

## SUBDIVISION CONTROL, PLATTING OF LANDS, AND LAND DIVISION

**Section I. Title/Purpose.** This Ordinance is entitled "Subdivision Control and Platting of Lands". The purpose of this Ordinance is as follows:

To regulate the subdivision of land in conjunction with the existing Town of Shelby Comprehensive Plan (CP) to promote public health, safety, and general welfare; to further the orderly layout and use of land; to provide for adequate streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage and drainage requirements; to provide for proper ingress and egress; to promote proper monumenting of land subdivided and conveyancing by accurate legal description; to provide for the administration and enforcement of this ordinance; and to provide penalties for its violation in the Town of Shelby.

**Section II. 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.

**Section III. Authority.** This ordinance is adopted under the authority granted in Chapter 236, Wis. Stats. and /or by it's adoption of village powers under Sec. 60.10, Wis. Stats.

**Section IV. 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 Shelby. And shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**Section V. Validity.** If any section, provision, or portion of this ordinance, is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

**Section VI. Conflicting Ordinances.** All other ordinances or parts of ordinances of the Town of Shelby inconsistent or conflicting with this ordinance, to the extent of inconsistency only, are hereby repealed.

**Section VII. Administration.** The Town Board of the Town of Shelby shall appoint a Town of Shelby Planning Commission to recommend any revisions to this ordinance and to recommend approval or disapproval of any plats, variations or exceptions to any plat.

**Section VIII. Adoption of Ordinance.** The Town Board of the Town of Shelby adopts the following:

A. **Definition of Subdivision.** A subdivision is the division of a lot, parcel or tract of land by the owner thereof or his agent, for the purpose of sale or of building development where:

1. The act of division creates three (3) or more parcels or building sites of thirty-five (35) acres each or less in area; or
2. Three (3) or more parcels or building sites of thirty-five (35) acres each or less in area are created by successive divisions within a period of five (5) years.

B. **Survey and Plat – When Required.** Any division of land within the Town boundaries which shall result in a subdivision as defined in Section 1, except cemetery plats and Assessor's plats, shall be surveyed and a plat approved as required by this Ordinance and as required by Chapter 236, Wis. Stats. Any provision of this Ordinance more stringent or restrictive in character than the Wisconsin Statutes or any other Ordinance of the Town shall be controlling.

C. **Criteria for Agricultural Land Division.** The Town Board may grant approval of a land division subdividing portions of agricultural lands provided the Town Board shall determine that the proposed land division will assist and assure the continuation of the agricultural use.

D. **Criteria for Nonagricultural Subdivision or Land Division.** In the case of nonagricultural lands, the Town Board may grant approval of a land division provided that the proposed subdivision or land division complies with each of the following criteria:

1. The proposed subdivision or land division shall be compatible with adjacent land uses and shall maintain the general land use pattern of the area consistent with the Shelby Land Use Plan, as adopted by the Town Board.
  - a. Where any section, provision, or portion of the Shelby Land Use Plan is inconsistent with the Land Use

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Plan of another governing body with authority to approve or reject a proposed plat, the requirements of the Shelby Land Use Plan shall control.

2. The proposed subdivision or land division shall result in a development pattern which is compatible with surrounding developments and land uses policies, and recommendations per the Shelby Comprehensive Plan. Measure of compatibility shall consider lot sizes, traffic generation, access, noise and visual features.

3. Pursuant to the Wisconsin law, public improvement requirements are solely under the jurisdiction of the Town Board, even when the proposed plat falls within the extraterritorial plat approval jurisdiction of a municipality as defined in Section 236.02(5), Wis. Stats. Thus, any improvements including, but not limited to water, sewerage, and drainage shall be consistent with the Shelby Land Use Plan and not demonstrably adversely affect, nor overly burden, the Town's ability to provide public services or install public improvements.

4. The proposed subdivision or land division shall be consistent with the green space requirements of the Shelby Use Plan.

