

**TOWN OF PINE LAKE
ONEIDA COUNTY, WISCONSIN**

**ORDINANCE NO. 07-01
LAND DIVISION AND CONDOMINIUM CONTROL ORDINANCE
Amended February 10, 2011**

The Town Board of the Town of Pine Lake, Oneida County, Wisconsin does ordain as follows:

SECTION I. TITLE AND AUTHORITY

This Ordinance shall be known as the "Town of Pine Lake Land Division and Condominium Control Ordinance." These regulations are adopted under the statutory authority granted pursuant to the Village Powers of the Town of Pine Lake, secs. 60.10(2)(c), 60.22(3), 61.34(1), 236.45, 703.115, and 703.27 of the Wisconsin Statutes.

SECTION II. PURPOSE

The purpose of this Ordinance is to regulate and control the division of land and condominium development within the limits of the Town in order to promote the public health, safety, prosperity, aesthetics and general welfare of the Town and to implement the Town of Pine Lake Year 2022 Comprehensive Plan.

SECTION III. INTERPRETATION

In its 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 limitation or repeal of any other power granted by the Wisconsin Statutes to the Town. The intent of the Pine Lake Year 2022 Comprehensive Plan shall govern in cases where this Ordinance lacks specific details.

SECTION IV. SEVERABILITY

The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Town Board of Pine Lake would have passed the other provisions of this Ordinance irrespective of whether one or more provisions are declared invalid. If any portion of this Ordinance or the application to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected.

SECTION V. JURISDICTION.

The land division and subdivision control provisions of this Ordinance shall apply to all lands within the unincorporated area of the Town of Pine Lake.

SECTION VI. APPLICABILITY.

A. This ordinance shall apply to:

1. All new land divisions and subdivisions defined as a division of a parcel that creates one or more lots or parcels of land less than 10.00 acres in size
2. All new Condominium Plats regardless of the size of the parcel involved
3. Construction/remodeling activities in the Town that are in conflict with the provisions of this Ordinance even if a Building Permit has already been issued.

B. This ordinance shall not apply to:

1. Transportation project plats conforming to sec 84.095 of Wisconsin Statutes or acquisition of public road right of way by a public entity.
2. Lots or parcels of record as defined in Section VII of this ordinance 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 secs. 157.07 and 70.27 of Wisconsin Statutes.
5. The sale, exchange or conveyance of parcels of public utilities, railroad right-of-way or public road right-of-way 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 and the resulting lots of the adjoiners are not reduced below the minimum size that was required when they were originally created.
8. Lands entered into the Managed Forest Land 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 the ordinance.

SECTION VII. DEFINITIONS

The following definitions shall apply and control this Ordinance. Words or phrases not defined specifically below, but used in this Ordinance, shall be interpreted so as to give them the same meaning as they have at common law and to give this Ordinance its reasonable application.

- Condominium:** An apartment house, structure, property ownership unit, office building, or other multiple-unit complex, the units of which are individually owned, each owner receiving a recordable deed to the individual unit purchased, including the right to sell, mortgage, etc. that unit and sharing in joint ownership of any common grounds, passageways, etc. All other shared forms of ownership shall be regulated by the provisions of this Ordinance regulating condominiums.
- Divide:** To create a land division/subdivision
- Land Division/Subdivision:** A division of a parcel that creates one or more lots or parcels of land less than 10.00 acres in size. Land division/subdivision is interchangeable for the purpose of this ordinance.
- Lot:** A contiguous distinct parcel or plot of land with definite defined boundaries.
- Lot or parcel of record:** A lot, parcel or separate description of land on record in the Register of Deeds Office; or a lot or parcel of land that has been mapped and surveyed prior to the date of this ordinance and is on file in the County Surveyors files, 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
- Off Water Lot:** A lot which has no frontage on a navigable lake, river, or flowage
- On Water Lot:** A lot which has frontage on a navigable lake, river, or flowage. For purposes of this Ordinance, lots fronting on streams other than the Wisconsin River or the main channels of the five streams named in Section IX-D are to be considered off water lots.
- Outlot:** A parcel of land that does not meet the minimum lot size requirements of this ordinance and shall not be used for habitable building purposes. Examples of outlots could include but not be limited to parks, private roads, conservation plots, parking lots, etc.

