

**Town of Evergreen  
Ordinance 24-01**

**Section 1--Title**

The title of this Ordinance: Town of Evergreen Land Division Ordinance.

**Section 2—Purpose**

This Ordinance proposes to gain sufficient notice of and thereafter to regulate and control the division of land within the limits of the Town of Evergreen [“Town”], Washburn County, Wisconsin, in order to accomplish the following:

- a. Promote the public health, safety, and general welfare of the Town.
- b. Supplement the Washburn County Land Division Ordinance when it governs the division of land or the creation of homes in the Town. Amendments to the Washburn County Land Ordinance enacted subsequent to the effective date of this Ordinance shall not constitute amendments to this Ordinance.
- c. Promote planned and orderly layout and use of the land of the Town
- d. Encourage the most appropriate use of the land throughout the Town.
- e. Minimize the public impact resulting from the division of large tracts of land or from the creation of smaller parcels of land in the Town.
- f. Facilitate the adequate provision of transportation, water sanitary systems, health, education, recreation, and other public requirements of the Town.
- g. Encourage the most appropriate use of land throughout the Town.
- h. Promote the rural and agricultural character, the scenic vistas, and the natural beauty of the Town.
- i. Provide the best possible environment for human habitation in the Town.
- j. Provide for the conservation of the agriculturally important lands in the Town by minimizing conflicting land uses.
- k. Provide for the administration and the enforcement of this Ordinance by the Town.

**Section 3—Multiple Jurisdictions/Conflict of Laws**

The Town is only one of a number of governmental bodies that might have jurisdiction over proposed land divisions, building sites, or developments. The Town cannot make any representations or approve any land divisions, building sites, or developments on behalf of any other governmental body. Also, no land division or building site may be recorded at the Washburn County Register of Deeds unless all required approvals have been given.

Where this Ordinance conflicts with other ordinances or regulations governing the division of land, the more restrictive law shall apply.

**Section 4—Authority**

This Ordinance was adopted under the statutory authority of the Town of Evergreen as provided for in sections 60.10(2)(c), 60.22(3), and 236.45 of the Wisconsin Statutes.

**Section 5--Definitions**

- a. Certified Survey Map: a map of a minor land division prepared in accordance with section 236.34 of the Wisconsin Statutes.

- b. Minor Land Division: Land divisions that create 4 or fewer parcels that are 5 acres in area, either through a single division or successive divisions by either the same or subsequent owner(s).
- c. Major Land Division: Land divisions that create 5 or more parcels that are 5 acres in area either through a single division or successive divisions by either the same or subsequent owner(s).
- d. Land Divider: Any person, partnership, corporation, or other legal entity that has a land ownership or other legal interest in the subject land and that the land is being divided proposed to be divided, resulting in land division. Definition of “Land Divider” as defined in this section applies to persons, partnerships, corporations, or other legal entities seeking to develop land.
- e. Land Division: Means the division of a lot, outlot, parcel, or tract of land by the owner of the land, or the owner’s agent, for the purpose of sale or for development when the act of division creates two or more parcels or building sites, inclusive of the original remnant parcel, any of which is less than 5 acres in area. Any residual parcel resulting from any division of land shall be included in the land division if said parcel is less than 10 acres in size. “Land Division” includes but is not limited to minor and major land divisions.
- f. Lot: a parcel of not less than the Town’s minimum lot size of 5 acres or more, which is created by a land division, with the designated parcel, tract, or area of land established by land division plat, Certified Survey Map, or as otherwise permitted by law to be conveyed, used, developed, or built upon as a unit.
- g. Outlot: A parcel of land other than a lot so designated on a land division plat or Certified Survey Map.
- h. Parcel: Contiguous lands under the control of a land divider not separated by streets, highways, navigable rivers or bodies of water.

## **Section 6—Exemptions**

The provisions of this Ordinance as it applies to land divisions:

- a. To transfers in interest in land by will or pursuant to court order
- b. Nor to the sale or exchange of land between owners of adjoining property if additional lots are not thereby created and if the lots resulting are not reduced below the minimum size of the Town’s minimum density.

## **Section 7—Coverage**

This Ordinance applies to all lands in the Town.

The Evergreen Town Board shall be responsible for administering this Ordinance unless it delegates such authority by resolution.

