

CHAPTER 10 : LAND DIVISION

10.01 INTRODUCTION

A. TITLE

This ordinance will be known and may be cited and referred to as the Town of Mosel Land Division Ordinance, or as Chapter Ten (10) of the Town of Mosel Municipal Code.

B. AUTHORITY

This Ordinance was adopted by the Town under its Village Powers, pursuant 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 written recommendation of this Ordinance dated March 1, 2005, from the Town Planning Agency under §. 61.35, 62.23, and 236.45(2), Wis. Stats., which for the Town is the Town of Mosel Plan Commission.

C. PURPOSE AND INTENT

It is the purpose of this Ordinance to regulate and control all land divisions within the Town in order to promote and protect the public health, safety, aesthetics, and general welfare of the community. More particularly, and without limitation, it is the purpose of this Ordinance to implement the Town's comprehensive plan and components thereof and facilitate enforcement of community development standards as set forth in the zoning code, building code, and official map; to promote the wise use, development, and conservation of resources, and achieve a balanced relationship between land use and development and the natural resource base; to further the orderly layout and appropriate use of land; to avoid the harmful effects of premature division or development of land; to lessen congestion in the streets; to provide for proper ingress and egress from development sites; to secure safety from fire, flooding, water pollution, and other hazards and minimize expenditures for flood relief and flood control projects; to prevent and control erosion, sedimentation, and other pollution of surface and subsurface waters; to preserve natural vegetation and cover and protect the natural beauty of the Town; to provide adequate light and air; to prevent the overcrowding of land and avoid undue concentration of population; to facilitate the division of land into smaller parcels; to facilitate and ensure the adequate provision of transportation, water, sewage, storm water management, schools, parks, playgrounds, and other public facilities and services; to ensure adequate legal description and proper survey monumentation of divided land; to provide adequate, affordable housing; and to provide for the administration and enforcement of this ordinance.

D. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance 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, wherever this ordinance imposes greater restrictions, the provisions of this ordinance will govern.

E. INTERPRETATION

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

F. SEVERABILITY

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 will not be affected thereby.

G. REPEAL

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.

H. DISCLAIMER OF LIABILITY

The Town does not guarantee, warrant, or represent that only those areas delineated as floodplains on plats and certified survey maps will be subject to periodic inundation, nor does the Town guarantee, warrant, or represent that the soils shown to be unsuited for a given land use from tests required by this Ordinance are the only unsuited soils within the jurisdiction of this Ordinance; and thereby asserts that there is no liability on the part of the Town Board, its agencies or agents, or employees for flooding problems, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this Ordinance.

10.02 DEFINITIONS

A. GENERAL PROVISIONS

For the purpose of this ordinance, the following definitions will be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "will" is mandatory and not directory and the word "building" will include the word "structure."

B. SPECIFIC WORDS AND PHRASES

(1) ALLEY

A public or private right-of-way which provides secondary access to abutting properties.

(2) APPLICANT

The sub divider or condominium developer or their agents.

(3) APPROVING AUTHORITIES

Each governmental body having authority to approve or reject a preliminary or final plat, or condominium plat. Approving authorities are set forth in §. 236.10, Wis. Stats.

(4) ARTERIAL STREET

A street used, or intended to be used, primarily for fast or heavy through-traffic, whose function is to convey traffic between municipalities and activity centers. Arterial streets shall include freeways and expressways.

(5) BLOCK

An area of land bounded by streets, or a combination of streets, public parks, cemeteries, railroad rights-of-way, bulkhead lines, shorelines of waterways, and/or town boundaries.

(6) BUFFERYARD

An area of land within the boundaries of a lot or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences and/or berms. It is designed to limit continuously the view and/or sound from the lot or site to adjacent lots or sites. A buffer yard is typically defined by a delineated easement graphically indicated on the face of the certified survey map, subdivision plat or condominium plat.

(7) BUILDING

Any structure erected or constructed of wood, metal, stone, plastic or other materials, having a roof supported by columns or walls, which is intended to be used by human beings or animals for occupancy, livery, commerce, education, storage, or other purposes.