SECTION VIII. PROHIBITION

No person shall divide any land located within the Town of Pine Lake or create a condominium without submitting seven (7) copies of the land division/subdivision proposal to the Town Clerk and without compliance with all requirements of this Ordinance, applicable State Statutes and applicable County Ordinances.

SECTION IX. MINIMUM LOT SIZE

- A. Lots of record and condominiums created prior to the date of adoption of this ordinance would not be affected by this section.
- B. Off water lots created on a new town or private road constructed after the date of this ordinance (*Effective date June 1, 2005, per minutes of Executive Session of Town Board, April 12, 2005*) shall be five (5) acres or more in all Oneida County Zoning Districts except Forestry.
- C. Off water lots created from parcels and on public roads that existed prior to the date of this ordinance shall be two (2) acres or more in all Oneida County Zoning Districts except Forestry.
- D. On water lots: The minimum required riparian frontage width shall be measured the lesser of a straight line connecting points where the side lot lines intersect the Ordinary High Water Mark or as the length of a chord which is perpendicular to a side lot where it intersects the Ordinary High Water Mark and terminates at the opposite side lot line. [For clarification purposes the Wisconsin River (Rhineland Flowage), Pine Lake Creek, Pickerel Lake Creek, Skunk Creek, Shepard Lake Creek, Jennie Weber Creek, and all individually named lakes are considered to be separate water bodies as referenced in Wisconsin DNR PUB-FH-800 2001, Wisconsin Lakes or the latest edition thereof.]
 - 1. Lots on lakes fifty (50) acres or less in area must have 250' water frontage width and a minimum lot area of 50,000 square feet.
 - 2. Lots on lakes fifty (50) acres to 500 acres must have 200' water frontage width and a minimum lot area of 40,000 square feet.
 - 3. Lots on lakes the Rhineland Flowage must have 150' water frontage width and a minimum lot area of 30,000 square feet.

SECTION X. LOT DESIGN CONSIDERATIONS.

All newly created off water lots less than five acres must be designed to allow for building development meeting a 100 foot building front setback measured from the right-of-way line and 20 foot side setback. These lots must be designed to provide for a 50 foot no clear and no cut area measured from the right-of-way line along the public road, except for an approved driveway.

SECTION XI. ACCESS AND ROAD DESIGN STANDARDS

- A. The minimum right-of-way width for public or private roads or easement providing access to lots created by a land division is 66 feet except as noted in paragraph C. Any road in a proposed land division or condominium that services more than two (2) parcels of land must be constructed in accordance with the minimum standards for town road construction as set forth in the Town of Pine Lake; Ordinance #06-02 entitled "Minimum Highway Design Standards", except that it need not have the bituminous pavement. Such road must be paved prior to transferring ownership to the Town in accordance with Town Ordinance #06-02
- B. Every lot created shall front or abut for a distance of at least 66 feet on the applicable road whether it is a town road built to town road specifications or is a private road with a 66 foot right-of-way.

- C. The minimum width for a driveway easement serving no more than two (2) newly created lots shall be 33 feet.

SECTION XII. CONDOMINIUM DEVELOPMENT

Density shall govern. The number of units per parcel may not exceed that which would have resulted from subdividing the parcel in accordance with the provisions of Section IX of this Ordinance or the number of units that would have been allowed for a pre-existing resort.

SECTION XIII. PRELIMINARY CONSULTATION

It is recommended that, prior to filing an application for land division/subdivision approval, the land divider may schedule and attend a preliminary consultation with the Town of Pine Lake Plan Commission in order to obtain advice and assistance. Information on meeting dates, agenda deadlines and filing requirements may be obtained from the Town Clerk. 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 Town, and to otherwise assist the land divider in planning development. Input will also be requested from the Pine Lake Fire Department. In so doing, both the land divider and the Plan Commission may reach mutual conclusions regarding the general program and objectives of the 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. Commission will inform land divider as to whether a formal preliminary review will be needed.

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 (ten) days prior to the scheduled meeting to give the Plan Commission time to prepare for the meeting.