E. Preliminary Plat. The owner of any lands seeking to subdivide shall submit three (3) copies of a preliminary plat to the Town Clerk, together with a list of the approvals required to enable the Town Clerk to forward copies for approval or objection to the agencies specified by Chapter 236, Wis. Stats. The preliminary plat shall be submitted at least 10 working days prior to the next scheduled Planning Commission meeting. The Planning Commission shall make a recommendation approving or rejecting the plat and shall forward its opinion to the Town Board. The preliminary plat shall be legibly drawn at 100 feet to the inch or larger scale, and shall show:

1. The title under which the proposed plat is to be recorded, which title shall not duplicate or be deceptively similar to the name of any plat previously recorded in La Crosse County;
2. The names and addresses of the owner, sub-divider and engineer or surveyor;

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3. The exact location by distance and bearings of the exterior boundaries of the land to be platted with reference to a corner or corners established in the U.S. Public Land Survey;
4. All municipal boundary lines within or adjacent to the proposed subdivision;
5. The names of all adjoining plats;
6. The locations, names and width of all existing streets, Alleys, easements and right of way and the location of all property lines, section lines and quarter section lines within the proposed plat or within two hundred (200) feet thereof;
7. The location, arrangement and width of proposed streets, alleys and easements and the location of proposed building sites;
8. All lots with dimensions, and size indicated
9. Location and area of property proposed to be dedicated to public use and for other purposes, and to which governmental unit the property will be dedicated;
10. The location of all permanent buildings and structures and the size and location of all existing sewers and water mains, if and within the proposed plat or within two hundred (200) feet thereof;
11. The location of all proposed building sites along with proposed drainage structures and proposed driveway locations;
12. The percentage of slope shall be shown and delineated. Slopes of 10% to 20%, 20% to 30%, and greater than 30% shall be indicated.
13. Ground elevations and contours:
  - a. For lands that slope less than approximately two percent (2%) show spot elevation at all breaks in grade, along all drainage channels of swales, and at selected points not more than one hundred (100) feet apart in all directions;

b. For lands that slope more than approximately two percent (2%) show contours with an interval of not more than five (5) feet where ground slope is regular and such information is sufficient for planning purposes, or show contours with an interval of not more than two (2) feet where necessary because of irregular land or need for more detailed data;

c. For lands that slope more than twenty percent (20%) show contours with an interval of not more than five (5) feet where ground slope is regular and such information is sufficient for planning purposes, or show contours with an interval of not more than two (2) feet where necessary because of irregular land or need for more detailed data. For lands being disturbed, soil analysis by a certified soil engineer shall be conducted to determine the measures to be taken to allow these areas to be developed and disturbed. These recommendations are to be followed.

14. Location of all tree lines and trees greater than six (6) inches in diameter, outside of an identifiable tree line. Plan shall indicate the affect on tree lines and on individual trees that the development causes;

15. Approximate boundaries of areas subject to flood or storm water over-flow, areas covered by water, approximate boundaries of wooded areas, areas designated as "wet lands" or "flood zones" shall be delineated;

16. Approximated grades of streets and alleys where the proposed grade will exceed four percent (4%);

17. A brief description of proposed restrictive covenants or building restrictions, if any;

18. The date, scale and North point.

19. The location of all community wells, community sewage treatment facilities, drainage structures and other utilities;

20. A grading plan shall be submitted prior to any construction on the site. Grading plan shall indicate all cuts, fills, and drainage structure.

21. There shall be a plan review fee of five hundred dollars (\$500.00) to review the plan and accompanying documentation.

F. Action on the Preliminary Plat.

1. The Planning Commission shall review the plat for compliance at the next regularly scheduled meeting. The commission shall approve, approve with conditions, or disapprove the plat within fifty (50) days of the date the plat is submitted to the Town Clerk. This recommendation is forwarded to the Town Board for its consideration. Town Board shall approve, approve with conditions, or disapprove the plat within forty (40) days of receipt from the Planning Commission. Approval of the preliminary plat shall be indicated in writing on the face of each of the copies submitted by the Town Clerk.

2. In the event the preliminary plat is disapproved, the reasons for such disapproval shall be stated in writing, in duplicate, one copy of which shall be delivered to the owner and the other copy retained for filing.

3. Approval of the preliminary plat shall be considered as merely a general approval of the layout submitted, and shall not commit the Town Board to approval of the final plat.

