

## SUBDIVISION ORDINANCE

### TOWN OF ELLINGTON

#### Outagamie County, Wisconsin

#### 1.0 INTRODUCTION

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

(2) **Purpose.** The purpose of these regulations is to regulate and control the division and subdivision of land within the Town of Ellington, Outagamie 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 monumenting of divided land and conveyancing by accurate legal description; and to facilitate the further division of larger tracts into smaller parcels of land.

(3) **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.

(4) **Severability.** If any section, provision or portion of this Ordinance is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance in its entirety or any part thereof other than that so declared to be invalid.

(5) **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 Ellington, and shall not be deemed a limitation or repeal of any power granted by the Wisconsin Statutes.

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

- (a) Transfers of interests in land by will or pursuant to court order.

- (b) Leases for a term not to exceed 10 years, mortgages or easements.
- (c) 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.

(7) **Compliance.** No person, firm or corporation shall divide land which results in a land division, subdivision or replat without compliance with this Ordinance, the Outagamie County Subdivision Ordinance, Chapter 236 of the Wisconsin Statutes, Town and County Development Plans or the Official Map of the Town of Ellington.

## 2.0 DEFINITIONS.

- (1) **Alley.** A public or private right-of-way which provides secondary access to abutting properties.
- (2) **Arterial Street.** A street used or intended to be used primarily for fast or heavy through traffic. Arterial streets shall include freeways and expressways, as well as standard arterial streets, highways and parkways.
- (3) **Block.** A group of lots existing within well defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers, and having an assigned number, letter or other name through which it may be identified.
- (4) **Building.** Any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind and which is permanently affixed to the land.
- (5) **Building Setback Line.** A line parallel to the street line or waterline, beyond which buildings may not be erected.
- (6) **Certified Survey Map.** As defined in Chapter 236.34, Wisconsin Statutes.
- (7) **Collector Street.** A street intended to provide both land access service and traffic circulation. They also collect traffic from minor streets and channel it onto the arterial street system.



- (8) **Development.** Any man-made change to the land including, but not limited to, construction, additions to existing buildings, other structures, mining, dredging, filling, grading or paving.
- (9) **Improvement, Public.** Any sanitary sewer, storm sewer, drainageway, drainage basin, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip, off-street parking area or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.
- (10) **Land Division.** The division of land by certified survey map of up to four new parcels from the parent parcel.
- (11) **Lot.** A buildable parcel of land represented and identified in a land division as defined herein.
- (12) **Lot, Corner.** A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.
- (13) **Lot, Through.** A lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a "through lot" both street lines shall be deemed front lot lines.
- (14) **Minor Street.** A street used or intended to be used primarily for access to abutting properties.
- (15) **Outlot.** A parcel of land not intended for a building site or development, so designated on the plat, replat or certified survey map.
- (16) **Parent Parcel.** The existing parcels of record, as identified by individual tax parcel numbers, as of the effective date of this Ordinance.
- (17) **Preliminary Plat.** A map showing the salient features of a proposed subdivision submitted for purposes of preliminary consideration.
- (18) **Public Way.** Any public road, street, highway, walkway, drainageway or part thereof.
- (19) **Replat.** The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.

- (20) **Subdivider.** Any person, corporation, partnership, association, individual, firm, trust or agent acting on the seller's behalf thereof dividing or proposing to divide land resulting in a land division or subdivision.
- (21) **Subdivision.** The division of a lot, parcel or tract of land by a subdivider where the division creates more than four new parcels from the parent parcel.
- (22) **Town.** Reference to town shall mean the Town of Ellington, including the Town Board.
- (23) **Town Plan Commission.** The Town of Ellington Plan Commission.

### 3.0 GENERAL PROVISIONS.

(1) **Building Permits.** The Town shall not issue any building permit relating to any parcel of land forming all or any part of land included in a subdivision, land division or replat originally submitted to the Town on or after the effective date of this Ordinance until the applicant has complied with all of the provisions and requirements of this ordinance.

(2) **Land Suitability.** No land shall be divided or subdivided for residential, commercial or industrial use which is held unsuitable for such use by the Town Board, upon the recommendation of the Plan Commission, for reason of flooding, inadequate drainage, wetlands, incompatible surrounding land use, adverse soil or rock formation, unfavorable topography, inadequate water supply or sewage disposal capabilities, unfavorable impact on groundwater supply, quantity or quality, poor management of environmentally sensitive areas or any feature likely to be harmful to the health, safety, or welfare of the future users of the proposed subdivision or of the community.

- (a) The determination of land suitability shall be made by the Plan Commission for any land division/ subdivision. 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 the proposed use and afford the subdivider an opportunity to present evidence regarding such unsuitability if so desired. Thereafter the Plan Commission may affirm, modify or withdraw its determination of unsuitability. The Town Board shall consider the Plan Commission's recommendation when considering approval of a land division.



