

Land Division Ordinance No. 60

LAND DIVISION ORDINANCE NO. 60

AN ORDINANCE TO ESTABLISH REGULATIONS FOR LAND DIVISIONS IN
THE TOWN OF LIND

INTRODUCTION

Statutory Authorization. This Ordinance and the regulations herein are established pursuant to authority granted by Section 236.45 of the Wisconsin State Statutes.

Purpose. The purpose of these regulations is to regulate and control the division and subdivision of land within the Town of Lind, Waupaca county, Wisconsin, to promote the public health, safety and general welfare; to further the orderly layout and use of land; to lessen congestion in the streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewage and other public requirements; to provide for proper ingress and egress; to promote proper monument placement of divided land and conveyance by accurate legal description; and to facilitate the further division of larger tracts into smaller parcels of land.

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, whenever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

Interpretation. 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 of Lind, and shall not be deemed a limitation or repeal of any power granted by the Wisconsin Statutes.

GENERAL PROVISIONS

Jurisdiction. The jurisdiction of this Ordinance shall include all the unincorporated lands of the Town of Lind. However, in no instance shall the provisions of this Ordinance apply to the following:

Transfers of interest in land by will or pursuant to court order.
Leases for a term not to exceed 10 years, mortgages or easements.

Sale or exchange of parcels of land between owners of adjoining property if additional lots are not created and the resultant lots are not reduced below the minimum sizes required by these regulations, the County Zoning Ordinance or other applicable laws or ordinances.

Compliance. No person, firm or corporation shall divide land which results in a land division, subdivision or re-plat without compliance with this Ordinance, The Waupaca County Subdivision Ordinance, Chapter 236 of the Wisconsin State Statutes, and Town and County development plans or the Official Map of the Town of Lind and any applicable law and ordinances of the Town of Lind.

Land Suitability. No land shall be divided or subdivided which is held unsuitable for its intended use by the Town Board of the Town of Lind for reason of flooding, inadequate drainage, adverse soil and/or rock conditions, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed division, subdivision or the community. The Town Board of the Town of Lind shall, in writing, cite the particular facts upon which it bases its conclusion that the land is not suitable for its intended use and offer the applicant an opportunity to present evidence regarding such suitability at a public hearing. Thereafter, the Lind Town Board may affirm, modify or withdraw its determination of unsuitability.

LAND DIVISIONS AND SUBDIVISIONS

Definitions.

Land Division. A land division is the division of any lot, tract or parcel of land into two or more lots, tracts or parcels of land regardless of size that is not a subdivision as defined below.

Subdivision. A subdivision is the division of any lot, tract or parcel of land where the act of division creates three or more lots, tracts or parcels of five acres each or less in area, or where the act of division created three or more lots, tracts or parcels of land five acres each or less in area by successive division within a five year period.

Lot. A parcel of land used or set aside and available for use as a building site or for any other purpose, one ownership, and not divided by a street, not including any land within the limits of a public or private street right-of-way.

Public Improvement. Any sewer, drain, road, trail, park, public access or other facility or improvement for which the Town of Lind may ultimately assume the responsibility for maintenance and operation.

Private road. Any non-public road with three or more driveways that enter onto the shared driveway.

Shared driveway. When two adjacent properties have the same entrance onto a public road.

Certified Survey Maps. A land division shall require submittal of a Certified Survey map prepared in accordance with Section 236.34 Wisconsin State Statutes, to the Town of Lind. The Certified Survey Map shall clearly show on its face the following information:

All existing building, watercourses and drainage ways.

Existing and proposed public roads.

All existing and proposed easements.

Name and address of the person for whom the survey was made.

A certificate of the owner of record in substantially the same form as required by Section 236.21(2)(a) Wisconsin State Statutes.

A certificate of approval by the Lind Town Board.

Subdivision Plats. A subdivision shall require submittal of a preliminary plat and final plat. The preliminary plat shall comply with the requirements of Section 5.0 of the Waupaca County Subdivision Ordinance. The final plat shall comply with the requirements of Section 6.0 of the Waupaca County Subdivision Ordinance.

