

5. Location of existing wells, septic tanks, drainfield and designated replacement area.
6. Acreage included in each parcel excluding right-of-way.
7. Setbacks or building lines required by any approving or reviewing agency.
8. All lands being dedicated or reserved for future public acquisition.
9. The location of "Limits of Disturbance" (LOD) lines, development area and/or open space preservation area (if applicable).
10. Drainage and utility easements.
11. Where the CSM is located within a quarter section the corners of which have been relocated, monumented and coordinated, the CSM shall be tied directly to two of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material of the monument marking the relocated section or quarter corner to which the CSM is tied shall be indicated on the CSM. All distances and bearings shall be referenced to the Dunn County Coordinate System.
12. The surveyor shall certify on the face of the CSM that he/she has fully complied all the provisions of this Ordinance.
13. The CSM shall bear a statement indicating whether any portion of the property is designated as a land protection area pursuant to the Comprehensive Land Use Plan and that limitations on actions in or affecting may exist.
14. All CSMs or plats of subdivisions in the Town shall contain a notice which contains the following language:

*You are hereby notified that this subdivision is located within or near property designated by the Town of Elk Mound Land Use Plan as an Agricultural Area. You maybe subject to inconveniences or discomforts arising from agricultural-related operations INCLUDING, BUT NOT LIMITED TO, NOISE, ODORS, INSECTS, FUMES, DUST, SMOKE, THE OPERATION OF MACHINERY, EQUIPMENT AND OTHER MOTORIZED VEHICLES, INCLUDING AIRCRAFT, THE STORAGE AND DISPOSAL OF MANURE, AND THE APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL FERTILIZERS, SOIL AMENDMENTS, HERBICIDES AND PESTICIDES. The Town Board has*

*determined that the use of real property for agricultural operations, particularly in these designated areas, is a high priority and favored use to the Town. Those inconveniences or discomforts arising from agricultural operations, if such operations are consistent with normal farming practices for the region and comply with local, state and federal laws, shall not be considered a nuisance. Where there are conflicts between residential and agricultural-related uses, agricultural uses will be favored.*

15. CSMs or Plats depicting highways that have not been accepted by the Town for maintenance and operation shall have the highways clearly annotated and shall contain the following statement:

*The Town of Elk Mound will not accept maintenance of any town highway shown on this [CSM or Plat] if the highway is not constructed to standards set forth in the Elk Mound Town Highway Ordinance. Lots adjoining or served by a highway that the Town has not accepted for maintenance may be subject to special assessment fee to bring the highway up to Town standards.*

16. Water elevations of adjoining lakes and streams at the date of survey, ordinary high water elevation and designated floodplains, wetlands and navigable waters where located within or adjoining the limits of disturbance lines or allowed development area established for the subdivision.
17. The Plan Commission may require depiction of contours at vertical intervals of not more than two (2') feet where the slope of the ground surface is less than ten (10%) percent, and of not more than five (5') feet where the slope of the ground surface is ten (10%) percent or more to assist in review of the proposed subdivision and related improvements.
18. If the Town Board requires additional information in order to review a CSM pursuant to the requirement of this Ordinance, it shall have the authority to request in writing, such additional information from the subdivider.

**E. Review and Action on Certified Survey Map.**

1. If a CSM, together with all required information, as required in Section 4.2D above, is submitted within six (6) months of the date of approval of the sketch map and substantially conforms to the letter of intent and sketch map as approved, including any conditions of approval, as well as to other local plans and ordinances, and all requirements for subdivision are met, the CSM shall be entitled to final approval. If the CSM is not submitted to the Town within six (6) months of the approval of the sketch map under B.5., or if the CSM is substantially different from the subdivision as preliminarily



approved, the CSM may be rejected and the approval process must be repeated.

2. The Plan Commission shall review the CSM for conformance with the approval or conditional approval of the letter of intent and sketch map, this Ordinance, the Land Use Plan and all other applicable Town laws, ordinances, rules, regulations and plans. The Commission may also review applicable County, State and Federal laws, ordinances, rules, regulations and plans which may affect the minor subdivision. The Commission will recommend approval, conditional approval or rejection of the CSM to the Town Board.