G. Final Plat.

1. All requirements of Chapter 236, Wis. Stats. shall be met before the final plat is entitled to record.

2. All requirements of this Ordinance must be fully met before the final plat is entitled to record.

3. A full size photo static copy of the fully executed final plat shall be delivered and filed at the office of the Town Clerk.

H. Prerequisites to Approval of Plat.

1. Grades, Slopes and Drainage

a. Consideration must be given to topography, with a view to securing safe and easy grades and avoid unsightly cuts and fills. Where grades are steep, it is desirable to cut diagonally across the contour lines.

b. The owner shall furnish profiles of all streets and alleys in the subdivision, horizontal scale forty (40) feet to the inch and vertical scale four (4) feet to the inch. Street grades shall not exceed ten percent (10%) and shall not be less than thirty-two (0.32%) hundredths percent. Grades must be laid to allow sanitary sewers and storm sewers to connect and gravity flow wherever possible.

c. Slopes of greater than thirty (30%) percent shall not be disturbed by the developer, homeowner, or builder during construction.

d. No street, alley, bridge or public thoroughfares shall be permitted in or upon any waterway, ditch, or any natural drainage course, whether dry or flowing, unless approved by appropriate agencies.

e. Adequate easements, in the judgment of the Town Board, shall be established and provided for drainage of all surface or underground waters.

f. Where cutting and filling is necessary, the following requirements shall prevail: All cut sections shall be sloped a minimum of 2 to 1, and all fill sections a minimum of 3 to 1. All cut sections shall be provided with suitable topsoil where necessary and shall be seeded with appropriate grass or vegetation to insure proper growth, which will prevent erosion.

g. No excavating, earth moving, or road construction shall be commenced before the preliminary plat has been approved by the Town Board. Failure to comply with this section shall constitute a total violation of this Ordinance.

h. All fill areas shall be stabilized, compacted, covered with suitable topsoil and seeded with appropriate grass as outlines in "Best Practices for Erosion Control".

**2. Streets.**

a. Provisions shall be made in the plat for the suitable continuation of the present existing roads and streets in adjoining plats or in adjoining un-platted lands. If

straight continuations are not practicable, the continuations should be accomplished by use of suitable curves in order to avoid street jogs or off-center intersections. Adequate street connections or extensions shall be provided to insure free access to adjoining subdivisions and lands, which may be subdivided later.

b. All major streets shall be platted to a width of not less than sixty-six (66) feet, except that the Town Board may approve streets of less than sixty-six (66) feet wide, but in any event not less than sixty (60) feet.

c. At the ends of all dead end streets there shall be provided a turnaround not less than ninety (90) feet nor more than one hundred (100) feet in diameter, and the roadway shall not be less than seventy (70) feet nor more than eighty (80) feet in diameter. Center islands shall be prohibited therein. Where necessary to give access or to permit a satisfactory subdivision of adjoining land, streets shall run through to the boundary of the property and the resulting dead end streets may be approved without a permanently platted turnarounds.

d. Streets shall be platted a sufficient distance apart to allow two tiers of lots, but not more than two. Where land is being subdivided into parcels larger than will eventually be required for normal building purposes, such parcels shall be divided so as to allow for the proper extension of streets at the time of re-subdivision.

e. The intersection of a street parallel to the railroad right-of-way with a street which crossed the railroad shall be at a distance of at least one hundred fifty (150) feet from the railroad right-of-way, and where a future grade separation may be involved, at a sufficient distance to insure safe traffic control. Streets crossing railroads where future grade separations are anticipated may be required to have extra width at the approaches to the railroad right-of-way to accommodate the change of grade.

f. Construction detail of all streets shall at a minimum, follow the design standards for town roads as established by Wisconsin Statutes. Specific details to



be established upon the recommendation of an engineer qualified in street construction. Based upon the design required for a particular project, topography, soil type, and any other circumstance.

g. Roads shall have at minimum twelve (12) inches of compacted rock as a base and three (3) inches of compacted asphalt. The asphalt is to be installed with 1.5" lifts.

