

RUSK COUNTY SUBDIVISION ORDINANCE

18.01 Introduction.

- 1) **PURPOSE.** The purpose of this chapter is to regulate the division of land within the unincorporated areas of the County for the purposes listed in Ch. 236, Wis. Stats., and to provide safe and orderly shoreland subdivision layouts pursuant to 59.95(3), 144.26(2) and (8) and 236.45, Wis. Stats., the County Board ordains subdivision regulations as provided in this chapter.
- 2) **DEFINITIONS.** For the purpose of this chapter, the following definitions shall apply:

Alley. A narrow service way providing a secondary public means of access to abutting properties.

Arterial Street or Major Highway. A street which serves or is designed to serve the rapid movement of concentrated volumes of traffic over relatively long distances. The type of street provides primarily for movement between rather than within activity areas.

Block. A parcel or tract of land bounded on at least one side by a public street and on the other sides by natural or man-made barriers or unplatted land.

Collector Street. A street which serves or is designed to serve the moderate speed movement traffic from minor streets to arterial or major highways and to provide access to individual lots. This type of a street provides for movement within rather than between activity areas.

County Planning Agency. The County Zoning Committee or such other agency created by the County Board and authorized by statute to plan land use.

Dead-End Street. A street or portion thereof with only one vehicular outlet.

Easement. Authorization by a property owner for the use by another and for a specified purpose of any designated part of his property.

Minor Street. A street which serves or is intended to serve primarily as an access to abutting lots.

Navigable Water. Any continuous stream or river and any named lake, pond or flowage shown on the detailed zoning maps of the County. In the event of any conflict, references shall be made to United States Geological Survey quadrangle maps of the affected watercourse or other body of water whereby continuous streams and named lakes shall be deemed navigable and intermittent streams and unnamed lakes as non-navigable.

Street. Includes streets, half-width streets, roads, avenues, lanes or other ways.

Subdivider. Any person, firm, corporation, partnership, or association who shall lay out for the purpose of sale or building development any subdivision or part thereof as defined herein.

18.02 CONTROLLED SUBDIVISION: APPLICATION AND DEFINITIONS.

This chapter shall apply to 2 types of subdivisions of real property situated in unincorporated areas of the County, those being state subdivisions and minor subdivisions whose definitions shall be as set forth in this section.

- 1) STATE SUBDIVISION. This chapter shall apply to the act of creating a state subdivision. A state subdivision is defined in accord with 236.02(12), Wis. Stats., as a division of a lot, parcel or tract of land by the owner thereof or by the owner's agent for the purpose of sale or of building development, where:
 - (a) The act of division creates 5 or more parcels or building sites of 1 ½ acres each or less in area; or
 - (b) Five or more parcels or building sites of 1 ½ acres each or less in area created by successive divisions within a period of 5 years.

- 2) MINOR SUBDIVISION. Except as set forth in 18.03, this chapter also shall apply to the act of creation of minor subdivisions. A minor subdivision is defined as any division, other than one fitting within the definition of a state subdivision, of a parcel of land or contiguous parcels of land owned by the same individual by the owner or by the owner's agent for the purpose of sale or building development where the act of division created one or more parcels or building sites of less than 10 acres in size. A contiguous parcel as that term is used herein shall mean 2 adjoining descriptions of real estate under common ownership. Nonetheless, a contiguous parcel shall not be defined as extending across a public street, road or highway nor across or upon a navigable body of water for the purposes of this chapter. Any ¼ - ¼ - ¼ section is assumed to equal 10 acres and, as such, the act of dividing a parcel into 2 or more divisions of at least ¼ - ¼ - ¼ section in size apiece is not defined as constituting a minor subdivision.

18.03 EXCEPTIONS FROM DEFINITIONS OF CONTROLLED SUBDIVISIONS.

- 1) PARTIALLY OR COMPLETELY WITHIN A SHORELAND PROTECTION AREA. If a minor subdivision is partially or completely within a shoreland protection area, the following exceptions apply:
 - (a) No State agency submittals are required.
 - (b) In lieu of recording a plat in accordance with 236.25, Wis. Stats. (22' x 30" map), the surveyor may record a plat in accordance with 236.34, Wis. Stats. (8 ½ x 14' certified survey map).
 - (c) Parcels need not comply with Ch. ILHR 85, Wis. Adm. Code, as otherwise required by 18.05 (2) of this chapter.