- (b) Where the land division or subdivision of a tract of land contains a portion of land unsuitable for development because of poor drainage, floodable conditions, adverse soil conditions, or rock formations, unfavorable topography, inadequate water supply or sewage disposal capabilities, or for any other reason, such areas shall not be divided into buildable sites, but instead be identified as an outlot or other designation that would indicate that the land is not available for a building site or development.
- (c) Lands declared unsuitable for a building site or development shall include but are not limited to the following:
  - 1. Areas mapped as a floodway by the Federal Emergency Management Agency (FEMA) or Wisconsin Department of Natural Resources.
  - 2. All areas mapped as wetland by the Wisconsin Department of Natural Resources or as may be determined to be wetland by the Department.
  - 3. Areas having slopes steeper than 16 percent.

#### **4.0 LAND DIVISION (CERTIFIED SURVEY MAP) PROCEDURES.**

**(1) Preliminary Consultation.** Prior to filing an application for the approval of a land division by certified survey map, the subdivider shall prepare and submit a concept plan to the Town Clerk for review by and consultation with the Town Plan Commission. The concept plan shall be to scale showing the layout of the lots, approximate dimensions and any proposed public improvements.

**(2) Certified Survey Map Review.** Following consultation, copies of the final map in the form of a Certified Survey Map shall be submitted to the Town Clerk for review and a recommendation by the Town Plan Commission to the Town Board. The Town Board shall take action to approve, approve conditionally, or reject the Certified Survey Map within 60 days of its submission to the Town Clerk. The Town Board shall state in writing any conditions of approval or reasons for rejection. Failure of the Town Board to act within 60 days constitutes an approval unless the time is extended by agreement with the subdivider.

## **5.0 PRELIMINARY PLAT PROCEDURES**

(1) **Preliminary Consultation.** Prior to filing an application for the approval of a subdivision plat, the subdivider shall prepare and submit a concept plan to the Town Clerk for review by and consultation with the Town Plan Commission. The concept plan shall be to scale showing the layout of the lots and streets, approximate dimensions and proposed public improvements. The subdivider shall also provide information regarding land suitability including soil conditions, topography, wetlands and information regarding access and accessibility of the site with respect to existing roads and existing development within 300 feet of the site.

(2) **Preliminary Plat Review.** Following preliminary consultation and before submitting a final plat, a preliminary plat shall be prepared by and submitted to the Town Clerk for review and a recommendation by the Town Plan Commission. The Town Plan Commission shall review the preliminary plat for conformance with the requirements of this Ordinance and all other ordinances, rules, regulations and adopted plans of the Town of Ellington. The Town Plan Commission shall make its recommendation to the Town Board to approve, conditionally approve or reject the preliminary plat within 60 days of its submittal unless time is extended by agreement with the subdivider. The Town Board shall take action to approve, conditionally approve or reject the preliminary plat within 90 days of its submission to the Town Clerk. The Town Board shall state in writing any conditions of approval or reasons for rejection. Failure of the Town Board to act within 90 days of submittal constitutes approval of the preliminary plat unless the time is extended by agreement with the subdivider.

(3) **Preliminary Plat Referral.** The subdivider shall be responsible for filing the appropriate number of copies of the preliminary plat with all other state, county and local agencies, departments, utilities and municipalities pursuant to Section 236.12(6) Wis. Stats.

## **6.0 FINAL PLAT PROCEDURES.**

(1) **Final Plat Review.** The subdivider shall prepare and submit a final plat to the Town Clerk for examination by the Town Plan Commission as to conformance with the approved preliminary plat, any condition of approval, the requirements of this Ordinance and all other ordinances, rules, regulations and adopted plans of the Town of Ellington. The Town Plan Commission shall examine the final plat and make its findings within 30 days of final plat submission. The Town Board shall take action to approve or reject the final plat within 60 days of its submittal. If the final plat is rejected, the reasons therefor shall be stated in the minutes of the meeting and a copy thereof or a written statement of the reasons supplied to the subdivider. Failure of the Town Board to act within 60 days of submittal constitutes approval of the final plat



unless the time is extended by agreement with the subdivider.

**(2) Conformance With the Preliminary Plat.** If the final plat conforms substantially to the preliminary plat as approved, including any conditions of that approval, and to Town plans and ordinances adopted as authorized by law, it is entitled to approval. If the final plat is not submitted within 24 months after the last required approval of the preliminary plat, the Town Board may refuse to approve the final plat. The final plat may, if permitted by the Town Board, constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time.

**(3) Final Plat Referral.** The subdivider shall be responsible for filing the appropriate copies of the final plat with all other state, county and local agencies, departments, utilities and municipalities pursuant to Section 236.12(6) Wis. Stats.

