

TITLE 14

SUBDIVISION AND LAND DIVISION CODE

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SEC. 14-1-1 ADOPTION; INTRODUCTION

a) **Introduction and Purpose.**

- 1) **Introduction.** In accordance with the authority granted by Sec. 236.45 of the Wisconsin Statutes and for the purposes listed in Sections 236.01 and 236.45 of the Wisconsin Statutes:
 - a. The provisions of this Subdivision Code shall be held to be minimum requirements adopted to promote the health, safety, comfort, prosperity and general welfare of the Town.
 - b. This Subdivision Code shall not repeal, impair or modify private covenants or public ordinances or codes, except that it shall apply whenever it imposes stricter restrictions on land use.
- 2) **Purpose.** The purpose of this Subdivision Code is to promote the public health, safety, convenience and general welfare of the community. The regulations are designed to foster the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to discourage overcrowding of the land; to protect the community's agriculture base; to facilitate adequate provision for transportation, public water and sewerage, schools, parks, playgrounds and other public necessities; and to facilitate the further division of large tracts of land into smaller parcels. 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.
- b) **Abrogation and Greater Restrictions.** This Subdivision Code is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this Code imposes greater restrictions, the provisions herein shall govern.
- c) **Interpretation.** In their interpretation and application, the provisions of this Subdivision Code 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.
- d) **Severability.** If any provision of this Subdivision Code is invalid or unconstitutional, or if the application of this Code to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Code which can be given effect without the invalid or unconstitutional provision or application.
- e) **Repeal.** All other ordinances, codes or parts of ordinances or codes of the Town inconsistent or conflicting with this Subdivision Code, to the extent of the inconsistency only, are hereby repealed.
- f) **Title.** This Chapter shall be known as, referred to, or cited as the "Town of Fond du Lac Subdivision and Land Division Code."

SEC. 14-1-2 DEFINITIONS

- a) The following definitions shall be applicable in this Subdivision Code:

- 1) Alley. A public right-of-way which normally affords a secondary means of vehicular access to abutting property.
- 2) Arterial Street. A street which provides for the movement of relatively heavy traffic to, from or within the Town. It has a secondary function of providing access to abutting land.
- 3) Block. An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or water bodies.
- 4) Collector Street. A street which collects and distributes internal traffic within an urban area such as a residential neighborhood, between arterial and local streets. It provides access to abutting property.
- 5) Commission. The Plan Commission created by the Town Board pursuant to Sec. 62.23 of the Wisconsin Statutes.
- 6) Comprehensive Development Plan. A comprehensive plan prepared by the Town indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the Town and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.
- 7) Cul-de-sac. A short street having but one (1) end open to traffic and the other end being permanently terminated in a vehicular turnaround. No cul-de-sacs over 500 feet long are permitted in the Town.
- 8) Division of Land. The creation of one or more parcels or building sites, or where the title to a parcel or any part thereof is transferred by the execution of a land contract, an option to purchase, an offer to purchase and acceptance, a deed, or a certified survey.
- 9) Easement. The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.
- 10) Extraterritorial Plat Approval Jurisdiction. The unincorporated area within one and one-half (1-1/2) miles of a fourth-class city or a village and within three (3) miles of all other cities.
- 11) Final Plat. The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the Town for approval and which, if approved, will be submitted to the County Register of Deeds.
- 12) Frontage Street. A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.
- 13) Improvement, Public. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.
- 14) Local Street. A street of little or no continuity designed to provide access to abutting property and leading into collector streets.

- 15) Lot. A parcel of land 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 Subdivision Code and any applicable zoning code.
- 16) Lot, Area. The area contained within the exterior boundaries of a lot excluding streets, and land under navigable bodies of water.
- 17) Lot, Corner. A lot abutting intersecting streets at their intersection.
- 18) Lot, Reversed Corner. A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.
- 19) Lot, Through. A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a “through lot,” both street lines shall be deemed front lot lines.
- 20) Lot Lines. The peripheral boundaries of a lot as defined herein.
- 21) Lot Width. The width of a parcel of land measured along the front building line.
- 22) Major Thoroughfare. A street used or intended to be used primarily for fast or heavy through traffic. Major thoroughfares shall include freeways, expressways and other highways and parkways, as well as arterial streets.
- 23) Minor Street. A street used, or intended to be used, primarily for access to abutting properties; also referred to as a “local street.”
- 24) Minor Subdivision. The division of land by the owner or subdivider resulting in the creation of not more than four (4) parcels or building sites. The Town Plan Commission shall review any proposed subdivision creating three (3) or more parcels.
- 25) Owner. Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these.
- 26) Pedestrian Pathway. A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.
- 27) Plat. The map, drawing or chart on which the subdivider’s plat of subdivision is presented to the Town for approval.
- 28) Preliminary Plat. The Preliminary Plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Plan Commission prior to submittal to the Town Board for its consideration as to compliance with the Comprehensive Plan (when adopted) and these regulations along with required supporting data. Submittal of a concept plan for review prior to preparation and submittal of a Preliminary Plat is encouraged.
- 29) Protective Covenants. Contracts entered into between private parties or between private parties and public bodies pursuant to Sec. 236.293, Wis. Stats., which constitute a restriction on the use of all private or platted property within a subdivision for the benefit of the public or property owners and to provide mutual protection against undesirable

aspects of development which would tend to impair stability of property values. Protective covenants are sometimes referred to as "restrictive covenants." Protective covenants or restrictive covenants shall be recorded with the Register of Deeds

- 30) Replat. The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat 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.
- 31) Shorelands. Those lands within the following distances: one thousand (1,000) feet from the high-water elevation of navigable lakes, ponds and flowages or three hundred (300) feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
- 32) Subdivider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision or replat.
- 33) Subdivision. The division of a lot, outlot, parcel, or tract of land by the owner thereof or his agent for the purpose of transfer of ownership or building development where the act of division creates three (3) or more parcels or building sites of thirty-five (35) acres or less in area, or where the act of division creates three (3) or more parcels or building sites by successive division within a period of five (5) years, whether done by the original owner or a successor owner.
- 34) Town. The Town of Fond du Lac, Fond du Lac County, Wisconsin.
- 35) Wetlands. An area 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.
- 36) Wisconsin Administrative Code. The rules of administrative agencies having rule-making authority in Wisconsin, published in a looseleaf, continual revision system, as directed by Sec. 35.93 and Chapter 227 of the Wisconsin Statutes, including subsequent amendments to those rules.

SEC. 14-1-3 GENERAL PROVISIONS

a) General Provisions.

- 1) Compliance. No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, land division or a replat as defined herein; no such subdivision, land division or replat shall be entitled to record; and no Street shall be laid out or improvements made to land without compliance with all requirements of this Subdivision Code and the following:
 - a. The provisions of Ch. 236 and Sec. 882.18, Wis. Stats.
 - b. The rules of the Division of Health, Wisconsin Department of Commerce, contained in Wis. Adm. Code Chapter Comm 85 for subdivisions not served by public sewer.
 - c. The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code Chapter Trans 233 for subdivisions which abut a state trunk highway or connecting Street.