(8) CERTIFIED SURVEY MAP

A map prepared in accordance with §. 236.34, Wis. Stats., and applicable provisions of this Ordinance, or future revisions thereof, for recording a minor land division.

(9) CHANNEL

A natural or artificial watercourse of perceptible extent which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a definite bed and banks that serve to confine the water.

(10) COLLECTOR STREET

A street used, or intended to be used, to carry traffic from minor streets to the major system or arterial streets, including principal entrance streets to residential developments.

(11) COMMISSION

Reference to Commission will mean the Town of Mosel Plan Commission.

(12) COMPREHENSIVE PLAN

An extensively developed plan, also called the Mosel Land Use Plan, adopted by the Town Board pursuant to §. 62.23 , Wis. Stats., or a Comprehensive Plan adopted pursuant to §. 66.1001 , Wis. Stats. Components of a comprehensive plan include, but are not limited to, a land use, transportation system, park and open space, sanitary sewer, public water supply, and storm water management system elements, and neighborhood unit development plans. Devices for implementation of such plans include zoning, official mapping, land division control, and capital improvement programs.

(13) CONDOMINIUM

A structure having two (2) or more individual units, each assigned to individual ownership, but located on a lot having a common ownership and use arrangement.

(14) CONDOMINIUM ASSOCIATION

An association, whether incorporated or not, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium. See also Homeowner's Association.

(15) CONDOMINIUM PLAT, MAJOR

Condominiums in which land is allocated into parcels or building sites, whether the individual portions of land are defined as "units" or "limited common elements", are subject to review and approval of this ordinance if five (5) or more parcels or building sites of forty (40) acres or less are created within any five (5) year period from a lot, parcel or tract which existed on the effective date of this ordinance.

(16) CONDOMINIUM PLAT, MINOR

Condominiums in which land is allocated into parcels or building sites, whether the individual portions of land are defined as "units" or "limited common elements", are subject to review and approval of this ordinance if one (1) but not more than four (4) parcels or building sites of forty (40) acres or smaller in size are created within any five (5) year period from a lot, parcel or tract which existed on the effective date of this ordinance.

(17) COUNTY

Reference to County will mean Sheboygan County and will include any agency, department or committee thereof.

(18) CRITICAL AREAS

Areas of steep slopes, woodlands and forest (mature and young), lakes, ponds, streams, shore buffer, floodplains, drainage ways, wetlands and shoreland wetlands as defined in the Town's Environmental Features Map prepared by the Bay Lake Regional Planning Commission, 1999.

(19) CUL-DE-SAC STREET

A minor street with only one outlet and a turn-around for the safe and convenient reversal of traffic movement.

(20) DETENTION BASIN

A man-made or natural depression below the surrounding grade level designed to collect surface and subsurface water so that it might impede its flow; and to gradually release the same into natural or man-made outlets (i.e. stream or storm sewer systems) at a rate not greater than that prior to the development of the property.

(21) DEVELOPMENT

Any man-made change to improved or unimproved real estate including, but not limited to, construction of or additions or substantial improvements to: structures, accessory uses, mining, dredging, filling, grading, paving, excavating or drilling operations, or disposition of materials.

(22) DRAINAGEWAY

The land on either side and within fifty (50) feet of the centerline of any intermittent or perennial stream graphically shown on: a topographic survey prepared and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet, or on the U.S. Geological Survey (USGS) 7.5-minute quadrangle topographic map of the area.

(23) EASEMENT

Authorization by a property owner for another to use the owner's property for a specified purpose.

(24) EXTRATERRITORIAL PLAT APPROVAL JURISDICTION

The unincorporated area within one and one half (1.5) miles of a fourth-class city or village and within three (3) miles of all other cities over which cities and villages may exercise plat approval, provided they have enacted an official map ordinance or subdivision control ordinance in accordance with, §. 236.10, Wis. Stats.

(25) FINAL PLAT

A map prepared in accordance with Chapter 236, Wis. Stats., and this Ordinance.

(26) FLOOD OF RECORD, MAXIMUM

The highest recorded elevation of a flood event.

(27) FLOOD PROTECTION ELEVATION

An elevation two (2) feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, five (5) feet above the maximum flood of record.