- (d) If an owner has owned the entire property being subdivided for a period of 5 years prior to conveyance and conveys parcels within such description to his spouse, children, grandchildren or parents, no final plat is required.
 - (e) Any parcels with maps on file with the County Surveyor or with maps recorded with the Register of Deeds as of the effective date of this chapter are entirely exempt from this chapter.
- 2) ENTIRELY OUTSIDE A SHORELAND PROTECTION AREA. If a minor subdivision is situated entirely outside of a shoreland protection area, then the exceptions in sub. (1) above shall also apply. Further, if only one parcel of under 10 acres has been created by the subdivider within the past 5 years from a contiguous parcel, then no final plat is required. For this purpose, a remainder of less than 10 acres will not be counted as a second parcel.
- 3) EXCEPTIONS FOR BOTH STATE AND MINOR SUBDIVISIONS.
- (a) This chapter shall not apply to subdivisions exempted from plat controls under 236.03 and 236.45 (2) (a) 1., 2. and 3., Wis. Stats.
 - (b) This chapter shall not repeal, impair or modify private easements or covenants governing the use of lands, except that it shall be applicable to the extent that it imposes stricter regulations.

18.04 PROCEDURE FOR SUBMITTING SUBDIVISION APPLICATIONS.

- 1) PRELIMINARY PLAT SUBMITTALS.
- (a) For state subdivisions, the subdivider shall submit sufficient copies of a preliminary plat to the County Planning Agency and to each agency having authority to object to plats under Ch. 236, Wis. Stats. The preliminary plat shall show clearly all existing conditions, whether legal or natural, relative to the proposed subdivision and of adjoining sites including, but not limited to, data on covenants of record, physical features including, but not limited to, slopes of 15%, bodies of water, public access, wetland areas, rock outcrops, existing vegetative cover, areas subject to periodic flooding and soil conditions, available community facilities, utilities, easements, street locations and lot widths and depths. The proposed subdivision layout shall be shown on a topographic map at a scale of 1" equals 100' and shall identify all improvements including, but not limited to, grading, paving, installation of facilities and land dedications which the subdivider proposes to make and shall indicate when the improvements set forth shall be completed. Any existing or proposed restrictive covenants to run with the land involved shall also be stated. The County Planning Agency shall reject or conditionally approve the preliminary plat within 40 days of submission.

- (b) For minor subdivisions the subdivider shall submit sufficient copies of a preliminary plat to the County Planning Agency, as well as to the town board in question, in the event that a new street is required. The preliminary plat shall show clearly all existing conditions of the proposed subdivision, whether natural or legal, and shall specify physical features including, but not limited to, bodies of water, wetland areas and areas subject to periodic flooding, easements, street locations and lot widths and depths. The proposed plat shall also identify the improvements which the subdivider proposes to make and shall indicate when the improvements shall be completed. The County Planning Agency shall reject or conditionally approve the preliminary plat within 10 days of submission.

2) FINAL PLAT SUBMITTALS.

- (a) State Subdivisions. For state subdivisions, the final plat shall be submitted to the County Planning Agency within 6 months of preliminary plat acceptance, unless this requirement has been waived in writing by the County Planning Agency. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable local ordinances and State laws and shall be submitted to those agencies having the authority to object to the plat under 236.12(2), Wis. Stats., for certification of approval. Final plats shall be presented to the County Planning Agency at least 10 workdays prior to the meeting at which they are to be considered and they shall be accepted or rejected by the County Planning Agency within 60 days of their submission.
- (b) Minor Subdivisions. For minor subdivisions requiring certified survey maps, the final map shall be submitted to the County Planning Agency within 6 months of the preliminary plat map acceptance, unless this requirement has been waived in writing by the County Planning Agency. The final plat map shall conform to the preliminary plat as approved and shall be submitted to the town board in the event that a new street or streets are required. Final certified survey maps shall be accepted or rejected by the County Planning Agency within 10 days of their submission.
- (c) Early Final Plat Submittals. A subdivider has the option under this chapter of submitting a final plat simultaneously with the preliminary plat to the subdivider's own risk and expense. If the preliminary plat is rejected, the final plat may be resubmitted at a later time, but at no additional fee. Nonetheless, the final plat shall under such circumstances be submitted within _____ months of the original submission of the preliminary plat. If the preliminary plat is conditionally approved, but the final plat is found to require adjustments, the County's review for the final plat shall begin at the time of the conditional preliminary plat approval.

