

TOWN OF LESSOR
Shawano County, WI
ORDINANCE NO. 4-00
AMENDMENT TO ORDINANCE NO. 1-00
(Which Amended Ordinance No. 1-99)

Chap. 1.11

LAND DIVISION ORDINANCE

1.01 PURPOSE

The purpose of this Ordinance is to promote the public health, safety, and general welfare of the community, and to promote clustering of development and conservation design of land divisions. The regulations are designed to further the orderly layout and use of land; to avoid undue concentrations of population in areas likely to require retrofitting of sewer and water systems; to facilitate adequate provision of water, sewerage, schools, and conservation areas; to minimize the public impact from division of large tracts into smaller parcels; to encourage the most appropriate use of land throughout the Town; to provide the best possible environment for human habitation, and; to enforce the goals and policies set forth in the "Town of Lessor Land Use and Development Plan".

1.02 JURISDICTION

These regulations shall include all lands within the Town of Lessor. The provisions of this Ordinance, shall not apply to the following:

- (1) Transfers of interest in land by will or pursuant to court order.
- (2) Leases for a term of not more than 10 years, mortgages, or easements.
- (3) 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 sizes and setbacks required by the applicable Zoning Ordinance.
- (4) Transfer to heirs through estate proceedings or pursuant to a post death plan set forth in a living trust, where such distribution does not involve division beyond that planned by the decedent in the appropriate document.

1.03 AUTHORITY

These regulations are adopted under the general authority granted pursuant to sec. 60.22(3), 61.34(1), and 236.45 of the Wisconsin Statutes.

1.04 DISCLAIMER

- (1) Multiple Jurisdictions. Be aware that the Town of Lessor is only one of a number of governmental bodies that may have jurisdiction over proposed land divisions or development. The Town does not make any representations on behalf of any other government. No land division may be made unless all required approvals have been given.
- (2) Binding Acts. No statement or actions by any official, employee, agent, or Committee of the Town of Lessor should be construed or

taken as a binding act of the Town except a resolution, motion, or ordinance that has been adopted by the Town Board at a lawfully conducted Town Board meeting, or by the Town electorate at a duly constituted Annual or Special Town Meeting. This includes, but is not limited to, interpretation of this Ordinance.

- (3) Compliance Assurance. The Town of Lessor expressly states that it has no responsibility whatsoever for assuring that land and/or buildings sold in the Town are in compliance with any ordinances, regulations, or rules. The Town also assumes no responsibility for the suitability of any property where land division has been approved by the Town Board.

1.05 DEFINITIONS

- (1) Area Development Plan. A sketch map of proposed division(s) of land where the parcel to be split is thirty five (35) acres in size or less and is prepared in accordance with the terms of this ordinance.
- (2) Certified Survey. Any division of land whereby not more than four (4) parcels of ten (10) acres or less in size are created, or the division of a block, lot or outlot within a recorded subdivision plat into not more than four parcels without changing the exterior boundaries of said block, lot or outlot. Such land divisions shall have a certified survey map prepared, approved by the Town of Lessor, and recorded as required by the ordinance, Shawano County, and Chapter 236, Wisconsin Statutes.
- (3) Certified Survey Map. A map of a Certified Survey prepared in accordance with the terms of this ordinance, Shawano County, and Chapter 236, Wisconsin Statutes.
- (4) Cluster Development. A residential development where the land division regulations apply to the project as stated in Section 1.11 of this ordinance, apply to the project as a whole instead of to its individual lots, or where densities are calculated for the whole project.
- (4) Conservation Design or Conservation Subdivision. A form of development that permits a reduction in lot area, frontage, and setback requirements, allowing an increase in the overall density of development to Shawano County's minimum standards for the zoning district, and the remaining land area is devoted to open space, active recreation, preservation of environmentally significant areas, or agriculture.
- (5) Homeowners Association. A legally constituted body organized in a development in which individual owners share interests and responsibilities for costs and upkeep of common open space. The homeowners association usually holds title, manages and maintains, and enforces covenants and restrictions to common property.
- (6) Land Division. A split, transfer or conveyance of land whereby two or more separately described parcels are created from a

single lot, parcel, or tract of land by the owner thereof or his/her agent. Land divisions shall have an area development plan, certified survey map or subdivision plat prepared and submitted to the Town of Lessor for review and action.

