

Article C: General Provisions

Sec. 14-1-20 General Provisions.

- (a) **Compliance.** No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, land division, land conveyance, consolidation, or a replat as defined herein; no such subdivision, land division, land conveyance, consolidation, or replat shall be entitled to recording; and no street shall be laid out, nor improvements made to land, nor building permits issued for any land division without compliance with all requirements of this Chapter and the following:
- (1) The provisions of Ch. 236 and Sec. 80.08, Wis. Stats., and applicable Wisconsin Department of Administration plat review procedures under the Wisconsin Statutes and the Wisconsin Administrative Code.
 - (2) The rules governing plumbing, Wisconsin Department of Safety and Professional Services, contained in Chapter SFS 385, Wis. Adm. Code, for subdivisions not served by public sewer.
 - (3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Chapter HY 33, Wis. Adm. Code, for subdivisions which abut a state trunk highway or connecting street.
 - (4) The rules of the Wisconsin Department of Natural Resources contained in the Wisconsin Administrative Code for the Floodplain Management Program, and the Shoreland/Wetlands Management Program.
 - (5) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Village Board.
 - (6) All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.
 - (7) The Village of Wausaukee Comprehensive Plan, ("Smart Growth Plan") and Official Map, or components thereof, if adopted:
 - a. Whenever a parcel to be subdivided embraces any part of a street, highway or greenway designated in said Comprehensive Plan or Official Map, such part of such proposed public way shall be platted and dedicated by the subdivider in the location and at a width indicated along with all other streets in the land division. The State Comprehensive Planning Law [Sec. 66.1001, Wis. Stats.] requires all land divisions after January 1, 2010, to be consistent with the provisions of the local comprehensive plan].
 - b. Where a proposed school site or other public ground shown on the Comprehensive Plan or Official Map of the Village of Wausaukee is located in whole or in part within the proposed subdivision, such proposed public ground or park shall be dedicated to the public when dedication is required by this Chapter or reserved for a period of up to five (5) years from the date of approval of the final plat for acquisition by the Village of Wausaukee, Marinette County, or any other

appropriate agency having the authority to purchase said property. The Village, or other agency having the authority to purchase said property, and the subdivider shall enter into an agreement which provides for the purchase of the lands held in reserve prior to the conclusion of the five (5) year period.

- (8) All applicable rules contained in the Wisconsin Administrative Code not listed in this Subsection.
- (9) The Village's water rules are on file with the Public Service Commission of the State of Wisconsin concerning water installations and services. These rules are incorporated herein by reference and made a part hereof as though fully set forth herein.
- (b) **Jurisdiction; Extra-Territorial Plat Approval Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the Village as well as pertinent unincorporated areas within areas of statutory extraterritorial jurisdiction. The Village of Wausaukee has elected to approve plats under its extraterritorial plat approval jurisdiction as provided in Chapter 236 and Section 66.0105, Wis. Stats.. The provisions of this Chapter, as they apply to divisions of tracts of land into less than five (5) parcels, shall not apply to:
 - (1) Transfers of interests in land by will or pursuant to court order;
 - (2) Leases for a term not to exceed ten (10) years, mortgages or easements;
 - (3) Sale or exchange of parcels of land between adjoining property owners or where not more than one (1) additional lot is created and said lot is not less than the minimum size required by applicable laws or ordinances. No more than one (1) lot may be created in this fashion within a one (1) year period.
- (c) **Certified Survey Map.** Any division of land other than a subdivision as defined in Sec. 236.02(8), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in Sec. 236.34, Wis. Stats.
- (d) **Compliance; Issuance of Permits.** The Village of Wausaukee shall not recognize, and no building or other permits shall be issued by the Village authorizing the building on, occupancy, or improvement of any parcel of land not on record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been fully complied with and a resolution approving the land division has been adopted by the Village Board of the Village of Wausaukee.
- (e) **Applicability to Condominiums.** This Chapter is expressly applicable to condominium developments within the Village's jurisdiction, pursuant to Sec. 703.27(1), Wis. Stats. [See Section 14-1-22]. For purposes of this Chapter, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of subdivision.
- (f) **Recording of Plats or Certified Surveys.** Plats and certified surveys, approved by the Village Board of the Village of Wausaukee, must be recorded together with the adopting resolution, with the appropriate County Register of Deeds within thirty (30) days of the date of the last resolution of approval and not later than six (6) months following the date of the