3. The Town Board shall approve, approve conditionally, or reject such Certified Survey Map within ninety (90) days of its date of submittal unless the time is extended by agreement with the applicant. If the CSM is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the applicant. If the CSM is approved or conditionally approved, the Town Board shall cause the Town Clerk to so certify on the face of the original CSM. If the board fails to act within ninety (90) days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the CSM shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the original CSM by the Town Clerk. For purposes of this subsection, the date of submittal of a Certified Survey Map for Town approval shall be the date of the first regularly scheduled or special meeting of the Plan Commission after receipt of the CSM by the Town Clerk. The ninety (90) day period for approval, conditional approval, or rejection by the Town Board under §236.34(1)(f), Wis. Stats., shall commence on that date.

F. **Recordation.** After the CSM has been approved by the Town Board and required improvements have either been installed and inspected and approved by the Town, or a contract and sureties insuring their timely installation has been approved by the Town and filed, the Town Clerk shall cause the certificate inscribed upon the CSM attesting to such approval to be duly executed and the CSM returned to the subdivider for recording with the County Register of Deeds.

Each approved CSM shall be recorded within twenty-four (24) months after its preliminary approval and within six (6) months after the date of its final approval by the Town Board or it shall be deemed void.

G. **Ordinance Procedure.** A subdivider may choose to use a plat to create a minor subdivision, in which event the subdivision shall be processed under Section 4.3.

### 4.3 Major Subdivision

- A. **General.** Subdivisions which create five (5) or more parcels or building sites any one of which are less than forty (40) acres in size by successive divisions from the same mother tract within a period of five (5) years, shall follow the procedures contained in this Section.
- B. **Major Subdivision Application and Submittal.**
1. **Letter of Intent.** The subdivider shall submit a letter of intent to the Town Clerk on a form provided. The minimum contents of the letter of intent are found under Section 4.2A.
  2. **Preliminary Plat.** Accompanying the letter of intent, the subdivider shall submit ten (10) copies of a preliminary plat prepared by a registered land surveyor at a scale of not more than one hundred (100) feet to the inch and shall comply with the requirements of Chapter 236, Wis. Stats. The preliminary plat shall show on its face, in addition to the information required by Chapter 236, Wis. Stats., the information required under Section 4.2A and any additional information required pursuant to the Dunn County Subdivision Regulations.
  3. **Referral to Other Agencies.** If a major subdivision results in a state or county subdivision as defined either in §236.02(12), Wis. Stats., or the Dunn County Subdivision Regulations, the subdivider shall also submit the original drawing of the preliminary plat to the appropriate state plat review agency and Dunn County, in accordance with §236.12(6), Wis. Stats. Such plats shall comply fully with the requirements of Chapter 236, Wis. Stats., and the Dunn County Subdivision Regulations, as well as the requirements of this Ordinance. The subdivider shall provide the Town with verification of submission to required state and county agencies no later than the scheduled meeting when the Plan Commission is to consider the Preliminary Plat.
  4. **List of Adjacent Property Owners.** In order to facilitate public comment, the subdivider shall provide a list of names and mailing addresses of all property owners within one thousand (1,000) feet of the perimeters of the tract proposed to be subdivided to the Town Clerk.
  5. **Additional Information.** The subdivider may be required to submit other information similar to that required pursuant to Section 4.2A.3 above.



**C. Processing of Preliminary Plat Application**

1. The Town Clerk shall accept major subdivision applications and collect payment of applicable fees listed under Section 4.4. The Town Clerk shall notify the subdivider by first class mail of any items deemed missing by the Plan Commission and shall prepare an affidavit of the mailing.
2. The Town Clerk shall, within two (2) business days after filing, transmit copies of the letter of intent and preliminary plat to the Plan Commission. The Plan Commission will review the subdivision application for completeness and notify the Town Clerk of any missing items. For purposes of complying with the time limitations in §236.12, Wis. Stats., for approval or rejection of plats, the date of the first regularly scheduled meeting of the Plan Commission after receipt of the application materials by the Town Clerk shall be deemed to be the date of submittal.
3. The Town Clerk shall send the subdivider and property owners within 1,000 feet of the subject site, a notice and agenda of the scheduled date of both the Plan Commission Meeting and the Town Board Meeting no later than ten (10) days prior to the date of the meetings by first class mail and shall prepare an affidavit of mailing.
4. The subdivider or agent shall attend both the Plan Commission Meeting and Town Board Meeting at which the proposed subdivision is on the agenda and present the letter of intent and preliminary plat for consideration. Failure of the subdivider or agent to attend the meeting constitute reason to recommend denial of the major subdivision application.