## **7.0 TECHNICAL REQUIREMENTS FOR CERTIFIED SURVEYS AND PLATS**

### **(1) Certified Survey Maps.**

- (a) Certified Survey Map Requirements.** A certified survey map (CSM) shall be required for all newly created parcels of land where the act of division will create up to and including four new lots, parcels or tracts from the parent parcel. A CSM shall also be required for all public dedications. No land included in any street, highway or railroad right-of-way shall be included in computing lot area.
- (b) Specifications.** A CSM shall comply with the requirements of Section 236.34, Wis. Stats., and shall include the following information:
1. Every CSM shall show prominently near the top of the first page the quarter-quarter section, government lot or private claim; section, township and range; name of town and county, or, if part of a recorded subdivision or certified survey map, the name of the recorded subdivision or CSM volume and number, town and county.
  2. A certificate shall appear on the face of the CSM which acknowledges review by the Outagamie County Planning Department.
  3. If land to be dedicated to the public is included within the

CSM, then a certificate of acceptance by the Town Board, signed by the Clerk and the Chairperson, shall appear on the face of the CSM. The area of such dedication in square feet or acres shall be shown within the dedication.

4. A certificate of approval by the Town shall appear on the face of the CSM.
5. A north arrow, scale, legend and symbols, bearing and distance of each line, lot numbers and area in square feet and acres, and existing and proposed easements.
6. A statement shall appear on the face of the CSM that it is part of or all of a tax parcel number and the property owners of record.
7. All existing structures.
8. The location, right-of-way width and name of all existing and proposed highways, streets, alleys or other public ways.
9. Location of section quarter, sixteenth, government or private claim lines that are within 50 feet of the exterior boundary of the CSM.
10. Location and names of any subdivision, CSM, existing property lines and owners of record of abutting unplatted lands contained in or within 50 feet of the exterior boundary of the CSM.
11. Locations of any corporate limit lines within 50 feet of the exterior boundary of the CSM.
12. All existing driveways and access points. If the CSM abuts a controlled access highway and no driveway exists, a statement to that effect shall appear on the CSM. Driveway width and radii shall be shown.
13. If the CSM abuts any highway where noise control standards have been developed, a statement that the division of highways hereby informs the developer and Outagamie County that lots near highway may experience



a noise level above those listed in Wisconsin Administrative Code Chapter Trans 405. Consideration shall be given to providing noise abatement measures sufficient to protect these lots.

14. All stream and other water bodies located within the shoreland jurisdiction of the CSM boundary shall be shown. A building setback line and distance shall also be shown.
15. All wetland areas within the CSM that are regulated through the Shoreland Zoning Ordinance shall be shown. All areas that have been designated floodplain shall also be shown and labeled. The source of the floodplain determination shall be stated on the CSM.
16. Any proposed lake or stream improvement or relocation and proposed filing, grading, lagooning and dredging within the boundaries of the CSM.
17. All drainage easements and statement of restrictions and maintenance obligations.

**(2) Preliminary Plats.**

- (a) **Preliminary Plat Requirements.** A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on reproducible material at a scale of not more than 1 inch to 100 feet and shall show correctly on its face the following information:
  1. Title under which the proposed subdivision is to be recorded.
  2. Legal description and general location of proposed subdivision and relative location to a nearby municipality.
  3. Date, scale and north arrow.
  4. Names and addresses of the owners, subdivider and land surveyor preparing the plat.
  5. Entire area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the

preliminary plat even though only a portion of the area is proposed for immediate development.

6. Length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
7. Contours at vertical intervals of not more than two feet, where the slope of the ground surface is less than 10 percent and of not more than 5 feet where the slope of the ground surface is 10 percent or more. Elevations shall be marked on such contours based on mean sea level datum.
8. Water elevations of adjoining lakes and streams at the date of the survey, approximate high and low water elevation, and FEMA's 100 year floodplain elevation, all referred to the same datum used for the contours.
9. Location, right-of-way width and name of all existing and proposed streets, alleys or other public ways, easements, railroad and utility right-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
10. Locations and names of any subdivisions, parks, schools and cemeteries and owners of record of abutting unplatted lands within 300 feet of the exterior boundary of the plat.
11. Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations, all to the datum used for the contours.
12. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catch basins, hydrants, power and telephone poles and location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewer or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water which might be extended to serve the tract shall be indicated by their direction and



distance from the tract, size, and invert elevations.

13. Locations of all existing property boundary lines, structures, driveways, streams and watercourses, flowing wells and springs, marshes, rock outcrops, wooded areas, railroad tracks and other similar significant features within the tract being subdivided or immediately adjacent thereto.
14. Dimensions of all lots, together with proposed lot and block numbers.
15. Location and dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways, to other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting.
16. Radii of all curves.
17. Existing zoning and proposed use on an adjacent to the proposed subdivision.
18. Corporate limit lines.
19. Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to the access.
20. Any proposed lake and stream improvement or relocation and proposed filling, grading, lagooning and dredging within the exterior boundaries of the plat and the notice of application for Wisconsin Department of Natural Resources approval, when applicable.
21. Seasonally wet areas.
22. Sanitary sewer service area boundary, when applicable.
23. In addition to the above listed information, the preliminary plat shall also include the necessary soil tests indicating on-site sanitary systems, including the use of holding tanks, provided the Town Board agrees by resolution to accept the responsibility for pumping the tanks, including maintenance

complied with the provisions of this chapter.