- 3) CERTIFICATE OF COMPLIANCE. For each subdivision of land subject to this chapter, the Zoning Administrator, after ascertaining compliance with this chapter, shall issue a certificate of compliance. When a recorded certified survey map is required hereunder, the Certificate shall be drawn or impressed upon the map in question.
- 4) LAND USE PERMITS. No land use permit shall be issued for construction upon or use of any lot created by the subdivision of lands subject to this chapter until the certificate of compliance has been issued and any required final plat or survey map for the subdivision in which the lot is situated has been approved and recorded.

18.05 GENERAL REQUIREMENTS.

- 1) The County Planning Agency and its authorized staff shall be responsible for administration of this Chapter.
- 2) Each lot in a subdivision not served by a public sanitary sewer shall comply with the provisions of Ch. ILHR 85, Wis. Adm. Code, and amendments thereto and such compliance shall be demonstrated by a Wisconsin certified soil tester who shall provide percolation test results and such other information as is required by Ch. ILHR 85.
- 3) Before a final plat shall be approved by the County Planning Agency, the subdivider shall install all improvement required by this chapter or by town or other units of government imposing such requirements or the subdivider shall file a performance bond insuring installation of such improvements with the County Clerk, subject to the approval of the County Planning Agency and its attorney.
- 4) Subdivisions of land subject to this chapter shall comply with all requirements of Ch. 236, Wis. Stats., and all amendments thereto. The intent of this chapter is to define subdivision more restrictively than does Ch. 236, Wis. Stats., and to make the requirements of such chapter apply to all subdivisions of land covered by the definition of subdivision in 18.2 herein.
- 5) Specifications for all improvements required to be built or made by subdivider shall be approved of by the County Highway Commissioner as to streets and highways and, in all other cases, by the County Zoning Administrator. Prior to either acceptance of the improvements by the County Board or release of the subdivider's performance bond, all improvements shall be inspected, in the case of streets and highways, by the County Highway Commissioner, and in the case of all other improvements, by the County Zoning Administrator, and found to have been installed according to the required specifications.
- 6) Land which is deemed unsuitable for any proposed development by the County Planning Agency for reason of flooding, inadequate drainage, adverse soil or rock formations, severe erosion potential, unfavorable topography, inadequate water supply, sewage disposal capabilities or other like features found to exist by the Planning Agency and reasonably likely to be harmful to the health, safety or welfare of the future

owners or occupants of land within the proposed subdivision or of the County at large shall not be subdivided. In applying the provisions of this section, the County Planning Agency shall in writing recite the particular facts upon which it bases its conclusion that a proposed subdivision is unsuitable and afford to the subdivider an opportunity to present evidence regarding suitability, if he so desires at a public hearing as provided within this chapter. Subsequent to such public hearing, the County Planning Agency may affirm, modify or withdraw its determination of unsuitability.

18.06 DESIGN STANDARDS.

1) STREETS.

(a) Each subdivider shall dedicate land for and improve streets as provided herein. All streets in subdivisions shall conform to applicable map ordinances in effect in the County. Streets shall be located with due regard to topographical conditions, natural features, existing and proposed streets, utilities, land uses and public convenience and safety.

(b) Each lot in a subdivision shall have frontage on a public street.

(1) Any developer or subdivider shall first offer to dedicate as a public town road all roadways in proposed plats. The appropriate town board shall make the decision whether or not to accept a dedication as public town roads in the proposed plat.

(2) If an appropriate town board refused to accept a dedication of a public town road in the proposed plat the developer or subdivider then shall comply with the following minimum standards and requirements for constructing a private road within the proposed subdivision or plat. Before the county shall approve the proposed subdivision or plat it shall insure that the roadways are built to the following specifications:

(a) The road must be built to standards as outlined in Wis. Stats. S. 86.26 (a)(d) and with a 9" primary base and a 6" crushed gravel surface and in any case with all grades, slopes, ditches, and culverts to be approved by the county highway commissioner with any necessary engineering costs to be paid by the developer. Any paved surface (although not required) would go over the above surface, shoulders to be added to proper width.

(b) All lots within the subdivision shall be laid out as follows:

1. All proposed private roads shall be laid out in the subdivision or plat so that applicable setbacks for the lots can be observed.
2. A 66 foot easement strip shall be provided for roads.