**D. Preliminary Plat Approval, Conditional Approval, Rejection.**

1. The Plan Commission shall review the letter of intent, Preliminary Plat and other relevant information for conformance with this Ordinance, the Comprehensive Land Use Plan, and all other Town ordinances, rules, regulations and plans which may affect the plat. The Plan Commission may also review applicable County, State and Federal laws, ordinances, rules, regulations and plans which may affect the plat.
2. The Plan Commission shall, within the established processing timeline, recommend approval, conditional approval or rejection of the Plat, and shall transmit the Plat along with its recommendations to the Town Board, unless the time is extended by agreement with the subdivider.
3. The Town Board shall, within ninety (90) days, after the date of submittal approve, approve conditionally, or reject such preliminary Plat. One (1) copy

of the Plat shall thereupon be returned to the subdivider with the date and action endorsed thereon, and if approved conditionally or rejected, the conditions or reasons for rejection shall be stated in the minutes of the meeting, and a letter setting forth the conditions of approval or the reasons for rejection shall accompany the Plat. One (1) copy of the Plat and letter shall be filed in the Town records. Failure of the Board to act within 90 days, or any approved extension thereof shall constitute approval of the Preliminary Plat.

**E. Review and Action on Final Plat.**

**1. Submittal.** The subdivider shall submit the following:

- a. Ten (10) copies of the Final Plat with the Town Clerk at least fifteen (15) days prior to the meeting of the Board at which action is taken to approve or reject this plat.
- b. If the major subdivision results in a state or county subdivision as defined either in §236.02(12), Wis. Stats., or the Dunn County Subdivision Regulations, respectively, the subdivider shall also submit the original drawing of the final plat to the appropriate state plat review agency and Dunn County, in accordance with §236.12(6), Wis. Stats. Such plats shall comply fully with the requirements of Chapter 236, Wis. Stats., and the Dunn County Subdivision Regulations, as well as the requirements of this Ordinance. The subdivider shall submit verification of submission to required state and county agencies no later than the scheduled meeting before the Board to consider the Final Plat.

**2. Requirements.** The final plat shall be prepared by a registered land surveyor and shall comply with the requirements of Chapter 236, Wis. Stats. The Plat shall show correctly on its face, in addition to the information required by Chapter 236, Wis. Stats., the required contents under Section 4.2D and any additional information required pursuant to the Dunn County Subdivision Regulations.

**3. Final Plat Review and Approval.**

- a. The Final Plat may, with Board permission, consist only of such portion of the approved Preliminary Plat which the subdivider proposes to record at the time.
- b. The Final Plat may be rejected if it is not submitted within twenty-four (24) months of the date of Preliminary Plat approval.



Approval cannot be granted until all formal objections of the objecting agencies are satisfied.

- c. The Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat, any condition of approval of the preliminary plat, this Ordinance, the Comprehensive Land Use Plan and all other Town ordinances, rules, regulations and plans which may affect the plat. The Plan Commission may also review applicable County, State and Federal laws, ordinances, rules, regulations and plans which may affect the plat. The Plan Commission will recommend approval, conditional approval or rejection of the Final Plat to the Town Board.
- d. The Town Board shall, within sixty (60) days of the date of submittal of the Final Plat, approve, conditionally approve or reject the Final Plat. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. If the Plat is approved, the Board shall not inscribe its approval on the face of the original Final Plat until the Town Clerk certifies on the face of the Plat that the copies were forwarded by the subdivider (if applicable) to objecting agencies as required pursuant to Section 4.3B.3 herein, the date thereof and that no objections were filed within twenty (20) days or, if filed, have been met. If the board fails to act within sixty (60) days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the plat shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the original plat by the Town Clerk. For purposes of this subsection, the date of submittal of a Final Plat for Town approval shall be the date of the first regularly scheduled or special meeting of the Plan Commission after receipt of the Final Plat by the Town Clerk. The sixty (60) day period for approval, conditional approval, or rejection by the Town Board under §236.11, Wis. Stats., shall commence on that date.