- (e) **Drainage and Stormwater Detention Plans.** A drainage and stormwater detention plan shall be submitted with the preliminary plat and certified survey map. The plan shall be designed, stamped and signed by a registered professional engineer. The plan shall include, but not be limited to, the following:
1. Soil types, infiltration characteristics of the soil, amount of available detention area, type of vegetative cover, amount of impervious cover and time response to runoff.
  2. The plan shall be compatible with natural drainageways and existing man-made drainageways and easements.
  3. The plan shall identify bridges, regional drainage patterns, field tiles, water boundaries, pipes, culverts, catch basins, waterways, ditches, detention and retention basins, and indicate respective size, dimensions and grades of each.
  4. All drainageways and associated structures shall lie within drainage easements and such easements shall be shown on the final plat or certified survey map.
  5. The direction of surface water flow shall be shown by arrows.
  6. The plan shall be designed in accordance with the United States Department of Agriculture Technical Release No. 55, Urban Hydrology for Small Watersheds.
  7. The plan shall be accompanied by calculations showing pre-construction and post-construction surface water runoff.
  8. A statement shall be included indicating how runoff resulting from construction will affect downstream areas and adjacent property owners.
  9. The statement shall indicate methods that will be used to protect downstream areas and adjacent property owners from damage caused by increased surface water runoff. This may include the use of outlots and recorded easements as determined by the Town.



**(4) Final Plats.**

(a) **Final Plat Requirements.** A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply with and show correctly on its face, in addition to the information required by Section 236.20, Wisconsin Statutes, the following:

1. Exact street width along the line of any obliquely intersecting street.
2. Setbacks or building lines.
3. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat. If common property is located within the plat, then provisions for its use and maintenance must also be provided with the plat.
4. Special restrictions required by any approving or objecting agency relating to access control along public ways or to the provisions of planting strips.
5. The following certificates must be on all final plats:
  - a. Surveyor's Certificate,
  - b. Owner's Certificate,
  - c. Persons holding an interest in the fee of record or by being in possession,
  - d. The mortgagee of record if land is mortgaged,
  - e. County - to include Zoning Administrator and Treasurer, Town - to include Chairperson, Clerk and Treasurer, and Village or City depending on jurisdiction and extraterritorial limits,
  - f. Clerk's Transmittal Certificate, when plat is submitted as a print under Section 236.12(2), Wisconsin Statutes.

(b) **Deed Restrictions.** Any deed restrictions attached to the subdivision shall be filed with or placed on the face of the final plat. Placing the Register of Deeds recording information on the face of the plat is acceptable.

(c) **Surveying and Monumenting.** All final plats shall meet all of the

surveying and monumenting requirements of Section 236.15, Wisconsin Statutes.

- (d) **State Plane Coordinate System.** Where the plat is located within a quarter section, the corners of which have been relocated, monumented and coordinated, the plat shall be tied directly to two of the section of quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin State Plane Coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. All distances and bearings shall be referenced to the Wisconsin Coordinate System. All measurements shall also be based on the Outagamie County remonumentation data on file with the County Surveyor.

## 8.0 DESIGN STANDARDS.

### (1) Conservation Subdivision.

- (a) **Purpose.** To promote the public health, safety and general welfare by preserving unique scenic and sensitive environmental resources of the Town of Ellington such as woodlots, wetlands, watercourses, shorelands and other natural features, the Town of Ellington may, in its discretion, require that the subdivider prepare a conservation subdivision.
- (b) **Conservation Subdivision Defined.** A subdivision plat where minimum lot sizes may be reduced by 50 percent but not less than 50 percent of the plat is set aside and restricted to open space use by a conservation easement or other suitable instrument.
- (c) **Review.** Conservation subdivisions shall be submitted and reviewed according to the procedures and requirements for other subdivision plats as set forth in this Ordinance.
- (d) **Layout Requirements.** To the maximum extent practicable, open space areas shall consist of contiguous or connected areas of unique and sensitive environmental areas, accessible to all lots in the subdivision.
- (e) **Protection and Ownership of Open Space.** All open space areas



shall be clearly delineated on the plat as an outlot or outlots and clearly designated as open space on the face of the plat. The Town of Ellington may require a separate conservation easement to be approved and recorded with the Outagamie County Register of Deeds. The Town of Ellington may require that the outlot or outlots be owned by a Homeowners' Association. All documents and instruments relating to the creation, protection, ownership, management and maintenance of the open space shall be reviewed and approved by the Town of Ellington.

