

**CHAPTER XXXII**  
**SUBDIVISION ORDINANCE**

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### **32.01 AUTHORITY.**

These regulations are adopted under the authority granted by Chapter 236 of the Wisconsin Statutes.

### **32.02 TITLE**

This Chapter shall be known and may be cited as the “Subdivision Ordinance of the Village of Elkhart Lake, Wisconsin” and is hereinafter referred to as the “Subdivision Ordinance” or “Subdivision Chapter.”

### **32.03 PURPOSE.**

The purpose of this Ordinance is to regulate and control the division of land within the corporate limits and extra-territorial plat approval jurisdiction of the Village of Elkhart Lake in order to promote the public health, safety, and general welfare of the community.

### **32.04 INTENT.**

It is the general intent of this Ordinance to regulate the division of land so as to lessen congestion in the streets and highway; further orderly layout and use of land; secure safety from fire; panic and other dangers; provide adequate light and air; prevent overcrowding of land; avoid undue concentration of population; facilitate adequate provision for transportation, housing, water, sewage, schools, parks, playgrounds and other public requirements; and facilitate the further division of larger tracts into smaller parcels of land. These regulations are made with reasonable consideration among other things, of the character of the Village with a view of conserving the value of the buildings placed upon the land, providing the best possible environment for human habitation, and for encouraging the most appropriate use of the land throughout the Village.

### **32.05 APPROVING AUTHORITY.**

(1) The Elkhart Lake Planning Commission (also referred to as the Commission) is hereby designated as the approving authority for all preliminary plats and certified survey maps within the plat approval jurisdiction of the Village of Elkhart Lake.

(2) The Elkhart lake Village Board of Trustees is designated as the approving authority for all final plats within the plat approval jurisdiction of the Village of Elkhart Lake. The Village Board shall receive the recommendation of the Commission prior to making a final decision on a plat.

### **32.06 JURISDICTION.**

The regulations contained in this Ordinance shall apply to the following divisions of land:

(1) The subdivision of any land within the corporate limits of the Village of Elkhart Lake. The Village may review the subdivision of land within its extraterritorial plat approval jurisdiction, if the Village adopted a plan or regulations under s 62.23(7a)(c) of the Wisconsin Statutes.

(2) Any division of land, other than a subdivision, within the corporate limits of the Village or within its extraterritorial plat approval jurisdiction, if it adopted a plan or regulations under s. 62.23(7a)(c) of the Wisconsin Statutes, shall be surveyed and a certified survey map of such division approved and recorded as required by this Ordinance and Chapter 236 of the Wisconsin Statutes.

(3) Lot splitting shall not be permitted, unless the sale or exchange of land is between owners of adjoining properties and no additional lots are thereby created and the resulting lots are not reduced below the minimum sizes required by this Ordinance or other applicable laws or ordinances.

(4) All division of real property whether held in severalty or in common, including property subjected to condominium declarations and plats under 703 of the Wisconsin Statutes.

### **32.07 DEFINITIONS.**

For the purpose of this Ordinance, the definitions contained in this Section shall apply.

(1) Alley – A public or private way which provides secondary access to abutting property. No alleys allowed in residential areas, and no alley in a commercial or industrial area shall be less than 30 feet wide.

(2) Approving Authorities – Each governmental body having authority to approve or reject a preliminary or final plat. Approving authorities are set forth in Section 236.10 of the Wisconsin Statutes.

(3) Block - A tract of land bounded by a street or streets and any combination of boundary lines of public or institutionally owned lands, railroad rights-of-way, rivers and lakes and other lines of demarcation. A block may be located in part within the adjoining unincorporated area.

(4) Building – Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

(5) Building Line – See setback.

(6) Certified Survey Map – a map prepared in accordance with Chapter 236, Wisconsin Statutes and this Ordinance, for the purpose of dividing land; or used to document for recording purposes survey and dedication data relating to single parcels.

(7) Commission – Elkhart Lake Planning Commission.

(8) Comprehensive Plan – The extensively developed plan, recommended by the Planning Commission and adopted by the Board of Trustees pursuant to Section 66.1001 of the Wisconsin Statutes. Components of a comprehensive plan include, but are not limited to, a land use, transportation system, park and open space, sanitary sewer, public water supply, and housing. Devices for the implementation of such plans include zoning, official mapping, land division control, and capital improvement programs. The Plan sets forth policies for the future development or redevelopment of the Village of Elkhart Lake pursuant to Chapter 62.23 of the Wisconsin Statutes.

(9) Condominium – A building, or group of buildings, in which units are owned individually, and the structure, common areas, and facilities are owned by all owners on a proportional, undivided basis. It is a legal form of ownership of real estate and not a specific building type or style.

(10) Condominium Association (otherwise known as a homeowner’s association)– An association, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.

(11) Condominium Declaration – The instrument by which property becomes subject to Chapter 703 of the Wisconsin Statutes.

(12) Condominium Unit – A part of a condominium intended for any type of independent use, including one or more cubicles of air at one or more levels of space or one or more rooms or enclosed spaces located on one or more floors (or parts thereof) in a building. A unit may include two or more noncontiguous areas.

(13) Covenant. A restriction on the use of land, usually set forth in the deed.

(14) Cul-de-sac – A short minor street having one end open to traffic and the other end permanently closed and provided with an appropriate turn-around for vehicular traffic.

(15) Deed Restriction – A restriction on the use of a property set forth in the deed.

(16) Development Agreement – An agreement entered into by and between the Village and a subdivider whereby the Village and subdivider agree as to the design, construction, and installation of required public improvements; the payment for such public improvements; dedication of land and other matters related to the requirements of this Ordinance. The Development Agreement shall not

come into effect unless and until a Letter of Credit or other appropriate surety has been provided to the Village by the subdivider.