- d. The rules of the Wisconsin Department of Natural Resources contained in the Wis. Adm. Code for Floodplain Management Program.
 - e. Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Town Board.
 - f. All applicable Town and county regulations, including zoning, sanitary, building, water, official mapping and sanitary district ordinances and codes in effect when the subdivider submits its Preliminary Plat.
 - g. The Town Master Plan, or components thereof, and applicable ordinances of any city or village whose extraterritorial jurisdiction extends into the Town in effect when the subdivider submits its Preliminary Plat.
 - h. Applicable provisions of the Town Zoning Code in effect when the subdivider submits its Preliminary Plat.
 - i. All applicable rules contained in the Wisconsin Administrative Code not listed in this Subsection.
 - j. The provisions of all intergovernmental agreements to which the Town is a party.
- 2) Jurisdiction. These regulations apply to all lands within the corporate limits of the Town of Fond du Lac. The provisions of this Subdivision Code, as they apply to divisions of tracts of land into less than three (3) parcels, shall not apply to:
- a. Transfers of interests in land by will or pursuant to court order;
 - b. Leases for a term not to exceed ten (10) years, mortgages or easements;
 - c. The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this Subdivision Code or other applicable laws, codes or ordinances.
- 3) Certified Survey. Any division of land other than a subdivision as defined in Sec. 236.02(12), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in Sec. 236.34, Wis. Stats.
- 4) Building Permits. The Town shall not issue any building permit relating to any parcel of land forming all or any part of lands included in a subdivision, land division, replat or certified survey originally submitted to the Town on or after the effective date of the Subdivision Ordinance that was the predecessor to this Code until the applicant has complied with all of the provisions and requirements of this Code.
- 5) Applicability to Condominiums. This Subdivision Code is expressly applicable to condominium developments within the Town's jurisdiction, pursuant to Section 703.27(1), Wis. Stats. For purposes of this Code, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of subdivision.
- 6) Noise & Aviation Easement & Non-Suit Covenant Requirement. All residential land divisions, whether by certified survey map or plat, shall contain the following restrictive

covenants, which shall be recorded with the Register of Deeds, Fond du Lac County, Wisconsin, and which shall run with the land and be binding upon the successors and assigns of the relevant owners:

- a. This parcel of land is near the Fond du Lac County Airport and is within the County's "Height Limitation Zoning Map" as amended from time to time. The Purchaser is hereby advised that the subject property is located in a noise-impacted area; that these present and future noise impacts might be annoying to users of the land for its stated purpose and might interfere with the unrestricted use and enjoyment of the property in its intended use; that these noise impacts might change over time by virtue of greater numbers of aircraft, louder aircraft, seasonable variations, and time-of-day variances; that changes in airport, aircraft, and air traffic control operating procedures or in airport layout could result in increased noise impact; and that the Purchaser's and user's own personal perceptions of the noise exposure could change and that his or her sensitivity to aircraft noise could increase.
- b. Purchaser does hereby grant and convey to Fond du Lac County its successors and assigns, a continuing right to keep the airspace within the "Height Limitation Zoning Map, Fond du Lac County Airport, Fond du Lac County, Wisconsin" clear and free from any obstructions of any kind or nature whatsoever, together with the right of ingress to egress from, and passage over the land of the Purchaser for the purpose of effecting and maintaining such clearances and of removing any and all obstructions which now or may hereafter extend above said heights.
- c. Purchaser hereby covenants, both for himself and herself and his and her heirs, executors, administrators and assigns, for and during the life of this easement, as follows:
 - 1) Purchaser shall not hereafter construct nor permit any obstruction upon said land in violation of the County's Height Limitation described above; and
 - 2) Purchaser shall not hereafter use or permit the use of the land in such a manner as to create electrical interference with radio communication between the airport and aircraft or as to make it difficult for flyers to distinguish between airport lights and others, or as to result in glare in the eyes of flyers using the airport, or as to impair visibility in the vicinity of the airport, or as otherwise to endanger the landing, taking-off or maneuvering of aircraft.
- d. By virtue of accepting title to the land that is subject to these restrictive covenants, the Purchaser, for and on behalf of himself and herself and all successors in interest to any and all of the land, waives as to Fond du Lac County and the Town of Fond du Lac or any successor agency legally authorized to operate the Fond du Lac County Airport, any and all claims for damage of any kind whatsoever incurred as a result of aircraft using the easement granted herein regardless of any future changes in volume

or character of aircraft overflights, or changes in airport design and operating policies, or changes in air traffic control procedures.

e. The Purchaser, for and on behalf of himself and herself and all successors in interest to any and all of the land that is subject to these restrictive covenants, does further hereby covenant and agree with Fond du Lac County and the Town of Fond du Lac, their successors and assigns, that it will not, from and after the effective date hereof, sue, prosecute, molest, or trouble Fond du Lac County and the Town of Fond du Lac, their successors and assigns, in respect to or on account of the flight of any and all aircraft over or near the land, or for any effects resulting therefrom, including but not limited to, noise, air pollution, or any other possible damages to or taking of said property resulting from such flights.

7) Phases. A subdivider may construct the project in such phases as the Town approves, which approval may not be unreasonably withheld. If the subdivider's project will be constructed in phases, the amount of any surety bond or other security required by the Town shall be limited to the phase of the project that is currently being constructed. The Town will not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.

b) Land Suitability.

1) Suitability. No land shall be subdivided for residential, commercial or industrial use which is held unsuitable for such use by the Town Board for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community. The Board, in applying the provisions of this subsection, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for residential use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter the Board may affirm, modify, or withdraw its determination of unsuitability. The Plan Commission shall review the proposed subdivision and make its recommendation to the Board prior to Board review and final determination.

2) Existing Flora. The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the subdivider and approved by the Town Board. Brush clearing may be permitted provided that nothing over three inches (3") in diameter may be removed without prior Plan Commission approval of a brush clearing plan.

3) Additional Considerations.

a. Areas of archaeological and/or historical interest shall be designated by the State Historical Society.

- b. Areas of geological interest shall be designated by the State Geological and Natural History Survey.
- c. Suitability of land for private sewerage systems shall be determined in accordance with Chapter Comm 83, Wisconsin Administrative Code.

c) **Condominium Developments.**

- 1) Limited Applicability. The Town Board hereby finds that certain issues arise in condominium developments that require limited applicability of this Subdivision Code to condominium developments. The State Legislature has recognized that subdivision codes may apply to condominiums, but that subdivision codes shall not impose burdens upon condominiums that are different from those imposed on other property of a similar character not subject to a declaration of condominium.
- 2) Distinction from Other Development. The factor that makes this Subdivision Code applicable to a condominium development is the creation of multiple, distinct property entities at or near the ground surface, subject to property taxation as separate “parcels”, with each property entity having different ownership and management. The Town determines that this factor makes a condominium development dissimilar, both physically and in ownership, from developments in which the land and improvements are under unitary ownership, management and control.
- 3) Development Impact. The Town Board hereby finds that new condominium developments can place impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. These impacts include:
 - a. Additional population density;
 - b. Possibility of use of particular land in a manner unsuitable to the land’s characteristics;
 - c. Additional demands upon Town area parks, recreation areas, utility facilities and schools;
 - d. Additional traffic and street use.
- 4) Portions of Subdivision Code Applicable to Condominium Developments. The following sections of this Code shall apply to condominium developments:
 - a. Section 14-1-3(b), relating to land suitability and construction practices;
 - b. Sections 14-1-4(a) through 14-1-4(c), relating to preliminary plat approval. This stage of approval shall be the only approval required for a condominium development. The technical requirements for preliminary plats set forth in section 14-1-5(a) shall not apply, since condominiums have separate technical standards set forth in Chapter 703, Wis. Stats.
 - c. Section 14-1-4(e), relating to fees for review;
 - d. Section 14-1-6, relating to required improvements;
 - e. Section 14-1-7, relating to design standards for improvements;

f. Section 14-1-8, relating to dedication requirements.

5) Exceptions. This Section shall not apply to the following condominiums:

- a. Any condominium plat recorded prior to the effective date of the Town's Subdivision Ordinance (being March 10, 2003);
- b. Any conversion of a structure or structures in existence on the effective date of the Town's Subdivision Ordinance to a condominium after said effective date.

