

Town of Liberty Grove

Ordinance 8-13

Section 1--Title

The title of this Ordinance: Town of Liberty Grove Land Division Ordinance.

Section 2—Purpose

This Ordinance proposes to gain sufficient notice of and thereafter to regulate and control the division of land and/or the creation of site condominiums within the limits of the Town of Liberty Grove ["Town"], Door County, Wisconsin, in order to accomplish the following:

- a. Promote the public health, safety, and general welfare of the Town.
- b. Supplement the Door County Land Division Ordinance when it governs the division of land or the creation of site condominiums in the Town. Amendments to the Door 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 site condominiums into 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, site condominiums, or developments. The Town cannot make any representations or approve any land divisions, site condominiums, or developments on behalf of any other governmental body. Also, no land division or site condominium may be recorded at the Door 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 granted pursuant to the village powers of the Town of Liberty Grove as provided for in sections 60.10(2)(c), 60.22(3), 61.34(1), 236.03, and 236.45 of the Wisconsin Statutes. The Town Board received a formal, written recommendation of the Ordinance from the Town Plan Commission [Town of Liberty Grove Plan Commission, hereafter referred to as "Plan Commission."] dated _____ pursuant to sections 61.35, 62.23, and 236.45(2) of the Wisconsin Statutes.

Section 5-- Adoption of Ordinance

The Town Board, by this Ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town Board to regulate and approve land divisions and site condominiums in the Town of Liberty Grove.

A public hearing was held before the adoption of this Ordinance pursuant to section 236.45(4) of the Wisconsin Statutes, and notice of the hearing was given by publication of a class 2 notice pursuant to Chapter 985 of the Wisconsin Statutes.

Section 6--Definitions

- a. **Certified Survey Map:** a map of a minor land division prepared in accordance with section 236.34 of the Wisconsin Statutes.
- b. **Declarant:** Any owner who subjects his or her property to a condominium declaration established under Chapter 703 of the Wisconsin Statutes.
- c. **Minor Land Division:** Land divisions that create 4 or fewer parcels that are less than 10 acres in area, either through a single division or successive divisions by either the same or subsequent owner(s) within a period of 5 years.
- d. **Major Land Division:** Land divisions that create 5 or more parcels that are less than 10 acres in area either through a single division or successive divisions by either the same or subsequent owner(s) within a period of 5 years.
- e. **Minor Site Condominium:** The creation of 4 or fewer units that are less than 10 acres in area, either as an original condominium or as an addition to a condominium under section 703.26 of the Wisconsin Statutes, by either the same or subsequent owner(s) within a period of 5 years.
- f. **Major Site Condominium:** The creation of 5 or more units that are less than 10 acres in area, either as an original condominium or as an addition to a condominium under section 703.26 of the Wisconsin Statutes, by either the same or subsequent owner(s) within a period of 5 years.
- g. **Condominium:** As used in this Ordinance, "condominium" means minor site condominiums and major site condominiums, unless one is specifically stated or is implied by context.
- h. **Site Condominium:** A condominium as provided in Chapter 703 of the Wisconsin Statutes, whereby the type of "unit" is the first type described in section 703.02(15) of the Wisconsin Statutes. Such "unit" provides the unit owner with the right to occupy a specific land area or site.
- i. **Unit:** The specific area of land within which the unit owner has the sole right to occupy, but who does not take title.
- j. **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 or is

proposed to be divided, resulting in land division. And even though condominiums under Wisconsin State Statutes are not considered land divisions, per se, the conceptual definition of “Land Divider” as defined in this section applies to persons, partnerships, corporations, or other legal entities seeking to develop condominiums.

- k. **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 10 acres in area, by division or by successive divisions of any part of the original property within a period of 5 years. 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, major land division, minor site condominium, and major site condominium as defined above
- l. **Lot:** a parcel of not less than the Town’s minimum lot size but less than 10 acres, 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.
- m. **Outlot:** A parcel of land other than a lot so designated on a land division plat or Certified Survey Map.
- n. **Parcel:** Contiguous lands under the control of a land divider not separated by streets, highways, or navigable rivers.

