

## CONDOMINIUM CONTROL

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

To promote public health, safety and general welfare in the Town of Shelby by regulating development of condominiums; to further the orderly layout and use of land; to provide for adequate streets and highways; to provide for adequate light and air; to provide for adequate water, sewerage and drainage; to provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

**Section II. Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, 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 its 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of the Town of Shelby inconsistent or conflicting with this ordinance, to the extent of inconsistency only, are hereby repealed.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 hereby adopts the following:

A. Definition of Condominium. A condominium is a building or a group of buildings in which units are owned individually and the building common areas and facilities are owned by all owners on a proportional undivided basis. The condominium is a legal form of ownership and not a specific building type or style.

B. Preliminary Plat. The owner of any lands seeking to obtain approval for a condominium plat shall submit three (3) copies of the preliminary plat to the Town Clerk. The preliminary plat shall be submitted at least ten (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 per square inch or larger scale. The following information shall be shown on the preliminary plat or submitted at the time to the clerk. The application, at minimum, shall contain the following:

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;
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 name of all adjoining plats;
6. The locations, names and widths of all existing streets, alleys, easements and rights-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;

9. The location and area of property proposed to be dedicated for public use and for other purposes, and to which governmental unit the property will be dedicated;
10. The location of all pertinent buildings and structures and the size and location of all existing sewer and water mains, 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 elevations at all breaks in grade, along all drainage channels or 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;
14. Approximate boundaries of areas subject to flood or storm water overflow, areas covered by water, approximate boundaries of wooded areas;
15. Approximate grades of streets and alleys where the proposed grade will exceed four percent (4%);
16. Condominium documents, association documents, and by-laws, restrictive covenants and any building restrictions including financial information relating to the condominium association.
17. The date, scale and North point.

18. 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;

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 \$500 to review the plan and accompanying documentation.

C. 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. The Shelby Town Board shall disapprove a condominium plat for the following reasons:

- a. Incomplete application and/or map;
- b. Non-compliance with this ordinance;
- c. Non-compliance with applicable state ordinances, codes, and/or administrative rules;
- d. Non-compliance with local zoning regulations, building codes, sanitary codes, erosion control regulations, and other applicable regulations.

3. The Shelby Town Board, may disapprove a condominium plat for the following reasons:

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- a. Non-compliance with the Town of Shelby Land Use Plan;
- b. Proposed development deemed to be located on unsuitable land or to be hazardous, harmful, offensive or otherwise adverse to environmental quality, water quality, shoreland cover or property values of the Town of Shelby;
- c. The proposed development is deemed to adversely affect the public health, safety, and general welfare of the Town of Shelby.

4. If a condominium plat is disapproved, the reasons for the disapproval shall be submitted in writing to the applicant within ninety (90) days of the disapproval action.

### D. Prerequisites to Approval of Plat.

#### 1. Grades, Slopes and Drainage

- a. Consideration shall be given to topography, with a view to securing safe and easy grades and avoiding 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 are to be laid that 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 either the developer or the home 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 outlined 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.

h. Condominium Roadways. All roadways created and maintained as a result of the condominium plat must be accessible and open for public use. All private roadways must meet Town of Shelby specifications for roadways. Private roadways may be created and maintained as a result of the condominium plat only upon express approval of the Town Board of the Town of Shelby.

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

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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 side lines of lots where necessary. Easements shall be continuous and in alignment from block to block where practical.

4. Parks, School Sites, Playgrounds, and Green Spaces. The developer shall pay a fee and dedicate land for public purpose, other than roads. The fee shall be two hundred fifty dollars (\$250.00) per unit and shall be paid before the final plat is approved. The land dedication shall be a minimum of 0.125 acres per unit, 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 at its discretion. Items to be considered shall be the "lay of the land", use for walkways or other similar uses, recreational land, and other factors. The Town's Comprehensive Plan shall be considered and referred to for ideas. 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.

### 5. 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 parcelling 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

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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, tree removal, tree thinning, 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 developers 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.

- E. Visitor Parking. The condominium plat shall provide parking spaces dedicated for use by condominium visitors. Each condominium plat must provide a minimum of one (1) visitor parking space for every three (3) condominium units.

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1. Calculation. The required number of visitor parking spaces shall be calculated by dividing the number of condominium units by three (3). (Example: A 36 unit condominium results in  $36 \div 3 = 12$  visitor parking spaces.)
2. Rounding. Any fractional amount resulting from the above calculation shall be rounded up to the next whole number. (Example: A 37 unit condominium results in  $37 \div 3 = 12.33$  rounded to the next whole number = 13 visitor parking spaces.)

F. Condominium Density. No condominium plat shall be created which does not meet the density requirements of this ordinance.

1. Maximum Density. The average density of land use shall be no greater than one (1) condominium unit per every 8,400 square feet of land.
2. The Town Board may increase the minimum square footage amount when considering the following criteria, in addition to any other criteria the Town Board of the Town of Shelby believes to be in the public's best interest:
  - a. Topography of the proposed condominium plat;
  - b. Public road access to the proposed condominium plat;
  - c. Actual, anticipated and potential use of adjacent lands;
  - d. Current and anticipated traffic patterns on all roadways, public or private, which services the proposed condominium plat.

G. Public Interest Improvements. Approval of the condominium plat 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 condominium even if such roads and alleyways are not located upon the condominium plat.

2. Dedication of lands to the Town of Shelby which are necessary to make improvements such as roads deemed necessary to serve the condominium.
- H. Revisions to previously approved plans, by-laws, condominium documents or restrictive covenants shall be submitted by the owner or homeowners association to the Planning Commission and Town Board for approval. If submitted by the owner of the project, the revisions shall also be approved by the majority of the owners of the units in the project.
- I. The Town Board may require a "developer agreement" between the Town and the Developer or Owner. This agreement may contain requirements not outlined in this ordinance.
- J. Final Plat Approval. The final plat submitted to the Town Board of the Town of Shelby shall comply with Wis. Stats. Sec. 236, and this Ordinance. It shall be submitted to the Town Board within ninety (90) days following the preliminary plat approval. The final plat will be reviewed by the Town Board of the Town of Shelby, which shall approve or reject the final plat within thirty (30) days of receipt of the final plat from the applicant desiring final plat approval.

**Section IX. Enforcements 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 one thousand dollars (\$1000.00) nor more than five thousand dollars (\$5000.00) and the cost of prosecution and in default of payment of such forfeiture and costs, 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 provisions may be declared invalid, and if any provision of the Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provisions to other persons and circumstances shall not be affected thereby.

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**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  
Lynnetta P. Kopp, Town Chair

Randall R. Knapp  
Randall R. Knapp, Town Supervisor

John O. Zahn  
John O. Zahn, Town Supervisor

ATTEST:

Catherine Brott  
Catherine Brott, Town Clerk