SEC. 14-1-4 PLAT REVIEW AND APPROVAL

a) **Preliminary Consultation.** Before filing a Preliminary Plat or certified survey, the subdivider is encouraged to consult with the Town Board, Plan Commission and/or other professionals assisting the Town for advice regarding general subdivision requirements. Submittal of a concept plan prior to preparation of a preliminary plat is encouraged. For commercial development, submittal of a site plan to the Plan Commission for review prior to submittal of a preliminary plat or certified survey map is required. Information on meeting dates, agenda deadlines and filing requirements may be obtained from the Plan Commission Secretary. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components and duly adopted plan implementation devices of the Town and to otherwise assist the subdivider in planning his/her development. In so doing, both the subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community and the subdivider will gain a better understanding of the subsequent required procedures.

b) **Submission of Preliminary Plat.**

- 1) Submission. Before submitting a Final Plat for approval, the subdivider shall prepare a Preliminary Plat and a letter of application. The subdivider shall submit seven (7) copies of the Preliminary Plat. The Preliminary Plat shall be prepared in accordance with this Subdivision Code, and the subdivider shall file copies of the Plat and the application as required by this Section with the Plan Commission Secretary at least fifteen (15) days prior to the meeting of the Plan Commission at which action is desired. The Plan Commission Secretary shall submit a copy of the Preliminary Plat to the Plan Commission and to the Town Engineer for review and written report of his recommendations and reactions to the proposed plat.
- 2) Public Improvements, Plans and Specifications. Simultaneously with the filing of the Preliminary Plat of map, the owner shall file with the Plan Commission Secretary seven (7) complete sets of engineering reports, plans and specifications for the construction of any public improvements required by this Subdivision Code, specifically addressing sewer and water service feasibility, drainage facilities, traffic patterns, typical street cross sections, erosion control plans, pavement design and other improvements necessary in the subdivision.

- 3) Property Owners Association; Restrictive Covenants; Easements. A draft of the legal instruments and rules for proposed property owners associations, when the subdivider proposes that common property within a subdivision would be either owned or maintained by such an organization of property owners or a subunit of the Town pursuant to Sec. 236.293, Wis. Stats., any proposed deed restrictions or restrictive covenants, and any easement agreements (e.g., for drainageways or other improvements) shall be submitted at the time of filing the Preliminary Plat with the Plan Commission Secretary.
- 4) Affidavit. The surveyor preparing the Preliminary Plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this Subdivision Code.
- 5) Supplementary Data to be Filed with Preliminary Plat. The following shall also be filed with the Preliminary Plat:
 - a. Use Statement. A statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population; and
 - b. Zoning Changes. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and
 - c. Area Plan. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Plan Commission may require that the subdivider submit a Concept Plan for the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.
- 6) Street Plans and Profiles. The subdivider shall provide street plans and profiles showing existing ground surface, and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested and future connections to existing streets. All street plans shall conform to the Town's Official Map, unless the subdivider successfully petitions for an amendment to the Official Map.
- 7) Soil Testing. The subdivider shall provide a preliminary soils report, listing the types of soil in the proposed subdivision, their effect on the subdivision and a proposed soil testing and investigation program. Pursuant to the public policy concerns prescribed in section 14-1-3(b), the Plan Commission may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table.
- 8) Referral to Other Agencies The subdivider shall submit the Preliminary Plat for approval as required by Section 236.12, Wisconsin Statutes.

c) Preliminary Plat Review and Approval.

- 1) Plan Commission Recommendation.
 - a. Recommendation to Town Board. After review of the Preliminary Plat or certified survey map and negotiations with the subdivider on changes and the kind and extent of public improvements which will be required, the Plan Commission shall

recommend to the Town Board disapproval, approval or conditional approval of the Preliminary Plat or certified survey within forty-five (45) days of the date the Plat was filed with the Plan Commission Secretary. (Note: Sec. 236.11(1)(a), Wis. Stats, states that extensions of time or a decision to hold a matter in abeyance may only be made by agreement between the subdivider and Town Board, not the Plan Commission.)

b. Notice of Plan Commission Hearing. The Plan Commission Secretary shall give notice of the Plan Commission's review of the Preliminary Plat or certified survey, including any public hearing it may hold on the matter, by listing it as an agenda item in the Commission's meeting notice given to the official Town newspaper. The notice shall include the name of the applicant, the address of the property in question and the requested action. Property owners within five hundred (500) feet of the proposed land division shall receive written notice of any public hearing held on the matter. The Plan Commission shall review any restrictive covenants, proposed easements and proposed development agreements at the same time as it reviews the Preliminary Plat.

2) Board Action. After receipt of the Plan Commission's recommendation, the Town Board shall, within ninety (90) days of the date the plat was filed with the Plan Commission Secretary, approve, approve conditionally or reject such plat or survey map and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the Town Board to act within ninety (90) days or extension thereof shall constitute an approval of the Preliminary Plat, unless other authorized agencies object to the plat. The Town Clerk shall communicate to the subdivider the action of the Town Board. If the plat or map is approved, the Town Clerk shall endorse it for the Town Board.

3) Effect of Preliminary Plat Approval. 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 thirty six (36) months of Preliminary Plat approval and conforms substantially to the Preliminary Plat layout, including any conditions of Preliminary Plat approval, the Final Plat shall be entitled to approval with respect to such layout. The Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat, which will be subject to further consideration by the Plan Commission and Town Board at the time of its submission. A Final Plat that shows staged development is not entitled to approval on the basis of approval of the Preliminary Plat unless the stage development plan was clearly shown on the Preliminary Plat at the time it was approved.

4) Preliminary Plat Amendment. Should the subdivider desire to amend the Preliminary Plat as approved, he may resubmit the amended plat which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Plan Commission, of such scope as to constitute a new plat, in which such case it shall be refiled.

d) Final Plat Review and Approval.

1) Filing Requirements.

a. Application for Approval. The subdivider shall prepare a Final Plat and a letter of application in accordance with this Subdivision Code and shall file seven (7) copies of the Plat and the application with the Plan Commission Secretary at least fifteen (15) days prior to the meeting of the Plan Commission at which action is desired.

The Plan Commission Secretary shall give notice of the Plan Commission's meeting in the manner prescribed in section 14-1-3(c)(1)b. The owner or subdivider shall file seven (7) 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 Town. The owner or subdivider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the Town Attorney may require showing title or control in the applicant.

- b. Subdivider to Submit to Other Approving Agencies. The subdivider shall submit the Final Plat for approval by other approving agencies as required by Section 236.12, Wisconsin Statutes.
- c. Conformance to Preliminary Plat. The Final Plat shall conform to the Preliminary Plat as approved and to the requirements of all applicable ordinances, codes and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Sec. 236.12(2).
- d. Public Improvement Plans. Simultaneously with the filing of the Final Plat or map, the owner shall file with the Plan Commission Secretary seven (7) copies of the final plans and specifications of public improvements required by this Subdivision Code.
- e. Review by Town Engineer. A professional engineer, a planner, or another person charged with the responsibility to review plats shall provide the Town with his or her conclusions as to whether the Final Plat conforms substantially to the Preliminary Plat and with his or her recommendation on approval of the Final Plat within thirty (30) days of the filing of the Final Plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the Final Plat is being considered and are not required to be submitted in writing. If the Plat or the plans and specifications are not satisfactory, the professional engineer, planner, or other person shall return them to the owner and so advise the Plan Commission. The person conducting the review shall also review public improvement plans and specifications. The abstract of title or registered property report may be referred to the Town Attorney for his examination and report.

2) Plan Commission Review.

