

Codified: 5/13/1991
Amended: 2006.3.13
Amended: 2010.3.16
Amended: 2010.5.10
Amended: 2011.5.2
Amended: 2012.3.5
Amended: 2013.2.11
Amended: 2014.2.10
Amended: 2014.6.30
Amended: 2014.12.8
Amended: 2015.5.26
Amended: 2015.8.24
Amended: 2021.9.13

CHAPTER XXXVI

LAND DIVISION, DEVELOPMENT AND PUBLIC HEARING FEES

SECTION 36.00. Purpose and Authority. The purpose of this Chapter is to regulate and control the division of Town lands and to provide for and regulate the payment of fees to the Town relative to the division of land within the Town of Wheatland, Kenosha County, Wisconsin, in order to promote the public health, safety, morals, prosperity, aesthetics and general welfare of the Town and its environs and to further the orderly layout and use of land and has been adopted under the authority and procedure as provided for in Section 236.45, Wis. Stats. This Chapter provides the Town with a method of recovering costs and expenses incurred by the Town where land divisions and requests for rezoning and/or conditional use permits require public hearings.

SECTION 36.10. Abrogation and Greater Restrictions. Except as is specifically provided herein, it is not the intent of this Chapter to repeal, abrogate, annul, impair, or interfere with any existing ordinances, regulations, or approvals previously adopted or issued pursuant to law, including the Kenosha County Zoning Ordinance and Kenosha County Land Division Ordinance. However, where this Chapter imposes greater restrictions, and such restrictions do not contravene rights vested under law, the provisions of this Chapter shall govern.

SECTION 36.20. Definitions. For the purposes of this Chapter, the following defined words or phrases shall have the definitions provided below, Words or phrases that are not defined shall have their common, ordinary meaning.

A. Divider: Any person, including the owner of land or the owner's agent who divides, conveys, or seeks to divide or convey land in such a way that a land division or subdivision or minor land division results.

B. Land Division: Any division or conveyance of land which results in the creation of one or more additional lots or parcels.

C. Subdivision: A land division where the act of division creates five (5) or more lots of five (5) acres each or less in area; or where the act of division creates five (5) or more lots of five (5) acres each or less in area by successive division within a period of five (5) years.

D. Minor Land Division: All land divisions other than subdivisions.

E. Lot: Any parcel of land formed by a land division.

F. Person: Any individual, corporation, partnership, or association.

SECTION 36.25. Adoption of Comprehensive Plan.

(A) Authority. Pursuant to §62.23(2) and (3), §61.35 and §60.22(3) of the Wisconsin Statutes, the Town of Wheatland is authorized to prepare and adopt a comprehensive plan as defined in §66.1001(1)(a) and §66.1001(2) of the Wisconsin Statutes.

(B) Public Participation. The Town Board of the Town of Wheatland, Wisconsin, had adopted written procedures designed to foster public participation in every stage of the preparation of a comprehensive plan, as required by §66.1001(4)(a) of the Wisconsin Statutes.

(C) Intergovernmental Cooperation. The Town has cooperated with Kenosha County, UW-Extension, and SEWRPC to prepare a comprehensive plan that will serve as the comprehensive plan for the Town of Wheatland, which is documented in the report titled "A Comprehensive Plan for the Town of Wheatland: 2035".

(D) Plan Commission Review. The Plan Commission of the Town of Wheatland, by a majority vote of the entire Commission recorded in its official minutes, has adopted a resolution approving the comprehensive plan and recommending to the Town Board the adoption of the document entitled "A Comprehensive Plan for the Town of Wheatland: 2035", containing all of the elements specified in §66.1001(2) of the Wisconsin Statutes.

(E) Public Hearing. The Town has duly noticed and held at least one (1) public hearing on the comprehensive plan, in compliance with the requirements of §66.1001(4)(d) of the Wisconsin Statutes.

(F) Adoption. The Town Board of the Town of Wheatland, Wisconsin, does, by the enactment of this ordinance, formally adopt the document entitled, "A Comprehensive Plan for the Town of Wheatland: 2035", pursuant to §66.1001(4)(c) of the Wisconsin Statutes, as the Town of Wheatland comprehensive plan.