first resolution of approval [twenty-four (24) months in the case of a Final Plat]. Land divisions shall not be recognized by the Village until recorded with the Register of Deeds. The volume, page, and document numbers of the recording, shall be filed with the Village Clerk and Building Inspector prior to issuance of any permits. The subdivider shall file six (6) certified copies of the approved land division with the Village Clerk.

Sec. 14-1-21 Land Suitability.

- (a) **Suitability.** No land shall be subdivided for residential, commercial or industrial use which is held unsuitable for such use by the Village Board, upon the recommendation of the Plan Commission, for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community. The Village Board, 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 he so desires. Thereafter the Village Board, upon the recommendation of the Plan Commission, may affirm, modify, or withdraw its determination of unsuitability.
- (b) **Existing Flora.** The subdivider shall make every effort to protect and retain all existing trees, especially with a trunk diameter of six (6) inches or more, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the subdivider.
- (c) **Additional Considerations.**
 - (1) Areas of archaeological and/or historical interest shall be designated by the State Historical Society.
 - (2) Areas of geological interest shall be designated by the State Geological and Natural History Survey.
 - (3) Suitability of land for private sewerage systems , where authorized by the Village, shall be determined in accordance with Ch. SFS 383, Wis. Adm. Code.
- (d) **Poor Drainage; Floodable Conditions; Adverse Soil or Rock Formations.** Where the subdivision or other division of a tract of land contains a portion of land unsuitable for development because of poor drainage, floodable conditions, poor soil conditions, adverse rock formation, unfavorable topography, inadequate water supply or sewerage disposal capabilities, or for any other reason, such areas shall not be divided into buildable sites, and shall be addressed as follows:
 - (1) **Poor Drainage.** Land subject to ponding, poor permeability or poor drainage or for other causes as determined by the Village Board, upon the recommendation of the

Plan Commission, or its designated agent, and if said land is not zoned as a conservancy or wetland-floodplain district on an applicable zoning district map, in which buildings are prohibited, it shall be subject to the following requirements:

- a. If said land is designated, and accepted by the Village, as a park, parkway, other open space, or other public use on an official plan or map of the Village of Wausaukee, the developer/subdivider may dedicate said land to the Village, but in any case shall reserve said land for not less than two (2) years for acquisition by the Village of Wausaukee.
- b. If said land is not designated as a park, parkway, or other public use on an official plan or map, then the developer shall cause said land to be carried in a private easement in the individual deeds affected thereby, and no permit shall be issued for a building therein.
- c. In lieu of the requirements set forth in Subsection (d)(1)a above, the developer/subdivider may, at his/her expense, prepare a development proposal for the problem area. It shall be submitted for the Plan Commission's recommendation and the Village Board's approval and shall be accompanied by a site plan and adequate engineering data to insure that the public health, safety and welfare will not be violated if approved, and to provide a surety bond to the Village to insure that such work will be done at a specified time, if approved.