Condominium Plats. The Lind Town Board finds that condominium developments can result in impacts on the Town with respect to population density, traffic and natural resources in the same manner as other new developments involving the division of land into lots. The Lind Town Board also finds that condominium developments are unique and have their own requirements under Chapter 703 of the Wisconsin State Statutes. In light of the above, only the following portions of this Ordinance shall apply to condominium developments: Section 2.0(3) Land Suitability; Section 3.0(3) Preliminary Plat Approval for the general layout of the development only; and Section 4.0 Design and Improvement Standards. This Ordinance shall not apply to any condominium plat recorded prior to the effective date of adoption of this Ordinance.

Approvals. The Lind Town Board shall take action to approve or reject a Certified Survey Map or final plat within sixty (60) days of its submission. The Lind Town board shall take action to approve, approve conditionally, or reject a preliminary plat within ninety (90) days of its submission. The Lind Town Board shall state in writing any conditions of approval or reasons for rejection within ninety (90) days. Failure to act within ninety (90) days, unless the time is extended by agreement with the sub- divider, constitutes an approval of the preliminary plat.

4.0 DESIGN AND IMPROVEMENT STANDARDS

(1) Public Road Locations. Roads proposed to be dedicated to the Town of Lind as part of a land division or subdivision shall be located in conformance with the Official Map of the Town of Lind and shall be located in proper relation to the existing pattern of roads and natural features of the land. Roads shall be laid out to facilitate further land division and shall ordinarily extend to the boundaries of the land division or subdivision unless prevented by topography or other physical conditions or unless the Lind Town Board determines it is not necessary or desirable for coordination with existing or future development. Public roads shall be constructed according to the Town of Lind road specifications.

(2) Public Road Frontage Requirements. Any lot, tract or parcel in a land division or subdivision shall be required to directly abut on a dedicated public road for not less than one hundred (100) feet and afford practical and reasonable access in terms of topography and drainage between a potential building site and the public road. For lots fronting on a cul-du-sac, the minimum public road frontage may be reduced to seventy five (75) feet.

(3) Public Road Design Standards.

The minimum right-of-way width for public roads shall be 66 feet except where the Official Map of the Town of Lind establishes greater right-of-way widths.

The maximum centerline grade for public roads shall be ten (10) percent.

Cul-de-sacs or roads designed to have one end permanently closed shall not normally exceed six hundred (600) feet in length, minimum height clearance is fourteen (14) feet and terminate in a circular turn around having a minimum right-of-way radius of sixty (60) feet or one hundred twenty (120) feet diameter or a minimum road surface diameter of ninety (90) feet.

When a centerline deflects at any point by more than ten (10) degrees, a circular curve shall be provided having a radius of curvature of not less than 100 feet.

A tangent of at least one hundred (100) feet shall be provided between reverse curves.

Roads shall intersect each other as nearly as possible at right angles and not more than two streets shall intersect at one point unless approved by the Lind Town Board.

Reserve strips controlling access to roads shall be prohibited.

Street jogs with centerline offsets of less than one hundred twenty five (125) feet shall be avoided.

Half streets shall be prohibited except where the other half has already been dedicated or where the road's alignment has been established on the Official Map of the Town of Lind.

Private Road Design Standards. All private roads shall meet the requirements of 82.50 of the Wisconsin State Statute and the Town of Lind minimum standard. Those minimum standards are as follows:

Minimum width of the right-of-way is sixty-six (66) feet.

Minimum width of the road surface is twenty (20) feet.

Minimum height clearance is fourteen (14) feet.

Minimum diameter of the right-of-way of a cul-de-sac is one hundred twenty (120) feet.

Minimum diameter of the road surface of a cul-de-sac is ninety (90) feet.

When a centerline deflects at any point by more than ten (10) degrees, a circular curve shall be provided having a radius of curvature of not less than 100 feet.

A tangent of at least one hundred (100) feet shall be provided between reverse curves.

Roads shall intersect each other as nearly as possible at right angles and not more than two streets shall intersect at one point unless approved by the Lind Town Board.

