

SECTION 2.00      GENERAL PROVISIONS.

2.01 JURISDICTION. Jurisdiction of these regulations shall include all lands within the corporate limits of the Municipality. The provisions of this Ordinance as it applies to divisions of tracts of land into less than five (5) parcels shall not apply to:

(A) Transfers of interests in land by Will or pursuant to Court order, if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes and meet all specifications required by these regulations, the zoning ordinances, or other applicable laws or ordinances.

(B) Leases for a term not to exceed ten (10) years, mortgages or easements.

(C) Sale or exchange of parcels of land or portions of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimize sizes and meet all specifications required by these regulations, the Zoning Ordinances, and other applicable laws and ordinances, subject to the review procedures described in Section 3.05.

(D) Cemetery plats made under Wisconsin Statutes 157.07.

2.02 COMPLIANCE. No person, firm, or corporation shall develop any land located within the jurisdictional limits of these regulations or divide any land located within the jurisdictional limits of these regulations so that such division results in a subdivision, minor land division, certified survey map, condominium plat, assessor's plat or replat as defined herein; no such subdivision, minor land division, certified survey map, condominium plat, assessor's plat or replat shall be entitled to recording; and no public street shall be laid out or public improvements made to land without compliance with all requirements of this Ordinance and the following documents:

(A) Chapter 236, Wisconsin Statutes.

(B) Rules of the Wisconsin Department of Transportation relating to safety of access and the preservation of the public interest and investment in the street system, if the land owned or controlled by the subdivider abuts a state trunk highway or connecting street, and all provisions of Trans 233.

(C) Rules of the Wisconsin Department of Natural Resources, Division of Environmental Protection, setting water quality standards preventing and abating pollution and regulating development within floodland, wetland and shoreland areas, and regulating septic systems.

- (D) Duly Approved Comprehensive Land Use Plan or comprehensive plan component of the Municipality including zoning ordinances, sanitary codes, the Established Street and Highway Width Map of Waukesha County, the rules of the Waukesha County Department of Transportation establishing regulations for access to and work within County highway rights-of-way, Ordinance No. 146-56, and all other applicable County and Town Ordinances.
- (E) A Developer's Agreement, satisfactory to the Municipality, between the Municipality and the developer, subdivider and/or owner.
- (F) The Waukesha County Shoreland and Floodland Subdivision Control Ordinance and the Waukesha County Shoreland and Floodland Protection Ordinance.
- (G) Waukesha County Zoning Code.
- (H) The Waukesha County Construction Site Erosion Control and Stormwater Management Ordinance.
- (I) The Waukesha County Code of Ordinances Regarding Regulation of Private Sewage Systems, Ordinance No. 151-34, which regulates all land to be divided which is not served by public sewer and provisions for such services have not been made.
- (J) The Town of Ottawa Land Division Review Checklist, as adopted by the Town Board of the Town of Ottawa by separate Resolution, including any amendments that may be made thereto from time to time.
- (K) A soil test must be submitted for every lot in every land division.

### 2.03 DEDICATION AND RESERVATION OF LANDS.

(A) Streets, Highways, Drainageways and Floodplain: Whenever a tract of land to be divided or developed within the jurisdiction of this Ordinance encompasses all or any part of a street, drainageway, floodplain or other public way which has been designated on a duly adopted Municipal or regional comprehensive plan or comprehensive plan component, or is in any way determined to be such by the Plan Commission or Governing Body, said public way shall be dedicated or reserved by the owner in the locations and dimensions indicated on said plan or component and as set forth in Section 7.00 of this Ordinance.

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(E) Duly approved comprehensive plan or comprehensive plan component of the Municipality.

(F) The Municipal Zoning Ordinance, if any, and all other applicable local and county ordinances.

(G) A Developer's Agreement, satisfactory to the Municipality, between the Municipality and the developer, subdivider and/or owner.

(H) The rules of the County Transportation Department.