- (7) Land Division Map. A map of a division of land prepared in accordance with this ordinance.
- (8) Land Divider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a land division. The term land divider encompass the words subdivider and developer, and the words may be used interchangeably for the purpose of the standards set forth in this ordinance.
- (9) Land Use and Development Plan. The official guide recommending the future physical, social, and economic growth and environmental preservation of the town.
- (10) Lot. A part of a land division map having an assigned number through which it may be identified and meeting the requirements of this ordinance. A lot may also include the terms parcel, tract, or building site in determining the applicability of this ordinance to land divisions and cluster developments.
- (11) Open Space. Lands and water unimproved and set aside, dedicated, designated, or reserved for public or private enjoyment of owners, occupants, neighboring residents, or the general public for the preservation of ground cover, natural features, and scenic beauty. This includes open space lands dedicated to the public and those conveyed as part of a homeowner's association or similar legally constituted body created to maintain open space land.
- (12) Open Space, Common. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and guests of the development.
- (13) Parcel. A continuous acreage of land singularly described in a deed or one of a number of lots or outlots on a land division map capable of being separately conveyed.
- (14) Subdivision. The division of a lot or parcel of land by the owner thereof, or his/her agents, for the purpose of sale, lease, or building development where:
 - (a) the act of division creates five (five) or more parcels or building sites of ten (10) acres each or less in area; or
 - (b) five (5) or more parcels or building sites of ten (10) acres each or less in area are created by successive divisions within a period of five (5) years.
- (15) Subdivision Plat. A map of a subdivision.
- (16) Town/Town Board/Town Chair. Terms used interchangeably to mean the approving authority of the local self-government, in this case the Town of Lessor. However, the Town Chair is a specific

person when used in the context of a duty provided by this ordinance.

- (17) Tract. See parcel.
- (18) Frontage. The portion of a lot or parcel of land that directly abuts a road or highway right-of-way.

1.06 COMPLIANCE

Any person, partnership, corporation, or legal entity of any sort when dividing any land located within the Town which results in a land division as defined in this Ordinance must meet full compliance with all requirements of this Ordinance and:

- (1) Chapter 236 of the Wisconsin Statutes;
- (2) Shawano County Zoning Ordinance No. 102, Subdivision Ordinance, Private Sewage System Ordinance No. 7-91, Shoreland/Wetland Zoning Ordinance, Floodplain Zoning Ordinance, and Health, Junk, and Environmental Hazard Ordinance.
- (3) State of Wisconsin Department of Workforce Development (formerly DILHR) rules on septic systems, sewers, shorelands, and wetlands;
- (4) State of Wisconsin Department of Natural Resources rules on pollution abatement;
- (5) State of Wisconsin Department of Transportation and/or Shawano County Highway Department rules relating to safety of access and the preservation of the public interest and investment in the highway system, if the land owned or controlled by the land divider abuts on a state, federal, or county trunk highway or connecting road or street, and;
- (6) All applicable master plans, zoning ordinances, or official maps adopted under sec. 62.23 of the Wisconsin Statutes, and any other pertinent town or county ordinances and regulations.

Where provisions of this Ordinance impose greater restrictions than (1) - (6) above, it is intended that the provisions of this Ordinance shall apply.

1.06A DIVISION BY AREA DEVELOPMENT PLAN

- (1) Requirements. An Area Development Plan (ADP) prepared by a land divider shall be required for all land divisions that split any parcel of land thirty five (35) acres or less in size. In addition, for any lot created of ten (10) acres or less in size Section 1.07 below shall be followed.
- (2) Information Required on the ADP. The sketch shall show the entire parcel, existing roads, existing private drives, adjacent lands owned by the land divider, the proposed land division, future land divisions being contemplated, future streets, pertinent environmental factors such as wetlands, streams, severe slopes,

proposed changes to any environmental factors, north arrow, approximate scale, and date.

1.07 DIVISION BY CERTIFIED SURVEY/SUBDIVISION PLAT

- (1) General. A Land Division Map prepared by a land surveyor registered in this state shall be required for all land divisions that create any lots ten (10) acres or less in size. All required Land Division Maps shall comply in all respects with sec. 236.34 of the Wisconsin Statutes and state survey standards.
- (2) Information Required on the Map (Face) Page. The map shall show correctly on its face, in addition to the information required by sec. 236.34 of the Wisconsin Statutes, the following.
 - (a) All existing buildings, water courses, drainage ditches and swales, and other features pertinent to the property division, including the location of drain fields, wells, dry wells, pipes, and adjacent properties and their environmental, historical, and unique features.
 - (b) The date of the map.
 - (c) The graphic scale of the map.
- (3) Information Required on the Signature Page. The map shall include in its certifications, in addition to the information required by sec. 236.34 of the Wisconsin Statutes, the following.
 - (a) A legal description of the parcel, the surveyor's name, address and signature, and a statement from the surveyor that he/she has fully complied with all the provisions of this Ordinance.
 - (b) The owner's name, address, parcel number(s), and Volume and Page of last deed recorded on each parcel.
 - (c) Signature and date lines for approval by the Town Chair.
- (4) Recording. The land divider shall record the Land Division Map with the Shawano County Register of Deeds after it has been approved by the Shawano County Planning & Development Department, and shall file a certified copy of the recorded map with the Town Clerk within 10 days after the map is recorded.