(17) Division of land – Any division of land, other than a subdivision.

(18) Extra-territorial Plat Approval Jurisdiction – The unincorporated are within 1 ½ miles of the corporate limits of the Village of Elkhart Lake.

(19) Final Plat – A map prepared in accordance with the requirements of Chapter 236 of the Wisconsin Statutes and this Ordinance for the purpose of creating a subdivision.

(20) Floodplains – Those lands, including the floodplains, floodways, and channels, subject to inundation by the 100-year recurrence interval flood or, where such data are not available, the maximum flood on record.

(21) Frontage – All of the property abutting on one (1) side of a street measured along the street line.

(22) Letter of Credit – A irrevocable written agreement guaranteeing payment for improvements, entered into by a bank, savings and loan, or other financial institution authorized to do business in the State of Wisconsin and which has a financial standing acceptable to the Village, which secures a subdivider's obligation to pay the cost of designing, constructing, and installing required public improvements and certain other obligations in connection with an approved land division or condominium.

(23) Living material, such as grass, groundcover, flowers, shrubs, vines, hedges, and trees; and nonliving durable material, such as rocks, pebbles, sand, mulch, wood chips or bark, walls, and fences, but not including paving.

(24) Lot - A parcel of land whether legally described or subdivided as one or more lots or parts of lots, having frontage on a public street or other officially approved means of access occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter.

(25) Lot Area – The area of contiguous land bounded by lot lines, exclusive of land designated for public thoroughfares.

(26) Lot, Corner – A lot situated at the intersection of two (2) streets.

(27) Lot Area Coverage – The area of a lot covered by permanent structures and impervious surfaces such as driveways.

(28) Lot Depth – The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

(29) Lot, Interior – A lot situated on a single street which is bounded by adjacent lots along each of its other lines.

(30) Lot Line – Legally established lines dividing one (1) lot, plot of land or parcel of land from an adjoining lot or plot of land or parcel of land as defined herein.

(31) Lot Line, Front – That boundary line of a lot which is along an existing or dedicated street or public way. The front lot line of a corner lot shall be the street lot line parallel to the face of the structure containing the main entrance.

(32) Lot Line, Rear – That boundary line of a lot which is most distant from and is, or is approximately, parallel to the front lot line. If the rear lot line is less than 10' in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10' in length within the lot, parallel to and at the maximum distance from the front lot line.

(33) Lot Line, Street – A boundary line of a lot which is along an existing or dedicated street or public way.

(34) Lot of Record – A platted lot of a recorded subdivision, certified survey map, or parcel of land for which the deed, prior to the adoption of this Chapter, is on record with the Sheboygan County Register of Deeds and which exists as described therein.

(35) Lot, Substandard – A parcel of record at the time of adoption of this chapter having frontage on a public street, occupied or intended to be occupied by a principal building or structure together with accessory building and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Chapter.

(36) Lot Width – The minimum horizontal distance between the side lot lines at the buildable setback line.

(37) Lot Splitting – the division for sale of any portion of a platted lot.

(38) Minor Land Division – A minor land division is any division of land that:

a) Creates more than one, but less than three, parcels or building sites, inclusive of the original remnant parcel, any one of which is five acres or less in area, by a division or successive divisions of any part of the original parcel within a period of five years;

b) Divides a block or outlot within a recorded subdivision plat into more than one, but less than three, parcels or building sites, inclusive of the original remnant parcel, without changing the exterior boundaries of said plat or the exterior boundaries of blocks within the plat, and the division does not result in a subdivision.

(39) Municipality – An incorporated city or village.

(40) Objecting Agency – An agency empowered to object to a subdivision plat pursuant to Chapter 236 of the Wisconsin Statutes. The Village may not approve any plat upon which an objection has been certified until the objection has been satisfied. The objecting agencies include the Wisconsin Department of Administration, the Wisconsin Department of Commerce, and the Wisconsin Department of Transportation.

(41) Official Map - The map of the Village of Elkhart Lake and surrounding area showing the existing and planned streets, playground, parks, schools, and other public facilities in accordance with and adopted under State Statutes.

(42) Open Space – Land areas not occupied by buildings, structures, parking areas, streets, driveways or alleys. Open space shall not include upper floor decks and/or balconies.

(43) Out lot – A parcel of land

(44) Parcel – A single piece of land separately owned, either publicly or privately, and capable of being conveyed separately.

(45) Plat – A map or prepared for the purpose of recording a subdivision, minor land division, or condominium.

(46) Preliminary Plat – A map showing salient features of a proposed subdivision submitted to the approving authority for the purposes of preliminary consideration. A preliminary plat precisely describes the location and exterior boundaries of the parcel proposed to be divided, and shows the approximate location of lots and other improvements.

(47) Public Open Space – Any publicly-owned open area, including, but not limited to, the following: parks, playgrounds, forest preserves, waterways and parkways.

(48) Public Way – Any public street, highway, bicycle, or pedestrian way, drainage way, or part thereof.

(49) Raw Land Value – Value of the vacant unimproved land prior to subdividing.

(50) Replat – The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat, certified survey map, 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.

(51) Right-of-way – A strip of land used or intended to be used for street, alley, crosswalk, or other public use and dedicated for such use.

(52) Roadway – That portion of a street right-of-way paved or intended to be paved in the future, the width of which is to be determined in accordance with the thoroughfares plan of the Village of Elkhart Lake.

(53) Setback – The distance between the nearest wall of a building and any lot line.

(54) Shorelands – Those lands within 300 feet of the ordinary high water mark within the Village of Elkhart Lake.