Street jogs with centerline offsets of less than one hundred twenty five (125) feet shall be avoided.

Culverts will be placed at all driveway entrances and under the road-bed as needed. The road and/or driveways will not restrict the natural flow of water.

If the road surface is to be gravel, the minimum breaker rock base is 6 inches plus a minimum of 6 inches of road grade gravel on the top. Each road will be evaluated by the Lind Town Board or their agent in each situation to determine if any additional work is needed. Any cost incurred in the evaluation or engineering of the private road will be the total responsibility of the developer. If the road is to be hard surfaced, the road will be built to minimum Waupaca County Standard for a Minor Street.

Proper ditching will be done in the right-of-way to insure proper water run-off of road surface and protection of the road bed.

In accordance with 8.06(a)(b) of the Waupaca County Subdivision Ordinance, a road maintenance agreement will be established by the sub-divider with the approval of the Lind Town Board. The agreement will be attached to all the new property deeds on the private road. A copy of a possible Private Road Maintenance Agreement is attached in the appendix 1.1.

Shared Driveway.

The minimum road surface width is sixteen (16) feet.

The minimum height clearance is fourteen (14) feet.

The maximum driveway length is two hundred fifty feet (250) feet. If the driveway is over two hundred fifty feet (250) feet, the driveway will be reclassified as a private road.

A shared driveway becomes a private road when three or more driveways enter on to the shared driveway, and/or the driveway is over 250 feet long.

Street Plans and Profiles. Street plans and profiles shall be provided showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed division or subdivision when requested by the Town of Lind. All elevations, plans and profiles shall require approval by the Town of Lind.

Drainage.

General Considerations. The following considerations shall be observed in managing surface water and storm water run-off.

Natural topography and land cover features such as natural water courses, natural swales, natural depressions, native soil infiltrating capacity and natural groundwater recharge areas shall be preserved and used, to the maximum extent possible.

Emergency overland flow for all storm water facilities shall be provided to prevent exceeding safe capacity of downstream drainage facilities and to prevent endangerment of downstream property or public safety.

Drainage ways shall conform to the Town Official Map for Waterways.

The design of storm water facilities shall implement the Wisconsin Best Management Practices and shall address water quality as well as water quantity.

Drainage Parameters. Storm drainage facilities shall be designed to permit the unimpeded flow of natural watercourses, to insure the drainage of all points along the line of streets and to provide positive drainage away from on-site sewage disposal facilities. In designing storm drainage facilities, special consideration shall be given to protect against shore land erosion, siltation of surface waters and excess water run-off on adjacent property. The Town of Lind may require that easements or drainage ways of width sufficient to accommodate anticipated storm water run-off be provided. All storm water facilities shall be constructed in accordance with plans and standard specifications meeting all County and State requirements.

Drainage ways. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within a street or road right-of-way, the drainage way shall be protected by a perpetual unobstructed easement not less than 33 feet in width with satisfactory access to a public right-of-way. Drainage way easements shall be protected by the following express provisions:

Drainage Easement Restrictions. The following uses and structures are prohibited within all drainage easements: filling, grading and excavating except for construction of drainage ways

and drainage facilities; the cultivation of crops, fruits or vegetables; the dumping or depositing of ashes, waste, compost or materials of any kind; the storage of vehicles, equipment, materials or personal property of any kind; and constructing, erecting or moving any building or structure, including fences, within the drainage easement.

Maintenance of Drainage Improvements. Maintenance of drainage ways and associated drainage improvements shall be the responsibility of the property owners of the land division or subdivision. The Town of Lind retains the right to perform maintenance or repairs. The cost of the maintenance and repairs shall be equally assessed among the property owners. The purchase of any lot constitutes a waiver of objection and agreement to pay any such assessment which shall be placed on the tax bill as a special assessment.

Drainage Maintenance Easement. The Town of Lind shall have an unqualified right to enter upon any drainage easement for inspection and, if necessary, maintenance and repair of the drainage ways and associated drainage improvements.