1.08 PROCEDURES FOR APPROVAL OF DIVISIONS OF LAND

Any land divider who shall divide land located in the Town of Lessor, which creates a land division as defined in this Ordinance, shall comply with the following procedure.

- (1) Application. Submit to the Town Clerk a preliminary Land Division Map (Area Development Plan prepared by the land divider or Subdivision Plat or Certified Survey Map prepared by a registered land surveyor in the State of Wisconsin) with the appropriate fee and the following required attachments.
 - (a) Parcel location map with parcel number(s)
 - (b) Aerial photo and site analysis

- (c) Soil and slope analysis
- (d) Site plan

- (2) Town Review. After reviewing the Land Division Map to ensure conformity with site plans approved by the Town Board, the Town Land Use and Development Plan, and this Ordinance, the Town Chairman or his/her designee shall sign the Land Division Map constituting Town approval.
- (3) Other Permits. No Driveway Permit or Building Permit shall be issued for a parcel created by a land division which does not comply with the provisions of this Ordinance.
- (4) Findings of Approval. Approval shall in all cases establish conformity with regard to minimum lot sizes, setbacks, the location of on-site waste disposal, and the preservation of open spaces, including establishing a legally binding buffer prohibiting any development or land use change within 75 feet of navigable waters.
- (5) Fee. A review fee in the amount of Fifty Dollars (\$50) will be charged for a Certified Survey Map and the amount of One Hundred Dollars (\$100) will be charged for a Subdivision Plat. A review fee in the amount of Fifty Dollars (\$50) will be charged for an Area Development Plan.

1.09 LAND SUITABILITY

- (1) Land shall be prohibited from being divided if the Town Board determines that it will materially interfere with the existing use of a viable agricultural operation, forest conservation, or will conflict with other goals and strategies as set forth in the Town of Lessor Land Use and Development Plan.
- (2) Land shall be prohibited from being divided if it is found by the Town Board to be unsuitable as divided for the proposed use(s) for reasons of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate septic or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the community.
- (3) When applying the provisions of this Ordinance, the Zoning Committee shall afford the land divider an opportunity to present evidence regarding suitability of the proposed land division at a public hearing. At this hearing, the Committee shall recite the particular facts upon which it bases its recommendation on the land's suitability for the proposed use(s). These facts shall be recorded in the minutes of that public hearing. The Town Board may affirm, modify, or override the Committee's recommendation.

1.10 MINIMUM LOT DIMENSIONS

Land Divisions in all areas of the Town of Lessor shall have a minimum lot size of two (2) acres unless the zoning district where the land division is proposed requires greater than two acres. Minimum lot

frontage shall be 290 feet wide on a public road. Maximum setback of principal residence shall be 290 feet from the road right-of-way.

1.11 CLUSTER LAND DIVISIONS AND CONSERVATION DESIGN IN RURAL AREAS

(1) Jurisdiction.

The provisions of this section apply to all lands in the Town of Lessor (having agriculture, forest, open space and floodplain zoning districts).

(2) Purpose.

Cluster Development is intended to permit smaller lots than would otherwise be required in 1.10 above, where the physical layout of the lots is so arranged by clustering development, setting structures back farther from sensitive areas, protecting the rural character of the Town of Lessor, and other appropriate means to better achieve the preservation of open spaces in perpetuity.

Encourage open space uses with reasonable agricultural and residential use of property and avoid conflict between uses.

Encourage residential development which is adapted to its location and clustered to provide economic, environmental, and aesthetic benefits.

Require natural areas to buffer land divisions.

Limit development to areas that can support it.

Satisfy many of the objectives of the Land Use and Development Plan.

(3) Lot Area, Frontage, and Density.

To permit cluster development, a density bonus of up to 100% may be added. This incentive to cluster lots and preserve open space would allow lot area to be reduced from two acres per lot to one acre per lot, and lot frontage from 290 feet to 100 feet. Maximum principal residence setback of 290 feet from the road right-of-way remains in force.

Lot areas shall not be reduced such that the dimensional and yard requirements of this and Shawano County Ordinances cannot be met.

(4) Requirements.

- (a) Pollution Control. The location and nature of the private waste disposal systems will assure that effluent will not reach the ground or surface waters in a condition deemed pollution.