(55) Soil Mapping Unit – Soil type, slope, and erosion factor boundaries as shown on the operational soil survey maps prepared by the U.S. Conservation Service.

(56) Street – A public or private thoroughfare, usually, paved. An alley or driveway shall not be considered a street.

(57) Street, Arterial – A major street intended and designed to carry large volumes of traffic between various areas of the community.

(58) Street, Collector – A street intended and designed to carry traffic from local streets to the system of arterial streets.

(59) Street, Local (Minor Street) – A street intended and designed primarily to provide access to abutting properties.

(60) Subdivision – A division of a lot, parcel, or tract of land by the owner thereof or his agent for the purpose of sale or building development, including condominium development, where the act of division creates:

a) 3 or more parcels or building sites of 5 acres or less; or

b) 3 or more parcels or building sites of 5 acres or less by successive division over a period of 5 years.

(61) Subdivider – Any person, agent, firm, or corporation dividing or proposing to divide land so as to create a subdivision or replat as defined herein.

(62) Surety Bond – A bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider.

(63) Tract – A parcel lying in more than one U.S. Public Land Survey section.

(64) Wetland – An area(s) where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions and/or designated as wetlands by the U.S. Natural Resource Conservation Service, Wisconsin Department of Natural Resources, or the U.S. Army Corps of Engineers.

(65) Yard – An open space that lies between a building and all lot lines. All yards need to be in compliance with the Zoning Ordinance of the Village of Elkhart Lake.

### **32.08 CONFLICT WITH OTHER LAWS.**

Where the conditions imposed by any provision of the Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Ordinance or any other law, ordinance, resolution or regulation of any kind, the provisions which are more restrictive shall apply.

### **32.09 SEVERABILITY.**

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.

### **32.10 VARIANCES.**

When in the judgment of the Commission, it would be inadvisable to literally apply a provision of this Ordinance because of an undue hardship, the Commission may modify only such provisions so that substantial justice is done and the public interest is secured, provided that in no event shall the requirement of filing and recording of the plat or survey may be waived. Any such modification shall be requested in writing by the owner or his agent. Any such modification granted under this provision shall be duly entered and recorded in the minutes of the Commission, setting forth therein the reasons which justify the modification.

### **32.11 PENALTIES.**

Any person, agent, or corporation found guilty of violating any of the provisions of this Ordinance, upon conviction thereof, shall be subject to a fine of not more than \$1,000.00 nor less than \$100.00 and the cost of prosecution for each violation, or be imprisoned in the County Jail for a period of not more than thirty (30) days or both. Each day a violation exists or continues shall constitute a separate offense.

### **32.12 ENFORCEMENT AND REMEDIES.**

(1) Any person causing his final plat to be recorded without submitting such plat for approval as herein required, or shall fail to present the same record within the time prescribed after approval shall not forfeit not less than \$100.00 nor more than \$1,000.00 to the Village of Elkhart Lake.

(2) In addition to all other remedies, the Village may institute injunctive relief or other appropriate action of proceeding to enjoin a violation of any provision of this Ordinance. Any conveyance or contract made by the subdivider or his agent contrary to this Ordinance shall be voidable at the option of the purchaser or person contracting to purchase, his heirs, personal representative, or trustees in bankruptcy within one year after the execution of the document or contract; but such contract or document shall be binding on the vendor, his assignee, heir or devisees.

(3) In addition to all other remedies provided by this section, the remedies provided by Sections 236.60 and 236.31 Wisconsin Statutes, shall be available to the Village.

### **32.13 AMENDMENTS.**

(1) The Commission may on its own motion, or upon petition, prepare an ordinance, amending, supplementing, or changing the regulations herein established. The Commission may then cause such an ordinance to be introduced to the Village Board for review and final action.

(2) All amendments to this Ordinance shall be referred to the Commission for its recommendation prior to final action taken by the Village Board.

(3) Before adoption of any amendment to this Ordinance, the Village Board shall hold, after appropriate notice having been given, a public hearing on said amendment.

### **32.14 EFFECTIVE DATE.**

This Ordinance shall be effective after a public hearing, adoption by the Village Board of Trustees, and publication or posting as provided by law.

### **32.15 PRE-APPLICATION CONFERENCE.**

Before filing a preliminary plat or certified survey map (minor land division), the subdivider is encouraged to consult with the Planning Commission and Village staff for advice and assistance regarding general subdivision requirements. The following information shall be provided at the time of the preliminary consultation or upon filing the preliminary plat if the preliminary consultation is not held:

(1) Information including data on existing covenants, land characteristics and available community facilities and utilities, and information describing the subdivision proposal, such as the number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park areas and other public areas, planting, proposed protective covenants, proposed utilities and street improvements.

(2) Allocation map showing the relationship of the proposed subdivision to existing community facilities which serve or influence it, including development name and location; main arteries of traffic; public transportation line; shopping centers; schools; parks and playgrounds; principal places of employment; other community features, such as railroad stations, hospitals, clinics, and churches; title; scale; north arrow and date.

(3) A sketch plan showing in simple sketch form the proposed layouts of the streets, lots and other features, including topography, in relation to existing conditions. The sketch plan may be a free-hand pencil made directly on a print of the topographic survey.

(4) A subdivider may construct a project in phases as the Village approves, and approval may not be reasonably withheld, but the proposed phases should be discussed at the pre-application conference.

### **32.16 PRELIMINARY PLAT PROCEDURES.**

(1) The subdivider or his agent, before submitting a final plat, shall submit to the Village Administrator/Clerk-Treasurer an adequate number of copies of the preliminary plat and a letter of application together with a list of the authorities to which the plat must be submitted for approval under 236.10 of the Wisconsin Statutes or objection under Section 236.12 of the Wisconsin Statutes at least 30 days prior to the meeting of the Village Planning Commission at which action is devised.