F. **Recordation.** After the Final Plat has been approved by the Town Board and required improvements have either been installed and inspected and approved by the Town, or a contract and sureties insuring their timely installation have been approved by the Town and filed, the Town Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the County Register of Deeds.

**G. Replats.**

1. Replats of a recorded plat or part thereof shall be accomplished in accordance with a §236.36 Wis Stats. The person wishing to replat, shall proceed as specified in Section 4.3.
2. The Town Clerk shall schedule a public hearing before the Plan Commission when a Preliminary Plat of a replat of land is filed, and shall mail notices of the proposed replat and public hearing to the owners of all properties within the limits of the exterior boundaries of the proposed replat, and to the owners of all properties within two hundred (200') feet of the exterior boundaries of the proposed replat.

**4.4 Fees**

- A. **Application Review Fee.** All minor and major subdivision applications shall be accompanied by an application review fee established by the Board as set forth in the Town Fee Schedule.
- B. **Additional Costs.** The subdivider shall be responsible for reimbursing the Town for engineering, inspection, legal and administrative costs incurred by the Town in reviewing minor and major subdivisions.

**ARTICLE 5 - Minimum Subdivision Standards**

**5.1 Introduction and Intent**

The intent of these conditions and restrictions is to preserve special attributes, to create and preserve an aesthetically pleasing residential neighborhood and to enhance and protect the special living environment of the Town of Elk Mound. In addition, the Town Board seeks through implementation of these standards to protect and preserve the health, welfare and safety of persons who purchase lots in subdivisions or who will reside on or occupy said lots.

**5.2 Standards**

- A. The minimum lot area in the Town of Elk Mound is two and one-half (2 1/2) acres. The minimum lot area may be reduced to no less than one (1) acre in areas of the town designated in the Comprehensive Land Use Plan for agriculture protection subject to a maximum of four (4) such divisions in each 40 acres.
- B. The minimum amount of living space in each home shall be 1,000 square feet, basement excluded, and 800 square feet for each half of duplexes.
- C. The minimum width for single family or duplex homes shall be 24 feet.



- D. The roof pitch for each home shall meet minimum industry standards. No flat roofs will be allowed.
- E. Only newly-constructed homes shall be permitted.
- F. The exterior finish for all homes shall be of a quality equivalent to or better than that of vinyl siding. No home shall be sided with tar paper, plywood, particle board, wafer board, chip board, or similarly impermanent exterior finishes.
- G. Easements for the installation and maintenance of utilities and drainage are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which shall change the direction of flow or drainage channels on the easements which may obstruct or retard the flow of water through drainage channels in the easements.
- H. No flat roof storage sheds shall be permitted.
- I. All private sewage systems as defined at §145.01(12), Wis. Stats., must conform and comply with local and state law.
- J. Within twenty-four (24) months after the completion of each home which has been constructed on a Lot subject to this declaration of conditions and deed restrictions a garage shall be erected on the same Lot as the home.
- K. Each Lot upon which construction has taken place shall, during the following growing season, if not before, be fully landscaped or planted so as to prevent soil erosion and other environmental problems.
- L. All dwellings must have immediate access to storm shelter.
- M. Building setbacks from lot lines and siting lines shall conform to the following standards:
  - 1. Front yard setback of 67 feet from the right-of-way.
  - 2. Side and rear setbacks shall be a minimum of 10 feet from outermost side of all buildings.
  - 3. A 10-foot setback including trees.
  - 4. Decorative fences shall be at least 2 feet from lot line.

### **5.25 Enforcement of Requirements of §5.2: Covenants Against Title**

As a condition of approval of each CSM and plat, each person who creates a subdivision in accord with this ordinance shall record a list of the standards for lot development as set forth in §5.2 as covenants against the title of each lot created thereby.

