

## Article C: General Provisions

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### Sec. 14-1-20 General Provisions.

- (a) **Compliance.** No person, firm or corporation shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, land division, land conveyance, consolidation, or a replat as defined herein; no such subdivision, land division, land conveyance, consolidation, or replat shall be entitled to recording; and no street shall be laid out, nor improvements made to land, nor building permits issued for any land division without compliance with all requirements of this Chapter and the following:
- (1) The provisions of Ch. 236 and Sec. 80.08, Wis. Stats.
  - (2) The rules of the Division of Plumbing, Wisconsin Department of Commerce, contained in Wis. Adm. Code Chapter H85 for subdivisions not served by public sewer.
  - (3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code Chapter HY 33 for subdivisions which abut a state trunk highway or connecting street.
  - (4) The rules of the Wisconsin Department of Natural Resources contained in the Wis. Adm. Code for the Floodplain Management Program, and the Shoreland/Wetlands Management Program.
  - (5) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Village Board.
  - (6) All applicable Village of Elk Mound and county regulations, including zoning, sanitary, building and official mapping ordinances.
  - (7) The Village of Elk Mound Master Plan, Smart Growth Plan and Official Map (if adopted by the Village Board) or components thereof:
    - a. Whenever a parcel to be subdivided embraces any part of a street, highway or greenway designated in said Master Plan or Official Map, such part of such proposed public way shall be platted and dedicated by the subdivider in the location and at a width indicated along with all other streets in the subdivision.
    - b. Where a proposed school site or other public ground shown on the Master Plan or Official Map of the Village of Elk Mound is located in whole or in part within the proposed subdivision, such proposed public ground or park shall be dedicated to the public when dedication is required by this Chapter or reserved for a period of up to five (5) years from the date of approval of the final plat for acquisition by the Village of Elk Mound, or any other appropriate agency having the authority to purchase said property. The Village, or other agency having the authority to purchase said property, and the subdivider shall enter into an agreement which provides for the purchase of the lands held in reserve prior to the conclusion of the five (5) year period.
  - (8) All applicable rules contained in the Wisconsin Administrative Code not listed in this Subsection.

- (9) The Village's sewer and water rules on file with the Public Service Commission of the State of Wisconsin concerning sewer and water installations and services. These rules, and the Village's sewer use ordinance (Title 9, Chapter 2), are incorporated herein by reference and made a part hereof as though fully set forth herein.
- (b) **Extra-Territorial Plat Approval Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the Village as well as the unincorporated area within the extraterritorial jurisdiction of the Village of Elk Mound, has elected to approve plats under its extraterritorial plat approval jurisdiction as provided in Chapter 236 of the Wisconsin Statutes.
- (c) **Jurisdiction.** The provisions of this Chapter, as they apply to divisions of tracts of land into less than five (5) parcels, shall not apply to:
- (1) Transfers of interests in land by will or pursuant to court order;
  - (2) Leases for a term not to exceed ten (10) years, mortgages or easements;
  - (3) Sale or exchange of parcels of land between adjoining property owners or where not more than one (1) additional lot is created and said lot is not less than the minimum size required by applicable laws or ordinances. No more than one (1) lot may be created in this fashion within a one (1) year period.
- (d) **Certified Survey.** Any division of land other than a subdivision as defined in Sec. 236.02(8), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in Sec. 236.34, Wis. Stats., subject to approval of the Village Board.
- (e) **Compliance; Issuance of Permits.** The Village of Elk Mound shall not recognize, and no building or other permits shall be issued by the Village authorizing the building on, occupancy, or improvement of any parcel of land not on record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been fully complied with and a resolution approving the land division has been adopted by the Village Board of the Village of Elk Mound.
- (f) **Applicability to Condominiums.** This Chapter is expressly applicable to condominium developments within the Village's jurisdiction, pursuant to Sec. 703.27(1), Wis. Stats. For purposes of this Chapter, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of subdivision.
- (g) **Recording of Plats or Certified Surveys.** Plats and certified surveys, approved by the Village Board of the Village of Elk Mound, must be recorded together with the adopting resolution, with the County Register of Deeds within thirty (30) days of the date of the last resolution of preliminary approval and not later than six (6) months following the date of the first resolution of approval. Land divisions shall not be recognized by the Village until recorded with the Register of Deeds. The volume, page, and document numbers of the recording, shall be filed with the Village Clerk-Treasurer and Building Inspector prior to issuance of any permits. The subdivider shall file six (6) certified copies of the approved land division with the Village Clerk-Treasurer.