(G) Effective Date. This ordinance shall take effect upon passage by a majority vote of the members-elect of the Town Board and publication or posting as required by law.

SECTION 36.26. Public Participation Plan for Amending the Comprehensive Plan.

(A) Introduction and Background. On March 16, 2010, the Town Board adopted §36.25 of the Code of Ordinances of the Town of Wheatland, the multi-jurisdictional comprehensive plan for Kenosha County, as the Town comprehensive plan under §66.1001 of the Wisconsin Statutes. That plan is documented in a report titled

"*Comprehensive Plan for the Town of Wheatland: 2035*". The comprehensive plan was prepared in accordance with a public participation plan adopted by the Town Board that included activities to foster public participation in the preparation of the comprehensive plan. Under §66.1001(4)(a) of the Wisconsin Statutes, future amendments to the comprehensive plan must also be carried out in accordance with a public participation plan, adopted by the Town Board, designed to foster public participation in the amendment process.

(B) Public Participation Activities for Future Amendments to the Comprehensive Plan.

- (1) The Town will provide opportunities for public review of materials describing all proposed amendments to the comprehensive plan, including the following:
 - (a) Printed copies of materials describing a proposed plan amendment will be made available at the Town Hall.
 - (b) Electronic copies of materials describing a proposed plan amendment will be posted on the Town website.
- (2) The Town will hold a public hearing on each proposed amendment to the comprehensive plan. The hearing will include a presentation describing the proposed plan amendment and provide an opportunity for the public to comment on the proposed amendment. The Town Plan Commission and Town Board will take public testimony provided at the hearing and any written comments submitted to the Town into account during their deliberations and actions on the proposed plan amendment.
- (3) The public hearing referred to in subparagraph (2), above, will be preceded by a Class 1 notice that is published at least thirty (30) days before the hearing is held. In accordance with §66.1001(4)(d), Wis. Stats., the notice will include the date, time and place of the hearing; a brief summary of the proposed comprehensive plan amendment; a local contact who may be contacted for additional information on the proposed plan amendment and to whom written comments regarding the plan amendment may be submitted; and information regarding where and when the proposed plan amendment may be inspected before the hearing and how a copy of the proposed plan amendment may be obtained.
- (4) The Town Clerk will provide a copy of the public hearing notice and the proposed amendment at least thirty (30) days prior to the public hearing

to any person who submits a written request to receive notice of any proposed amendment under §66.1001(4)(f), Wis. Stats. The Town may charge a fee to cover the cost of providing such notice. In accordance with §66.1001(4)(e), Wis. Stats., the Town Clerk will also provide such notice to nonmetallic mining operators within the Town; to persons who have registered a marketable nonmetallic mineral deposit within the Town; or to persons who own or lease property on which nonmetallic minerals may be extracted, if such person has requested notification in writing.

(C) Adoption of Comprehensive Plan Amendments. Any plan amendment approved by the Town will be approved by a resolution approved by a majority of the full membership of the Town Plan Commission, and an ordinance adopted by a majority of the full membership of the Town Board. Printed or electronic copies of the amendment and the ordinance adopting the amendment will be sent to all units and agencies of government as required under §66.1001(4)(b), Wis. Stats.

36.27 Amending the Comprehensive Plan.

(A) Change the land use designation of a parcel of land located at 5675 392nd Avenue, Tax Parcel #95-4-219-323-0305 from “commercial” and “suburban-density residential” to “commercial” on the land use plan map adopted by the Town Board as part of the comprehensive plan.

(B) Change the land use designation of a parcel of land located at 39537 Bloomfield Road, Powers Lake, Tax Parcel #95-4-119-074-0981 from “Commercial” and “Park and Recreational” to “Park and Recreational” on the land use plan map adopted by the Town Board as part of the comprehensive plan.

(C) Change the land use designation of a parcel of land located at 39613 Bloomfield Road, Power Lake, Tax Parcel #95-4-119-074-0972 from “commercial” to “medium-density residential” on the land use plan map adopted by the Town Board as part of the comprehensive plan.

(D) Change the land use designation of a parcel of land located in the Southeast Quarter of Section 9, T1, R19E, Tax Parcel #95-4-119-094-0500 from “suburban-density residential” and “extractive” to “park” and “recreational” on the land use plan map adopted by the Town Board as part of the comprehensive plan.

