

**ARTICLE II**  
**GENERAL PROVISIONS**

**XX.10 Coverage and Compliance.**

(1) This Ordinance applies to all lands in the Town of Black Creek. The Town Board shall be responsible to administer this Ordinance unless it designates by Resolution such other authority.

(2) No person, unless exempt under this Ordinance, shall divide or create a division of any land in the Town of Black Creek subject to the requirements of this Ordinance and no land division shall be entitled to be recorded in the Office of the Register of Deeds for Outagamie County unless the final land division, plat, or map as approved by the Town Board or its designee is in full compliance and consistent with all of the following:

(A) All requirements of this Ordinance;

(B) Chapter 236, Wis. Stats;

(C) The Town of Black Creek Smart Growth Comprehensive Plan adopted under §. 66.1001, Wis. stats., or other Town Land Use Plan or any component thereof;

(D) The applicable Town of Black Creek and County of Outagamie zoning regulations, building code, sanitary code, erosion control regulations, and other land division regulations;

(E) State Department of Natural Resources administrative rules on wetlands, shorelands, sewers, septic systems, and pollution abatement;

(F) All applicable State and local sanitary codes;

(G) All applicable Town of Black Creek Ordinances;

(H) All State Department of Transportation and County of Outagamie Highway Department Administrative rules relating to safety of access and the preservation of the public interest and investment in the highway system, if the land owned and controlled by the land divider abuts on a state or county trunk highway or connecting road or street;

(I) All applicable extraterritorial, comprehensive, and master plans, extraterritorial zoning or plat review ordinances, or official maps adopted pursuant to §. 62.23, stats., and any other applicable Town, County, or extraterritorial authority ordinances and regulations.

(3) No land shall be divided or any land division occur if any parcel created by the land division is smaller than ½ (**one half**) acre in a Conservation Design Subdivision or **4 (four) acres** in a Certified Survey Map.

- (4) Any parcel in the Town of Black Creek, which shall be divided by a land division regardless of the parcel size or number of parcels created, which is located wholly or partially within a Shoreland Zoning District or a Floodplain District, shall require, at minimum, a Certified Survey Map to be recorded in the Outagamie County Register of Deeds Office with approval by the Town Board or its designee under this Ordinance prior to recording.
- (5) All visible structures, encroachments, fences, navigable waters, and public streets and public roads shall be shown to scale on any Certified Survey Map from any land division to be recorded.
- (6) Any outlots created on a Certified Survey Map shall be accompanied with a statement of purpose or use of the outlot.
- (7) No person shall construct upon, convey, record, or place survey monuments, conduct surveys, layout parcels, or outlots, or create plats or maps on any land in the Town of Black Creek in violation of this Ordinance or the Wisconsin Statutes.
- (8) No person shall request, nor be issued by the Town Board, a driveway permit, building permit, or any other permit or license authorizing any construction, installation, or improvement on any land within the Town of Black Creek, except land subject to a land division that was of record as of the effective date of this Ordinance, until the provisions and requirements of this Ordinance have been fully met by the land divider. The Town Board may institute the appropriate action or proceedings to enjoin violations of this Ordinance.
- (9) All land division approvals required by the State Department of Administration, or its successor Department, for specific land divisions, including any Statutory Subdivisions, Minor Land Divisions, or Certified Surveys shall be obtained as a condition of approval by the Town Board or its designees.
- (10) All land division, plats, or Certified Survey Maps, upon receipt of final approval by the Town Board or its designees, shall be recorded in the Office of the Register of Deeds at the cost of the land divider. Final plat approval shall comply for recording with §236.21 and §236.25 Wis. Stats.
- (11) No persons shall make, record, or replat any land division, except as provided under §70.27(1) Wis. Stats if it alters acres dedicated to the public without proper Court action to vacate or discontinue such plat, map, or part thereof.
- (12) No land shall be issued a land division approval if the Town Board determines that any proposed land division plat or Certified Survey Map will materially interfere with neighboring agricultural uses or will conflict with other goals, objective, and policies as set forth in the Town Comprehensive Plan.
- (13) 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 Black Creek.
- (14) 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, improper utilization of prime farm soils, undue costs and inefficiencies in the provision of Town of Black Creek 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 Black Creek, or likely to cause a public nuisance in the Town of Black Creek. 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.

(15) 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.

(16) No person shall be issued any land division approval by the Town of Black Creek who has failed to properly and fully complete and submit to the Town Board the application form developed and provided by the Town of Black Creek.

(17) No person shall be issued a final land division approval by the Town Board until the land divider makes or installs all public improvements deemed necessary by the Town Board or until the land divider executes a surety bond or other security acceptable to the Town Board to insure that the land divider will make these public improvements within a time established by the Town Board.

(18) No person shall be issued a final land division approval by the Town Board until the Subdivider submits and obtains approval of the proposed land division plat or proposed certified survey map to the following approving authorities (as applicable):

- A. Town of Black Creek Plan Commission
- B. Outagamie County Planning and Zoning Department
- C. Wisconsin Department of Natural Resources (WDNR)
- D. U.S. Army Corps of Engineers
- E. U.S. Fish & Wildlife Service

(19) No person shall be issued a final land division plat approval by the Town Board until the land divider agrees in writing that the land divider will be responsible for the cost of any necessary alteration of any existing utilities by virtue of a land division within the public right-of-way.