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(B) Parks, Playgrounds and Public Sites: Whenever a tract of land to be divided or developed within the Municipality encompasses all or any part of a park, playground or public site which has been designated on a duly adopted Municipal or regional comprehensive plan or comprehensive plan component, or is in any way determined to be such by the Plan Commission or Governing Body, and said park, playground or public site shall be dedicated or reserved by the owner in the locations and dimensions indicated on said plan and in accordance with the procedures set forth in Section 7.09 of this Ordinance.

2.04 IMPROVEMENTS. Before final approval of any land division or development located within the jurisdictional limits of this Ordinance, the owner shall install improvements as hereinafter provided or provide guarantees for said installation. The owner shall, before commencing with any improvements, enter into a Developer's Agreement with the Municipality agreeing to install the required improvements and shall file with said agreement cash or a letter of credit meeting the approval of the Municipal Attorney in an amount equal to the estimated construction cost of the improvements and fees, plus an additional 15 percent of said cost and the fees, said estimate to be made by the Municipal Engineer, as a guarantee that such improvements will be completed by the owner or its subcontractors not later than the date or dates provided in the agreement and as a further guarantee that all obligations for work on the development are satisfied. In addition:



(A) Contracts and contract specifications for the construction of improvements on dedicated street rights-of-way, as well as the contractors and subcontractors providing such work shall be subject to the approval of the Municipal Engineer.

(B) Governmental units or utility companies to which these provisions apply may file, in lieu of said agreement and letter of credit, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this Ordinance.

(C) Survey Monuments. Before final approval of any land division within the Municipality, the owner shall install survey monuments placed in accordance with requirements of Chapter 236.15 of the Wisconsin Statutes and as may be required by the Municipal Engineer.

2.05 VARIANCES. Where, in the judgment of the Plan Commission and Governing Body, it would be inappropriate to apply literally the provisions of this Ordinance because exceptional or undue hardship would result, the Plan Commission and Governing Body may waive or modify any requirement to the extent deemed just and proper. No variance to the provisions of this Ordinance shall be granted unless the Plan Commission and Governing Body finds by a greater weight of the evidence that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

(A) Exceptional Circumstances: There are exceptional, extraordinary or unusual circumstances or conditions where a literal enforcement of the requirements of this Ordinance would result in severe hardship. (Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that the Land Division and Development Ordinance should be changed.)

(B) Preservation of Property Rights: That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.

(C) Absence of Detriment: That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

A majority vote of the entire membership of the Plan Commission and Governing Body shall be required to grant any modification of this Ordinance.

The Governing Body may waive the placing of monuments, required under Section 236.15(b), (c) and (d) for a reasonable time on condition that the owner execute cash or a letter of credit to

ensure the placing of such monuments within the required time limits established by the Municipality.

2.06 LAND SUITABILITY. No land shall be divided or developed which is determined to be unsuitable for the proposed use by the Plan Commission or Governing Body for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the Municipality. In addition:

(A) Lots. Each lot shall have at last fifty (50) percent of its required area in the same zoning district as the zoning district where the building site is to be located.

(B) Floodlands. Each lot shall have at least fifty (50) percent of its required lot area above an elevation at least two (2) feet above the elevation of the 100-year reoccurrence interval flood, or where such data is not available, five (5) feet above the minimum flood of record.

(C) Lands made, altered or filled with nonearth materials within the preceding twenty (20) years shall not be divided into building sites which are to be served by soil absorption sewerage disposal systems.

(D) Lands made, altered or filled with earth within the preceding seven (7) years shall not be divided or developed into building sites which are to be served by on site soil absorption sewerage disposal systems.

(E) Lands having a slope of twelve (12) percent or more shall be maintained in permanent open space use. No lot shall have more than fifty (50) percent of its minimum required area in slopes of ten (10) percent or greater.

(F) Lands having bedrock within six (6) feet of the natural undisturbed surface shall not be divided or developed into building sites to be served by onsite soil absorption sewage disposal systems.

