

ORDINANCE
LAND DIVISION AND CONDOMINIUM CONTROL

THE TOWN BOARD OF THE TOWN OF CLEVELAND, CHIPPEWA COUNTY, DOES HEREBY ORDAIN AS FOLLOWS:

The following Ordinance, Title 7, Chapter 1, is hereby amended by the Town Board on behalf of the Town of Cleveland to be codified in the Town Code of Ordinances:

CHAPTER 1
LAND DIVISION AND CONDOMINIUM CONTROL

- 7-1-1 Authority
- 7-1-2 Purpose
- 7-1-3 Definitions
- 7-1-4 Applicability
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- 7-1-6 Access and Road Design Standards
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- 7-1-16 Severability

SEC. 7-1-1 AUTHORITY

This ordinance is adopted pursuant to the authority vested in the Town Board pursuant to the grant of village powers in accord with Wis. Stats. §60.10(2) (c), §60.22(3), §61.34(1) and further in accord with Wis. Stats. §236.45, §703.115, and §703.27

SEC. 7-1-2 PURPOSE

- A. The purpose of this ordinance is to promote the public health, safety, and general welfare of the community, and to preserve the productivity of working lands. The regulations are designed to further the orderly layout and use of land; to avoid undue concentration of population; to minimize the public impact from division of large tracts into smaller parcels of land; to encourage the most appropriate use of land throughout the Township; to provide the best possible environment for human habitation; and to enforce the goals and policies set forth in the Town's Comprehensive Plan.
- B. The purpose and intent of the Town's Comprehensive Plan shall govern except in case of a direct conflict, in which event this ordinance shall control.
- C. All persons reviewing this ordinance are placed on notice that the Township is only one of a number of governmental entities that may have jurisdiction over proposed land divisions. The Town cannot make any representations on behalf of any other governmental entity. No land division may be made unless all required approvals have been given.

SEC. 7-1-3 DEFINITIONS

For purposes of this ordinance, certain words used therein are defined as follows:

- A. Certified Survey Map (CSM) means a map of a land division prepared in accordance with Wis. Stats. §236.34 and in full compliance with applicable provisions of this ordinance.
- B. Comprehensive Plan means the Town of Cleveland Comprehensive Plan.
- C. Condominium means property subjected to condominium declaration under Chapter 703, Wis. Stats., proposed to contain residential, commercial or multi-unit structures, units of which are individually owned, each owner receiving a recordable deed to the individual unit purchased, including the right to sell and mortgage that unit, and sharing joint ownership of any common ground or element. This definition shall be further governed by Chapter 703, Wis. Stats., and the definitions set forth therein.
- D. Divide means to create a land division/subdivision.
- E. Dwelling unit means a room or group of rooms, including cooking accommodations, intended for the exclusive occupancy of one family or by one family and not more than two persons who are not members of the family.
- F. Family means one or more persons related to each other by blood, marriage, adoption, or legal guardianship.

- G. Land Division/Subdivision means a division of a parcel that creates one or more lots or parcels of land less than 20.00 acres in size. The terms Land Division and Subdivision are interchangeable for the purpose of this ordinance.
- H. Lot means a self-contained, legally described parcel of land on which no more than one (1) principal structure is proposed to be located.
- I. Lot or Parcel of Record means a lot or parcel of land of record in a Register of Deeds office prior to the date of this ordinance; provided the lot(s) or parcel(s) were created in accordance with the ordinances or laws in effect at the time the parcel was originally created or surveyed.
- J. Net acres means that portion of a lot proposed to be created by a land division under this ordinance which does not include any part of the right of way of a public or private road or highway which is partially situated upon the lot in question.
- K. Off Water Lot means a lot which has no frontage on a navigable lake, river, stream, or flowage.
- L. On Water Lot means a lot which has frontage on a navigable lake, river, stream, or flowage.
- M. Outlot means a parcel of land which is designated as such on a plat or certified survey map and which does not constitute a lot for purposes of sale or building development.
- N. Planning Commission means the Town of Cleveland Planning Commission.
- O. Plat means a map of a subdivision of land, prepared in accord with Subchapter 11 of Chapter 236, Wis. Stats.
- P. Unit, for purposes of condominium development, shall have the meaning at §703.02(15), Wis. Stats.