Drainage Detention Facilities. All drainage detention, drainage retention or drainage basin facilities shall be protected by a perpetual unobstructed easement with satisfactory access to a public right-of-way. Drainage detention, retention or basin facilities shall be subject to the same protection provisions as drainage ways in sub (1).

Lots for Drainage Facilities. The Town of Lind may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary for the preservation of drainage facilities, require that any drainage way or drainage detention facility, in whole or part, be made part of an out lot.

Dedication of Drainage Facilities. The Town of Lind may, when it deems it necessary for the health, safety and welfare of the present and future population of the area; necessary for the future development of the watershed; and necessary for the preservation of drainage facilities, require that any drainage way or drainage detention facility be dedicated to the Town of Lind.

Off Site Drainage. Whenever a proposed drainage system will require the conveyance of surface water across private property outside of the subdivision or land division, the Town of Lind may require that appropriate drainage rights be secured and indicated on the plat or certified survey map.

Lots. The size, shape and orientation of lots shall be appropriate for the location of the land division or subdivision and for the type of development and use contemplated and, where applicable, to facilitate future division of lands.

Minimum lot size, exclusive of road right-of-way, shall be one (1) acre.

Ordinarily, lot length shall not exceed two and one –half times lot width.

Ordinarily, lot width at the right-of-way line of public road shall not be less than fifty (50) percent of the lot width at the rear lot line.

Lots shall conform to the Waupaca county Zoning Ordinance and, where applicable, the Waupaca County Shore Land, Floodplain and Wetland Ordinance.

Dedications and Reservations of Land

Whenever a tract of land to be divided embraces all or any part of a street that is shown on the Town of Lind Official Map or in any adopted Town or County plan, such street shall be made part of the land division or plat and either dedicated to the Town of Lind or reserved by the owner in

location and dimensions shown in the Town of Lind Official Map or adopted Town or County plan.

Whenever a tract of land to be divided embraces all or any part of a park or playground that is shown on the Town of Lind Official Map or in any adopted Town or county plan, such park or playground shall be made part of the land division or plat and either dedicated to the Town of Lind or reserved for acquisition by the Town of Lind in the location and dimensions shown in the Town of Lind Official Map or adopted Town or County plan. Lands reserved shall be available for acquisition at undeveloped costs for a period not to exceed three years from the date of plat approval. If the reserved lands are not acquired by the Town of Lind within three years, the land shall be released to the owner.

In order that adequate land be dedicated, reserved and preserved for public parks, recreation and open space and to provide for proper location of such sites as the Town of Lind develops, the owner shall provide and dedicate to the Town of Lind not less than five percent of the total area of the land division or plat for park, recreation and open space. The number, size and location of all dedications shall be subject to approval of the Lind Town Board. The Lind Town Board shall retain the right to refuse any dedication.

5.0 PUBLIC IMPROVEMENT AGREEMENTS AND GUARANTEES

(1) Public Improvement Agreement. As a condition of Certified Survey Map or final plat approval for any land division or subdivision requiring a public improvement, the owner shall enter into a Public Improvement Agreement with the Town of Lind. The Public Improvement Agreement shall contain the following provisions:

(a) Estimated Improvement Costs. The itemized estimated cost of the following public improvements: (1) street grading; (2) street base course construction; (3) street binder layer; (4) street signage; (5) street final pavement; (6) other public improvements such as drainage; and (7) Town of Lind administrative costs, if applicable.

(b) Financial Security for Public Improvements.

Cash Escrow. The owner shall establish, prior to final plat approval a cash escrow account for the benefit of the Town of Lind and in the name of the Town of Lind in an amount not less than 100 percent of the estimated costs for street grading, street base course construction, street binder layer and drainage. The escrow instructions shall provide: (1) that the owner shall have no right to a return of any of the funds except as authorized by the Town of Lind upon the completion of the improvements; and (2) that the escrow agent shall have a legal duty to deliver the escrowed funds to the Town of Lind upon receipt of written notice from the Town of Lind signed by the town Board Chair and attested to by the Town Clerk, whether or not the owner protests delivery of the funds. The escrow agent shall be acceptable to the Town of Lind.