(20) 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 meet the requirements established in writing by the Town Board.

(21) The Town of Black Creek shall not be responsible, with respect to any final land division for any public improvements, 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.

(22) No person shall be issued a final land division approval by the Town Board unless any roads proposed to be dedicated to the Town of Black Creek have been specifically approved for dedication 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 Black Creek Plan Commission, and as recommended by the Town of Black Creek Engineering Consultant.

(23) No person shall be issued a final land division approval by the Town Board unless any natural gas, electrical power, cable and telephone facilities are installed in such manner as to make adequate service available to each parcel or outlot in the proposed land division.

(24) Unless specifically waived in writing by the Town Board, no person shall be issued a final land division approval by the Town Board unless formal dedication of parks, open spaces, or sites for other public uses have been made, as required by the Town Board at no cost to the Town of Black Creek.

**XX.11 Combining Parcels.** Parcels shall be combined into one parcel when a use, structure, or structural addition occupies more than one parcel under the same ownership.

**XX.12 Combining Description.** Land described in s. XX.11 shall be combined into one parcel by Certified Survey Map procedures and recorded in the County Register of Deeds Office.

**XX.13 Land Suitability.** No land shall be divided which is held unsuitable for any proposed use by Town of Black Creek for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

(1) No land shall be developed which is held to be unsuitable for any proposed use if identified as being environmentally sensitive. Areas identified as being environmentally sensitive include, but are not limited to:

- (a) All areas mapped as Floodway by the Federal Emergency Management Agency (FEMA), WDNR (WDNR), or other public or private entity and incorporated into the County Floodplain Ordinance,
- (b) All areas mapped Wetland by the WDNR and depicted on the Wisconsin Wetlands Inventory Maps,
- (c) All areas within seventy-five (75) feet of the ordinary high-water mark of navigable streams, as identified on, but not necessarily limited to, the United States Geological Survey 7.5 minute quadrangle maps, and
- (d) All areas having slopes steeper than twenty (20) percent.

Areas determined to be environmentally sensitive may be included in a land division if identified as an outlot or other designation that would indicate that the land is not available for development.

(2) No land division shall be allowed where such division shall increase the non-conformity of a structure, use, or parcel, or where a non-conforming structure, use, or parcel would be created as a result of the division without a properly reviewed and approved variance.

(3) All parcels one (1) acre in size or smaller located in areas not served by municipal wastewater treatment systems will be served by clustered wastewater treatment systems approved by the Town, County, and WDNR.

(4) No parcel two (2) acres or less in area served by an on-site sanitary sewage disposal (e.g., septic tank, mound, etc.) shall include floodlands.

(5) All parcels two (2) acres or larger in area served by on-site sanitary sewage disposal shall contain not less than forty thousand (40,000) square feet of land which is at least two (2) feet above the elevation of the 100-year flood plain, or if such information is not available, five (5) feet above the maximum flood of record.

(6) Lands made, altered or filled with non-earth materials within the preceding twenty (20) years shall not be divided into building sites served by on-site soil absorption sanitary sewage disposal systems.

(7) Each parcel shall have a continuous area of at least three thousand (3,000) square feet which has ground slopes not exceeding twelve (12) percent.

(8) The Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for residential use and afford the Subdivider an opportunity to present evidence in rebuttal to such findings of unsuitability if he/she so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

**XX.14 Violations.** No person shall build upon, divide, convey, record or monument any land in violation of this chapter or the Wisconsin Statutes. No permit shall be issued authorizing the building on or improvement of any subdivision, replat or Certified Survey Map within the jurisdiction of this chapter and not of record as of **MONTH, DAY, YEAR** until the provisions and requirements of this chapter have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.

**XX.15 Penalties.** 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 shall be subject to the provisions of Sec. 236.30, Wisconsin Statutes.

(2) Conveyance of parcels in unrecorded plats shall be subject to the provisions of Sec. 236.31, Wisconsin Statutes.

(3) Monuments disturbed or not placed shall be subject to the provisions of Sec. 236.32, Wisconsin Statutes.

(4) An assessor's plat may be ordered by the Town when a subdivision is created by successive divisions as provided in Sec. 236.31(2), Wisconsin Statutes.

**XX.16 Fees.** The subdivider shall pay the Town all required fees at the specified time. Fees shall be established from time to time by resolution of the Town Board.

**XX.17 Appeals.** Any person aggrieved by an objection to a plat or failure to approve a plat may appeal there from as provided in Sections 236.13(5) and 62.23(7), Wisconsin Statutes.

**XX.18 Replat.** When it is proposed to replat a recorded land division, or part thereof, so as to change the exterior boundaries of a recorded land division, or part thereof, the Subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in Wis. Stats. ch. 236. The Subdivider, or person wishing to replat, shall then proceed as specified in this ordinance. The clerk shall schedule a public hearing before the town plan commission when a proposed preliminary plat of a replat of lands within the Town limits is filed, and shall cause notices of the proposed replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within one (1) mile of the exterior boundaries of the proposed replat.