- a. Plan Commission Recommendation. The 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 Subdivision Code and all applicable ordinances, codes, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and shall recommend approval, conditional approval or rejection of the Plat to the Town Board.
- b. Time for Submission of Final Plat. If the Final Plat is not submitted within thirty six (36) months of the last required approval of the Preliminary Plat, the Town Board may refuse to approve the Final Plat.
- c. Time for Plan Commission action. The Plan Commission shall, within forty (40) days of the date of filing of the Final Plat with the Plan Commission Secretary, recommend approval, conditional approval or rejection of the Plat and shall transmit the Final Plat and application along with its recommendations to the Town Board.

The Plan Commission may hold the matter in abeyance if there is incomplete or inadequate information, until the subdivider supplies the required information.

3) Board Review and Approval.

- a. Town Board Action on Final Plat. The Town Board shall, within sixty (60) days of the date of filing the original Final Plat with the Plan Commission Secretary, approve or reject such Plat unless the time is extended by agreement with the subdivider. 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. The Town Board may not inscribe its approval on the Final Plat unless the Town Clerk certifies on the face of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within twenty (20) days or, if filed, have been met.
- b. Notice to Neighboring Municipalities. The Town Board shall, when it determines to approve a Final Plat, give at least ten (10) days ' prior written notice of its intention to the Municipal Clerk of any municipality within one thousand (1,000) feet of the Final Plat. Failure to give such notice shall not invalidate the Plat.
- c. Deemed Approval Upon Failure to Act. Failure of the Town Board to act within sixty (60) days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.
- d. Certification of Approved Plat. After the Final Plat has been approved by the Town Board 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.
- e. Subdivider to file Copies. The subdivider shall file copies of the approved Final Plat with approving agencies, affected sanitary districts, and other affected agencies for their files.

e) **Administrative Fees.**

- 1) General. The subdivider shall pay the Town all fees as hereinafter required and at the times specified before being entitled to review of a plat or certified survey map.
- 2) Engineering Fee. The subdivider shall pay a fee equal to the actual cost to the Town for all engineering work incurred by the Town in connection with a concept plan, plat or certified survey map, including inspections required by the Town. The subdivider shall pay a fee equal to the actual cost to the Town for such inspection as the Town Board deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications, ordinances and codes of the Town or any other governmental authority.
- 3) Administrative Fee. The subdivider shall pay a fee equal to the cost of any legal, administrative or fiscal work which may be undertaken by the Town in connection with a concept plan, plat or certified survey map.
- 4) Concept Plan, Commercial Site Plan and Preliminary Plat Review Fee.
 - a. Review Fees. The subdivider shall pay a fee of Three Hundred Dollars (\$300.00) plus Ten Dollars (\$10.00) for each lot within the concept plan, site plan,

Preliminary Plat or certified survey map to the Plan Commission Secretary at the time of first application for approval to assist in defraying the cost of review.

- b. Reapplication Fee. A reapplication fee of Fifty Dollars (\$50.00) shall be paid to the Plan Commission Secretary at the time of reapplication for approval of any concept plan, site plan, Preliminary Plat or certified survey map which has previously been reviewed.

5) Final Plat Review Fee.

- a. Review Fees. The subdivider shall pay a fee of Three Hundred Dollars (\$300.00) plus Ten Dollars (\$10.00) for each dwelling unit within the Final Plat to the Town Clerk at the time of first application for Final Plat approval of said plat to assist in defraying the cost of review.
- b. Reapplication Fee. A reapplication fee of Fifty Dollars (\$50.00) shall be paid to the Town Clerk at the time of a reapplication for approval of any Final Plat which has previously been reviewed.

f) **Replat.**

- 1) Replat. Except as provided in Section 70.27(1), Wis. Stats., when it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded Plat as provided in Chapter 236 of the Wisconsin Statutes. The subdivider or person wishing to replat shall then proceed, using the procedures for Preliminary and Final Plats.
- 2) Public Hearing. The Plan Commission Secretary shall schedule a public hearing before the Plan Commission when a Preliminary Plat of a replat of lands within the Town is filed, and shall cause notices of the proposed Replat and public hearing to be mailed 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 five hundred (500) feet of the exterior boundaries of the proposed Replat.
- 3) Resubdivision. Where lots are more than double the minimum size required for the applicable zoning district, the Plan Commission may require that such lots be arranged so as to allow resubdivision of such parcels into normal lots in accordance with the provisions of the Subdivision Code.

SEC. 14-1-5 TECHNICAL REQUIREMENTS FOR PLATS AND CERTIFIED SURVEYS

a) **Technical Requirements for Preliminary Plats.**

- 1) General. A Preliminary Plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on mylar or paper of good quality at a scale of not more than one hundred (100) feet to the inch and shall show correctly on its face the following information:
 - a. Title under which the proposed subdivision is to be recorded.

- b. Location of the proposed subdivision by government lot, quarter section, township, range, county and state.
- c. Date, Scale and North Point.
- d. Names and Addresses of the owner, subdivider and land surveyor preparing the plat.
- e. Entire Area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the Preliminary Plat even though only a portion of said area is proposed for immediate development. If phased development is proposed, it shall be plainly identified on the Preliminary Plat. The Town Board, upon the Plan Commission's recommendation, may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Subdivision Code and undue hardship would result from strict application thereof.

2) Plat Data. All Preliminary Plats shall show the following:

- a. Exact Length and Bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
- b. Locations of all Existing Property Boundary Lines, structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.
- c. Location, Right-of-Way Width and Names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
- d. Location and Names of any Adjacent Subdivisions, parks and cemeteries and owners of record of abutting unplatted lands.
- e. Type, Width and Elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations.
- f. Location, Size and Invert Elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catchbasins, hydrants, electric and communication facilities, whether overhead or underground 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 the direction and distance from the tract, size and invert elevations.
- g. Corporate Limit Lines within the exterior boundaries of the plat or immediately adjacent thereto.
- h. Existing Zoning on and adjacent to the proposed subdivision.
- i. Contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum at vertical intervals of not more than two (2) feet. At least two (2)

- permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the bench marks clearly and completely described. Where, in the judgment of the Town Engineer, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.
- j. High-Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom.
 - k. Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom at the date of the survey.
 - l. Floodland and Shoreland Boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, two (2) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within one hundred (100) feet therefrom. Areas without a determined one hundred (100) year recurrence interval flood elevation may be required by the Town Board to have the flood profile calculated with an approved hydraulic model.
 - m. Soil Types and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.
 - n. Location and Results of Soil Boring Tests within the exterior boundaries of the plat conducted in accordance with Comm 85 of the Wisconsin Administrative Code and delineation of areas with three (3) foot and six (6) foot groundwater and bedrock levels where the subdivision will not be served by public sanitary sewer service.
 - o. Location and Results of Percolation Tests within the exterior boundaries of the plat conducted in accordance with Comm 85 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service.
 - p. Location, Width and Names of all proposed streets and public rights of way such as alleys and easements.
 - q. Approximate Dimensions of All Lots together with proposed lot and block numbers. The area in square feet of each lot shall be provided.
 - r. Location and Approximate Dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainage ways or other public use.
 - s. Approximate Radii of all Curves.
 - t. Any Proposed Lake and Stream Access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.
 - u. Any Proposed Lake and Stream improvement or relocation, and notice of application for approval by the State Department of Natural Resources, when applicable.
 - v. Where the Plan Commission, Town Board or Town Engineer finds that it requires additional information relative to a particular problem presented by a proposed

development in order to review the Preliminary Plat, it shall have the authority to request in writing such information from the subdivider.

