval requests shall be accompanied by an application fee. The fee shall be established by the Town Board by Resolution or as set forth in the Town of Scott's fee schedule.
- B. All reasonable costs incurred by the Town Board or its agents to properly review each Land Division Applicant shall be the responsibility of the land divider who shall timely pay or reimburse the Town of Scott for all reasonable or projected engineering, inspection, legal, and administrative costs incurred by the Town of Scott in reviewing the proposed land division plats and maps. The Town Board may require that all or a portion of the known costs of application approval and variance review be paid in advance.

#### SECTION 13 - VIOLATIONS

- A. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, forfeit not less than \$100, plus any additional applicable costs incurred by the town for each offense. Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant penalties shall include the following:
  1. Recordation improperly made carries penalties as provided in s. 236.30, Wis. stats.
  2. Conveyance of lots, out lots, and parcels in unrecorded plats carries penalties as provided in s. 236.31, Wis. stats.
  3. Monuments disturbed or not placed carries penalties as provided in s. 236.32, Wis. stats.
- B. No person shall sell land in the Town of Scott in lots unless the lots, parcels, and out lots have been lawfully approved pursuant to the terms of this ordinance or any predecessor procedure. The unlawful sale of unapproved or unauthorized parcels, out lots, or lots is deemed to be a public nuisance, which may be enjoined by a Court of record.

SECTION 14 - EFFECTIVE DATE

This ordinance is effective upon publication. The Town Clerk shall properly post or publish this ordinance as required under s. 60.80, *Wis. Stats.*

Adopted this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.