

ORDINANCE # 3-2022
CONDOMINIUM DEVELOPMENT ORDINANCE

AN ORDINANCE TO REGULATE THE DEVELOPMENT OF CONDOMINIUMS WITHIN
THE TOWN OF HOLLAND

For the purposes of this Ordinance, a Condominium Agreement shall be created for a condominium within the Town of Holland. Common open space shall be controlled through the use of a condominium agreement. Such agreements shall be approved by the Town and shall comply with the requirements of Chapter 703 of the Wisconsin Statutes. All common open space and other common facilities shall be held as “common elements” by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. A condominium association shall be formed to govern the affairs of the condominium and membership shall be mandatory.

The Town Board of the Town of Holland, La Crosse County, Wisconsin, does ordain as follows:

SECTION 1.0 INTRODUCTION

1.01 Authority

These regulations are adopted under the authority granted by Chapter 236 of the Wisconsin Statutes. Therefore, the Town Board of the Town of Holland does ordain as follows:

1.02 Purpose

The purpose of this Ordinance is to regulate condominium development within the Town of Holland to promote the public health, safety, prosperity, aesthetics and general welfare of the community. The regulations are made with the reasonable consideration of, but not limited to, the present character of the Town and its environs, with the objectives of conserving the value of the land and improvements placed thereon, providing the most appropriate environment for human habitation, encouraging commerce and industry, protecting farming and open spaces, and providing for the most appropriate use of land in the Town.

1.03 Intent

It is the general intent of this Ordinance to regulate condominium development so as to lessen congestion in the streets and highways; to further the orderly layout and appropriate use of land to secure safety from fire, panic, flooding and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewage, schools, parks, playgrounds, and other public requirements; to minimize flood damage to public and private property; to provide for the administration and enforcement of this Ordinance; to provide penalties for its violation and in general to facilitate enforcement of community development standards as set forth in the comprehensive plan, comprehensive plan components, zoning ordinance, building codes, and official maps in force in the Town of Holland.

1.04 Goal

It is the overall goal of this Ordinance to promote and encourage environmentally responsible development to assist in preserving the rural character, natural resource areas, farmland and other large areas of open land, while still permitting condominium development.

1.05 Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules,

regulations, or permits previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

1.06 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.07 Severability

If any section, clause, 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.

1.08 Repeal

All other ordinances or parts of ordinances of the Town of Holland inconsistent or conflicting with this Ordinance, to the extent of inconsistency only, are hereby repealed.

1.09 Title

This Ordinance shall be known as, referred to, or cited as the Town of Holland Condominium Development Ordinance.

1.10 Definitions

(A) BOARD: The Town Board of the Town of Holland.

(B) CLERK: The Town of Holland Clerk.

(C) COMMON ELEMENTS: All of a condominium except its units, including but not limited to driveways, parking areas, open space, walkways, recreational facilities, hallways, laundry rooms, etc. By definition, a development must have common elements to qualify as a condominium.

(D) CONDOMINIUM: A form of ownership whereby a person has both separate ownership of a portion (unit) within the development, and also an interest in the common areas of the development shared with other owners.

(E) CONDOMINIUM AGREEMENT: A condominium instrument that controls common elements held by unit owners.

(F) CONDOMINIUM DECLARATION: The Condominium Instrument by which a property becomes subject to the provisions of Chapter 703, Wisconsin Statutes, and that instrument as amended from time to time.

(G) CONDOMINIUM INSTRUMENT(S): Recorded documents relating to the creation and the subsequent modification of the Condominium, including the declaration; plats and plans of a condominium together with any attached exhibits or schedules; and addendums and amendments.

(H) EXPANDABLE CONDOMINIUM: A condominium to which additional property or units or both may be added in accordance with the provisions of a declaration and Chapter 703, Wisconsin Statutes.

(I) FULL CUTOFF FIXTURES: Outdoor light fixtures that emit no light above the horizontal plane and are used to illuminate a street or highway.

(J) FULLY-SHIELDED LIGHTS: Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

(K) LIMITED COMMON ELEMENTS: Common element(s) identified in a declaration or on a condominium plat as reserved for the exclusive use of one or more but less than all of the unit owners. For example, a parking area serving only the unit owners in a specific building is a limited common element.