## Sec. 14-1-21 Land Suitability.

- (a) **Suitability.** No land shall be subdivided for residential, commercial or industrial use which is held unsuitable for such use by the Plan Commission, upon the recommendation of the Village Engineer or any other agency or consulting professional designated by the Village, for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community. The Plan Commission, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for residential use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he/she so desires. Thereafter the Village Engineer or any other agency or consulting professional designated by the Village Board, upon the recommendation of the Plan Commission, may affirm, modify, or withdraw its determination of unsuitability.
- (b) **Existing Flora.** The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the subdivider.
- (c) **Miscellaneous Provisions.** Village officials shall also consider, but not be limited to, the following items in determining land suitability:
- (1) **Floodlands.** No lot served by public sanitary sewer facilities shall have more than fifty percent (50%) of its required lot area below an elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood, or where such data is not available, five (5) feet above the maximum flood of record.
  - (2) **Lands Having a Slope** of twenty percent (20%) or more shall be maintained in permanent open space use. No lot shall have more than fifty percent (50%) of its minimum required area in slopes of ten percent (10%) or greater.
- (d) **Application of Standards By Plan Commission.** The Village Plan Commission, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for residential use and afford the subdivider an opportunity to present evidence in rebuttal to such finding of unsuitability if he/she so desires. Thereafter the Plan Commission may affirm, modify, or withdraw its determination of unsuitability.

## Sec. 14-1-22 Preliminary Consultation.

Before filing a Preliminary Plat or certified survey map (minor land division), the subdivider is encouraged to consult with the Plan Commission and Village staff for advice regarding general

subdivision requirements. Information on meeting dates, agenda deadlines and filing requirements may be obtained from the Village Clerk-Treasurer. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components and duly adopted plan implementation devices of the Village and to otherwise assist the subdivider in planning his/her development. In so doing, both the subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.

*Cross-Reference:* Section 14-1-90, Administrative Fees; Cost Recovery Agreement

### **Sec. 14-1-23 Site Assessment Checklist and Concept Plan Submittal.**

In planning and developing a subdivision of five (5) acres or more (minor subdivisions are excluded from the provisions of this Section), the subdivider or agent shall, in every case, pursue the following course:

- (a) **Site Assessment and Concept Plan Procedure.** Before filing an application for approval of a preliminary plat map, the subdivider shall consult with the Village's staff and shall prepare the following:
  - (1) A Site Assessment Checklist per the requirements of Subsection (b) below.
  - (2) A Concept Plan per the requirements of Subsection (d) below.
  - (3) Written requests for any water main and sanitary sewer extensions necessary to serve the proposed plat.
  - (4) A signed statement listing development projects for which the applicant has received Village approval in the last five (5) years and indicating any outstanding performance or financial obligations on such projects which derive from application of Village land use regulations. If this statement is found to contain information which is contrary to fact or to omit the listing of such projects or obligations or to describe obligations on which performance or payment is delinquent, the application may be dismissed without prejudice until the application is corrected and/or the delinquency is cured.
  - (5) On completion of the above documents [Subsections (a)(1)-(4)], a preapplication meeting may be held with the Plan Commission and/or Village staff to assist the subdivider in appraising the objectives of these regulations, the Master Plan, the Official Map and any pertinent ordinances and to reach conclusions regarding the objectives and general program for the development.
  - (6) The subdivider shall revise the submitted documents per the direction of the Plan Commission. Ten (10) copies of said revised documents shall be submitted to Village

Clerk-Treasurer, which shall distribute the copies for review and comment by the Plan Commission.

- (b) **Site Assessment Checklist.** A Site Assessment Checklist shall be prepared by the subdivider for review and approval by the Plan Commission.
- (1) **Purpose.** The purpose of this Site Assessment Checklist is to provide the basis for an orderly, systematic review of the effects of all new subdivisions upon the community environment in accordance with the principles and procedures of Sec. 236.45(1), Wis. Stats. The Plan Commission will use these procedures in determining land suitability. The goals of the community in requiring this checklist are to eliminate or reduce pollution and siltation to an acceptable standard, assume ample living space per capita, preserve open space and parks for recreation, provide adequately for storm water control, maintain scenic beauty and aesthetic surroundings, administer to the economic and cultural needs of the citizens and provide for the effective and efficient flow of goods and services.
  - (2) **Coverage.** The Site Assessment Checklist requirement shall apply to all land divisions, except for minor subdivisions.
  - (3) **Site Assessment Checklist for All Land Divisions and Community Development Plans.** NOTE: All "yes" answers must be explained in detail by attaching maps and supportive documentation describing the impacts of the proposed development.