- (b) Preservation of Ground Cover. The location of homesites and the dedication of part of the land for use by the public or residents of a Homeowners Association will preserve ground cover as discussed in "greenlined" areas in paragraph (5). Also to be preserved is scenic beauty to the extent that every lot in the Land Division will either border (buffer) a natural area or be afforded an unobstructed view corridor of open space.
- (c) Density. The number of lots shall not exceed twice the number which would have been possible if the same land was divided in accordance with the Shawano County Zoning Ordinance No. 102 and Shawano County Subdivision Ordinance.
- (d) Lot Sizes. A minimum lot area of one acre is established for a rural Cluster Development

(5) Recommended Design Process.

It is recommended that the first step in the design process for a Land Division is to "greenline" the open spaces. Greenlined areas consist of unbuildable wetlands, floodplains, and steep slopes that typically comprise much of the open space in cluster developments. Greenlined areas also consist of a substantial amount of the site's relatively flat, dry land that might be managed as woodlands, fields, meadows, and playing fields. Greenlined open spaces should include streams, environmental corridors, natural geologic and topographic features, historical and archaeological sites, and farm fields. Open space becomes the central organizing feature of the development.

Analyses should include topography, drainage patterns, vegetation, soils, shoreland areas, natural resource areas, wildlife habitat, historic and cultural features, scenic vistas, existing physical conditions surrounding the development parcel within one-fourth mile, and future areawide plans.

(6) Main Principles.

- (a) Preserve existing natural features.
- (b) Preserve open space adjacent to existing perimeter roadways.
- (c) Screen new lots (housing sites) with existing topography or vegetation.
- (d) Locate each lot to be adjacent to some form of open space.
- (e) Accommodate farmsteads on appropriately configured large lots.

(7) Dedication of Open Space in Perpetuity.

Open space areas in Cluster Land Divisions must be preserved in perpetuity. This can be accomplished by the formation of a Homeowners Association, a local land trust, or equivalent. The Association or trust could lease the fields to a neighboring farmer. A Homeowners Association must include provisions to place liens on properties of members who fail to pay their annual dues. Such provisions would ordinarily be included in Restrictive Covenants recorded with the Register of Deeds office.

As a condition of land division approval, such covenants shall be enforceable by the town when legally allowed.

1.12 PENALTIES

- (1) Any person, partnership, corporation, or other legal entity who fails to comply with the provisions of this Ordinance shall, upon conviction, be subject to penalties and forfeitures as provided in sec. 236.30, 236.31, 236.32, 236.335, and 236.35 of the Wisconsin Statutes. Each day that the violation continues to exist shall constitute a separate offense.
- (2) No person shall sell land in lots ten acres or less in size unless the lots have been lawfully approved pursuant to the terms of this Ordinance or any predecessor procedure. The unlawful sale of lots is deemed to be a public nuisance which may be enjoined by a court of record and is subject to any forfeiture established by any applicable town ordinance. The term subdivider, when incorporated by reference herein from Chapter 236 of the Wisconsin Statutes, shall mean land divider as defined in this Ordinance.

1.13 VARIANCES

Where the Board finds that "non-monetary extraordinary hardship" may result from strict compliance with this ordinance, it may approve a variance so that substantial justice may be done and the public interest served. Such hardship must relate to features of the land considered for division that would cause at least some of the ordinance provisions to be impractical to the particular facts. It is intended that a variance be limited to areas of such impracticality. If no more than four lots are proposed for residential development along a road within a 40 acre parcel, a hardship situation as described above causing smaller minimum frontage would be considered by the Board.

1.14 SEVERABILITY

If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstance 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.

1.15 EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

- (1) Town Board Approval. This Ordinance was adopted by the Town Board of the Town of Lessor on this 14th day of November, 2000.

TOWN BOARD OF THE TOWN OF LESSOR

Delmar Zernicke
Chairman Delmar Zernicke

Raymond Brusky
Supervisor Raymond Brusky

Gerald Jarek
Supervisor Gerald Jarek

ATTESTED BY:

JoAnn Thiede
Clerk JoAnn Thiede

- (2) Public Notice.

(a) Public Review. A notice was published in the SHAWANO LEADER newspaper on Oct 30, 2000 to inform residents that a final draft of the Land Division Ordinance was on file with the Town Clerk for the two week period, 10/31/00 - 11/14/00, during which it was available for inspection.

(b) Posting. This Notice of Adoption of Land Division Ordinance was posted on Nov. 23, 2000 at the Lessor Town Hall.

(c) Publication. A Notice of Adoption of Land Division Ordinance was published in the SHAWANO LEADER newspaper, the publication of record for the Town of Lessor on Nov 24, 2000.