SEC. 7-1-4 APPLICABILITY

- A. Upon adoption, this ordinance shall apply to:
 - (1) All new land divisions, subdivisions, and modified lots. These are defined as a division of a parcel that creates one or more lots or parcels of land less than 20.00 acres in size; and
 - (2) All new condominium plats that create one or more units for human habitation regardless of the size of the parcel involved.
- B. This ordinance shall not apply to:

- (1) Transportation project plats conforming to Wis. Stats. §84.095 or the acquisition of public road right-of-way by a public entity.
- (2) Lots or parcels of record as defined herein unless the lot is further divided.
- (3) The conveyance of a parcel that is already bisected by an existing public road or navigable water unless the lot is further divided.
- (4) Cemetery and assessors plats under Wis. Stats. §157.07 and §70.27.
- (5) The sale, exchange, or conveyance of parcels of public utilities, railroad right-of-ways, public road right-of-ways to adjoining parcels if no new parcels are created. Parcels must be attached to an existing parcel of record.
- (6) Transfers of interest in land by will or court order.
- (7) The sale, exchange, or conveyance of land between owners of property or adjoining parcels of record, provided no new lots are created or modified and the resulting adjoined lots are not reduced below the minimum size that was required when they were originally created.
- (8) Lands entered into the Managed Forest Land (MFL) program divided and listed separately for taxation purposes. These lands cannot be conveyed independently by their MFL taxation division without complying with the land division provisions of this ordinance.

SEC. 7-1-5 MINIMUM LOT SIZE AND DENSITY

- A. Lots of record and condominiums and any previously modified lots created prior to the date of adoption of this ordinance are not affected by this section.
- B. Subject to Section D of this ordinance, off water lots created or modified after the effective date of this amended ordinance shall be 2.5 net acres or larger in size.
- C. Subject to Section D of this ordinance, on water lots shall meet the following requirements:

The minimum required riparian frontage width shall be measured by the lesser of a straight line connecting points where the side lot lines intersect that ordinary high water mark (OHWM) or the length of a chord which is perpendicular to a side lot where it intersects the OHWM and terminates at the opposite side lot line.

 - (1) Lots on lakes less than 100 acres in area shall have 250 feet of water frontage with and a minimum lot area of 50,000 square feet.
 - (2) Lots on lakes of 100 acres or more shall have 200 feet of water frontage width and a minimum lot area of 40,000 square feet.
 - (3) Lots on any creek, stream, flowage, or river shall have 150 feet of water frontage width and a minimum lot area of 30,000 square feet.
- D. No more than 1 principal structure may be built erected or placed on any lot created pursuant to this ordinance. For purposes of applying the density requirements of this

section, in case of residential land use, a principal structure shall be defined as containing no more than 1 dwelling unit. In the event that it is proposed to use a structure for 2 or more dwelling units, then in the case of both off shore and on shore lots, the number of dwelling units per structure shall be multiplied times the designated minimum area under Sections B or C of this ordinance to arrive at the minimum size for the lot in question. Condominium developments shall be subject to the same minimum density requirements on a per dwelling unit basis but shall not be limited to 1 principal structure. For all other types of land use other than residential, the limitation shall be no more than 1 principal structure per lot.

SEC. 7-1-6 ACCESS AND ROAD DESIGN STANDARDS

- A. The minimum right-of-way width for public or private roads or easements providing access to lots created by a land division is 66 feet. Any road in a proposed land division or condominium that services more than 2 parcels of land or condominium units must be constructed, at the landowner's sole expense, in accordance with the minimum standards for town road construction as set forth in the Town's Private Road Ordinance, except that it need not have the bituminous payment. However, such a road must be paved prior to transferring ownership to the Township.

- B. Every lot shall have frontage for a distance of at least 66 feet on the right of way of the applicable road whether it is a town, county or state road or a private road.

SEC. 7-1-8 CONDOMINIUM DEVELOPMENT

In accord with Section 7-1-5 D, density shall govern creation. The number of units per each condominium may not exceed the maximum number of principal structures which could be built upon the property subjected to the condominium declaration if the property subjected thereto were under different ownership. Each condominium shall be approved of by the Township upon the basis of compliance with the density limitations expressed in this ordinance.

SEC. 7-1-9 PROHIBITION

No person shall divide any land located within the Township or create a condominium without submitting 10 copies of the land division/subdivision/condominium proposal to the Town Clerk and without compliance with all requirements of this ordinance, applicable state statutes, and applicable county ordinances.

SEC. 7-1-10 PRELIMINARY REVIEW

- A. It is recommended, but not required, that, prior to filing an application for land division/subdivision/condominium approval, the land divider schedule and attend a preliminary consultation with the Planning Commission in order to obtain advice and assistance. This consultation is neither formal nor mandatory, but is intended to inform the land divider of the purpose and objectives of this ordinance, the Comprehensive

Plan, and other duly adopted plan implementation devices of the Township, and to otherwise assist the land divider in planning development. In so doing, both the land divider and the Planning Commission may reach mutual conclusions regarding the general program and objectives proposed development and its possible effects on the neighborhood and community. The land divider will also gain a better understanding of the subsequent required procedures.