(E) Amend Part 2 of Chapter XII - Implementation Element, "The following actions are not considered amendments to the *Comprehensive Plan for the Town of Wheatland: 2035* and will not require review and approval by the Wheatland Plan Commission and the Wheatland Town Board: zoning actions that move the zoning classification of a property to the zoning classification that existed prior to the failed development proposal, provided no land division action (e.g. certified survey map, subdivision plat or condominium plat) is taking place."

(F) Change the land use designation of a parcel of land located in the Eastern 20 acres of Tax Parcel #95-4-219-252-0101 (77 acre parcel) located on the south side of 31st Street (Karcher Road) at C.T.H. "J" from "Farmland Protection" to "General Agricultural and Open Land" on the land use plan map adopted by the Town Board as part of the Comprehensive Plan.

(G) Change the land use designation of a parcel of land designated as Parcel No. 95-4-219-314-0310 located at the southeast corner of the intersection of S.T.H. "50" and C.T.H. "P" (400th Avenue) from "Suburban-Density Residential" to "Commercial" on the land use plan map adopted by the Town Board as part of the Comprehensive Plan.

(H) Change the land use designation of parcels of land designated as part of Parcel No. 95-4-219-323-0401 located at the northeast corner of St. John's Evangelical Lutheran Cemetery and Parcel No. 95-4-219-323-0210 located on the east side of St. John's Evangelical Lutheran Cemetery from "Suburban-Density Residential" to "Governmental and Institutional" on the land use plan map adopted by the Town Board as part of the Comprehensive Plan.

(I) Change the land use designation of parcels of land designated Parcel No. 95-4-219-274-0201 located on the west side of 348th Avenue (CTH "KD") from "Suburban-Density Residential", "PEC" and "Non-Farmed Wetland" to "General Agricultural and Open Land", "PEC" and "Non-Farmed Wetland" on the land use plan map adopted by the Town Board as part of the Comprehensive Plan.

(J) Change the land use designation of a parcel of land designated as Parcel No. 95-4-219-314-0640 located on the west side of 392nd Avenue from "Suburban-Density Residential" and "Non-Farmed Wetland" to "Commercial" and "Non-Farmed Wetland" on the land use plan map adopted by the Town Board as part of the Comprehensive Plan.

(K) Change the land use designation of a parcel of land designated Parcel No. 95-4-219-314-0360 located on the north side of 60th St. from "Suburban-Density Residential," to "Suburban-Density Residential" and "Commercial" on the land use plan map adopted by the Town Board as part of the Comprehensive Plan.

SECTION 36.30. Jurisdiction. This Chapter shall apply to all lands within the corporate limits of the Town of Wheatland, Kenosha County, Wisconsin. The provisions of this Chapter shall not apply to:

- A. Transfers of interests in land by will or pursuant to court order.
- B. Leases for a term not to exceed 10 years, mortgages, or easements.
- C. Sales or exchanges of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this Chapter, the zoning ordinances or other applicable laws, ordinances, or regulations.
- D. Cemetery Plats.

SECTION 36.40. Compliance. Except as is specifically provided for herein, it shall be unlawful to, and no person shall: (1) Divide any land located within the jurisdictional limits of this Ordinance, or (2) record any conveyance or any plat, certified survey map, or other evidence of a land division, or (3) construct, assemble, or place any building, structure or improvement upon any lot or parcel of land created by a conveyance or land division; and no town zoning, building, or occupancy permit or approval shall be granted with respect to any lot or parcel of land so created; unless and until such time as there has been full compliance with the payment of all fees required by this Chapter and with the Kenosha County Land Division Ordinance, Kenosha County Zoning Ordinance, Chapter 236 of the Wisconsin Statutes and all other applicable state and federal statutes, and Rules of the Wisconsin Department of Industry, Labor and Human Relations, Wisconsin Department of Transportation, Wisconsin Department of Natural Resources, Rules of the United States Army Corps of Engineers, Rules of the United States Environmental Protection Agency and any applicable intergovernmental cooperative agreements.