- 3) Additional Information. The Plan Commission and/or Town Board may require a proposed subdivision layout or concept plan for all or part of the subdivider's contiguously owned land even though division is not planned at the time.

b) Technical Requirements for Final Plats.

- 1) General. A Final Plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Chapter 236, Wis. Stats., and this Subdivision Code.
- 2) Additional Information. The Final Plat shall show correctly on its face, in addition to the information required by Chapter 236, Wis. Stats., the following:
 - a. Exact Length and Bearing of the center line of all streets.
 - b. Exact Street Width along the line of any obliquely intersecting street.
 - c. Exact Location and Description or street lighting and lighting utility easements.
 - b. Railroad Rights-of-Way within and abutting the plat.
 - e. All Lands Reserved for future public acquisition or reserved for the common use of property owners within the Plat.
 - f. Special Restrictions required by the Town Board relating to access control along public ways or to the provision of planting strips.
 - g. Maintenance Obligations and provisions for maintenance of drainageways, drainage easements, and other internal subdivision improvements not dedicated to the public or accepted for dedication by the Town.
- 3) Deed Restrictions. Final versions of Restrictive Covenants and deed restrictions for the proposed subdivision shall be filed with the Final Plat.
- 4) Property Owners Association. The legal instruments creating a property owners association for the ownership and/or maintenance of common lands and green space or open space in the subdivision shall be filed with the Final Plat.
- 5) Survey Accuracy. The Town Board shall examine all Final Plats within the Town and may check for the accuracy and closure of the survey, the proper kind and location of monuments, and legibility and completeness of the drawing.
- 6) Surveying and Monumenting. All Final Plats shall meet all the surveying and monumenting requirements of Chapter 236, Wis. Stats.

c) Technical Requirements for Certified Survey Land Divisions; Review and Approval.

- 1) Certified Survey Requirements. For any land division creating up to three (3) parcels, containing not more than four (4) parcels which are thirty-five (35) acres each or less, or

building sites within a recorded subdivision plat without changing the exterior boundaries of the block, lot or outlot, the subdivider may subdivide by use of a certified survey map, prepared in accordance with Chapter 236, Wis. Stats., and this Subdivision Code.

- 2) Submission and Review. The subdivider shall file seven (7) copies of said certified survey map with the Plan Commission Secretary. The Plan Commission shall review, and shall make its recommendation to the Town Board to approve, approve conditionally, or reject, within forty (40) days. The subdivider shall be notified in writing of any conditions of approval, or the reasons for rejection.
- 3) Additional Information. The certified survey map shall show correctly on its face, in addition to the information required by Chapter 236, Wis. Stats., the following:
 - a. All Existing Buildings, watercourses, drainage ditches and other features pertinent to proper division.
 - b. Setbacks or Building Lines required by the Town ordinances and code and specifically the Town Zoning Code.
 - c. All Lands Reserved for future acquisition.
 - d. Date of the Map.
 - e. Graphic Scale.
 - f. Name and Address of the owner, subdivider and surveyor.
 - g. Square Footage of each parcel.
 - h. Present Zoning for the parcels.
 - i. Maintenance Obligations and provisions for maintenance of drainageways, drainage easements, and other internal subdivision improvements not dedicated to the public or accepted for dedication by the Town.
- 4) Certificates. The surveyor shall certify on the face of the certified survey map that he/she has fully complied with all the provisions of this Subdivision Code. The Town Board, after a recommendation by the Plan Commission, shall certify its approval on the face of the map.
- 5) Street Dedication. Dedication of streets and other public areas shall require, in addition, the owner's certificate and the mortgagee's certificate in substantially the same form as required by Section 236.21(2)(a) of the Wisconsin Statutes.

SEC. 14-1-6 REQUIRED IMPROVEMENTS

a) Improvements Required.

- 1) Payment for Improvements. The improvements prescribed in this Subdivision Code are required as a condition of approval of all land divisions. Required improvements shall be installed, furnished and financed at the sole expense of the subdivider. However, the cost of such improvements may, at the sole discretion of the Town Board or the applicable

Sanitary District Commission and in accordance with the policies and procedures identified herein and in other Town Ordinances or Codes, be financed through special assessments.

- 2) Special Assessment Financing. A developer wishing to develop residential, commercial or industrial lots shall provide to the Plan Commission a preliminary layout of the plat, roadway, sewer and water extensions and any special requirements such as lift stations, drainage, water booster stations and sidewalks. The developer shall also submit a financial proposal describing the estimated cost of the proposed improvements and the amount of special assessment financing requested from the Town. If the concept of the preliminary layout is approved by the Plan Commission and the Town Board, the Board may elect to partially or completely undertake the improvements and finance the same through the issuance of special assessment B Bonds. Each proposal will be evaluated on its own merits by the Town Board and may be accepted in full, rejected in full or partially accepted or rejected based upon the needs of the Town, funds available, the number of proposals received and other factors deemed relevant by the Board. Nothing herein shall be construed to obligate the Town to provide financial assistance to any developer nor shall the provision of financial assistance to one developer be deemed a precedent in the consideration of other proposals. In order to be eligible for this assistance, the developer must execute a developer's agreement with the Town upon such terms as the Town may require and the parties may negotiate, including, at a minimum the following:
 - a. Permits. The developer shall be responsible for obtaining all necessary permits and licenses for the development and the costs thereof.
 - b. Zoning and Other Compliance. All plans for construction shall meet all setback and other Code requirements under Town, County and State regulations and shall meet all requirements and conditions for connection to municipal sewer and water systems. In addition, the property proposed for development must be eligible for development within the Town under the terms of the Town's intergovernmental agreements with other municipalities. If a conditional use permit or variance is required, developer shall obtain the same prior to any borrowing by the Town. If rezoning is required, developer will be exclusively responsible for filing and processing the petition with the required governmental entities for such rezoning.
 - c. Repayment. Developer shall agree to repay the Town for all costs incurred by the Town in conjunction with the development, including but not limited to costs of construction, inspection, engineering fees, legal fees, leasing, bond issuance costs and interest not to exceed one and one-half percent (1 ½ %) above the interest rate on the bonds issues. Developer shall repay these amounts in the form of a special assessment on the developing property over a term not to exceed ten (10) years. Developer shall consent to the imposition of the special assessment(s) and waive notice, hearing and appeal rights related to the special assessment. Developer shall also furnish the Town with a surety or letter of credit in an amount of at least 100% of the estimated cost of the project in a form satisfactory to the Town, which surety or letter of credit shall remain in full force and effect until the assessments are final and binding.
 - d. Easements and Dedications. Developer shall grant to and/or obtain on behalf of the Town any easements or rights-of-way necessary for public purposes.
 - e. Indemnification. Developer shall indemnify and hold the Town harmless from any and all claims and liabilities arising from damage to property or injury to persons which may occur during the course of development.

- 3) General Standards. Improvements required by this Subdivision Code shall be installed in accordance with the engineering standards and specifications which have been adopted by the Town Board. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices, approved prior to the start of construction by the Town Engineer.

b) Required Agreement Providing for Proper Installation of Improvements.

- 1) Contract. Prior to installation of any required improvements and prior to the meeting at which the Final Plat is approved, the subdivider shall enter into a written Development Agreement with the Town, requiring the subdivider to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for inspection of construction details by the Town Engineer.

2) Financial Guarantees.