(2) The Village Administrator/Clerk-Treasurer shall, within five (5) days after filing, transmit an adequate number of copies to the Village Planning Commission and to the various authorities mentioned on the list filed by the subdivider or his agent. A copy of the preliminary plat shall also be transmitted to all affected local utilities companies for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Village Planning Commission within fifteen (15) days from the date the plat is filed. The preliminary plat shall then be reviewed by the Village Planning Commission for conformance with this Ordinance and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which affect it.

(3) The Planning Commission, after review of the preliminary plat, shall within forty (40) days of its submission approve or reject the plat. The subdivider shall be notified in writing of any conditions of approval or the reasons for rejection. If the preliminary plat is approved, such approval shall not constitute final acceptance of the subdivision. If any conditions arise which could cause the preliminary plat to become unsatisfactory for the health, safety or welfare of the community, the final plat may be rejected.

### **32.17 DATA REQUIRED ON PRELIMINARY PLAT.**

The preliminary plat shall be drawn with waterproof nonfading black ink or legibly drawn on paper of good quality on a scale of not more than one hundred feet to an inch and shall show correctly on its face:

- a) Date, scale and north point.
- b) The proposed subdivision name which shall not duplicate the name of any plat previously recorded in Sheboygan County.

- c) Legal description and location of the subdivision by government lot, quarter-quarter section, section, township, and range.
- d) The names and addresses of the owner, any agent having control of the land, subdivider, engineer, and surveyor preparing the plat.
- e) Certification of surveyor certifying to the accuracy of the survey.
- f) Existing topography with contour intervals of not more than five (5) feet, existing natural growth, and special land forms, or at more frequent intervals if required by the Planning Commission, for land of unusual topography.
- g) The exact length and bearing of the exterior boundaries of the subdivision and the total area within the subdivision.
- h) Location and names of adjacent subdivisions and the owners of adjoining parcels of unsubdivided land.
- i) Zoning classifications of the land within and adjacent to the subdivision.
- j) Locations, widths, and names of all existing platted or dedicated streets, alleys or other public ways and easements, railroad and utility rights-of-way, parks, watercourses, drainage ditches, permanent buildings, bridges, and all other pertinent data as determined by the Commission.
- k) Location, size and invert elevation of any existing sanitary or storm sewers, culvers and drain pipes, the location of manholes, catch basins, hydrants, power and telephone poles, and the location and size of any existing water and gas mains, within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by their direction and distance from the track, size, and invert elevations.
- l) The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low water elevations of such lakes or streams. All elevations shall be referred to some permanent established datum plane.
- m) Layout, width, and approximate grades of all new streets and rights-of-way such as alleys, highways, easements for sewers, water mains, and other public utilities.
- n) Approximate dimensions and areas of all lots together with the proposed lot and block numbers.
- o) Approximate radii of all curves and lengths of tangents.
- p) Approximate location and area of property proposed to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision with the conditions, if any, of such dedication or reservation.
- q) A copy of all proposed private restriction shall be submitted.
- r) Drainage plan of all blocks within the subdivision.
- s) Soil tests if required.
- t) Statement of the proposed use of lots stating type of residential building with number of proposed dwelling units; type of business or industry so as to reveal the effect of the development on traffic, fire hazards, and congestion of population.
- u) Notarized certification by owner and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas.
- v) Such other information as may be requested by the Planning Commission.

**32.18 FEE.**

A cash fee of \$100.00 plus \$5.00 for each lot shall be paid when the preliminary plat is filed. This fee will be used for public expenses in connection with approval or disapproval of said plat and final plat which may thereafter be submitted.

### **32.19 FINAL PLAT PROCEDURES.**

(1) The owner or subdivider shall file six (6) copies of the final plat not later than thirty-six (36) months after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the Village Board. The owner or subdivider shall also submit at this time an up-to-date certified abstract or certificate of title and such other evidence as the Village Attorney may require showing title in the name of the applicant.

(2) The final plat shall have incorporated all changes or modifications required; in all other respects it shall conform to the preliminary plat. A professional engineer, planner, or other person designated to review plats for the Village shall determine if a plat substantially conforms to the preliminary plat. This determination shall be given to the Village also with a recommendation for approval/denial of the final plat.

(3) Copies of the final plat shall be submitted by the subdivider to all other State and local agencies that have approval or objection authority. The secretary of the Planning Commission shall submit the final plat to the Village Board of Trustees for approval.

(4) The Village Board after referral to the Planning Commission for its recommendation shall examine the plat and all necessary certificates to determine its conformance to the preliminary plat and all ordinances, rules and regulation comprehensive plans and comprehensive plan components which may affect it. Action shall be taken within sixty (60) days after the plat has been submitted. If disapproved or conditionally approved, the reasons or conditions shall be stated in the official records of the Village Board meeting and forwarded in writing to the subdivider.

(5) The approval final plat shall be recorded by the subdivider in the Office of the Register of Deeds for Sheboygan County.

(6) The approved final plat shall be recorded by the subdivider in the Office of the Register of Deeds for Sheboygan County within 12 months of the final plat receiving its last approval or within 36 months of the final plat receiving its first approval.

### **32.20 DATA REQUIRED ON FINAL PLATS.**

(1) All requirements of Section 236.20 of the Wisconsin Statutes relating to final plat and data shall be complied with and are hereby adopted by reference and incorporated as though fully set out in this chapter.