### **5.3 Violations and Rights of Parties**

If any person violates any of the conditions or restrictions herein provided, it shall be lawful for any party or parties with an interest in a land division affected thereby to institute and prosecute proceedings at law or in equity against the parties violating, either to prevent said violation or recur damages, including but not limited to obtaining a restraining order and/or temporary injunction to immediately stop construction until the provisions herein are complied with.

## **ARTICLE 6 - Conservation Subdivision**

### **6.1 Purpose and Analysis**

The purpose of a conservation subdivision is to preserve resources and to maintain, as much as possible, the rural look and feel of the Town. By applying conservation development bonuses, the minimum lot size in a subdivision can be reduced. This reduced lot size may allow more lots to be created in a given parcel of land while at the same time increase the size of open space. The Town has also found that placing the open space into a homeowners association where all lot owners share ownership makes the lots more desirable. In an effort to promote conservation subdivisions, the Town requires subdividers to perform a normal development yield versus conservation development yield analysis for all major subdivisions.

The normal development yield is the maximum number of lots that could be created based on Articles 1-5 of this ordinance for the property being subdivided. To find the normal development yield, the subdivider shall prepare and submit a sketch map showing a potential layout of the maximum number of lots possible. Land that cannot be developed (e.g. floodplains, wetlands, steep slopes, drainage ways, other laws and/or ordinances) shall be excluded when determining the normal development yield.

The conservation development yield is the maximum number of lots that could be created by applying conservation development standards found under this article. To find the conservation development yield, the subdivider shall prepare and submit a sketch map showing a potential layout of the maximum number of lots possible after applying at least three (3) conservation development bonuses. Land that cannot be developed (e.g. floodplains, wetlands, steep slopes, drainage ways, other laws and/or ordinances) may be considered as open space when determining the conservation development yield.



The subdivider will present the results of the normal development yield versus conservation development yield analysis to the Plan Commission.

## **6.2 Land Suitability**

Lands identified as being environmentally sensitive under this section shall not be included by the subdivider in lots designated for general uses or for building sites. Environmentally sensitive land included in a plat or CSM shall be designated as an outlot and the subdivider shall record against the title to each such outlot a restrictive covenant indicating that it is environmentally sensitive and strictly limiting future use of the same to open space purposes consistent with the nature of the outlot in question. A notation to this effect shall be placed on the face of the plat or CSM before the Town shall consider approval of the same for recording purposes. Restrictive covenants of this type shall be approved of by the Town so as to fulfill the objectives of this section. Areas determined to be environmentally sensitive shall not be included in the Normal Development Yield but may be included as open space when determining the Conservation Development Yield. Areas identified as being environmentally sensitive include, but are not limited to:

- A. All areas mapped as floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources, or any other public or private entity.
- B. All wetlands as defined in NR 103.02(5) of the Wisconsin Administrative Code, including a seventy-five (75) foot buffer.
- C. All areas within seventy-five (75) feet of the ordinary high water mark of navigable streams and lakes, as identified by Wisconsin Department of Natural Resources Management Specialists.
- D. All areas having slopes greater than twenty (20%) percent.
- E. Burial sites and Indian mounds.
- F. Drainage ways that contain running water during spring runoff or during storm events including a twenty-five (25) foot buffer from the edge of the drainage way.
- G. Any specific areas otherwise determined by the Plan Commission to be environmentally sensitive.

## **6.3 Conservation Development Bonuses**

By applying conservation development bonuses identified below, the minimum lot size may be reduced, allowing for the creation of more lots than are permitted under the standards otherwise set forth in this Ordinance.

A. **Conservation Development Bonuses.** Lot sizes may be reduced if the development complies with one or more of the conservation standards listed below. However, in no case will lot size be reduced to less than one acre if individual water and septic systems are improved when applying conservation standards. Developers opting for two or more Conservation Development Bonuses may count the 20% open space requirement. The conservation development yield should be determined by reducing the minimum subdivision lot size in accordance with the following percentages:

1. Shared sewage facilities - 30% reduction.
2. Shared water facilities - 10% reduction.
3. Constructing a trail (i.e., walking path, bicycle path, etc.) through open space - 5% reduction for gravel, 10% reduction for paved.
4. Constructing a park (i.e., playground and/or picnic area) - 10% reduction.
5. Laying out the subdivision so that 70% of the lots border the open space - 10% reduction.
6. Laying out the subdivision so there is a natural buffer (woods, trees, garden, etc.) between the development and any highways so as to preserve the rural look of the community - 20% reduction.
7. Providing for access by the general public to open space - 20% reduction.
8. Constructing a central meetinghouse of suitable size for the development - 10% reduction.
9. Reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin. The U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Properties shall apply - 20% reduction.