36.41. Land Division with Mound Systems. Notwithstanding any contrary provisions regulating zoning as set forth in the Kenosha County Code of Ordinances, no land division which requires the installation of a "mound system" shall be approved by the Town unless each such parcel to be created contains at least 1.5 acres of land, excluding road right-of-way, and excluding any lands delineated as wetland or designated as being within the established floodplain as maintained by the records of the Kenosha County Department of Planning and Development.

36.42. Certified Survey Maps Required. No land division shall be permitted within the Town which creates a new parcel which is less than 35 acres in area unless the divider shall first submit a Certified Survey Map which complies with all applicable requirements of Chapter 236 of the Wisconsin Statutes, as amended, for approval by the Town Board.

SECTION 36.50. Fees. The divider of any lands in the Town of Wheatland shall submit all required fees to the Town Treasurer prior to final approval of a plat or a certified survey map.

36.51. Minor Land Division Fee. Whenever a minor land division involves a request for rezoning and/or a conditional use permit which necessitates a public hearing, the divider shall pay a fee of \$50.00 plus \$10.00 for each additional lot created by the land division, to assist in defraying the cost of review.

36.52. Preliminary Plat Review Fee. A subdivider shall pay a fee of \$200.00 plus \$2.00 per lot or parcel within a proposed preliminary plat to the Town Treasurer at the time of the first application for approval of such preliminary plat to assist in defraying the cost of review. A reapplication fee of \$50.00 shall be paid to the Town Treasurer at the time of submission of any modifications or additions to any preliminary plat which has previously been reviewed.

36.53. Final Plat Review Fee. A subdivider shall pay a fee of \$100.00 plus \$1.00 for each lot or parcel within a proposed final plat to the Town Treasurer at the time of the first application for approval of such plat to assist in defraying the cost of review. A reapplication fee of \$50.00 shall be paid to the Town Treasurer at the time of submission of any modifications or additions to any final plat which has previously been reviewed.

36.54. Public Hearing Fee. A person requesting rezoning or a conditional use permit which necessitates a public hearing shall pay a fee of \$50.00 at the time that person makes a request for such rezoning or permit to assist in defraying the cost thereof. Such fee shall not be required if such request for rezoning or conditional use permit is made incident to or contemporaneous with the request of that person for preliminary plat review or final plat review, or with a minor land division.

36.55. Engineering and Inspection Fees. The divider shall pay to the Town Treasurer upon demand a fee equal to the actual cost incurred by the Town for all engineering or inspection work conducted by, or on behalf of the Town in connection with its review of any proposed plat or land division or inspection of any engineering work. Engineering work shall include, without limitation, the preparation or review of construction plans and specifications, review of plans, construction staking, inspection of construction and such other engineering or inspection services as the Town Board may deem necessary to assure that construction of the required improvements is in compliance with the approved plans and specifications. The Town Board may permit the divider to furnish all, or some part of the required construction and plans and specifications, and no engineering fees shall be charged for such plans and specifications.

36.56. Administrative Fee. The divider shall pay to the Town Treasurer, upon demand and in no event later than the final approval of any plat or certified map, a fee equal to the cost of any legal, administrative or fiscal services incurred by the Town in connection with its review of any plat or land division. Legal work shall include, without limitation, the drafting of contracts between the Town and the land divider. These fees may also include the cost of obtaining professional opinions including, but not limited to those of attorneys, engineers, architects and land planners requested by the Town Board or Town Plan Commission in connection with the land division being considered.

36.57. Effect of Nonpayment of Fees. Notwithstanding any other provision of this Chapter, no approval of any plat shall be granted or action taken on a request for rezoning or conditional use permit by the Town Plan Commission or Town Board until such time as all fees imposed under this ordinance have been paid in full (with the exception of construction—related fees).

SECTION 36.60. Remedies and Penalties.

36.61. The Town may institute appropriate actions or proceedings to enforce the provisions of this ordinance and of Chapter 236 of the Wisconsin Statutes by means of injunction, forfeitures, or penalties, or otherwise as provided by law.

36.62. Any person who violates the provisions of this ordinance shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$500.00 for each violation, plus the costs of prosecution. Each day a violation exists or continues shall constitute a separate violation.