(2) ***Adverse Soil and Rock Formations.***

- a. Soil suitability rating for a proposed subdivision shall be determined by the Plan Commission from sources available to it. The Plan Commission shall determine the minimum lot size required if public sewer is not available even though the minimum lot size allowed under the applicable zoning code is less than the soil rating might require. In order to determine the precise location of soil boundaries, on-site investigation by soil scientists may be necessary but in areas where no public sewer is available, this investigation is mandatory and may be made by a professional surveyor, engineer or soil scientist at the expense of the applicant, and according to the procedures established by the State Division of Health of the Wisconsin Department of Family Services and the Wisconsin Department of Safety and Professional Services.
- b. Where soil interpretations determine that a tract of land is unsuitable for development under existing conditions, the developer may submit a proposal for development indicating how, through site and engineering design, the soil problems can be overcome. The proposal shall include a site plan and adequate engineering data before approval of the proposed development or land division can be recommended for approval by the Plan Commission. If this plan is approved, the applicant shall provide an irrevocable letter of credit or cash deposit to the Village of Wausaukee to insure that such work will be done at a specified time.

- (e) **Miscellaneous Provisions.** Village officials shall also consider, but not be limited to, the following items in determining land suitability:
- (1) **Floodlands.** No lot served by public sanitary sewer facilities shall have more than fifty percent (50%) of its required lot area below an elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood, or where such data is not available, five (5) feet above the maximum flood of record.
 - (2) **Lands Having a Slope** of twenty percent (20%) or more shall be maintained in permanent open space use. No lot shall have more than fifty percent (50%) of its minimum required area in slopes of ten percent (10%) or greater.
- (f) **Application of Standards By Plan Commission.** 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 unsuitable for residential use and afford the subdivider an opportunity to present evidence in rebuttal to such finding of unsuitability if he/she so desires. Thereafter the Plan Commission may affirm, modify, or withdraw its determination of unsuitability.

Sec. 14-1-22 Condominium Developments.

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

- d. Additional traffic and street use.
- (b) **Portions of Chapter Applicable to Condominium Developments.** The following Sections of this Chapter shall apply to condominium developments:
- (1) Section 14-1-21 relating to land suitability and construction practices.
 - (2) Sections 14-1-30 through 14-1-33 relating to preliminary and final plat approval. The technical requirements for preliminary plats set forth in Section 14-1-40 shall not apply, since condominiums have separate technical standards set forth in Chapter 703, Wis. Stats.
 - (3) Article I relating to fees for review.
 - (4) Article F relating to required improvements.
 - (5) Article G relating to design standards for improvements.
 - (6) Article H relating to dedication requirements.
- (c) **Exceptions.** This Section shall not apply to the following condominiums:
- (1) Any condominium plat recorded prior to the effective date of this Chapter.
 - (2) Any conversion of a structure or structures in existence on the effective date of this Chapter to a condominium after the effective date of this Chapter.

Sec. 14-1-23 Homeowner, Property Owner or Condominium Associations; Common Areas.

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

- (a) **Documents To Be Submitted.** The subdivider shall provide the Village with a description of the homeowners, property owners or condominium association, including its bylaws, and all documents and restrictive covenants governing maintenance requirements and use restrictions for common areas and facilities. These documents shall be subject to review as to form by the Village Attorney at the subdivider's expense. The documents required by this Section shall be filed with the Village at the time of preliminary plat submittal.
- (b) **Timetable For Creation.** The association shall be established by the owner or applicant of the land division/condominium, and such association shall be operating prior to the sale of any lots or units in the subdivision, land division or condominium.
- (c) **Mandatory Membership.** Membership in the association shall be mandatory and on-going for all purchasers of lots or units within the subdivision, land division or condominium and their successors and assigns.
- (d) **Maintenance Responsibilities.**
- (1) The association shall be responsible for maintenance of and insurance for common areas and facilities. Included in such responsibilities is on-going maintenance of any

stormwater detention/retention system facilities or shared community private septic system for that subdivision or condominium, pursuant to a maintenance plan approved by the Village and incorporated in the development agreement; such requirement is only inapplicable where the Village has expressly determined to have, in the alternative, the Village maintain such facilities and areas.

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

Cross-Reference: Section 14-1-74.

Sec. 14-1-24 through Sec. 14-1-29 Reserved for Future Use.