- a. Performance Bond. The Agreement shall require the subdivider to make an escrow deposit or in lieu thereof to furnish a performance bond or irrevocable letter of credit, the amount of the deposit and the penal amount of the bond to be equal to one hundred twenty-five percent (125%) of the Town Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection.
- b. Installations Prior to Final Plat. On request of the subdivider, the Agreement may provide for completion of part or all of the improvements covered thereby prior to acceptance of the Final Plat, and in such event the amount of the deposit, letter of credit 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. If the required improvements are not complete within the specified period, all amounts held under performance bond, deposit or letter of credit, shall be turned over and delivered to the Town and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Town Board, at its option, may extend the bond, deposit or letter of credit, period for additional periods not to exceed two (2) years each period.
- c. Time for Completion. The time for completion of the work and individual improvements shall be determined by the Town Board upon recommendation of the Town Engineer after consultation with the subdivider. The completion date shall be a component of the contract.
- d. Town Inspection Costs. The subdivider shall pay the Town for all costs incurred by the Town for review and inspection of the public improvements constructed and installed in the subdivision. This includes review, and preparation at the Town Board's discretion, of plans and specifications by the Town Engineer, Planner, and Attorney, as well as other costs of a similar nature.

c) Required Construction Plans; Town Review; Inspections.

- 1) Engineering Reports, Construction Plans and Specifications. Engineering reports, plans and proposed specifications shall be submitted simultaneously with the filing of the Preliminary Plat. At the Final Plat stage, construction plans for the required improvements conforming in all respects with the standards of the Town Engineer and

the ordinances and codes of the Town shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain the engineer's seal. Such plans, together with the quantities of construction items, shall be submitted to the Town Engineer for his approval and for his estimate of the total cost of the required improvements; upon approval they shall become a part of the Development Agreement. Simultaneously with the filing of the Final Plat with the Plan Commission Secretary, or as soon thereafter as practicable, copies of the construction plans and specifications, where applicable, shall be furnished for the following public improvements, with a copy sent to the appropriate sanitary district:

- a. Street Plans and Profiles showing existing and proposed grades, elevations and cross sections of required improvements.
 - b. Sanitary Sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
 - c. Storm Sewer and Open Channel plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
 - d. Water Main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
 - e. Erosion and Sedimentation Control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation. Such plans shall comply with the County's or Town's Erosion Control Code.
 - f. Planting Plans showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.
 - g. Green Space and buffer areas.
 - h. Drainage Plans, drainage areas, retention ponds and other drainage improvements, and drainage easements.
 - i. Additional special plans or information as required by Town officials.
- 2) Action by the Town Engineer. The Town Engineer shall review the plans and specifications for conformance with the requirements of this Subdivision Code and other pertinent Town ordinances or codes and design standards recommended by the Town Engineer and approved by the Town Board. If the Town Engineer rejects the plans and specifications, he shall notify the owner, who shall modify the plans or specifications or both accordingly. When the plans and specifications are corrected, the Town Engineer shall approve the plans and specifications for transmittal to the Town Board. The Town Board shall approve the plans and specifications before the improvements are installed and construction commenced.
- 3) Construction and Inspection.
- a. Start Authorization. Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the Town Engineer upon receipt of all necessary permits and in accordance with the construction methods of this Subdivision Code. Building permits shall not be issued

until all improvements required by this Subdivision Code are satisfactorily completed.

- b. Time for Completion. Construction of all improvements required by this Subdivision Code shall be completed within two (2) years from the date of approval of the Final Plat by the Town Board, unless good cause can be shown for the Town Board to grant an extension.
 - c. Town Inspections. During the course of construction, the Town Engineer shall make such inspections as the Town Board deems necessary to insure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the Town for such inspections. This fee shall be the actual cost to the Town of inspectors, engineers and other parties necessary to insure satisfactory work.
- 4) Record Plans. After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made three (3) copies of record plans showing the actual location of all valves, manholes, stubs, sewers and water mains and such other facilities as the Town Engineer shall require. These plans shall be prepared on the original mylar of the construction plans and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the record plans shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion. Two (2) copies shall be retained by the Town and one (1) copy of such record plans shall be forwarded to the appropriate sanitary district.
- d) **Street Improvements**. The subdivider shall construct streets, roads and alleys as outlined on the approved plans based on the requirements of this Subdivision Code:
- 1) Street Construction Standards. The design and construction of all roads and streets in the Town shall fully comply with the requirements and specifications of section 14-1-7.
 - 2) Grading.
 - a. Existing and Proposed Grades. With the submittal of the Preliminary Plat, the subdivider shall furnish drawings which indicate the existing and proposed grades of roads, streets and alleys shown on the plat.
 - b. Approval by Town Board. Proposed grades will be reviewed by the Town Engineer for conformance with Town standards and good engineering practice. Street grades require the approval of the Town Board after receipt of the Town Engineer's recommendations.
 - c. Subdivider to Grade. After approval of the street grades, the subdivider shall grade the full width of the right-of-way of the streets proposed to be dedicated, including the vision clearance triangle on corner lots.
 - d. Grading Existing Streets. In cases where an existing street right-of-way is made a part of the plat or abuts the plat, the subdivider shall grade that portion of the right-of-way between the existing pavement and the property line.
 - e. Roadbed Grading. The bed for the roadways in the street rights of way shall be graded to subgrade elevation.

- f. Town Engineer Approval. The Town Engineer shall approve all grading within rights of way and said grading shall extend for a sufficient distance beyond the right-of-way to insure that the established grade will be preserved.
- 3) Street Construction. After sanitary sewer, storm sewer, water, and other necessary utilities have been installed, where required by the Town, the subdivider shall construct and dedicate, as part of the subdivision, streets and curbs and gutters. The subdivider shall surface roadways to the widths prescribed in sections 14-1-7. Construction shall be to Town standard specifications for street improvements.
 - 4) Completion of Street and Sidewalk Construction.
 - a. Construction Completion before Building Permits Issuable. Unless otherwise provided in the Development Agreement, prior to any building permits being issued on lands adjacent to streets, all street construction shall be completed by the subdivider, approved by the Town Engineer and accepted by the Town Board.
 - b. Discretionary Waiver. The Town Board may issue a waiver of these requirements in unusual or special circumstances such as excessively severe weather conditions, heavy construction temporarily in area or construction material shortages (i.e., cement, asphalt). The issuance or denial of a waiver shall be at the sole discretion of the Town Board.
 - c. Requests for Waiver. The subdivider requesting a waiver shall do so in writing, presenting such information and documentation as required by the Town Board. The waiver, if issued, shall be in written form and shall detail which improvement requirements are temporarily waived and for what period of time. The Town Board may refer the waiver request to the Plan Commission for review and recommendation. The Plan Commission shall report back to the Town Board within forty (40) days of the date of referral.
 - e) **Curb and Gutter.** After the installation of all required utility and storm water drainage improvements, the subdivider, when required by the Town Board where determined to be necessary by the Town Engineer, shall construct concrete curbs and gutters in accordance with plans and standard specifications approved by the Town Board or its designee. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts.
 - f) **Sidewalks.** Sidewalks may be required by the Town Board in high traffic areas and areas in the vicinity of schools, commercial areas and other places of public assemblage, or where deemed necessary by the Town Board for the safety and welfare of the public. All sidewalks constructed within the Town shall meet the specifications set by the Town Engineer. Construction specifications may vary from road to road or street to street, as specific conditions warrant. The Town Board may require the construction of sidewalks if such walks are necessary, in their opinion, for safe and adequate pedestrian circulation. As an alternative, the Town may require the extra extension and marking of roadway pavement for a walkway.
 - 1) Repairs. The owner of property abutting a public sidewalk is required to keep the sidewalk in good repair. Property owners shall be liable to the Town for all losses to the Town for damages to person or property caused by the owner's failure to keep the sidewalk in good repair and in a safe condition. The Town, through its Building Inspector, may notify a property owner that repairs are necessary. The property owner shall have 60 days from the date of the notice to complete the specified repairs. A permit is required before

making the specified repairs, but no permit fee will be charged if the repairs are made within 60 days of the date of the notice, unless the property owner proposes to change the grade, location or dimensions of the sidewalk. If the property owner fails to make the repairs, the Town may repair the sidewalk and place the cost thereof on the tax roll for collection as a special charge pursuant to sec. 66.0627, Wis. Stats.