(L) PLAN COMMISSION: The Town of Holland Plan Commission.

- (M) PLAT: A map of a condominium development in conformity to the requirements of Wisconsin Statute, Chapter 236.
- (N) PRELIMINARY PLAT: A map showing the salient features of a proposed condominium development, submitted to the Town for purposes of preliminary consideration, prior to all final plats.
- (O) RECORD: To record and file the final plat with the Register of Deeds.
- (P) TOWN: Town of Holland, La Crosse County, Wisconsin.
- (Q) UNITS: The portion(s) of a condominium intended for any type of independent ownership and use, including one or more cubicles of air at one or more levels of space, 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. For example, a dwelling area and a parking space may comprise a single unit. A development must have units to qualify as a condominium.

SECTION 2.0 GENERAL PROVISIONS

2.01 Jurisdiction

Jurisdiction of these regulations shall include all lands within the Town of Holland.

2.02 Waiver of Requirements

In any particular case where the developer can show that, by reason of exceptional topographic or other physical conditions, strict compliance with any requirement of this Ordinance would cause practical difficulty or exceptional and undue hardship, the Town Board may relax such difficulty or hardship, provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of this Ordinance or the desirable general development of the Town. A majority vote of the entire membership of the Town Board is required to grant any modification to these regulations.

2.03 Land Suitability

No condominium shall be developed on land that is held unsuitable by this Ordinance or by the Town Board for reason of flooding, inadequate drainage, adverse soil and rock formations with severe limitations for development, incompatible surrounding land use, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed condominium or of the community. The Town Board in applying the provisions of this Ordinance shall in writing cite the particular facts upon which it bases its conclusions that the land is not suitable for the proposed use and afford the developer an opportunity to present evidence regarding such suitability at a public hearing. Thereafter, the Town Board may affirm, modify, or withdraw its determination of unsuitability. Determinations under this subsection may be stricter than provision of the County Zoning Ordinance.

2.04 Penalties

Any person who violates, disobeys or refuses to comply with or who resists the enforcement of any provisions of this Ordinance shall upon conviction be required to forfeit not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00) per offense, together with costs of prosecution. Each day of violation shall constitute a separate offense. In addition, the Town may seek injunctive relief from a court of competent jurisdiction, along with any other civil or criminal remedies available at law. Failure to prosecute any violation or seek a particular relief shall not act as a bar to subsequent actions by the Town.

In addition to such penalties, the Town Building Inspector shall not issue a building permit for construction on any premises that do not comply with this Ordinance. The Town Board may further order an Assessor's Plat to be made pursuant to the Wisconsin Statutes at the expense of the developer or his agent when a condominium is developed in violation of this Ordinance; and the Town Board may refuse to participate directly or indirectly in any road, street, or alley development or maintenance in such area until the violation is corrected or cured.

2.05 Appeals

Any person aggrieved by an objection to a Condominium plat or failure to approve a plat may appeal therefrom as provided in Wisconsin Statutes.

2.06 Fees

All fees are set by Town resolution. Refer to fee schedule as published annually.

(A) Preliminary Plat Review Fee

The developer shall pay to the Town Clerk a fee for each unit within the Preliminary Plat at the time of first application for approval of said plat to assist in defraying the cost of review.

(B) Final plat Fee

The developer shall pay to the Town Clerk a fee for each unit within the Final Plat at the time of first application for approval of said plat to assist in defraying the cost of review.

(C) Engineering Fee

The developer shall pay to the Town Clerk all engineering fees equal to the actual cost to review the preliminary and/or final plat before final approval of said plat.

(D) Transportation Study Fee

The developer may be required to pay fees associated with transportation studies (traffic volume, safety, etc.) initiated by the Town. If the studies recommend upgrades to existing roadways, it will be the responsibility of the subdivider to pay all associated costs.

(E) Miscellaneous Fees

The Town may require the developer to pay to the Town Clerk fees equal to the actual cost of any administrative, legal, or fiscal work that may be undertaken by the Town in connection with the plat.