(2) There shall be described on the final plat:

- i. The dedication of all lands that are required to be dedicated by this Ordinance.
- ii. All easements required by this Ordinance.

### **32.21 CERTIFIED SURVEY MAP.**

Any division of land, other than a subdivision, within the Village or its extra-territorial plat approval jurisdiction shall be surveyed and a certified survey map of such division approved by the Village Planning Commission and recorded as provided by Chapter 236 of the Wisconsin Statutes and as described herein.

(1) A certified survey map shall be prepared in compliance with the requirements of Section 236.34 of the Wisconsin Statutes which is hereby adopted by reference and incorporated herein as though fully set out.

(2) The map shall include the affidavit of the surveyor who surveyed and mapped the parcel as required by Section 236.34 of the Wisconsin Statutes and shall be signed by the property owner.

(3) Upon submission of eight (8) copies of the proposed certified survey map, the Planning Commission shall within forty (40) days approve, conditionally approve, or reject the map. The certificate of approval of the Planning Commission shall be typed, lettered, or reproduced legibly on the face of the map. The divider shall be notified in writing of any conditions of approval or the reason for rejection.

### **32.22 CONDOMINIUM PLAT.**

A condominium plat prepared by a land surveyor registered in Wisconsin is required for all condominium plats or any amendments or expansions thereof. Such plat shall comply in all respects with the requirements of Section 703.11 of the Wisconsin Statutes and shall be reviewed and approved or denied in the same manner as a subdivision plat as set forth in this Ordinance. Such plat shall comply with the design standards, improvements, and all other requirements of this Ordinance that would otherwise apply to subdivision plats.

### **32.23 REPLATTING.**

Replatting or resubdividing existing subdivision shall follow all the rules and regulations of Section 236.36 of the Wisconsin Statutes and of this Ordinance that apply to subdividing.

(1) A cash fee of \$50.00 plus \$5.00 for each lot shall be paid if a replat is requested. This fee will be used for public expenses in connection with approval or disapproval of said plat and final plat which may thereafter be submitted

### **32.24 GENERAL REQUIREMENTS.**

All subdivision and division regulated by this Ordinance shall conform to the following:

- (1) The provisions of Chapter 236 of the Wisconsin Statutes and all amendments and revisions thereto.
- (2) The official map of the Village of Elkhart Lake.
- (3) The Comprehensive Plan of the Village of Elkhart Lake.
- (4) The administrative rules of the various state agencies relating to the subdivision of land.
- (5) All other applicable ordinances of the Village of Elkhart Lake in effect at the time the preliminary plat is submitted.

### **32.25 DESIGN STANDARDS**

(1) Streets.

a) The arrangement, character, extent, width, grade and location of all streets shall conform to all applicable plans officially adopted by the Village board and/or the Village Planning Commission. All proposed streets shall be related to existing and planned streets, topography, natural features, public convenience and safety, and to the proposed use of the land to be served by such streets.

b) Arterial streets, as hereafter defined, shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation facilities, and points beyond the boundaries of the Village. They should be properly integrated with and related to the existing and proposed system of major streets and highways and shall be continuous and in alignment with existing or planned streets with which they are to connect.

c) Collector streets, as hereafter defined, shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to special traffic generators such as schools, churches

and shopping centers and other concentrations of population and to the major streets into which they feed.

d) Local (minor) streets, as hereafter defined, shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide safe and convenient access to abutting property.

e) When a subdivision abuts or contains an existing or proposed arterial street, the Commission may require service drives, reverse frontage lots with screen planting contained in a non-access reservation along the rear of the property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

f) When a non-access reservation strip is required, it shall be at least 30 feet deep adjacent to the right-of-way, and be in addition to the normal lot depth. The strip shall be part of the platted lots; however, it shall be already designated as a reservation for planting trees and shrubs with no structures being permitted.

(2) Street Names.

a) The Village shall name all streets within the subdivision. Suggestions and requests by the subdivider will be considered, however the final decision rests with the Village Board.

b) Any street which is the reasonable continuation of an existing street shall bear the same name. If the topography or other features of a permanent nature are such as to render the continuation of the actual roadway impossible and where such nomenclature is apt to produce confusion, the street shall not carry the same name as the street to which it may be geometrically aligned.

c) The term boulevard shall be reserved for such streets which, because of their breadth or monumental character, are to be specifically designated.

d) Curving street may bear the classification of crescent, drive or road. Dead end or cul-de-sac streets may bear the classification of circle, place, or court.

(3) Street Design and Standards.

a) All streets shall be the width specified on the Official Map and if no width is specified, they shall not be less than as follows:

- i. Arterial streets or parkways-100 feet plus 8 feet tree planting easement.
- ii. Collector Streets -80 feet plus 8 foot tree planting easement.
- iii. Local (minor) streets – 60 feet plus 8 foot tree planting easement.
- iv. Frontage streets – 40 feet plus 8 foot tree planting easement.

b) The radii of curvature, measured at the center line shall not be less than the following:

- i. Arterial – 300 feet
- ii. Collector – 200 feet
- iii. Local (minor) – 100 feet

c) Unless necessitated by exceptional topography, the percent grade of the centerline of any street shall not exceed the following:

- i. Arterial – 6%
- ii. Collector – 8%
- iii. Local (minor) – 10%

d) The elevation grade of all streets shall be established by the Village Engineer.

e) Cul-de-sac and dead end streets laid out to have one end permanently closed shall not exceed 500 feet in length and shall be provided at the closed end with a turn around with a minimum radius of 60 feet, unless the Planning Commission approves a “Y” or “T” turn around.

f) Intersections.