**SITE ASSESSMENT CHECKLIST**

ITEM #	ITEM OF INFORMATION	Yes	No
<b>I.</b>	<b>Land Resources.</b> Does the project site involve:		
A.	Changes in relief and drainage patterns (Attach a topographical map showing, at a minimum, two (2) foot contour intervals.)	___	___
B.	A landform or topographical feature including perennial streams	___	___
C.	A floodplain (If "yes", attach two (2) copies of the 100-year floodplain limits and the floodway limits (if officially adopted)	___	___
D.	An area of soil instability — greater than 20% slope and/or organic soils, peats, or mucks at or near the surface as depicted in the applicable "County Soils Atlas"	___	___
E.	An area of bedrock within 6 ft. of the soil surface as depicted in the applicable "County Soils Survey"	___	___
F.	An area with groundwater table within 10 ft. of the soil surface as depicted in the applicable "County Soils Survey", based on the seasonal high water table per soil classifications	___	___
G.	An area with fractured bedrock within 10 ft. of the soil surface as depicted in the applicable "County Soils Atlas"	___	___
H.	Gravel extraction operations	___	___
I.	A drainageway for 5 or more acres of land	___	___
J.	Lot coverage of more than 50% impermeable surfaces	___	___

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- K. Prime agricultural land as depicted in adopted farm land preservation plans if so identified in Village planning documents \_\_\_ \_\_\_
- L. Wetlands as depicted on wetland inventory maps \_\_\_ \_\_\_
- M. Officially Mapped environmental corridors \_\_\_ \_\_\_

**II. Water Resources.** Does the project involve:

- A. Location in an area traversed by a navigable stream or dry run \_\_\_ \_\_\_
- B. Impact on the capacity of a storm water storage system or flow of a waterway within 1 mile \_\_\_ \_\_\_
- C. The use of septic tank for on-site waste disposal (if allowed) \_\_\_ \_\_\_
- D. Lowering of water table by pumping or drainage \_\_\_ \_\_\_
- E. Raising of water table by altered drainage \_\_\_ \_\_\_
- F. Lake or river frontage \_\_\_ \_\_\_

**III. Biological Resources.** Does the project site involve:

- A. Critical habitat for plants and animals of community interest per DNR inventory \_\_\_ \_\_\_
- B. Endangered, unusual or rare species of:
  - 1. Land animals per DNR inventory \_\_\_ \_\_\_
  - 2. Birds per DNR inventory \_\_\_ \_\_\_
  - 3. Plants per DNR inventory \_\_\_ \_\_\_
- C. Removal of over 30% of the present trees on the site \_\_\_ \_\_\_

**IV. Human and Scientific Interest per State Historical Society Inventory.** Does this project site involve:

- A. An area of archeological interest \_\_\_\_\_
- B. An area of historical interest \_\_\_\_\_
  - 1. Historic buildings or monuments \_\_\_\_\_

**V. Energy, Transportation and Communications.**

- A. Does the development increase traffic flow on any arterial or collector street by more than 10% based upon the most recent traffic counts and trip generation rates provided by the Institute of Transportation Engineers (ITE) \_\_\_\_\_
- B. Is the development traversed by an existing or planned utility corridor (Gas, Electrical, Water, Sewer, Storm, (Communications) \_\_\_\_\_

**VI. Population.**

- A. Which public school service areas (elementary, middle and high) are affected by the proposed development, and what is their current available capacity?  
E: \_\_\_\_\_  
Cap: \_\_\_\_\_  
M: \_\_\_\_\_  
Cap: \_\_\_\_\_  
H: \_\_\_\_\_  
Cap: \_\_\_\_\_

**VII. Comments on any of the above which may have significant impact.**

**VIII. Appendices and Supporting Material.**

Subdivision Regulations

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Developer/Applicant \_\_\_\_\_ Telephone \_\_\_\_\_

Address \_\_\_\_\_

Attorney \_\_\_\_\_ Engineer \_\_\_\_\_

Date Submitted \_\_\_\_\_

Legal Description (to be attached)