SECTION 3.0 PROCEDURE

3.01 Preliminary Plat Review

(A) Before submitting a Final Plat for approval, the developer shall prepare a Preliminary Plat as defined and in accordance with this Ordinance. The subdivider shall file a letter of application and two (2) 24"x36" copies and twelve (12) 11"x17" copies of the Preliminary Plat with the Town Clerk. These documents shall be filed at least fifteen (15) days prior to the date of the Plan Commission meeting, at which the request for approval is to be considered. The Town Clerk may distribute copies of the Preliminary Plat to those objecting and approving agencies, if deemed appropriate or as required under the Wisconsin Statutes, and to other agencies and organizations of whom the Town Board requests plat review.

(B) The Clerk shall forward seven copies of the preliminary plat to the Plan Commission and one copy to the Town engineer.

(C) No change by an applicant can be made once a preliminary plat has been submitted unless a re-plat fee has been paid (see fee schedule). A re-plat will cause a postponement of consideration until the next meeting.

3.02 Preliminary Plat Approval

- (A) If objecting/approving agencies have been notified, they shall, within 20 days of the date of receiving their copies of the Preliminary Plat, notify the developer and all other approving and objecting agencies of any objections based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover. If there are no objections, they shall so certify on the face of a copy of the plat and shall return that copy to the Town.
- (B) The Town Plan Commission shall review the plat for conformance with this Ordinance and all other ordinances, rules, regulations and adopted comprehensive plans or adopted plan components which affect the plat and shall make a recommendation to the Town Board.
- (C) The Town Board, within 90 days of the date of filing of the Preliminary Plat with the Town Clerk, shall approve, approve conditionally, or reject such plat unless the time is extended by agreement with the developer. One copy of the plat shall thereupon be returned to the developer with the date and action thereon; and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat.
- (D) Failure of the Town Board to act within 90 days of the filing date shall constitute an approval as provided in Chapter 236 of the Wisconsin Statutes.
- (E) Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within twelve (12) months of the approval of the Preliminary Plat and conforms substantially to the Preliminary Plat layout as indicated in Chapter 236 of the Wisconsin Statutes, the Final Plat shall be entitled to approval with respect to such layout.
- (F) Plats that have received preliminary approval but have not completed the installation of infrastructure within thirty-six (36) months of that preliminary approval shall be required to resubmit a new preliminary plat and fees.

3.03 Final Plat Review

- (A) The subdivider shall prepare a Final Plat as defined and in accordance with this Ordinance and shall file three (3) 24"x36" copies and twelve (12) 11"x17" copies of the Final Plat and a letter of application to the Town Clerk. These documents shall be filed at least fifteen (15) days prior to the date of the Plan Commission meeting at which the request for approval is to be considered. One copy of the Final Plat shall be placed on mylar or such other suitable material as the Town Board may from time to time determine.
- (B) The Town Clerk or developer shall, within five (5) business days after filing, transmit copies of the plat to the agencies that are required to review the plat under Chapter 236, Wisconsin Statutes.
- (C) The Clerk shall forward seven copies of the final plat to the Plan Commission and one copy to the Town engineer.

3.04 Final Plat Approval

- (A) The objecting/approving agencies shall, within 20 days of the date of receiving their copies of the plat, notify the developer and all other approving and objecting agencies of any objections based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover. If there are no objections, they shall so certify on the face of a copy of the plat and shall return that copy to the Town. The plat shall not be approved or deemed approved until any objections have been

satisfied. If an objecting agency fails to act within 20 days, it shall be deemed to have no objections to the plat.

- (B) The Town Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat; any conditions of approval of the Preliminary Plat; this Ordinance and all ordinances, rules, regulations and adopted comprehensive plans or adopted plan components that may affect the plat and shall make a recommendation to the Town Board.
- (C) Town Board shall, within 60 days of the date of filing of the Final Plat, approve, approve conditionally, or reject the plat unless the time is extended by agreement with the developer. 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 developer. If the plat is approved, the Town Board shall not inscribe its approval on the face of the original Final Plat until the Town Clerk certifies on the face of the original Final Plat that copies were forwarded as required by this Ordinance, the date thereof, and that no objections have been filed within 20 days, or if filed, have been satisfied.
- (D) Failure of the Town Board to act within 60 days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved as provided in Chapter 236 of the Wisconsin Statutes.