(G) Lands having groundwater within six (6) feet of the natural undisturbed surface shall not be divided or developed into building sites to be served by soil absorption sewage disposal systems.

(H) Lands drained by farm drainage tile or farm ditch systems shall not be divided or developed into building sites to be served by onsite soil absorption sewage disposal systems.

(I) Spite strips may not be created by any division of land.

(J) Remnants under twenty (20) acres must be a part of the plat or map. Any remnant twenty (20) acres or larger must be a part of the map or plat unless waived by the Plan Commission and Governing Body. The owner must provide proof that any remnant in excess of twenty (20) acres not shown on a plat or map is able to support a soil absorption sewer disposal system.

The Plan Commission or Governing Body, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for development or division and afford the owner an opportunity to present evidence in rebuttal to such finding of unsuitability if so desired. Thereafter the Plan Commission or Governing Body may affirm, modify or withdraw its determination of unsuitability.

2.07 COVENANTS. The Plan Commission or Governing Body may require submission of a draft of protective covenants whereby the owner intends to regulate land use in the proposed division or development and otherwise protect the proposed development. The Municipal Attorney shall review all covenants and shall approve covenants as to form.

2.08 VIOLATIONS. It shall be unlawful to build upon, divide, convey, record, or place monuments on any land in violation of this Ordinance or the Wisconsin Statutes; and no person, firm, or corporation shall be issued a building permit by the Municipality authorizing the buildings on, or improvement of, any subdivision, minor land division, condominium plat, assessor's plat, conveyance, or replat within the jurisdiction of this Ordinance not of record as of the effective date of this Ordinance until the provisions and requirements of this Ordinance have been fully met. This Municipality may institute appropriate action or proceedings to enjoin violations of this Ordinance or the applicable Wisconsin Statutes.

2.09 PENALTIES AND REMEDIES. Any person, firm or corporation who violates or fails to comply with the provision of this Ordinance shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$1,000.00, plus the costs of prosecution for each offense, and the penalty for default of payment of such forfeiture and costs shall be imprisoned in County Jail. Each day a violation exists or continues shall constitute a separate offense until the person, firm or corporation comes into compliance with this Ordinance. Violations and concomitant penalties shall include and the same are hereby adopted:

A. Recordation improperly made carries penalties as provided for in Section 236.30, Wisconsin Statutes.

(B) Conveyance of lots in unrecorded plats carries penalties as provided for in Section 236.31, Wisconsin Statutes.

(C) Monuments disturbed or not placed carries penalties as provided for in Section 236.32, Wisconsin Statutes.

An assessor's plat made under Section 70.27, Wisconsin Statutes, may be ordered as a remedy by the Municipality, at the expense of the owner, when a subdivision as defined herein is created by successive divisions.

All penalties provided for herein shall be in addition to any penalties imposed by any other governmental body.

Any penalties not paid shall be special charges against the real estate involved and may be so assessed and collected by the Municipality under Section 66.60, Wisconsin Statutes.

2.10 APPEALS. Any person aggrieved by an objection to a division or development or a failure to approve a division or development may appeal such objection or failure to approve as provided in Section 236.13(5), Wisconsin Statutes, within thirty (30) days of notification of the rejection of the division or development. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The Court shall remand the matter back to the Municipality for further review and action if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.

### SECTION 3.00 LAND DIVISION PROCEDURES.

3.01 PRE-FILING CONFERENCE. Prior to the filing of an application for the approval of a land division or development, the owner shall consult with the Plan Commission and its staff in order to obtain their advice and assistance. This consultation is not formal, but is intended to inform the owner of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components, neighborhood plans and duly adopted plan implementation devices of the Municipality and to otherwise assist the owner in planning the development. In so doing, both the owner and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The owner will gain a better understanding of the subsequent required procedures.

### 3.02 SUBDIVISIONS.

(A) Preliminary Plat Filing. Before submitting a Final Plat for approval, the owner shall prepare a Preliminary Plat and a letter of application. The Preliminary Plat shall be