## **Section 8—Compliance**

No person, unless otherwise exempt under this Ordinance, shall divide or create a land division of any land in the Town subject to the requirements of this Ordinance, nor shall any land division or site condominium be entitled to be recorded in the Office of the Register of Deeds for Washburn County unless the final land division plat or site condominium plat or certified map as approved by the Town Board or its designee is in full compliance and consistent with all of the following:

- a. This Ordinance
- b. Chapter 236 of the Wisconsin Statutes
- c. Wisconsin Department of Natural Resources administrative rules on wetlands, shorelands, sewers, septic systems, and pollution abatement.
- d. All applicable State and local sanitary codes.
- e. The Town's Building Structure and Control Ordinance.
- f. The Town Board may require any proposed land divider or declarant to furnish maps, data, and other information as may be necessary to determine land suitability.

### **Section 9—Documentation and Fees**

To begin the approval process, an applicant must submit to the Town Clerk the following:

- a. A statutory subdivision preliminary plat or certified survey map. This plat or certified map shall set forth the size and location of the lots as sought to be created.
- b. The name or title under which the proposed land division is to be recorded.
- c. A statement of intended use.
- d. The location of the proposed land division as described by government lot, quarter-section, township, range, County, State, and parcel number.
- e. The names, addresses, and telephone numbers of the owner, land divider/declarant, and the land surveyor who will be doing the survey work.
- f. Description of land that is immediately adjacent to the proposed land to be divided or declared.
- g. Locations of all existing property boundary lines, structures, drives, lakes, streams, navigable waters, watercourses, wetlands, rock outcrops, wooded areas, and other similar significant natural or man-made features within the tract being subdivided/declared or immediately adjacent thereto.
- h. Specifications of any sites to be reserved or dedicated for parks, drainage ways, trails, or other public uses.
- i. Proposed land and/or stream access.
- j. All designated wetlands as delineated by the DNR or other professional certified or otherwise qualified to delineate wetlands.
- k. The estimated timetable for final development and requested timeline by the land divider or declarant for final approvals from the Town.
- l. The Town application and associated fee.

### **Section 10--Expenses Associated with Application and Review**

The applicant shall be responsible for reimbursing the Town for all reasonable costs incurred by the Town or its agents for processing and reviewing the land division application, including, but not limited to costs associated with engineers, inspectors, lawyers, and administrative personnel. The Town may determine that such costs or a portion thereof associated with processing and review of the land division application should be paid by the applicant in advance and may be waived by the Town in its discretion all together or in part. Such costs or portions thereof shall be noticed to the applicant as soon as practicable.

### **Section 11--Approval Procedures**

Once the documentation and fee(s) as provided in Sections 9 and 10 above are properly and fully submitted to the Town Clerk, the Town shall approve, unconditionally or conditionally, or reject the

application within 90 days from the time the application is fully and completely submitted.

The Town's approval, conditionally or unconditionally, or rejection of the application for land division shall be in writing and shall explain the reasons for the Board's decision, and such writing shall be submitted to the applicant within that 60 day period after submittal.

### **Section 12. Violation of the Ordinance**

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 \$500 plus any additional applicable costs incurred by the Town for each offense. Each day a violation exists or continues shall constitute a separate offense.

No person shall sell land or create lots in the Town unless the lots, units, and outlots have been lawfully approved pursuant to the terms of this Ordinance or any predecessor procedure. The unlawful sale or creation of lots, units, or outlots is deemed to be a public nuisance which may be enjoined by a Court of record.

### **Section 13. Severability**

Invalidation of any part of this chapter by a court shall not invalidate the rest of this chapter. If for any reason a clause, sentence, paragraph, section or other part of this chapter should ever be judged invalid by a court of competent jurisdiction, such invalidity shall not affect the other provisions which shall remain in effect without the invalid provision.

### **Section 14. Effective Date**

This Ordinance is effective upon publication. The Town Clerk shall properly post or publish this Ordinance as required under section 60.80, Wis. Stats.

*I hereby certify that the preceding ordinance was adopted at a noticed meeting of the Town Board of the Town of Evergreen on February 12, 2024.*

*Dated this 12th day of February, 2024*

*Julie A. Kessler*

Julie A. Kessler, Clerk  
Town of Evergreen