

## **ARTICLE I INTRODUCTION**

### **XX.01 Authority.**

(1) This Ordinance was adopted under the statutory authority granted pursuant to the Village Powers of the Town of Black Creek, to §§. 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 recommendation of this Ordinance on **MONTH, DAY, YEAR** from the Town Plan Commission under §§. 61.35, 62.23 and 236.45 (2), Wis. Stats, which for the Town of Black Creek is the Town of Black Creek Plan Commission.

(2) This ordinance shall be interpreted and enforced by the Town Board, Town of Black Creek.

**XX.02 Adoption.** 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 Black Creek. Pursuant to §. 236.45 (4), Wis. stats., a public hearing was held before the adoption of this Ordinance and notice of the hearing was given by publication of a class 2 notice, under ch. 985, Wis. Stats.

**XX.03 Title.** This ordinance shall be known and cited as the “Land Division and Subdivision Regulations, Town of Black Creek, Outagamie County, Wisconsin.”

**XX.04 Purpose and Intent.** The purpose of this ordinance is to promote the public health, safety and general welfare of the Town of Black Creek, and to:

- (1) Preserve the rural character, scenic vistas, and natural beauty of the Town;
- (2) Supplement County, State, and Federal land division controls;
- (3) Encourage the most appropriate use of the land throughout the Town;
- (4) Minimize the impact to the public resulting from the division of large tracts into smaller parcels of land in the Town;
- (5) Provide the best possible environment for living in the Town;
- (6) Enforce the goals and policies set forth in any Town Smart Growth Comprehensive Plan;

- (7) Avoid congestion and provide adequate ingress and egress on the streets and highways to 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;
- (8) Realize goals, objectives, policies, and development standards set forth in plans, codes, and ordinances adopted by the Town;
- (9) Further the orderly layout and use of land;
- (10) Secure safety from fire, panic and other dangers;
- (11) Provide adequate light and air; to prevent the over-crowding of land;
- (12) Require *Conservation Subdivision* development as the primary means for residential subdivision development;
- (13) Conserve the value of prime agricultural soils;
- (14) Protect and preserve natural resources, wildlife habitat, and open space to the greatest degree possible;
- (15) Facilitate the division of larger parcels into smaller parcels of land;
- (16) Provide for administration and enforcement of this Ordinance by the Town Board, and;
- (17) Insure that residential development in the Town occurs in an orderly manner and is consistent with the Town of Black Creek Smart Growth Comprehensive Plan.

**XX.05 Severability.** If any section, provision, or portion of this ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

**XX.06 Abrogation and Greater Restriction.** (1) It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

(2) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**XX.07 Modification of Regulations**. When the Town Board finds that injustice or hardship will result from strict compliance with this Chapter, it may allow divergence from the terms hereof to the extent deemed necessary and proper to grant relief, provided that the modification meets all the following standards:

1. The modification is due to the physical features of the site;
2. The modification is the minimum deviation from the terms of this chapter necessary to mitigate the injustice or hardship; and
3. The modification is not detrimental to the public interest and is in keeping with the general spirit and intent of this chapter.

Application for any modification shall be made in writing by the Subdivider at the time the application is filed for consideration, stating specifically the circumstances upon which the Subdivider is relying, the modification requested, and how the requests meets the standards set forth above. The request shall be supplemented with maps, plans and other additional data that may aid the Town Board in the analysis of the request.

The Town Board at its discretion, if it determines it necessary for the public good, may conduct a public hearing to permit parties of interest to comment on the variance request.

If a hearing is determined necessary, the applicant shall be responsible for payment of a hearing fee as established by the Town of Black Creek Fee Schedule. The Board shall then fix a reasonable time and place for the hearing. Notice of the time and place of such hearing shall be given by publication in the Class 1 notice, under Ch. 985. A copy of such notice shall be mailed by first class mail with an Affidavit of Mailing at least 10 days prior to the date of such hearing to all property owners within 1 mile of the subject site as listed on official tax property rolls as of the date of application.

A majority vote of the entire membership of the Board shall be required to grant any modification to these regulations and any modification thus granted shall be entered in the minutes of the Board setting forth the reasons which, in the opinion of the Board, justified the modification.

**XX.08 Repeal**. All other ordinances or parts of ordinances of the Town of Black Creek inconsistent or in conflict with this ordinance, to the extent of inconsistency or conflict only, are hereby repealed.

**XX.09 Effective Date**. This ordinance shall be effective after a public hearing, adoption by the Town Board of Black Creek, and publication. The effective date for this ordinance is MONTH, DAY, YEAR.