*Open space bonuses.* For every 10% of acreage set aside as open space as outlined in paragraph A above lot sizes may be reduced by 20%.

#### 6.4 Performance Standards

A. **General Considerations.** Conservation subdivisions shall identify a conservation theme or themes which shall be identified on the subdivision application. Conservation themes may include, but are not limited to: forest stewardship, water quality preservation, farmland preservation, natural habitat restoration, view shed.



preservation or archaeological and historic properties preservation. The Plan Commission shall have the ability to specify which areas may be preserved.

**B. Residential Lot Requirements.**

1. Existing farmsteads to be preserved shall retain a driveway as part of the preservation of scenic and historic rural character.
2. Lots shall be configured to minimize the amount of road length required for the subdivision.
3. Development envelopes shall be configured to minimize loss of woodlands.
4. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with a thirty (30) foot buffer between agricultural uses and residential structures.
5. Lots within a subdivision shall be situated so that the maximum number of lots abut the common open space. A local street may separate lots from open space.
6. Lots shall be oriented so that the maximum number of lots are oriented toward one or more of the following:
  - a. A central green or square.
  - b. A physical amenity such as a meadow, a stand of trees, or some other natural or restored feature.
7. A thirty-five (35) foot native vegetation buffer shall be maintained around open water areas, unless a specific beach or grassed area is identified.
8. Storm water management "Best Management Practices" (BMPs)
  - a. Minimize the use of curb and gutter and maximize the use of open swales.
  - b. Roof downspouts shall drain to porous surfaces.
  - c. Post development peak discharges during the one hundred (100)-year storm event shall be no greater than the pre-developed peak discharges during the two (2)-year storm event

- d. The development shall capture eighty (80%) percent of the sediment/pollutants from the two (2)-year storm event.
- e. Landscape plantings shall be used to increase infiltration and decrease runoff
- f. Natural open drainage systems shall be preserved.

## 6.5 Residential Cluster Siting Standards

- A. All residential lots and dwellings shall be grouped into clusters.
- B. Residential clusters shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
- C. Residential clusters shall avoid encroaching on rare plant communities, high quality sites or endangered species identified by the Wisconsin Department of Natural Resources.
- D. Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and local and regional recreational trails.
- E. Residential clusters shall be sited to achieve the following goals, to the extent practicable.
  - 1. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
  - 2. Minimize disturbance to woodlands, wetlands, grasslands and mature trees.
  - 3. Prevent downstream impacts due to runoff through adequate onsite storm water management practices.
  - 4. Protect scenic views of open land from adjacent roads.
  - 5. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
- F. Landscaping around the cluster may be necessary to reduce or minimize offsite views of residences.



## 6.6 Open Space Design

- A. **Common Open Space.** The minimum open space required shall be owned and maintained under one of the alternatives listed in section 6.8, as approved by the Town Board. The uses within the open space shall be accessible to the residents of the development. The uses may also be available to the general public at the discretion of the Supervisor and with approval of the Public Authority to which such a dedication is proposed to be made. The required open space shall be undivided and restricted in perpetuity from future development.
- B. Open space shall be designated as part of the development. The minimum required open space is twenty (20%) percent of the gross acreage.
- C. **Open Space Conservation Ranking (in order of significance).** The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enhance the natural features of each particular site.
  - 1. First priority will be given to intact natural communities, habitat and areas for rare and endangered species, environmental corridors and natural and restored prairies, significant historic and archaeological properties, prime or productive farmland and slopes greater than twelve (12%) percent.
  - 2. Second priority will be given to areas providing some plant and wildlife habitat and slopes greater than twelve (12%) percent.
  - 3. Third priority will be given to areas providing little to no habitat but providing view shed, recreation or open space.
- D. The following areas or structures may be located within the open space area and shall be counted toward the overall open space percentage required.
  - 1. Parking areas for access to the open space developed at a scale limited to the potential users of the open space.
  - 2. Privately held buildings or structures provided they are accessory to the use of the open space.
  - 3. Shared septic systems and shared potable water systems.
- E. Road rights-of-way shall not be counted toward the required minimum open space.
  - 1. No more than fifty (50%) percent of the required open space may consist of water bodies, ponds, floodplain or wetlands.