(2) **Street Design.**

- (a) **Dedication.** The subdivider shall dedicate land and improve streets as provided in this Ordinance. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities, land use, and public convenience and safety. The subdivision or certified survey map shall be designed to provide each lot with direct access to a public street or road.
- (b) **Compliance with Master Plan and Official Map.** The arrangement, character, extent, width, grade and location of all streets shall conform to any Town Master Plan and Official Map and to this Ordinance and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The arrangement of streets in new subdivisions and certified survey maps shall make provision of the appropriate continuation at the same width of the existing streets in adjoining areas.
- (c) **Areas Not Covered by Official Map or Master Plan.** In areas not covered by a Town Master Plan or Official Map, the layout of streets shall conform to the plan for the most advantageous development of adjoining areas. Streets shall be designed and located in relation to existing and officially planned streets, topography and natural terrain, streams and existing tree growth, public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets. Streets shall normally be laid out on a north-south and east-west axis to complement existing Town roads. Cul de sacs shall only be allowed in extraordinary circumstances where natural features or adjacent development precludes extension.

- (d) **Street Classifications.** Streets shall be classified as indicated below:
1. **Arterial Streets.** Arterial streets shall provide through traffic for a heavy volume of vehicles.
  2. **Collector Streets.** Collector streets shall be arranged to provide ready collection of traffic from commercial and residential areas and conveyance of this traffic to arterial streets and the major thoroughfare system. Collector streets shall be properly related to special traffic generators such as schools, churches, shopping centers and other concentrations of population and to the major streets into which they feed.
  3. **Local Streets.** Local streets shall conform to the topography, discourage use by through traffic, permit the design of efficient drainage systems and require the minimum street area necessary to provide safe and convenient access to abutting property.
  4. **Proposed Streets.** Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions of unless, in the opinion of the Town Board, such extension is unnecessary or undesirable for the coordination of the layout of the subdivision or land division or for the advantageous development of the adjacent tracts.
- (e) **Reserve Strips.** Reserve strips are prohibited on any plat to control access to streets , except where control of such strips is placed with the Town or County under conditions approved by the Town Board or County.
- (f) **Continuation.** Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit. All proposed streets shall have a direct connection with, or be continuous and in line with, existing, planned or platted streets with which they are to connect. Proposed streets shall extend to the boundary lines of the tract to be subdivided, or unless in the opinion of the Town Board, such extension is unnecessary for the coordination of the layout of the subdivision with existing layout or the most advantageous future development



of adjacent tracts. Cul de sac streets not over 600 feet in length are only permitted when necessitated by topography or adjacent development.

- (g) **Number of Intersections.** The number of intersections of local streets with major streets shall be the practical minimum consistent with circulation needs and safety requirements, preferably not more than two.
- (h) **Frontage Roads.** Where a subdivision abuts or contains an existing or proposed major thoroughfare, the Town Board may require a frontage road, non-access reservation along the rear of the property contiguous to such thoroughfare or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.
- (i) **Private Roads.** Private roads are prohibited , except as part of a condominium development, and the Town Board shall not permit installation of public improvements in any private road.
- (j) **Visibility.** Streets shall afford maximum visibility and safety and shall intersect at right angles where practicable.
- (k) **Tangents.** A tangent of at least 100 feet long shall be required between reverse curves on arterial and collector streets. On all roads, a tangent at least 100 feet long shall be provided between the curve and any intersection.
- (l) **Street Grades.**
  - 1. Unless necessitated by exceptional topography subject to the approval of the Town Board, the maximum centerline grade of any street or public way shall not exceed the following:
    - Arterial Streets: 6 percent.
    - Collector Streets: 8 percent.
    - Local Streets and Frontage Streets: 10 percent.
    - Pedestrian Ways: 12 percent unless steps of acceptable design are provided.
  - 2. Street grades shall be established wherever practicable so

as to avoid excessive grading, the excessive removal of ground cover and trees, and general leveling of the topography.

- (m) **Radii of Curvature.** When a continuous street centerline deflects at any one point by more than 10 degrees, a circular curve shall be introduced having a radius of curvature on said centerline of not less than the following:

Arterial Streets and Major Thoroughfares: 500 feet.

Collector Streets: 300 feet.

Local Streets: 100 feet.

- (n) **Half Streets and Streets that Abut Adjacent Property.** Where an existing dedicated or platted half-street is adjacent to the subdivision or CSM, the subdivider shall dedicate the other half-street. The platting of half-streets should be avoided where possible. When a full street is platted that abuts an adjacent property the subdivider must submit a written agreement with the adjacent property owner, to be approved by the Town Board and recorded with the county Register of Deeds, documenting how future development costs will be assessed.

- (o) **Intersections.**

1. Property lines at street intersections of major thoroughfares shall be rounded with a radius of fifteen feet or greater where the Town Engineer considers it necessary.
2. Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
3. Number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two.

- (p) **Street Names.** New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the names of the existing streets. Street names shall be subject to approval by the Town and County.

- (q) **Cul de Sacs.** When allowed, all cul de sac streets designed to have one end permanently closed shall not exceed 600 feet in length.