(c) **Site Assessment Report.**

- (1) **Determination of Need for Site Assessment Report.** The Site Assessment Checklist, Concept Plan, Utility Extension Request and Financial Obligation Report required in Subsection (a), above, shall be reviewed by the Plan Commission upon receipt of reports from the Applicant. The Plan Commission may, at that time, for reasons stated in a written resolution setting forth specific questions on which it requires research, data and input from the developer and other affected persons, decide that the Site Assessment Checklist raises unusually significant questions on the effects on the environment and/or that an unusually high level of citizen interest has resulted from questions raised in the Site Assessment Checklist and that review by other Village committees and commissions is required. The listing of questions can include items which this Chapter already enables the Plan Commission to obtain, or it may include additional information which is relevant to the questions specified in the resolution. The resolution may also request data on the specific impact questions from other governmental agencies or from the developer or applicant. The resolution shall set a reasonable date for the return of the requested data and information, and it may specify the format in which the data is to be presented.
- (2) **Optional Hearing on Site Assessment Report.** Following the return to the Plan Commission of the data required in the resolution adopted under the Section above, the Plan Commission shall make such report available for scrutiny by the applicant or petitioner, by Village departments, commissions and committees and by other interested persons or agencies. The Plan Commission may schedule and hold a public hearing on the findings of the report. The hearing shall be preceded by a Class I notice under Chapter 985, Wis. Stats. Persons attending such hearing shall be afforded an opportunity to comment on the report.
- (3) **Review of Site Assessment Report.** The Plan Commission shall review the Site Assessment Report, with supporting data, department and committee reviews and any other data required for determining the suitability of the land for the proposed development. Within forty-five (45) days after submission to the Plan Commission of the final expanded Site Assessment Report, the Plan Commission shall decide whether said land is suitable for development and proceed as required by Subsection (d) below.

(d) **Concept Plan Requirements.** A Concept Plan shall be prepared by the subdivider for review and approval by the Plan Commission.

- (1) **Purpose.** The purpose of this Concept Plan is to depict the general intent of the subdivider in terms of general layout of the land division, and its relationship to nearby properties, utilities and other public facilities. In conjunction with the Site Assessment Checklist, the Concept Plan provides an opportunity to review the general intent and impact of the proposed land division, without the need for detailed engineering, surveying and other time-consuming and costly processes associated with the Preliminary Plat.

- (2) **Coverage.** The Concept Plan requirement shall apply to all land divisions, including minor subdivisions. The Plan Commission may waive the requirement for the filing of a Concept Plan for minor subdivisions of less than five (5) acres total area.
- (3) **Concept Plan Submission Requirements.** The Concept Plan shall be submitted in at a scale of not more than two hundred (200) feet to one (1) inch and shall show all lands under the control of the applicant which are contiguous or separated only by existing public roads, or railroad rights-of-way. The Concept Plan shall show the following information:
  - a. Name of the proposed subdivision.
  - b. Name, address and telephone number of the owner, subdivider, engineer, land surveyor and land planner.
  - c. Date, graphic scale and north point.
  - d. Location of the proposed subdivision by government lot, quarter section, township, range and county, and a location map showing the relationship between the plan and its surrounding area.
  - e. The exterior boundaries of the proposed subdivision referenced to a corner established by the U.S. Public Land Survey, and the total acreage encompassed thereby.
  - f. The location of existing property lines, buildings, drives, streams and water courses, dry runs, lakes, marshes, rock outcrops, wooded areas, environmental corridors, and other similar significant features within the parcel being subdivided.
  - g. The location, right-of-way width and names of any adjacent existing streets, alleys or other public ways, easements, and railroad and utility rights-of-way within or adjacent to the proposed subdivision.
  - h. The name and width of any adjacent existing street pavements for streets located outside the Village limits.
  - i. The location and size of any existing sanitary and storm sewers, culverts, or drain pipes, and the location and size of any existing water and gas mains on or adjacent to the plat and proposed for use in the development. If sewers and water mains are not present on or adjacent to the preliminary plat, the distance and the size of those to be connected to by the development shall be indicated.
  - j. Location and names of adjacent subdivisions, parks and cemeteries.
  - k. Existing land use and zoning included within or adjacent to the proposed subdivision.
  - l. General location and right-of-way width of all proposed streets.
  - m. General layout and size of all lots.
  - n. General location and approximate area and dimensions of any sites proposed to be reserved or dedicated for parks, playgrounds, greenways or other public uses or which are to be used for group housing, shopping centers, church sites or other nonpublic uses.

- o. General location and area of stormwater drainage facilities.
- p. A preliminary listing of dwelling unit counts by single-family, two-family, three-family, four-family and multi-family types, and the approximate area devoted to non-residential uses.
- q. The preliminary development schedule indicating the approximate timing of the proposed development.