- i. All streets shall intersect at right angles or as close thereto as possible. No Street shall intersect at an angle less than 70°.
- ii. More than two streets intersecting at the same point shall be prohibited.
- iii. Where two consecutive streets intersect the same street from opposite directions they shall not be nearer than 150 feet measured from center line to center line, unless the Planning Commission shall find it necessary due to topography or other natural features.
- iv. Where the Planning Commission may find it necessary, for reasons of safety and protection of property, the property lines at intersections shall be rounded with a 15 foot radius.

g) Half streets.

- i. Where a half street has been previously dedicated adjacent to the subdivision, the remaining half of the street shall be dedicated by the subdivider.
- ii. Where no half street adjacent to the subdivision exists, dedication of half streets will not be approved unless the remaining portion shall appear as a mapped street on the Official Map.
- iii. No building permit shall be issued for any structure fronting on a half street.

(4) Alleys-Serviceways.

- a) Alleys shall be provided in all commercial districts except where a commercial district will be used as a self-contained unit; then, other provisions shall be made on the site for service drives and service areas.
- b) Alleys shall not be approved for residential areas.
- c) Alleys in commercial and industrial areas shall not be less than 30 feet in width.
- d) Dead end alleys are prohibited except where natural or other features make it impossible to continue them. Where dead end alleys are unavoidable they shall be provided with adequate turn around areas with a minimum radius of 50 feet at the closed end.

(5) Blocks.

- a) The lengths, widths, and shapes of blocks shall be such as are appropriate for the topography and type of development contemplated. Blocks in residential developments shall not exceed 1,200 feet between cross streets; except in a curvilinear subdivision design, the block may be a maximum of 1,500 feet in length with specific Planning Commission approval.
- b) Crosswalks, not less than 10 feet nor more than 15 feet wide, if deemed essential by the Planning Commission, shall be provided in the center of blocks greater than 800 feet in length to provide convenient access to schools, playgrounds, shopping centers, transportation or other community facilities.
- c) All blocks shall be graded by the subdivider and approved by the Planning Commission so as to insure proper drainage of surface storm water to appropriate storm sewer facilities. No builder, developer, contractor, sub

divider, owner or tenant shall alter said block drainage without authorization of the Planning Commission.

(6) Lots.

a) All lots and dimensions thereof shall conform to the requirements of the Village of Elkhart Lake Zoning Ordinance, but in no case shall residential lots have a width less than 40 feet at the street right-of-way line. The Planning Commission may approve lots with less than a 90 foot width at the street right-of-way line, if in its opinion, 40 feet would cause hardship to the subdivider, and provided the lots front on a cul-de-sac or a curvilinear street and have an area greater than 10,000 square feet.

b) Lots to be serviced by private sewerage facilities shall comply with the regulations of the State Board of Health and other applicable ordinances, including the Sheboygan county Subdivision Regulations.

c) Corner lots shall have an extra width of 10 feet over the average lot width in the block to permit adequate building setbacks from the street.

d) Every lot shall front or abut a public street.

e) Side lot lines shall be at right angles to or radial to the street lines on which the lot fronts.

f) Lot layout where rear lot lines coincide with side lot lines shall be avoided wherever possible.

g) Lots shall follow municipal boundaries, rather than cross them.

h) Where a tract is subdivided into parcels containing one or more acres, such parcels shall be arranged to provide for the resubdivision into normal lots in accordance with this section.

i) No lots shall have frontage on two streets, except to separate residential areas from major streets and highways or to overcome specific disadvantages of topography and orientation.

j) Lot depths within a subdivision shall be varied so as to provide reasonable design and siting alternatives to prospective purchasers.

**32.26 PARKS, OPEN SPACES, AND NATURAL FEATURES.**

(1) In the subdividing of any land, due regard shall be shown for all natural terrain features, such as tree growth, water courses, historic spots, and similar irreplaceable assets, which if preserved add value, attractiveness, and stability to the proposed development and the Village.

(2) No tree, except if diseased or damaged, with a diameter of 8 inches or more as measured 4 feet above the base of the trunk shall be removed unless such tree is within the right-of-way of a street or alley as shown on the final plat, or unless such tree is within the buildable area as established by the yard requirements of the Village Zoning Ordinance.

**32.27 DEDICATION OF PARKS, PLAYGROUNDS AND OTHER.**

(1) Where a proposed park, playground or other public site as shown on the Official Map is located within a proposed subdivision, the subdivider shall dedicate said park, playground, or other public site to the Village of Elkhart Lake or other appropriate public body. In all new subdivisions, five (5) percent of the gross area subdivided shall be dedicated to fund the acquisition or initial improvement of land for parks (under 236.45(6)(am) of the Wisconsin Statutes). No areas may be

dedicated for park use until such areas have been approved as being suitable. Where said park, playground, or other public site is larger in area than the required dedication, the additional required land shall be made available to the Village for purchase at raw land value for a period extending one year from the date of approval of the final plat.

(2) When the subdivision is too small for practical dedication of public land, or if no land in the subdivision is suitable or needed for such use, the subdivider shall make a monetary payment in lieu of dedication. Such payment in lieu shall be made on the basis of the value of five (5) percent of the gross area subdivided. Said value shall be the raw land value. If the subdivider and the Village are unable to agree on the raw land value, the Village shall hire an appraiser at the Village's expense to determine said value, which shall be binding on the Village and the subdivider.

(3) All money the Village receives as payment in lieu shall be used to improve or develop a park which will serve the residents of the subdivision where said payments originated.

(4) All payments in lieu shall be made prior to approval of the final plat and shall be paid to the Village Administrator/Clerk-Treasurer. Receipt from the Village Administrator/Clerk-Treasurer shall be attached to the final plat when submitted for approval.