All cul de sac streets designed to have one end permanently closed shall terminate in a circular turnaround having a minimum right-of-way radius of 75 feet and a minimum inside curb radius of 60 feet.

(r) **Major Thoroughfare and Railroad Right-of-Way Treatment.** Whenever the proposed CSM or subdivision contains or is adjacent to a major thoroughfare or railroad right-of-way, the design shall provide the following treatment:

1. **Lots.** When lots within the proposed CSM/subdivision back upon the right-of-way of an existing or proposed limited access highway or a railroad, a planting strip of at least 30 feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be part of the platted lots but shall have the following restriction lettered on the face of the plat: "This strip reserved for the planting of trees and shrubs; the building of structures and vehicular access from lots abutting such road is prohibited."
2. **Commercial and Industrial Districts.** Commercial and industrial districts shall have provided, on each side of the major thoroughfare or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than 150 feet.
3. **Streets Parallel to a Major Thoroughfare.** Streets parallel to a major thoroughfare or railroad right-of-way, when intersecting a major street or collector street, which crosses said railroad or highway shall be a minimum distance of 250 feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.

(s) **Minimum Right-of-Way.** The minimum of all proposed streets shall be as specified in the Town of County Official Map or, if no width is specified, the minimum right-of-way widths shall be as follows:

1. **Arterial Streets - Minimum of 120 feet.**

2. Collector Streets - Minimum of 80 feet.
3. Local Streets - Minimum of 66 feet.

**(3) Blocks.**

- (a) **Layout.** The widths, lengths and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic and the limitations and opportunities of topography.
- (b) **Length.** Blocks in residential areas should not, as a general rule, be less than 750 feet nor more than 1,500 feet in length, unless otherwise dictated.
- (c) **Pedestrian Ways.** Pedestrian ways of not less than 10 feet in width may be required where deemed desirable by the Town or County to provide adequate pedestrian circulation or access to schools, shopping centers, churches or transportation facilities.
- (d) **Width.** Blocks shall have sufficient width to provide for 2 tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic or where lots abut a lake or stream. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning provisions for such use.
- (e) **Utility Easements.** All utility lines for electric power and telephone service shall be placed on mid-block easements along rear lot lines except where lots abut a lake or stream or where such a location is deemed engineeringly unfeasible by the utility companies involved.

**(4) Lots**

- (a) **Design.** The size, shape and orientation of lots shall be appropriate for the type of development and use contemplated. The lots should be designed to provide an aesthetic and functional setting for the building contemplated.
- (b) **Lot Lines.** Side lot lines should be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.



- (c) **Double and Reversed Frontage Lots.** Except for limited access or controlled access roads, double frontage and reversed frontage lots shall be prohibited, unless necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
- (d) **Access.** Every lot shall front or abut a public street for a distance of at least 100 feet, provided, however that a lot on a cul-de-sac street shall abut a public street for a distance of at least 50 feet. Direct access does not include the use of easements.
- (e) **Lot Area and Dimensions.** Area and dimensions of lots shall conform to the Outagamie County Zoning Ordinance and Town of Ellington ordinances. In areas not served by public sewer, lot area shall conform to the requirements of the State Division of Health. Whenever a tract is divided into parcels with area in excess of the zoning requirements, such parcels should be arranged and dimensioned so as to allow re-dividing of any such parcels into normal lots. Lots within the shoreland jurisdiction shall conform to the area and dimension requirements of the Outagamie County Floodplain, Shoreland and Wetland Ordinance.
- (f) **Depth.** Lots shall be designed with a suitable proportion between width and depth. Neither long, narrow, wide, nor shallow lots are proper. The use of "flag lots" shall be prohibited except to overcome specific topographic or environmental restrictions. Depth shall not exceed 2.5 times the width nor be less than 120 feet.
- (g) **Width of Lots.** Width of lots shall conform to the requirements of the Outagamie County Zoning Ordinance.
- (h) **Corner Lots.** Corner lots shall be designed with extra width to permit adequate building setback from both streets.

**(5) Drainage.**

- (a) **General Considerations.** The following considerations shall be observed in managing surface water and stormwater runoff.
  - 1. Natural topography and land cover features such as natural watercourses, natural swales, natural depressions, native soil infiltrating capacity and natural groundwater recharge areas shall be preserved and used, to the maximum extent possible.

2. Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding safe capacity of downstream drainage facilities and to prevent endangerment of downstream property or public safety.
  3. Drainageways shall conform to the Town Official Map for Waterways.
  4. The design of stormwater facilities shall implement the Wisconsin Best Management Practices and shall address water quality as well as water quantity.
- (b) **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 shoreland erosion, siltation of surface waters and excess water runoff on adjacent property. The Town may require that easements or drainageways of width sufficient to accommodate anticipated stormwater runoff be provided. All stormwater facilities shall be constructed in accordance with plans and standard specifications approved by Outagamie County.
- (c) **Stormwater Management.** Stormwater management standards and stormwater management plans shall comply with the Outagamie County STORMWATER MANAGEMENT ORDINANCE, Chapter 24 of the Outagamie County Municipal Code. No land division or subdivision shall be approved unless and until a stormwater management plan has been approved and permit issued by Outagamie County pursuant to Chapter 24 of the Outagamie County Code.
- (d) **Surface Water and Stormwater Drainage Facility Protections.** The surface water and stormwater drainage facility protections required by this section shall be expressly noted on the face of the plat or certified survey map with the purpose, location and dimensions clearly shown on the plat or certified survey map. The protections shall expressly grant to the Town the right to enforce the protections. The Town may, in its discretion, also require such protections and the right of Town enforcement to be separately set forth in an easement/ restrictive covenant recorded with the Outagamie County Register of Deeds office.



1. Drainageways. 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 drainageway shall be protected by a perpetual unobstructed easement not less than 33 feet in width with satisfactory access to a public right-of-way. Drainageway easements shall be protected by the following express provisions:
  - a. Drainage Easement Restrictions. The following uses and structures are prohibited within all drainage easements in the subdivision plat: filling, grading and excavating except for construction of drainageways 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.
  - b. Maintenance of Drainage Improvements. Maintenance of drainageways and associated drainage improvements shall be the responsibility of the property owners of the subdivision plat. Outagamie County and the Town retain the right to perform maintenance or repairs. The cost of the maintenance and repairs shall be equally assessed among the property owners of the Subdivision. 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.
  - c. Drainage Maintenance Easement. Outagamie County and the Town shall have an unqualified right to enter upon any drainage easement for inspection and, if necessary, maintenance and repair of the drainageways and associated drainage improvements.
2. 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 drainageways in sub (1).

3. **Outlots for Drainage Facilities.** The Town 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 drainageway or drainage detention facility, in whole or part, be made part of an outlet for subsequent conveyance to a homeowners' association subject to the protections and restrictions set forth in this section.

(e) **Dedication of Drainage Facilities.** The Town 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 drainageway or drainage detention facility be dedicated to the Town.

(f) **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 may require that appropriate drainage rights be secured and indicated on the plat or certified survey map.

**(6) Erosion and Sediment Control.** Erosion and sediment standards and plans shall comply with the Outagamie County EROSION AND SEDIMENT CONTROL ORDINANCE, Chapter 23 of the Outagamie County Municipal Code. No land division or subdivision shall be approved unless and until an erosion and sediment control plan has been approved and a permit issued by Outagamie County pursuant to Chapter 23 of the Outagamie County Code.

**(7) Environmental Setback Corridor.**

(a) **Purpose.** The purpose of the environmental setback corridor is to protect natural vegetation and habitat, facilitate drainage and protect water quality.

(b) **Conservation Easement Requirement.** Any land division or subdivision directly adjacent to or containing a navigable stream or directly adjacent to or containing a delineated wetland shall designate and protect, by conservation easement, an environmental setback corridor of not less than 35 feet inland from



the ordinary high water mark of the stream or 35 feet upland from the edge of the delineated wetland. The easement shall provide for the right of Town enforcement.

- (c) **Prohibited Uses, Structures and Activities.** The following uses, structures and activities are prohibited in the environmental setback corridor: filling, grading or excavating except in connection with required public improvements such as streets and drainage facilities and a walkway trail not to exceed five feet in width; buildings and structures except boathouses and gazebos permitted under the Outagamie County Floodplain and Wetland Ordinance; the cultivation of agricultural crops, fruits or vegetables; the storage of vehicles, equipment or materials of any kind except in a boathouse as provided above; the dumping of ashes, trash or compost; and the removal of natural vegetation except that which is dying or diseased, non native or invasive species or in connection with any of the excepted uses, structures and activities set forth above.

## **9.0 DEDICATIONS AND RESERVATIONS.**

(1) **Streets, Pedestrian Trails, Drainage Facilities and Other Public Ways.** Whenever a tract of land to be divided or subdivided embraces all or any part of a street, pedestrian trail, drainageway, drainage facility of other public way which has been designated in an adopted Town plan or Town Official Map, such street, pedestrian trail, drainageway, drainage facility of other public way shall be made part of the plat and either dedicated to the Town or reserved by the subdivider in the locations and dimensions indicated, on such plan or map.

(2) **Parks, Playgrounds and Public Access.** Whenever a proposed park, playground, public access, open space site or other public land other than streets designated in adopted regional, County, and local comprehensive plans or adopted plan components is embraced, all or in part, in a tract of land to be subdivided, such proposed public lands shall be made a part of the plat and shall either be dedicated to the public or be reserved for acquisition at undeveloped land costs for a period not to exceed 3 years from the date of recording, unless extended by mutual agreement between the subdivider and the public agency having jurisdiction. If the reserved land is not acquired by such public agency within the above time limit, the land shall be released to the owner.