Letter of Credit. The owner may, in lieu of establishing a cash escrow account prior to the final plat approval, provide a letter of credit for the benefit of the Town of Lind and in the name of the Town of Lind in an amount not less than 100 percent of the estimated costs for street grading, street base course construction, street binder layer and drainage. The letter of credit shall be:

(1) irrevocable; (2) for a term sufficient to cover completion of the improvements; and (3) require only that the Town present the credit with a sight draft and written notice signed by the Town Chair and attested to by the Town Clerk of the Town of Lind's right to draw funds under the credit. The issuer of the letter of credit shall be acceptable to the Town of Lind.

(2) Financial Security for Final Pavement. Final street pavement shall not be installed until 50 percent of the lots in the land division or subdivision have been developed or three years from the date of the final plat approval, whichever comes first. The owner shall provide, prior to final plat approval, a separate cash escrow account or letter of credit as provided in paragraph (b)(1) or (b)(2) above for final pavement in an amount not less than 125 percent of the estimated cost for final pavement.

6.0 ADMINISTRATION

(1) Fees. The sub-divider shall pay the following fees:

(a) Application Fees.

Certified survey map without public road dedication.

Certified Survey Map with public road dedication.

Subdivision plat

See Resolution Number 79 for schedule of fees.

(b) Plat Administrative Fees. The owner shall pay a plat administrative fee equal to the actual cost to the Town of Lind for all engineering and legal work incurred by and on behalf of the Town of Lind in connection with its review. The owner shall pay the fee within 30 days of any billing by the Town Clerk prior to approval.

Variances. In any particular case where the sub-divider can show that, because of exceptional topography or other physical condition, strict compliance with any requirement of this Ordinance would cause practical difficulty or exceptional and undue hardship, the Lind Town Board may waive or modify such requirement, provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of this Ordinance or the desirable general development of the Town of Lind. A majority vote of the Lind Town Board shall be required to grant any modification to these regulations and any modification thus granted shall be entered in the minutes of the Lind Town Board, setting forth the reasons which in the opinion of the Lind Town Board, justified the modification. No variance shall be granted by the Lind Town Board which is contrary to provisions of the Wisconsin Administrative Code or the Wisconsin State Statutes.

Violations. It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Ordinance of the Wisconsin State Statutes and no person shall be issued a building permit by the Town of Lind authorizing the building on, or improvement of, any subdivision, land division, re-plat within the jurisdiction of the Ordinance until the provisions and requirements of this Ordinance have been fully met. The Town of Lind may institute appropriate

action or proceeding to enjoin violations of this Ordinance of the applicable Wisconsin State Statutes.

Penalties.

Any person who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit no less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) and the costs of prosecution for each violation, and in default of payment of such forfeiture shall be imprisoned in the county jail until the payment thereof, but not exceeding six months. Each day a violation exists or continues shall constitute a separate offence.

Improper recordation has penalties provided in Section 236.30 Wisconsin State Statutes.

Conveyance of lots in unrecorded plats has penalties provided in Section 236.31 Wisconsin State Statutes.

Monuments disturbed or not placed have penalties provided in Section 236.31 Wisconsin State Statutes.

Appeals. Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal there from, as provided in Sections 236.13(5) and 62.23(7)(e)(10), (14) and (15) of the Wisconsin State Statutes, within 30 days of notification of the rejection of the plat.

Repeal of Prior Ordinances.

This Ordinance repeals Ordinance Number 49 adopted September 14, 2006.

Severability. If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

Effective Date. Ayes 3 Nays 0 Lance Penney,
Chairman _____ Donald Pope, Supervisor 2 _____

Attested To: _____ Steve Gall, Supervisor 1 _____

Adopted and approved this 10th day of August 2010.

Upon adoption by the Lind Town Board, this Ordinance shall take effect the day after the date of publication or posting as provided by Section 60.60, Wisconsin State Statutes.

Colleen McCoy, Town Clerk