3. No lot shall be split by a private road unless each portion is at least 29,000 square feet or larger if applicable Zoning would require it and each such portion is buildable in terms of meeting applicable setbacks and other applicable dimension standards.
 4. Any lot size computation shall not include any road easement.
- (c) All deeds to lots in the subdivision or proposed plat shall provide for maintenance of the roadway. Such cost of maintenance to be born by the developer or by the owners of the lots in the proposed plat or subdivision.
 - (d) No private road shall be gated nor shall access to such roads be restricted in any manner.
- (3) None of the above are subject to variance procedure.
- (c) Street locations shall be consistent with applicable street plans adopted by the County or the municipality in which the proposed subdivision is situated. Street right-of-way widths, radii of curvature and grads shall conform with 86.26, Wis. Stats., except that no street or easement right-of-way to be used by motor vehicles shall be less than 66' in width, notwithstanding any contrary position in such statute.
 - (d) Streets shall be laid out to provide for possible continuation beyond the limits of the subdivision wherever topographical and other physical conditions permit.
 - (e) Minor streets shall be laid out so as to discourage their use by through traffic.
 - (f) The number of intersections of minor streets with major streets shall be minimized as far as practicable, consistent with circulation needs and safety requirements.
 - (g) Where a subdivision abuts upon or contains an existing or proposed arterial highway, the County Planning Agency shall require provision within the subdivision of a frontage road, non-access reservation contiguous to such highway or such other planning controls or dedication of land as may be deemed necessary by it to insure safe, efficient traffic flow and adequate protection of residential properties.
 - (h) Reserve strips controlling access to streets shall be prohibited.
 - (i) A tangent of at least 100' in length shall be required between reverse curves on arterial and collector streets.
 - (j) Streets shall afford maximum visibility and shall intersect with streets at right angles, where practicable.

- (k) Dedication of half-width streets shall be protected, except with permission of the County Planning Agency where deemed to be essential for the reasonable development of the subdivision in conformity with all other requirements of this chapter. In a half-width street has been dedicated in a subdivision, subject to permission being granted therefore by the County Planning Agency, which half-width street is situated along an exterior line of such subdivision, if and when the adjoining land is subdivided, the remaining half of the street shall be dedicated by the subsequent subdivider so as to create a street of a standard 66' in width.
- (l) Permanent dead-end streets or cul-de-sacs shall have a minimum width of 66' and terminate with a turnaround having an outside street property line of at least 120'.
- (m) Whenever possible, lot lines shall be perpendicular to the street line and to the tangent at the lot corner on curved streets.
- (n) No street names shall be used in conjunction with plats or certified survey maps which shall duplicate or which could be confused with the names of existing streets in the County. Street names shall be subject to approval of the County Planning Agency.
- (o) Alleys shall have a minimum roadway width of 25'.

2) BLOCK AND LOT DESIGN AND IMPROVEMENTS.

- (a) A block is a parcel of land bounded on at least one side by a street and on its other sides by a street or streets, by natural or man-made barriers or unplatted land. The lengths, widths and shapes of blocks shall be determined by:
 - (1) Building site needs.
 - (2) County zoning ordinance lot size and dimensional requirements in towns which have ratified Ch. 17 of this General Code. In all other towns, the minimum lot size requirements shall be those set forth in the R-1 Zoning District under Ch. 17.
 - (3) Need for convenient access, circulation, control and safety of street traffic.
 - (4) Limitations and opportunities of topography.
- (b) Block lengths shall normally not exceed 1,500' nor be less than 600' in length, except for cul-de-sacs and permanent dead-end streets.
- (c) To provide adequate access and circulation to playgrounds, schools, shopping centers or other community facilities, the County Planning Agency may require that sidewalks be provided, either along streets or through the center of blocks.

- (d) Double frontage lots shall be avoided, except where essential to provide for separation of residential development lots from arterial streets or to overcome particular topographic and site disadvantages.
- (e) The County Planning Agency may require that natural features including, but not limited to, trees, be preserved and that appropriate landscaping be provided by the subdivider.
- (f) Sewer and water facilities, street paving and surface water drainage as required by the County Planning Agency shall be provided for each lot in accord with the specifications approved by the County Highway Engineer and the County Zoning Administrator.