(3) **Public Access to Navigable Waters.** All public access to the low watermark of navigable lakes and streams required by Section 236.16(3), Wisconsin

Statutes, shall be at least 100 feet wide to provide sufficient areas for turning movements and parking.

**(4) Dedication Requirements.** In order to ensure that adequate park, playground and recreational open space is provided in the Town to serve the additional need created by the division or subdivision of land, the following provisions are established:

- (a) Land Dedication. The subdivider shall dedicate not less than five percent (5%) of the parcel to be divided or subdivided to provide for park, playground and recreational open space. Consideration shall be given to preservation of scenic, historic and unique environmental sites. The Town Board shall have sole discretion to determine the suitability, adequacy and appropriateness of lands proposed for dedication. The Town Board shall retain the right to refuse any dedication found to be unsuitable.
- (b) Fee in Lieu. In the event the Town Board deems a dedication is unsuitable, inadequate or inappropriate, for each new lot created by the division or subdivision, a \$500.00 fee in lieu of dedication shall be paid prior to Certified Survey Map or Final Plat approval. Any new lot created with a dwelling that existed prior to the effective date of this Ordinance shall be exempt.
- (c) Park Escrow Account. All in lieu payments received by the Town shall be deposited in a segregated non-lapsing fund to be used for park and recreation area development including site acquisition and related improvements.

## **10.0 PUBLIC IMPROVEMENTS.**

**(1) Streets.** The subdivider shall be responsible for the construction of all public streets according to Town approved street plans and profiles. Streets shall be constructed according to Town specifications. The subdivider shall pay all costs of street construction. The Town may inspect any facet of street construction prior to acceptance. The Town may deny the issuance of any building permit for any lot which abuts a public street which has not been accepted by the Town.

**(2) Drainage Improvements.** The subdivider shall be responsible for the construction of all drainage improvements according to Town and County approved drainage and stormwater management plans and permits. The subdivider shall pay all costs of drainage improvements. The Town may inspect any facet of drainage and



stormwater improvement construction. The Town may deny the issuance of a building permit for any lot affected by a drainage improvement that is not completed or not completed according to approved plans and permits.

(3) **Grading.** The subdivider shall be responsible for the grading of all streets and lots according to Town and County approved drainage and street plans and permits. The subdivider shall pay all grading costs. The Town may inspect any facet of grading. The Town may deny the issuance of a building permit for any lot or lot abutting a street which is not graded according to approved plans and permits.

(4) **Erosion and Sediment Control During Construction.** The subdivider shall be responsible to implement erosion and sediment control according to County approved plans and permits. The Town may deny the issuance of a building permit for any lot in a land division or subdivision which is not in compliance with an approved erosion and sediment control plan and permit.

(5) **Street Signs.** The subdivider shall be responsible for the installation of street signs with street names, of a design approved by the Town, at the intersections of all dedicated public streets. The subdivider shall pay all costs of street signs.

(6) **Utilities.** The subdivider shall be responsible for the provision of electric power, telephone, cable facilities and gas, if available. The Town, in its discretion, may require that such utilities be underground. The subdivider shall pay for the cost of providing all utilities.

## 11.0 PUBLIC IMPROVEMENT AGREEMENTS AND GUARANTEES.

(1) **Public Improvement Agreement.** As a condition of final plat approval, the subdivider shall enter into a Public Improvement Agreement with the Town. 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 engineering and administrative costs, if applicable.
- (b) **Financial Security for Public Improvements.**
  - 1. **Cash Escrow.** The subdivider shall establish, prior to final



1. Certified Survey Map without public road dedication \$50.00
2. Certified Survey Map with public road dedication \$100.00
3. Subdivision plat \$200.00  
plus \$10.00 per lot

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

**(2) Variances.** In any particular case where the subdivider 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 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. A majority vote of the 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 Town Board, setting forth the reasons, which in the opinion of the Town Board, justified the modification. No variance shall be granted by the Town Board which is contrary to provisions of the Wisconsin Administrative Code or the Wisconsin Statutes.

**(3) Violations.** It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Ordinance or the Wisconsin Statutes and no person shall be issued a building permit by the Town authorizing the building on, or improvement of, any subdivision, land division, replat or condominium development within the jurisdiction of this Ordinance until the provisions and requirements of this Ordinance have been fully met. The Town may institute appropriate action or proceeding to enjoin violations of this Ordinance of the applicable Wisconsin Statutes.

**(4) Penalties.**

- (a) 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 offense.



- (b) Improper recordation has penalties provided in Section 236.30 Wis. Stats.
- (c) Conveyance of lots in unrecorded plats has penalties provided in Section 236.31 Wis. Stats.
- (d) Monuments disturbed or not placed has penalties provided in Section 236.31 Wis. Stats.

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

Adopted this 10 day of June, 2004.

  
Orville Nelson, Chair

ATTEST:

  
Donna Bentle, Clerk