- 2) Obstructions; Snow and Ice. The owner or occupant of property abutting a sidewalk shall keep the sidewalk clear of dirt, rubbish and obstructions. No downspout or other pipe or hose may be directed so that water drains on or over any public sidewalk so as to create a health or safety hazard or a public nuisance. The owner or occupant of property abutting a sidewalk shall remove all ice and snow that has accumulated on the sidewalk within 24 hours after each snowfall event. If accumulated ice cannot be removed, the owner or occupant shall sprinkle the sidewalk with sand, salt or other abrasives so as to make the sidewalk safe for pedestrian travel. If the owner or occupant fails to remove ice and snow from the sidewalk, or to sprinkle the sidewalk as required, the Town may, at its sole discretion, cause the sidewalk to be cleaned or sprinkled and the cost thereof shall be placed upon the tax roll for collection as a special charge pursuant to sec. 66.0627, Wis. Stats.

g) Sanitary Sewerage System.

- 1) Public Sewers May be Required. There shall be provided a sanitary sewerage system in conformity with the master plan of sewers as approved by the Town Board and/or sanitary district.
- 2) Each Lot to be Served. The subdivider shall make adequate sewage disposal systems available to each lot within the subdivision, certified survey parcel or land division.
- 3) Areas Served by Public Sewer. Subdivisions and certified survey parcels in areas able to be served by a Town Sanitary District's public sewer system shall be served by public sewer facilities. The size, type, and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and specifications approved by the Sanitary District.
- 4) Private Sewerage Systems. Land divisions created by certified survey outside areas served by public sewer service may be served by private sewage disposal systems, if public sewer facilities are not available. Private sewage disposal systems shall comply with the Wisconsin Administrative Code Section Comm 82.20 and applicable Town ordinances or codes, and County ordinances.
- 5) Subdivider Responsible for Costs. The subdivider shall pay all the costs of all sanitary sewer work including the bringing of the sanitary sewer from where it exists to the subdivision in question as well as providing all sanitary sewer work within the subdivision. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and standard specifications approved by the appropriate sanitary district serving the area. If the extension of sanitary sewer to the subdivision is part of a larger project initiated by the town or sanitary district, the subdivider shall pay his share of the project costs in the same manner as other properties to be served by the project unless otherwise agreed to as part of the Development Agreement.

h) Water Supply Facilities (Municipal Water Service Area).

- 1) Each Lot to be Served. The subdivider shall make adequate domestic water supplies available, and pay for such improvements, for each lot within the subdivision or land division in the Town's municipal water service area.
 - 2) Public Water Service. The subdivider shall construct water mains in such a manner as to make adequate water service available to each lot within the subdivision or land division. The size, type, and installation of all public water mains proposed to be constructed shall be in accordance with plans and specifications approved by the Town. If the extension of municipal water to the subdivision is part of a larger project initiated by the town, the subdivider shall pay his share of the project costs in the same manner as other properties to be served by the project unless otherwise agreed to as part of the Development Agreement.
- i) **Storm Water Drainage Facilities**. Pursuant to section 14-1-7(e), the subdivider shall provide storm water drainage facilities which may include curb and gutter, catch basins and inlets, storm sewers, road ditches and open channels, as may be required by the Town. All storm water drainage improvements shall be designed and constructed in accordance with the requirements of the Town's Stormwater Management Code and all other applicable Town and County ordinances or codes. Storm drainage facilities shall be so designed as to minimize hazards to life or property, and the size, type and installation of all storm water drains and sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the Town Board, upon the recommendation of the Town Engineer.
 - j) **Other Utilities**.
 - 1) General. The subdivider shall cause gas, electric power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision, certified survey or land division. All new electrical distribution television cables and telephone lines from which lots are individually served shall be underground unless the Town Board specifically allows overhead poles for the following reasons:
 - a. Physical Limitations. Topography, soil, water table, solid rock, boulders, or other physical conditions would make underground installation unreasonable or impractical; or
 - b. Existing Facilities. The lots to be served by said facilities can be served directly from existing overhead facilities.
 - 2) Approval by Town Board. Plans indicating the proposed location of all gas, electrical power and telephone distribution and transmission lines required to service the subdivision shall be approved by the Town Board and such map shall be filed with the Town Clerk.
 - k) **Street Signs**. The Town shall provide and install street signs at the intersections of all dedicated streets.
 - l) **Street Trees**.
 - 1) Planting Required. The subdivider shall plant in the area between the building setback line and the road right of way at least one (1) tree of a species acceptable to the Town Board and of at least six (6) feet in height for each fifty (50) feet of frontage on all streets proposed to be dedicated. The required trees shall be planted in accordance with plans and specifications approved by the Town Board.

- 2) Prohibited Trees. No person shall plant or maintain in the planting area any tree of the species Populus Deltoides, commonly called the "Cottonwood," Black Locust, the seed-bearing "Box Elder" or Acer Negundo, which may now or hereafter become infested with Box Elder bugs, White Poplar, Lombardy Poplar, any evergreen or fir tree, any fruit or nut tree, or any other species, which in the opinion of the Town Board, will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public.
- m) **Erosion Control**. The subdivider shall cause all gradings, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded or otherwise protected so that erosion, siltation, sedimentation and washing are prevented. The subdivider shall submit an erosion control plan that specifies measures that will be taken to assure the minimization of erosion problems, and shall comply with all applicable Town, County and DNR erosion control ordinances and guidelines.
 - n) **Partition Fences**. When the land included in a subdivision plat or certified map abuts upon or is adjacent to land used for farming or grazing purposes, the Town may require that the subdivider erect, keep, and maintain partition fences, satisfying the requirements of the Wisconsin Statutes for a legal and sufficient fence, between such land and the adjacent land. A covenant binding the developer, its grantees, heirs, successors, and assigns to erect and maintain such fences, without cost to the adjoining property owners, so long as the land is used for farming or grazing purposes, shall be included upon the face of the Final Plat or certified survey map.
 - o) **Easements**.
 - 1) Utility Easements. Utility easements are required for poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines. It is the intent of this Subdivision Code to protect all established easements so as to assure proper grade and maintenance of the established grade, prohibit construction of permanent fences, retaining walls or other improvements over underground installation and prevent the planting of trees in the easement area.
 - 2) Drainage Easements. Where a subdivision is traversed by a watercourse, natural or man-made drainage way, channel or stream:
 - a. Easement. There shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or
 - b. Relocation. The watercourse, drainage way, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a storm water easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this Section.
 - c. Minimum Requirements. Wherever possible, it is desirable that drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such water course shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than thirty (30) feet. If, in the opinion of the Town Engineer, the easement will be for a major drainage swale, the easement shall be of sufficient

width to contain a one hundred (100) year frequency storm. If the drainage easement is located in an established flood way or flood fringe district, the entire flood plain area shall be included within the drainage easement. The Town will not be responsible for maintenance of any drainage easement areas unless it specifically accepts the drainage easement areas as dedications to the public and public access to the easement areas it provided by express dedication.