18.07 CLUSTER AND PLANNED UNIT DEVELOPMENTS. Proposed cluster and planned unit developments shall include a minimum of 5 acres of land and shall be located only in the R-1, R-2 or SW-1 zoning districts in towns which have ratified County Zoning. Such forms of development shall be utilized for residential purposes only. The permitted number of lots in each such development shall be determined by dividing the total area of the development, excluding streets, by the minimum permitted lot size of the zoning district in which such development is situated. The minimum distance between principal structures shall be 20'. Land not used for lots and streets shall be dedicated in perpetuity to remain as open space. This may be accomplished by conveyance in common to each of the owners of the lots in the development or by dedication to the County or town in which the development is situated. Lands dedicated to the public must be accepted by action of the governing bodies of the accepting unit of government to be deemed to be accomplished. If land is to be conveyed to owners of lots in the development, a homeowners association or similarly constituted legal body shall be created to maintain the open space real estate.

18.08 EASEMENTS. The County Planning Agency shall require that easements or drainageways of widths sufficient to accommodate storm water runoff be provided where a subdivision includes a segment of watercourses, drainageways, channels or streams.

18.09 VARIANCES.

- 1) The County Planning Agency may grant variances from the provisions of this chapter after holding a public hearing with 10 days notice in writing to owners of adjoining lands and upon finding that:
 - (a) Because of the unique topographic or other conditions of the lands involved, literal application of the chapter would impose a hardship.
 - (b) The variance will not violate the purpose of the chapter or the provisions of Ch. 236, Wis. Stats.
- 2) The requirement of filing and recording a plat for a subdivision or a certified survey shall not be waived.

- 3) APPEAL OF VARIANCE DENIAL. When a variance is denied by the County Planning Agency (County Zoning Committee) under Section 18.09, the applicant may appeal that decision to the Rusk County Board of Adjustment as created by Rusk County Ordinance 97-68 and subject to the policies and procedures of that Ordinance and the standards and limitations of this chapter.

Ordinance #97-79 adopted by County Board on 12/16/97

18.10 FEES. When applying to divide land, the subdivision applicant shall pay to the County through the Zoning Administrator as a fee for reviewing the proposed land division an amount per parcel to be determined by the County Planning Agency.

18.11 ENFORCEMENT, VIOLATIONS AND PENALTIES.

- 1) ENFORCEMENT. The County Planning Agency through the County Zoning Administrator and his staff shall enforce this chapter, investigate complaints and violations, give notice of violations to the landowner and report any violations not corrected within 30 days to its Attorney. The County Planning Agency, Zoning Administrator, their Attorney and their deputies shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by them to ensure compliance with this chapter.
- 2) VIOLATIONS. No person shall construct, develop or use any structure or to develop or use any land, water or air in violation of any of the provisions of this chapter. The Zoning Administrator is authorized to refuse to issue a building permit for construction on any land divided contrary to this chapter. In the case of any violation of this chapter, the County Planning Agency, Zoning Administrator, Corporation Counsel or District Attorney may institute a civil action or proceeding to enjoin violations of this chapter, seek forfeitures, order an assessor's plat to be made at the expense of the subdivider and, in the case of criminal violations, through the District Attorney, to impose penalties for such violations. Such remedies include, but are not limited to, those set forth at 236.30, 236.31, 236.32, 236.335 and 236.35, Wis. Stats.
- 3) PENALTIES. Any person that violates any provision of this chapter, including those provisions of the Wisconsin Statutes, Wisconsin Administrative Code and other regulations which are incorporated by reference, shall upon conviction thereof be subject to a penalty as provided in 25.04 of this General Code. The court may allow up to 60 days for payment of the forfeiture and shall grant to the County its costs of prosecution.

18.18

- 1) A party shall be given thirty days to come into compliance with the zoning ordinance. After the thirty day period, if they still are not compliant or have not made any effort to come into compliance, then a citation shall be issued. The thirty day notice shall be a certified letter and the posting of a violation on the premises.

- 2) If the violation is one that would demand an immediate citation, such as a tanker pumper dumping on an approved site or in a stream, or a contractor operating an unapproved quarry in shoreland zoning, or any other violation where a thirty day notice would be of no value, a citation shall be issued immediately.
- 3) If compliance or correction is not satisfied within 15 working days from the final court date, including appeals, additional citations shall be issued on a daily basis unless a verifiable action is being taken to correct the violation.

Resolution #96-59 Adopted 7/30/96