2. The portion of open space designated to provide plant and/or animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
3. The areas of the open space designed for recreational uses such as trails, play fields or community gardens shall be designed in a manner that avoids damaging historic or archaeological sites.
4. A pathway system shall be included to connect existing or potential open space lands on adjoining parcels and shall connect these areas to neighborhood streets and to planned or developed trails.

#### 6.7 Sewage and Water Facilities

- A. **Water Facilities.** Water for subdivisions shall be provided by individual on site wells or by one or more community wells meeting the permit requirements of the State of Wisconsin and Dunn County. The use of shared or community wells are encouraged. Plans for shared or community wells shall include a wellhead protection plan with a separation distance for the zone of influence and sources of pollution. Such plans shall be submitted as part of the final construction plans.
- B. **Sewage Facilities.** All subdivisions shall be provided with adequate sewage treatment facilities meeting the standards of Dunn County and the permit requirements of the Wisconsin Department of Commerce and the Department of Natural Resources. Where sewage treatment is not provided by a publicly owned wastewater treatment works, a common sewage treatment and disposal unit located on the common open space is encouraged. Such plans shall be submitted as part of the final construction plans.
- C. **Financial Guarantee.** A financial guarantee ensuring the construction and completion of the common facilities identified in section 6.3 shall be submitted to the Town of Elk Mound.

#### 6.8 Ownership/Maintenance of Open Space and Common Facilities

The designated open space and common facilities shall be owned and managed by one or more of the following combinations.

- A. **Homeowner's Association.** If the common open space is proposed to be owned by a homeowner's association, the instrument shall indicate that membership in the association is mandatory for all purchasers of homes in the development and their successors. It shall also indicate the homeowners' association bylaws, guaranteeing continuing maintenance of the open space and other common facilities and the declaration of covenants, conditions and restrictions of the homeowner's association.



Such instrument shall be submitted for approval to the Plan Commission as part of the information required for the preliminary map or plat. The homeowners, association bylaws or the declaration of covenants, conditions and restrictions of the homeowners association. Such instrument shall be submitted for approval to the Plan Commission as part of the information required for the preliminary map or plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions shall contain the following information:

1. The legal description of the common land;
2. A description of common facilities;
3. The restrictions placed upon the use and enjoyment of the lands or facilities;
4. Persons or entities entitled to enforce the restrictions;
5. A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses. A mechanism to assess real estate taxes and insurance premiums;
6. A mechanism for resolving dispute among the owners or association members;
7. The conditions and timing of the transfer of ownership and control of land or facilities to the association
8. Any other covenants, restrictions and conditions the developer deems appropriate.

**B. Condominium Associations.** If the common open space and facilities are to be held under the Condominium Ownership Act, Chapter 703 Wis. Stats., the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the common open space. A ll common open space shall be held as a "common element" as defined in §703.01(2) Wis. Stats. Such instrument shall be submitted for approval to the Plan Commission as part of the information required for the preliminary map or plat.

**C. Public Dedication of Open Space and Streets.** The Town Board may accept the dedication of fee title or dedication of a conservation easement to the common open space. Such instrument shall be submitted for approval to the Plan Commission as part of the information required for the preliminary map or plat. The Town Board may accept the common open space provided.

1. The common open space is accessible to the residents of the Town.
2. The Town agrees to and has access to maintain the common open space.

3. Streets or other public ways which have been designated on a duly adopted official map or element of the Town comprehensive plan shall be dedicated or reserved by the subdivider to the Town. The street or public way shall be made a part of the map in the locations and dimensions indicated in the comprehensive plan (when adopted) and as set forth in this ordinance.

Section Two: This ordinance shall take effect upon its adoption and posting as required by law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**TOWN OF ELK MOUND**

By: \_\_\_\_\_

By: \_\_\_\_\_