**3. Alleys and Easements.**

a. Alleys not less than twenty (20) feet in width shall be provided in the rear of all lots intended for business use. Alleys intended for business use shall be asphalt or concrete. Residential lots with alleys must conform with this section.

b. Where alleys are not provided, utility easements of not less than five (5) feet in width shall be provided on each side of all rear lot lines and along sidelines of lots where necessary. Easements shall be continuous and in alignment from block to block where practical.

**4. Lots.**

a. The minimum area of each lot shall be not less than 8,400 square feet, nor shall any lot be less than seventy (70) feet in width at building setback line and at least sixty (60) feet in width at the right a way. Special provisions may allow twenty-five (25) feet in width at the right of way to allow for access to larger parcels set back from right of way.

b. All reversed corner lots, which front on a different street than the other lots on the same side of the block, shall have extra width sufficient to permit the maintenance of the building line of the lots in the rear along the street side of such reversed corner lots.

c. Reversed corner lots in residential districts shall be avoided where practicable.

d. Lots fronting on two approximately parallel streets shall be avoided where practicable.

- e. Every lot shall front upon a public street.
- f. Side lot lines shall be at right angles to straight streets and radial to curved streets.

**5. Parks, Playgrounds, Green Space, or Land for other Public Purpose.**

The sub-divider shall pay a fee and dedicate land for public purpose, other than roads. The fee shall be two hundred fifty dollars (\$250) per lot and shall be paid before the final plat is approved. The land dedication shall be 0.10 acres per lot with a minimum of two (2) acres. The land to be dedicated shall be contiguous and at a location approved by the Town Board. The land to be dedicated shall be suitable for public use as determined by the Board as its discretion. The Town Board may increase or decrease the amount of land to be dedicated or the fees charged, as it determines to be appropriate under the circumstances.

**6. General Provisions.**

- a. The Town Board shall not allow the platting of lands deemed unsuitable for platting because of topography or otherwise, and will require the re-platting of lands deemed unsatisfactorily subdivided.
- b. The Town Board may approve variation from these regulations in specific cases, which do not affect the general plan or the spirit of this Ordinance. Any such variation shall be recorded in writing with the Town Clerk with the reasons therefore.
- c. Surveyors or engineers laying out a subdivision as defined in this Ordinance without preparing a recordable plat shall be subject to the penalties provided below.
- d. Once a plat has been approved, there shall be no splitting or parceling of platted land for the purpose of establishing one or more additional building sites within the plat. The purpose of this paragraph is to prohibit additional building sites beyond the number approved in the original plat. This requirement shall pertain to all existing and future plats located in the Town.

e. The Town Board shall review tree lines and trees and shall make recommendations as to cutting and retaining trees and plantings.

f. The Town Board shall review locations of building sites. The "Future Land Use Policies", Section 8, of the Comprehensive Plan including restrictions and the conservation development sections shall be reviewed for compliance. Failure to follow these guidelines may be grounds for disapproval. Board shall review building sites for "Sky lining". Sky lining is defined as building a house on a ridge top, disturbing the pre-existing outline of the ridge top.

g. The Town Board shall require the sub-divider to make and install any additional public improvements reasonably necessary, and execute a surety bond to insure that the sub-divider shall make the improvements within a reasonable time, as a prerequisite to approval of the plat.

h. Prior to the start of any construction on a proposed plat, the preliminary plat as well as a developer's agreement, shall be approved by the town board. This agreement shall outline the responsibilities of the developer, the development time frame, and any other provisions outlined by the board.

i. Prior to the approval of the final plat, a surety bond shall be in place in the amount of one hundred and twenty five (125%) percent of the cost to complete the project. This bond shall be a part of the developers' agreement.

j. The plat shall follow the concepts and guidelines established by the Town's Comprehensive Plan. Both the town board and planning commission shall review the plat for these concepts.

l. Public Interest Improvements. Approval of the subdivision is conditioned upon the requesting party undertaking such other actions and requirements as required by the Town Board which are in the public's best interest, such as, but not limited to:

1. Improvements to roads and alleyways that service the subdivision even if such roads and alleyways are not located upon the subdivision plat.
2. Dedication of lands to the Town, which are necessary to make improvements such as roads deemed necessary to serve the subdivision.