SECTION XIV. PLAN COMMISSION FINAL APPROVAL

Upon preliminary approval by the Plan Commission, or upon the subdivider's declining a preliminary review, a final map shall be prepared for the land division using one of the following instruments:

- A. Certified Survey Map meeting the requirements of sec 236.34, Wisconsin Statutes
- B. Town or County Plat prepared under the authority of sec 236.45, Wisconsin Statutes

Final approval of this submission will be the decision of the Town Board with the recommendations of the Plan Commission, subject to the applicable approval times set forth in sec. 236.11 or 236.34, Wisconsin Statutes.

To the extent that this Chapter contains time limits, deadlines, notice requirements, or other provisions that provide protections for a subdivider contained in Chapter 236 of Wisconsin Statutes, the time limits, deadlines, notice requirements or other provisions that provide protections for a subdivider contained in Chapter 236 shall apply.

SECTION XV. ALTERATIONS TO PLATS

Except with the express consent of the Town Board of Pine Lake, no property owner may alter acreage boundaries or dimensions of any lot created under this ordinance by plat, subdivision or certified survey which has previously been approved by the Town Board of Pine Lake.

SECTION XVI. MODIFICATION FOR EQUIVALENCY

The Town Board of Pine Lake, after the review and recommendation of the Plan Commission, shall have the power, upon appeal, to authorize such deviation from the terms and provisions of this Ordinance as will not be contrary to the public interest, nor in violation of the Oneida County Subdivision Ordinance. The Town Board of Pine Lake shall limit and restrict the granting of such exceptions to those instances in which, due to special conditions, a literal enforcement of this Ordinance would result in extreme hardship or a denial of due process of law.

SECTION XVII. PENALTY PROVISIONS

- A. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Ordinance shall, upon conviction thereof, 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. Violations and concomitant penalties shall include the following:
1. Recordation improperly made carries penalties as provided in sec 236.30 of the Wisconsin Statutes.
 2. Conveyance of lots in unrecorded plats carries penalties as provided in sec 236.31 of the Wisconsin Statutes.
 3. Monuments disturbed or not placed carries penalties as provided in sec 236.32 of the Wisconsin Statutes.
- B. Enjoinment. No person shall sell land in lots 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.
- C. Citation Method of Enforcement. Citations may be issued for violations of this Ordinance including any portion of this Ordinance for which a statutory counterpart exists. The form of such citation shall comply with Section 66.0113(1)(b) Wis. Stats.
1. The authority delegated to a town official to issue citations may only be granted or revoked by the Town Board of Pine Lake. The issuance of citations is expressly limited to the following town officials – the Town Board Chairman and Town Clerk are authorized to issue citations for violations of the Town of Pine Lake Land Division and Subdivision Control Ordinance.
 2. Cash deposits from citations issued shall be paid at the Clerk’s Office or mailed to the Town Clerk. Upon receiving the deposit, the Town Treasurer shall issue a receipt for the same.
 3. Cash deposits for violation of any part of the Pine Lake Land Division and Subdivision Control Ordinance shall be \$500.00 and in addition shall include any and all court costs, assessments and penalty assessments as permitted by Section 165.87 Wis. Stats. including a 23% penalty assessment, a \$5.00 justice information fee, a \$40.00 court support fee, \$20.00 court costs, \$5.00 circuit court automation project fee and \$10.00 jail assessment fee.
 4. Whenever any violation has occurred, the town attorney shall prosecute as provided by law.
 5. In addition to the forfeiture described above, the owner of property who divides the property without compliance with this Ordinance and without town approval shall be subject to paying all costs necessary to rectify the infraction. These costs may consist of, but are not limited to, the following: surveying costs, recording fees, removal or relocation of structures, removal, abandonment or resurfacing of roadways and roadbeds. If the Town Board of Pine Lake determines that a subdivider divides land in a manner not in compliance with the terms of the approval given by the Town Board, 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 therefore.

SECTION XVIII. EFFECTIVE DATE

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

Adopted this 10th day of February, 2011.

**TOWN OF PINE LAKE
BOARD OF SUPERVISORS**

Jim Flory, Chairman

Brian Gehrig, Supervisor

Timothy Oestreich, Supervisor

Charles LaHam, Supervisor

Orvin "Matt" Matteson, Supervisor

ATTEST:

Cindy Skinner, Clerk