### **32.28 REQUIRED IMPROVEMENTS AND ALLOCATED COSTS.**

(1) General Improvements. The following required improvements shall be installed in accordance with the engineering standards and specification which have been adopted by the Village Board. Where standards and specifications have not been adopted the improvements shall be made in accordance with good engineering practices.

a) The subdivider shall install survey monuments placed in accordance with the requirements of Section 236.15 of the Wisconsin Statutes.

b) All streets shall be graded to the full right-of-way width and graveled 1 ½ feet beyond each curb line.

c) Sidewalks, curbs and gutters shall be installed as required by Section 10.01 of the Municipal Code of Elkhart Lake. All subdivisions must have sidewalks.

d) Where connection with a public water system is feasible, the public water facilities shall be utilized. Fire hydrants of a type approved by the Water Department shall be installed in accordance with accepted standards. All the cost of pipe and hydrants where set, and installation thereof, along lot fronts and sides shall be paid by the subdivider. Water laterals shall be installed by the Water Department or its agent and paid for by the subdivider.

e) In all cases where in the opinion of the Village Engineer public sewer service facilities are available, the subdivider shall be required to install sanitary sewer and connect the same to the public sewer service facilities. If such facilities are not available, such sewers, together with all necessary laterals shall be installed and capped for future connection within one year after such service is available.

f) All facilities, except for meters, transforms, switches and terminal boxes when approve by the Planning commission, for the provision of natural gas, telephone, and electrical power shall be installed underground whenever feasible.

g) Drainage facilities, including but not limited to, adequate provisions for the disposal of storm water shall be installed as will adequately provide for the drainage of surface waters and shall be an expense solely of the subdivider.

h) The developer of any subdivision must post a bond to provide money for tree planting purposes.

i) Street name signs, pedestrian ways, and other improvements may be required.

(2) Payment for Required Improvements. The required improvements to be furnished and installed by the subdivider are to be furnished and installed at the sole expense of the subdivider; provided, however, that in the case of an improvement the cost of which would by general policy be assessed only in part to the improved property and the remaining cost paid out general tax levy, provision may be made for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the Village and provided, further, that if any improvements installed within the subdivision will be of substantial benefit to the lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such lands, to be assessed against the same and in such case the subdivider will be required only to pay for such portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision.

(3) Requirement Agreement Providing for Proper Installation of Improvements. Prior to installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a contract in writing with the Village requiring the subdivider to furnish and construct such improvements at his sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for supervision of details of construction by the Village Engineer and grant to the Engineer authority to correlate the work to be done under said contract by any sub-contractors authorized to proceed there under and with any other work being done or contracted by the Village in the vicinity. The agreement shall require the subdivider to make an escrow deposit or in lieu thereof to furnish a performance bond, the amount of the deposit and the penal amount of the bond to be equal to 110% of the Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. On request of the subdivider the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event the amount of the deposit or bond shall be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. The time for completion of the work and the several parts thereof shall be determined by the Village board upon recommendation of the Engineer after consultation with the subdivider and shall be reasonable in relation to the work to be done, the seasons of the year, and proper correlation with construction activities in the subdivision. If the subdivider's project will be constructed in phases, the amount of any surety bond or other security required by the Village will be limited to the phase of the project that is currently being constructed.

(4) Required Land Improvements – Specific. No final plat shall be approved by the Planning Commission or Village Board unless the subdivider shall provide and dedicate the following facilities and improvements, all of which facilities and improvements must be provided within the time required by the Village Board.

a) Street Site Grading. The subdivision shall prepare in accordance with the requirements and standards of the official map of the village and ordinances, plan and profile drawing together with typical street cross-sections and specifications which indicate the proposed established grades of all streets shown on the plat. The subdivider shall also have prepared a Master Site Grading Plan for the entire subdivision. This plan shall be prepared in accordance with the ordinance and official map of the Village of Elkhart Lake and shall show existing and proposed elevations of all lot corners, control points, and building

locations. The plan shall also indicate positive control of all storm drainage in and adjacent to the plat. The cost of the preparation of such plans shall be paid by the subdivider. After approval of these plans by the Village Engineer, the Planning Commission and the Village Board, the subdivider shall grade the full width of the right-of-way of the proposed streets in accordance with approved drawings. Roadways shall be graded to subgrade with 9 inches of gravel sub-base in accordance engineering specifications established by the Village. Upon completion of all street and subdivision grading, the subdivider shall supply the Village with a document prepared by his engineer or surveyor certifying that the completed work is in compliance with the master site grading plan and this document must be reviewed and approved by the Village Engineer. The cost of all required grading work supervision, certification, inspection, and engineering fees shall be paid for by the subdivider.

b) Stormwater Drainage Facilities. All subdivision shall be provided with adequate storm water facilities. The subdivider shall have plan and profile drawings and specifications prepared in accordance with the Village Master Storm Sewer Plan or by what other name it may be known, and the requirements and specifications of the Village for the installation of storm water facilities within the street and sewer easements in and adjacent to the proposed subdivision. These facilities shall include storm sewers and storm sewer laterals to serve every lot in the subdivision extended to the lot line. The Village and the subdivider shall cause to be installed, in accordance with the standard specifications for sewer and water construction in Wisconsin, all the facilities indicated on the plans. The cost of installation of the sewer main, inlet basin leads, construction of manholes and inlet basins, etc. shall be paid for by the subdivider. The cost of installation of a suitable laterals having a size of no less than four inches for all residential lots and of an adequate size and in accordance with the standard specifications for sewer and water construction in Wisconsin for all non-residential lots, shall be paid for by the subdivider. In addition, the cost of inspection, supervision and engineering fees incurred by either the subdivider or Village, and attributable to storm water facilities, shall be also borne by the subdivider.