3.05 Recordation

The developer shall record the plat with the County Register of Deeds within thirty (30) days of its approval by the Town Board, or its approval is voided.

SECTION 4.0 PRELIMINARY PLAT

4.01 General

A Preliminary Plat shall be required for all condominium developments and shall be based upon a survey by a registered land surveyor and the plat prepared on reproducible material at a scale of not more than 100 feet to the inch and shall show correctly on its face the following information:

- (A) Title under which the proposed plat is to be recorded.
- (B) Location of proposed condominiums by: government lot, quarter section, township, range, county, state, and relative location to a nearby community.
- (C) Date, scale and north point.
- (D) Names and addresses of the owner, developer, and land surveyor preparing the plat.
- (E) Condominium documents, association documents and by-laws, restrictive covenants, and any building restrictions including financial information relating to the condominium association.

4.02 Plat Data

All Preliminary Plats shall show the following:

- (A) Approximate length and bearing of the exterior boundaries of the proposed condominium development referenced to a corner established in the U. S. Public Land Survey and the total acreage encompassed thereby.
- (B) The locations, names, and widths of all existing streets, alleys, easements and rights-of-way and the location of all property lines, section lines, and quarter section lines within the proposed plat or within two hundred (200) feet thereof.
- (C) The location, arrangement, and width of proposed streets, alleys, and easements and the location of proposed building sites, along with proposed drainage structures and driveway locations.

- (D) The percentage of slope shall be shown and delineated. Slopes of 10% to 20%, 20% to 30%, and greater than 30% shall be indicated. No land within the Town of Holland boundaries may be disturbed if the slope is greater than 20%.
- (E) Ground elevations and contours: For lands that slope less than two percent (2%) show spot elevations at all breaks in grade, along all drainage channels or swales, and at selected points not more than one hundred (100) feet apart in all directions. For lands that slope more than approximately 2 percent (2%) show contours with an interval of not more than five (5) feet where ground slope is regular and such information is sufficient for planning purposes, or show contours with an interval of not more than two (2) feet where necessary because of irregular land or need for more detailed data.
- (F) Approximate boundaries of areas subject to flood or storm water overflow, areas covered by water, and wooded areas.

4.03 Subdivision Grading Plan

The Town Plan Commission may require cross sections and a grading plan for the areas that are at a lower elevation than the established street grade directly opposite the proposed building site; the intent being to establish adequate drainage from the building area to the roadway.

4.04 Storm Water Management

A stormwater permit shall be required and all stormwater provisions of the La Crosse County Stormwater Ordinance shall apply to all proposed development activity on lands within the boundaries and jurisdiction of La Crosse County.

4.05 Utilities

The surveyor may show either on the Preliminary Plat or in a letter accompanying the plat the nature of the proposed utilities that will be included in the plat, and in which manner the utilities are to be installed, including sanitary sewers, storm sewers, water systems, natural gas mains, and electrical and telephone/broadband transmission lines.

4.06 Affidavit

The surveyor preparing the Preliminary Plat shall certify on the face of the plat that the provisions of this Ordinance have been fully complied with.

SECTION 5.0 FINAL PLAT

5.01 General

A Final Plat prepared by a registered land surveyor shall be required for all condominium developments. It shall comply in all respects with the requirements of Chapter 236 of the Wisconsin Statutes and shall be submitted to the Town Board within ninety (90) days following the preliminary plat approval. The Town Board of the Town of Holland shall approve or reject the final plat within thirty (30) days of receipt from the developer.

5.02 Additional Information

The Final Plat shall show correctly on its face, in addition to the information required by Chapter 236 of the Wisconsin Statutes, the following:

- (A) Setbacks or building lines where deemed necessary by the Town.
- (B) All lands set aside as drainage easements.
- (C) Special restrictions required by any approving or objecting agency relating to access control along public ways or to the provisions of planting strips.
- (D) Maximum Land Disturbance Areas shall be noted in narrative on the final plat.