## **Sec. 14-1-24 Condominium Developments.**

(a) **Purpose.**

- (1) The Village Board hereby finds that certain issues arise in condominium developments that require limited applicability of this Chapter to condominium developments. The State Legislature has recognized that subdivision ordinances may apply to condominiums but that subdivision ordinances shall not impose burdens upon condominiums that are different from those imposed on other property of a similar character not subject to a declaration of condominium.
- (2) The factor that makes this Chapter applicable to a condominium development is the creation of multiple, distinct property entities at or near the ground surface, subject to property taxation as separate "parcels," with each property entity having different ownership and management. The Village of Elk Mound determines that this factor makes a condominium development dissimilar, both physically and in ownership, from developments in which the land and improvements are under unitary ownership, management, and control.
- (3) Thus, the Village Board hereby finds that new condominium developments can place impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. These impacts include:
  - a. Additional population density.
  - b. Possibility of use of particular land in a manner unsuitable to the land's characteristics.
  - c. Additional demands upon Village area parks, recreation areas, utility facilities and schools.
  - d. Additional traffic and street use.

(b) **Portions of Chapter Applicable to Condominium Developments.** The following Sections of this Chapter shall apply to condominium developments:

- (1) Section 14-1-21 relating to land suitability and construction practices.
- (2) Sections 14-1-30 through 14-1-32 relating to preliminary plat approval. This stage of approval shall be the only approval required for a condominium development. The technical requirements for preliminary plats set forth in Section 14-1-32 shall not apply, since condominiums have separate technical standards set forth in Chapter 703, Wis. Stats.

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- (3) Article H relating to fees for review.
- (4) Article E relating to required improvements.
- (5) Article F relating to design standards for improvements.
- (6) Article G relating to dedication requirements.
- (c) **Exceptions.** This Section shall not apply to the following condominiums:
  - (1) Any condominium plat recorded prior to the effective date of this Chapter.
  - (2) Any conversion of a structure or structures in existence on the effective date of this Chapter to a condominium after the effective date of this Chapter.

**Sec. 14-1-25 Homeowner, Property Owner or Condominium Associations.**

Common areas or facilities within a land division or condominium shall be held in common ownership as undivided proportionate interests by the members of a homeowners, property owners or condominium association, subject to the provisions set forth herein. The homeowners, property owners or condominium association shall be governed by the following:

- (a) **Documents To Be Submitted.** The subdivider shall provide the Village with a description of the homeowners, property owners or condominium association, including its bylaws, and all documents and restrictive covenants governing maintenance requirements and use restrictions for common areas and facilities. These documents shall be subject to review as to form by the Village Attorney at the subdivider's expense. The documents required by this Section shall be filed with the Village at the time of preliminary plat submittal.
- (b) **Timetable For Creation.** The association shall be established by the owner or applicant of the land division/condominium, and such association shall be operating prior to the sale of any lots or units in the subdivision, land division or condominium.
- (c) **Mandatory Membership.** Membership in the association shall be mandatory and on-going for all purchasers of lots or units within the subdivision, land division or condominium and their successors and assigns.
- (d) **Maintenance Responsibilities.**
  - (1) The association shall be responsible for maintenance of and insurance for common areas and facilities. Included in such responsibilities is on-going maintenance of any stormwater detention/retention system facilities or shared community private septic system for that subdivision or condominium, pursuant to a maintenance plan approved by the Village and incorporated in the development agreement; such requirement is only inapplicable where the Village has expressly determined to have, in the alternative, the Village maintain such facilities and areas.
  - (2) The members of the association shall share equitably the costs of maintaining, insuring, and operating common areas and facilities. The subdivider shall arrange with the Village a method of assessment of any common areas and facilities which

will allocate to each lot, parcel or unit within the land division or condominium a share of the total assessment of costs for such common areas and facilities; the services of the Village Assessor or Village Engineer may be utilized in developing such methodology, at the subdivider's expense.

- (e) **Plan For Natural Areas.** A land stewardship plan for any common open space or prairies to be maintained in a natural state shall be included in the submittal of association documents.
- (f) **Notice Of Transfer Of Common Areas.** The Village shall receive written notice of any proposed transfer of common areas or facilities by the association or the assumption of maintenance of common areas or facilities. Such notice shall be given by the association to all members of the association and the Village at least thirty (30) days prior to such transfer.
- (g) **Failure To Maintain.** In the event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the Village may serve written notice upon such association setting forth the manner in which the association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the association, or any successor association, shall be considered in violation of this Chapter, in which case the Village shall have the right to enter the premise and take the needed corrective actions. The costs of corrective actions by the Village shall be assessed against the properties that have the right of enjoyment of and/or are served by the common areas and facilities.

*Cross-Reference:* Section 14-1-74.

**Sec. 14-1-26 through Sec. 14-1-29      Reserved for Future Use.**