- B. In order to facilitate the consultation, the land divider is asked to submit a conceptual plan drawn to a reasonable scale depicting the proposed general lot layout, exterior boundaries, roadways, known easements, approximate location of existing or proposed improvements, approximate location of existing land use and cover types, and any other information to fully and clearly represent the proposed land division. The concept plan shall be submitted at least 10 days prior to a scheduled meeting of the Planning Commission in order to give the Commission time to prepare for the meeting.

7-1-11 FORMAL CONSIDERATION

Upon preliminary approval by the Planning Commission, or upon the land divider's declination of a preliminary review, a final map shall be prepared for the land division/subdivision/condominium using one of the following instruments:

- A. Certified Survey Map meeting the requirements of Wis. Stats. §236.34
- B. Subdivision Plat prepared under the authority of Wis. Stats. §236.45
- C. Condominium Plat approved as to consistency with this ordinance under Wis. Stats. §703.11

Final approval of this submission will be the decision of the Town Board with the recommendations of the Planning Commission, subject to the applicable approval times set forth in Wis. Stats. §236.11, §236.34 or §703.115, whichever may be applicable.

7-1-12 ALTERATIONS

Except with the express consent of the Town Board, no property owner may alter acreage, boundaries or dimensional requirements for any lot created under this ordinance by plat or certified survey previously approved by the Town Board.

7-1-13 MODIFICATION FOR EQUIVALENCY

The Town Board, after review and recommendation of the Planning Commission, may grant a variance, upon appeal, from the terms of this ordinance such as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in practical difficulty or unnecessary hardship. In such circumstance the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.

- A. "Practical difficulty and substantial hardship" as used in this section means that difficulty or hardship which results when compliance with the strict letter of this ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
- B. Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for granting a variance.
- C. Self-imposed hardship shall not be a ground for granting a variance.
- D. Violations existing on, or exceptions granted to, neighboring properties shall not require the granting of a variance.
- E. A variance shall not be unduly detrimental to adjacent properties.
- F. A variance granted shall be the minimum necessary to grant relief.
- G. No variance shall conflict with the purpose or intent of this ordinance or with the policies of the comprehensive plan.
- H. The concurring vote of a majority of a quorum of the Town Board shall be necessary to grant a variance. The final disposition of an exception shall be in the form of a written resolution or order signed by the Town Board which shall state the specific findings which are the basis for the Town Board's determination.
- I. If a variance is granted, it shall run with the land if all conditions that are attached are met.
- J. In granting variances, the Town Board may impose reasonable special conditions to ensure that the purpose of this ordinance is met. Violations of such conditions, when made part of the terms under which the exception is granted, shall be deemed a violation of this ordinance, and, in addition to other applicable sanctions, may result in revocation of the variance by the Town Board following notice and hearing.

7-1-14 PENALTY

- A. Any person who violates any provision of this chapter shall, upon conviction of such violation, be subject to a penalty of a civil forfeiture of not less than \$50.00 or more than \$500.00 together with the costs of investigation and prosecution, including attorney fees.
- B. Each violation and each day a violation continues or occurs shall constitute a separate offense.
- C. Sale of any lot not properly approved pursuant to the terms of this ordinance or any predecessor procedure may be deemed a public nuisance and may be enjoined by a court of record.
- D. In addition to the forfeiture described above, the owner of property who divides the property without compliance with this ordinance and without Town Board approval shall be subject to paying all costs necessary to rectify the infraction. These costs may include, but are not limited to: surveying expenses; recording fees; removal or relocation of structures; and removal, abandonment or resurfacing of roadways and roadbeds.

- E. If the Town Board determines a subdivider either divides land not in a manner not in compliance with the terms of the approval given by the Town Board or subjects land to a condominium declaration inconsistent with section 7-1-8 of this ordinance, the Town Board may amend, suspend, or revoke the approval. The decision of the Town Board shall be furnished to the subdivider in writing stating the reasons for its decision.

7-1-15 ABROGATION AND GREATER RESTRICTION

- A. 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, whenever this ordinance imposed greater restrictions, the provisions of this ordinance shall govern.
- B. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a mitigation or repeal of any other power granted by Wisconsin Statutes.

7-1-16 SEVERABILITY

The several sections of this ordinance are declared severable. If any section, provision, phrase, word, or any portion of this ordinance shall be declared invalid, unlawful, or unenforceable by decision of a court of competent jurisdiction, such decision shall apply only to the specific section, word, phrase, provisions, portion thereof directly specified in the decision. The validity of all other provisions, words, sections, or portions thereof shall remain in full force and effect.

This ordinance as amended shall take effect upon its adoption and publication as required by law.

Dated this 23rd day of September, 2022

TOWN OF CLEVELAND

BY: Michael Beighley

Michael Beighley, Town Chairperson

BY: Linda Laird

Linda Laird, Town Clerk