

MEMORANDUM

Business Item C

From: Administrator/Staff

To: Plan Commission

Re: Plan Commission review & consideration of Resolution 2026-006 Recommending Amendments to Chapter 7.10 Subdivision Ordinance.

Please see the following comments from Code Administrator Kamke:

The state legislature sent changes to the governor last year to make updates to Chapter 236 of state statute, which regulates the procedures and process for all land divisions in Wisconsin. The governor signs those changes into law in December 2025, with an effective date of July 1, 2026. Statute requires that a planning agency in a governing unit (Planning Commission in the Town of Clayton) provide a recommendation to the governing body (Town Board), who shall then hold a public hearing prior to adoption. This ordinance has gone largely untouched since its adoption in 2005. While it is recognized that the Town should undertake a more comprehensive revision or rescind/recreate this ordinance soon, the proposed edits here are to remain compliant with amended law and known jurisdictional changes.

The changes in your packet are categorized into three groups:

1. **Yellow highlight** are the required changes to align with 2025 Act 68. See below. (“Must Do”)
2. **Blue highlight** are the recommended changes that relate to the County Shoreland ordinance jurisdictional changes and are similar in nature to the Zoning Ordinance and Comprehensive Plan amendments that occurred earlier in the year. (“Recommended” changes)
3. **Green highlights** are those edits that are easy to make now, since other amendments are happening anyway. This includes updates to renamed or renumbered codes and policies, as well as making long-overdue removals of irrelevant parts of the ordinance and small changes to align policy with practice. This is mainly in reference to when the ordinance was created, it recreated the Winnebago County subdivision ordinance at the time, but without editing the passages that applied to areas outside the Town of Clayton. Examples to Neenah Slough, City of Neenah maps, and Table exhibits that were never included in the Town ordinance. (“Might as well” change)

In general, the 2025 WI Act 68 changes are as follows:

- Add new intents to the purposes of the ordinance, and removes others. This section of the statute has not been updated since 1955, and land use has changed substantially in the state over the last 70 years.
 - Overcrowding of land and congestion in the streets and highways have both been struck. The higher density use of land is something that is now being encouraged, from promoting “in-fill” development to preserving farmland and preventing sprawl.
 - Focus on community-supporting development, from variety of housing types to ‘complete streets’ that promote connectivity. This makes it easier for not only those who want to live and work in these areas, but also for maintenance of those streets.

- Requires communities to offer pre-submittal conceptual review of plats.
 - Town of Clayton historically has offered this, so the only language that needed to be added was that the opinions provided by any participant in those meetings would not be binding.
- Update any requirement for 'final' plans or reports at the preliminary plat level, to allow the submission of preliminary plans and reports.
 - The creation of fully designed and engineer stamped plans for stormwater, sewer, water, and road construction is an expensive endeavor. This law change now gives assurance to a developer that those investment costs will be recouped, since submission of final plans can be a condition of approval, but can no longer be required before the Town will review a preliminary plat.
- Edit any passages that required the installation or acceptance of public improvements before a plat would be reviewed or recorded.
 - Town of Clayton didn't have much in this category, but other communities would require the sewer or roads to be installed before they would approve the plat. Like above, that was a huge financial burden to take on without knowing if the plat would be approved at all, so now it can be a **CONDITION** of approval and time limited, but cannot be required prior to approval or recording of the subdivision plat.
 - Also within this category is the requirement to release building permits once substantial completion of public improvements has occurred. A common situation apparently was that a community would require the acceptance of a roadway before they would issue a building permit or allow occupancy for a new home. The logic was that if there is no accepted public access to the site, the site is not yet buildable or able to be occupied. In reality, a road can be substantially completed but not yet accepted. There is access to the site on dedicated right-of-way that intends to be conveyed to the community, and so building approvals should not be withheld if the public improvements are substantially completed. Substantially completed is defined in statute. Note that the installation of such improvements can still be required, but should be through a developer agreement with financial securities.
- Community must endorse/sign the final plat in 10 days from submittal by subdivider, if the plat has met all conditions and obtained all other approvals from other agencies. Clerk must also add language to the face of the plat if the subdivision did not receive action from the community in time, which defaults it to a 'deemed approved' category. Law change requires this to be called out, which improves record keeping.

SUGGESTED MOTION(S):

*Motion **AND ROLL CALL** to recommend approval of the proposed revisions to the Town of Clayton Subdivision Ordinance with Resolution 2026-006.*

If you have any questions about this information, please call or e-mail me.

Respectfully Submitted,
Kelsey