Section 7—Exemptions

The provisions of this Ordinance as it applies to land divisions or to site condominiums shall not apply to the following:

- a. To transfers in interest in land by will or pursuant to court order
- b. Nor to leases for a term of not more than 10 years, mortgages, or easements
- c. 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 8—Coverage

This Ordinance applies to all lands in the Town.

The Liberty Grove Town Board, with the advice and assistance of the Liberty Grove Plan Commission, shall be responsible for administering this Ordinance unless it delegates such authority by resolution.

Section 9—Compliance

No person, unless otherwise exempt under this Ordinance, shall divide or create a land division or site condominium 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 Door

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 and section 703.26 of the Wisconsin Statutes
- c. The Door County zoning ordinance in place at the time the land division or site condominium application was submitted.
- d. Wisconsin Department of Natural Resources administrative rules on wetlands, shorelands, sewers, septic systems, and pollution abatement.
- e. All applicable State and local sanitary codes.
- f. All State Department of Transportation and Door County highway Department Administrative rules relating to safety or access and preservation of the public interest and investment in the highway system, if the land owned and controlled by the land divider or declarant abuts on a state or county trunk highway or connecting road or street.
- g. The Town's Building Structure and Control Ordinance.
- h. The Town Board or Plan Commission may require any proposed land divider or declarant to furnish maps, data, and other information as may be necessary to determine land suitability.

Section 10—Specific Compliance Provisions

No person shall be issued any major land division or site condominium approval by the Town until the appropriate application fees have been paid to the Town Clerk. Such fee shall be \$10.00 per acre of the land sought to be divided rounded up or down to the whole acre. For example, an application for approval of a land division of an 11.7 acre parcel shall incur the fee of \$120.00, etc.

No person shall be issued a major land division or site condominium approval without the Town first giving notice to the owners of lots lying within 300 feet of the property to be divided.

No person shall be issued a final land division or site condominium by the Town until the land divider or declarant submits and obtains approval of the proposed land division or site condominium plat or proposed certified survey map to the Door County Planning Department.

Section 11—Documentation and Fees

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

- a. A statutory subdivision or site condominium preliminary plat or certified survey map as set forth in the Door County Land Division Ordinance. 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 or site condominium is to be recorded.
- c. A statement of intended use.
- d. The location of the proposed land division or site condominium as described by government lot, quarter-section, township, range, County, State, and parcel number.
- e. A sketch map showing the general location of the land division or site condominium.
- f. The names, addresses, and telephone numbers of the owner, land divider/declarant, and the land surveyor who will be doing the survey work.

- g. Description of land that is immediately adjacent to the proposed land to be divided or declared.
- h. 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.
- i. Specifications of any sites to be reserved or dedicated for parks, drainage ways, trails, or other public uses.
- j. Existing zoning on and adjacent to the proposed land division or site condominium.
- k. Proposed land and/or stream access.
- l. Soil type, slope and boundaries as shown on soil survey maps prepared by the U.S. Soil Conservation Service.
- m. All designated wetlands as delineated by the DNR or other professional certified or otherwise qualified to delineate wetlands.
- n. The estimated timetable for final development and requested timeline by the land divider or declarant for final approvals from the Town.
- o. Application Fee, the amount of which shall be designated by the Town Board by resolution.

Section 12--Expenses Associated with Application and Review

The applicant shall be responsible for reimbursing the Town for all reasonable costs or a portion thereof incurred by the Town or its agents for processing and reviewing the land division or site condominium 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 or site condominium 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 13--Approval Procedures

Once the documentation and fee(s) as provided in Sections 11 and 12 above are properly and fully submitted to the Town Clerk, the Town shall approve, unconditionally or conditionally, or reject the application within 60 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 or site condominium 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 14—Waivers

The Plan Commission, after public hearing of that body, and the Town Board may grant waivers from the provisions of this Ordinance because of exceptional or undue hardship after a public hearing of the Town Board. A Class 1 Notice of such hearing by both the Plan Commission and the Town Board shall be published, and written notice of such hearing(s) shall be given to the owners of lots lying within 300 feet of the property for which a waiver is requested, by regular United States mail addressed to them at their last known address according to the records of the Town.

Section 15. 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 16. 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 17. 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 Liberty Grove on September 4, 2013.

Dated this 6th day of September, 2013

*Walter L. Kalms, Clerk/Administrator
Town of Liberty Grove*