c) Sanitary Sewers. The subdivider shall have plan and profile drawings and specifications prepared in accordance with the Village Sanitary Sewer Plan and Ordinances for the installation of sanitary sewerage facilities including lateral house connections for each lot in the subdivision extended to the lot line. Upon approval of the plans by the Village Engineer, Wastewater Treatment Plant Supervisor, Director of Public Works and Planning Commission and Village Board, the subdivider shall install in accordance with standard specifications for sewer and water construction in Wisconsin all facilities required and the cost of such installation, including inspection, supervision and engineering fees shall be paid by the subdivider. Where sewer mains larger than 10 inches and water mains larger than 8 inches are necessary to adequately serve the subdivision, the additional cost of adequately sized mains shall be borne by the Village in those subdivisions devoted entirely to residential use. Where a subdivision will require mains larger than 10 inches and 8 inches respectively and such requirement is a direct result of an industry, commercial, or other contemplated use to be made

within said subdivision, the subdivided shall pay the entire cost of the installation regardless of the sizing of the mains.

d) Public Utilities.

i. All utility lines for telephone and electric service shall be placed in rear lot easements where practicable and side lot line easements where necessary,

ii. All telephone, electric and gas service lines shall be placed under ground entirely through out a subdivision areas unless otherwise approved by the Village Board. Conduits or cables shall be placed within easements or dedicated public ways in a manner which will not conflict with other municipal underground services. Proposed utility layout shall be shown on copies of the preliminary plat supplied by the subdivider to the appropriate utilities. These layouts shall be reviewed and approved by the directors of the appropriate Village utilities prior to the completion of the final plat.

e) Sewerage Lift Stations. Where sanitary sewer lift stations and force mains are required to lift sewerage to a higher elevation and to the gravity sewer system, the subdivider shall have the plan and profile drawings and specifications prepared for the installation of such sewerage lift facilities. Such installation and the inspection, supervision and engineering fees shall be paid for by the subdivider unless otherwise determined by the Village Board.

f) Sidewalk, Curb, and Gutter. The subdivider shall install sidewalks on both sides of all streets and boulevards shown on the plat. The Planning Commission may consider some other type of pedestrian path in lieu of sidewalks, but this would be subject to Planning Commission approval. The subdivider shall install concrete curb and gutter along both sides of all streets and boulevards shown on the plat. The cost of the curb and gutter shall be paid for by the subdivider and all required inspection, supervision and engineering fees shall be paid as determined in a developer's agreement.

g) Performance Guarantee. In the event the facilities and improvements set forth in this Section 32.28 have not been fully installed at the time the plat is presented for final approval the subdivider shall comply with Section 32.28(3) of this Municipal code to guarantee full and faithful performance of the same. Nothing in this section shall alleviate the duties required of the subdivider as set forth in Section 32.26 and 32.27, nor is this section intended to be in conflict with said sections.

h) General Applicability of this Section. Provisions of this section shall generally be applicable to all presently platted land within the Village to the extent reasonable, practicable and consistent and where not consistent, this section shall apply.

i) Variances. Any subdivision annexed from an adjoining township must comply with all of the provisions of Chapter 32. When in the judgment of the Village board it would inappropriate to apply literally a provision of this chapter, because the subdivision is located outside the corporate limits, or because extraordinary hardship would result, it may waive or vary such provision so that

substantial justice may be done and the public interest secured, provided that in no event shall the requirement of filing and recording the plat be waived.

(5) Inspection of Improvements. All required improvements on the site that are to be installed under the provisions of this Ordinance shall be inspected during the course of construction by the Village Engineer at the subdivider's expense and acceptance shall be subject to the Village Engineer's certificate of compliance with the contract.

(6) Title to Improvements. Title to all required improvements shall be vested in the Village and shall be free and clear of all liens and encumbrances of any kind at no cost to the Village.

### **32.29 DEVELOPMENT AGREEMENT.**

The Village may require and enter into a signed and recordable developer's agreement, even if no rezoning is necessary, if a tract of land is divided. The items the developer's agreement should address, but are not limited to, are the following:

(1) A thorough description of the proposed development, together with relevant phases of the development and a timeline.

(2) The proposed zoning necessary to develop the property consistent with your project plan.

(3) A complete list of the improvements and the financial responsibility for the design, construction, maintenance and replacement of improvements; specifically, streets, sanitary sewer, water distribution, storm sewer, curb and gutter, sidewalks, topsoil and seeding.

(4) Erosion control and landscaping.

(5) Lighting plan, including the street lighting.

(6) Signage.

(7) Pipe culvert standards/materials/sizing.

(8) Completion date for all improvements.

(9) Protocol for approval and transfer of those improvements that will be dedicated to the Village. This includes inspection, review of as-builts, and dedication.

(10) Description of building permits and occupancy permits needed for the project.

(11) Developer indemnification and hold harmless.

(12) Preparation and approval of proposed restrictive covenants applicable to the project.

(13) Financial assurance for the completion of those improvements that have been accepted by the Village, this includes surety bonds or escrows.

(14) Demolition and site clearance, if relevant.

(15) Non-discrimination clause.

(16) A clause confirming that the Village has no obligation or liability for any obligations to any lending institution, contractor or subcontractor, etc.

(17) Deadlines accompanied by the appropriate *force majeure* clause.

(18) Applicable fees.

(19) Developer to reimburse Village for actual costs sustained in the review and approval of engineering plans and legal documents.

(20) The usual miscellaneous legal clauses such as applicable law, severability, entire agreement, non-assignability, amendment, notices, etc.