5.03 Public Improvements/Surety Bonds

The Town Board shall require the developer to make and install any additional public improvements reasonably necessary (see 6.04 Public Interest Improvements), and execute

a surety bond to ensure that the developer shall make the improvements within a reasonable time, as a prerequisite to approval of the plat.

Prior to the approval of the final plat, a surety bonds shall be in place in the amount of one hundred twenty-five percent (125%) of the cost to complete the project. The bond shall be part of a developer's agreement.

5.04 Surveying and Monumenting

A Final Plat shall meet all the surveying and monumenting requirements of Section 236.15 of the Wisconsin Statutes.

5.05 Certificates

A Final Plat shall provide all the certificates required by Section 236.21, Wisconsin Statutes; and, in addition, the surveyor shall certify that all the provisions of this Ordinance have been fully complied with.

SECTION 6.0 DESIGN STANDARDS

6.01 General

- (A) The Town Board shall not allow the platting of lands deemed unsuitable because of topography.
- (B) The Town Board may approve variation from these regulations in specific cases that do not affect the general plan or spirit of the Ordinance. Any such variation shall be recorded in writing with the Town Clerk with the reasons for the variation.
- (C) Once a plat has been approved, there shall be no splitting or parceling of platted land for the purpose of establishing one or more additional building sites within the plat beyond the number approved in the original plat.
- (D) Prior to the start of any construction on a proposed plat, the preliminary plat as well as a developer's agreement shall be approved by the Town Board. This agreement shall outline the responsibilities of the developer, the development time frame, and any other provisions outlined by the Town Board.
- (E) The plat shall follow the concepts and guidelines established by the Town's Comprehensive Plan. Both the Town Board and the Plan Commission shall review the plat for these concepts.

6.02 Streets

- (A) Streets shall be developed and located in proper relation to existing and proposed streets, with due regard to topographical conditions, natural features, utilities, land uses, and public convenience and safety. Construction detail of all streets shall at a minimum follow the design standards for town roads as established by Wisconsin Statutes.
- (B) Streets shall have at minimum twelve (12) inches of compacted rock as a base and 3 inches of compacted asphalt installed in two equal lifts.
- (C) The developer shall install and pay for street lamps at intersections of all streets that feed onto County or State roads or at other intersection as the Town Board determines necessary or desirable. Such lamps shall be fully-shielded or full cutoff fixtures and shall use LED or more advanced and efficient technology.

6.03 Green Space Fees

The developer shall pay a fee for public use purposes, other than roads. The fee shall be per unit (refer to fee schedule published annually) and shall be paid before the final plat is approved. The Town Board may increase or decrease the amount of the fee charged, depending upon circumstances.

6.04 Public Interest Improvements

Approval of the condominium plat is conditioned upon the developer undertaking such other actions as required by the Town Board that are in the public interest, such as, but not limited to:

- (A) Improvements to roads and alleyways that service the condominium even if such road and alleyways are not located on the condominium plat.
- (B) Dedication of lands to the Town of Holland that are necessary to make improvements, such as roads deemed necessary to serve the condominium.

6.05 Condominium Density

No condominium plat shall be created that does not meet the density requirements of this Ordinance.

- (A) Maximum density: the average density of land use shall be no greater than one (1) condominium unit per every twelve thousand (12,000) square feet of land.
- (B) No structure shall contain more than two (2) units.
- (C) The Town Board may increase the minimum square footage amount when considering the following criteria, in addition to any other criteria the Town Board believes to be in the public's best interest:
 - (1) topography of the proposed condominium plat;
 - (2) public road access to the proposed condominium plat;
 - (3) actual, anticipated, and potential use of adjacent lands;
 - (4) current and anticipated traffic patterns on all roads that serve the proposed condominium plat.

SECTION 7.0 CONFLICTING ORDINANCES

The provisions of this Ordinance shall prevail over any previous ordinances of the Town of Holland.

SECTION 8.0 EFFECTIVE DATE

This Ordinance shall take effect the day after passage and publication. Dated this 14th day of September, 2022.

By: Robert Stupi, Town Chairman

Attest: Marilyn Pedretti, Town Clerk

Published: 9/23/22