J. Certified Survey Map Requirements.

1. When it is proposed to divide land into two parcels or building sites, any one of which is less than thirty-five (35) acres, with a minimum of ten thousand square feet, the subdivider shall subdivide by use of a Certified Survey Map. One Certified Survey Map shall be allowed on a single tract of land within one (1) year period after the Certified Survey Map was recorded with the Register of Deeds. A tract of land is defined as a quarter of a quarter of a section (40 acres). If a CSM crosses into two or more tracts of land, it shall be charged to the tract of land in which most of the CSM lies.
2. The parcels created are to have frontage on a public road, street or highway. Properties with easements for access are not allowed.
3. Frontage on a public street must be a minimum of sixty (60) feet with a minimum lot width of one hundred (100) feet at building set back line. A variance to allow lots with a frontage of twenty-five (25) feet may be allowed under certain circumstances.
4. Minimum lot size to be 10,000 square feet when municipal sewer is available and 30,000 square feet minimum when an on-site septic system is required.
5. All existing buildings, set backs, drainage ditches or other features pertinent to the property shall be shown. Names of all adjoining streets, roads and highways along with all adjoining property owners shall be shown.
6. When dividing land by use of a Certified Survey Map, as allowed herein, the sub-divider must comply with all pertinent requirements as outlined in this Ordinance relating to subdivisions.

7. The Town Clerk shall submit a copy of the map to all affected community boards or departments for their review.
8. All approved maps are to be certified by the Clerk and the sub-divider shall record the map with the County Register of Deeds.
9. All rejected maps are to be returned to the sub-divider along with an explanation outlining the reasons for the denial.
10. A fee of \$100.00 shall be submitted to the Town Clerk along with the map to be approved. The fee is for review of the map and is nonrefundable.
11. A fee of \$700.00 per building lot is to be paid to the Town for capital improvements of public sites. This fee is to be paid upon approval of the CSM. Part of or the entire fee may be waived, at the discretion of the Town, in return for dedication of land for public purpose or when a new building site is not created.
12. All requirements outlined in the subdivision portion of this ordinance shall apply to the requirements of the CSM, when applicable.

**Section IX. Enforcement and Penalties.** Any person violating any provision of this Ordinance, including those provisions of the Wisconsin Statutes, and other materials which are incorporated by reference, shall, upon conviction thereof, forfeit not less than fifteen hundred dollars (\$1500.00) nor more than two thousand five hundred dollars (\$2500.00) and the cost of prosecution, and in default of payment of such forfeiture and the costs of prosecution, shall be imprisoned in the County Jail until payment of such forfeiture and costs, but not exceeding thirty (30) days for each violation, each day of such violation to constitute a separate offense. In addition to such penalty, the Town Board, by its attorney, is authorized to bring an action to enjoin any violation, and the Town Building Inspector is authorized to refuse to issue a building permit for construction on any premises laid out or subdivided contrary to this Ordinance. The Town Board may further order an Assessor's Plat to be made pursuant to the Wisconsin Statutes at the expense of the sub-divider or his agent when a subdivision is created in violation of this Ordinance, and the Town Board may refuse to participate directly or indirectly in any road, street or alley development in such area until the violation is corrected or cured.

**Section X. Severability.** The provisions of this Ordinance shall be deemed severable, and it is expressly declared that the Town Board would have passed the provisions of this Ordinance irrespective of whether one or more

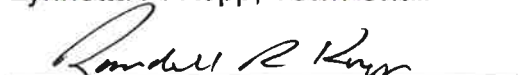
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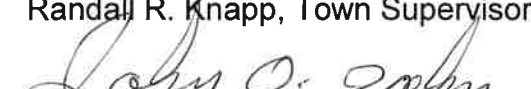
provisions may be declared invalid. And if any provision in this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**Section XI. Effective Date.** This Ordinance shall take effect upon passage and publication. The provisions of this Ordinance shall prevail over any previous ordinances of the Town of Shelby that are or may be in conflict therewith.

Date passed: March 22, 2010

  
Lynnetta P. Kopp, Town Chair

  
Randall R. Knapp, Town Supervisor

  
John O. Zahn, Town Supervisor

ATTEST:

  
Catherine Brott, Town Clerk