- 3) Easement Locations. Easements shall be at least twelve (12) feet wide, or wider where recommended by the Town Engineer, and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Plan Commission and Town Board that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.
- 1) Grade Markers. The developer or owner of every new subdivision regulated by the Subdivision Ordinance or the developer or owner of a lot in a previously approved subdivision where the lot grade has not yet been finished must install grade markers on each lot as prescribed below. The grade marker must be metal in the form of an agricultural-type steel fence post or tubular pipe of at least 1-1/4" diameter or other type of metal post of comparable strength. Any lot, real estate parcel, accessory building, or commercial or industrial building required by the Town to submit a drainage plan must also comply with the grade marker requirements described below.
 - a. The required grade marker must be set in the ground a minimum of 18" and rise above the relevant grade not less than 3-1/2 feet. The grade marker must be placed adjacent to the left front corner lot stake viewed when facing the front of the lot from the relevant road or subdivision street.
 - b. A grade marker must be marked with a permanent line of quality paint or file mark/paint in order to show the finish ground elevation at the house consistent with the final grading and drainage plan approved by the Town.
 - c. A minimum of two (2) permanent benchmarks must be located in every new subdivision. If the grade marker has been removed, for any reason, or if the line reference in subsection 4(b) above is obliterated for any reason, the developer or owner must resurvey the area in question and replace the grade marker to its original position.
 - d. The developer or owner are responsible, joint and several, for reimbursing the Town for the reasonable costs incurred by the Town in confirming or rechecking elevations arising out of a problem with the grade marker(s) required by this Ordinance.
 - e. The text of every protective covenant applicable to platted property within a subdivision must incorporate the grade marking requirements of this Ordinance. The protective covenants must also include a provision that the grade markers cannot be removed until an occupancy permit has been issued by the Town for the relevant premises.

SEC. 14-1-7 DESIGN STANDARDS

a) General Street Design Standards.

- 1) Compliance with Statutes. In laying out a subdivision, the owner shall conform to the provisions of Chapter 236, Wis. Stats., and all applicable Town and County ordinances or

codes. In all cases where the requirements of this Subdivision Code are different from the requirements of Chapter 236, the more restrictive provision shall apply.

- 2) Dedication. The subdivider shall dedicate land and improve streets as provided in this Subdivision Code and section 14-1-6(d). Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses and public convenience, and safety. Streets shall conform to official maps adopted by the Town Board. The subdivision, certified survey parcel or land division shall be so designed as to provide each lot with satisfactory access to a public street or road.
- 3) Compliance with Comprehensive Plan. The arrangement, character, extent, width, grade and location of all streets shall conform to any Town Comprehensive Development Plan or Official Map and to this Subdivision Code and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The arrangement of streets in new subdivisions shall make provision for the appropriate continuation at the same width of the existing streets in adjoining areas.
- 4) Areas Not Covered by Plan. In areas not covered by a Town Comprehensive Plan, or Official Map, the layout of streets shall conform to the plan for the most advantageous development of adjoining areas of the neighborhood. Streets shall be designed and located in relation to existing and officially planned streets, topography and natural terrain, streams and lakes and existing tree growth, public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets.
- 5) Street Classifications. Streets/roads shall be classified as indicated below.
 - a. Arterial Streets. Arterial streets shall be arranged to provide through traffic for a heavy volume of vehicles.
 - b. Collector Streets. Collector streets shall be arranged so as to provide ready collection of traffic from commercial and 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.
 - c. Minor Streets. Minor streets 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.
- 6) Reserve Strips. Reserve strips for future road extensions shall be identified on the Plat and the subdivider shall be responsible for future road construction upon terms approved by the Town Board.
- 7) Alleys. Alleys may be provided in commercial and industrial districts for off-street loading and service access, but shall not be approved in residential districts. Dead-end alleys shall not be approved and alleys shall not connect to a major thoroughfare or federal, state or county trunk highway.
- 8) Continuation. Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit. Provision shall be made so that all proposed streets shall have a direct connection with, or be continuous and in line with,

existing, planned or platted streets with which they are to connect. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Town Board, upon the recommendation of the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing layout or the most advantageous future development of adjacent tracts.

- 9) Minor Streets. Minor streets shall be so laid out so as to discourage their use by through traffic.
- 10) Number of Intersections. The number of intersections of minor streets with major streets shall be not more than two (2). The distance between such intersections shall be as far apart as practicable.
- 11) Frontage Roads. Where a subdivision abuts or contains an existing or proposed arterial highway, the Town Board may require a frontage road, non-access reservation along the rear of the property contiguous to such highway or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.
- 12) Private Streets. Private streets shall not be approved nor shall public improvements be approved for any private street; all streets shall be dedicated for public use, unless within a private development as approved by the Town Board.
- 13) Visibility. Streets shall afford maximum visibility and safety and shall intersect at right angles where practicable. As required by the Town Engineer and any applicable Town or County ordinances or codes, sufficient vision clearance triangles shall be provided at intersections.
- 14) Tangents. A tangent at least one hundred (100) feet long shall be required between reverse curves on arterial and collector streets. Whenever there is a deflection angle of more than ten degrees (10°) in the alignment of a street, a curve shall be introduced with the required radius.
- 15) Street Grades.
 - a. Maximum Grades. Unless necessitated by exceptional topography subject to the approval of the Town Board, the maximum centerline grade of any street or public way shall not exceed the following:
 - 1) Arterial streets: six percent (6%).
 - 2) Collector streets: eight percent (8%).
 - 3) Minor streets, alleys and frontage streets: ten percent (10%).
 - 4) Pedestrian ways: twelve percent (12%) unless steps of acceptable design are provided.
 - 5) The grade of any street shall in no case exceed twelve percent (12%) or be less than one-half ($1/2$) of one percent (1%).

- b. General Guidelines. Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and general leveling of the topography.
- 16) Radii of Curvature. When a continuous street centerline deflects at any one (1) point by more than ten (10) degrees, a circular curve shall be introduced having a radius of curvature on said centerline of not less than the following:
- a. Arterial streets and highways: three hundred fifty (350) feet.
 - b. Collector streets: two hundred (200) feet.
 - c. Minor streets: one hundred fifty (150) feet.
- 17) Half Streets. Where an existing dedicated or platted half-street is adjacent to the subdivision, the other half-street shall be dedicated by the subdivider. The platting of half-streets should be avoided where possible.
- 18) Intersections.
- a. Major Thoroughfares. Property lines at street intersections of major thoroughfares shall be rounded with a radius of fifteen (15) feet or of a greater radius where the Town Engineer considers it necessary.
 - b. Right-Angle Intersections. Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
 - c. Street Convergence. Number of streets converging at one (1) intersection shall be not more than two (2).
- 19) Street Names. New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the names of the existing streets. Street names shall be subject to approval by the Town Board.
- 20) Cul-de-sacs.
- a. Cul-de-sacs. Cul-de-sac streets designed to have one (1) end permanently closed shall not exceed five hundred (500) feet in length. All cul-de-sac streets designed to have one (1) end permanently closed shall terminate in a circular turnaround having a minimum right-of-way radius of sixty-five (65) feet and a minimum pavement radius of fifty (50) feet, measured to the face of the curb for an urban section or edge of pavement for a rural section. The use of cul-de-sacs should be avoided where possible.
 - b. Temporary Dead-ends or Cul-de-sacs. All temporary dead-ends shall have a maximum length of eight hundred (800) feet and a temporary cul-de-sac shall have a minimum right-of-way radius of fifty (50) feet and a minimum inside curb radius of forty (40) feet.
- 21) Limited Access Highway and Railroad Right-of-Way Treatment. Whenever the proposed subdivision contains or is adjacent to a limited access highway, arterial street or railroad right-of-way, the design shall provide the following treatment:

- a. Subdivision Lots. When lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited access highway or a railroad, a planting strip at least thirty (30) feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be part of the platted lots but shall have the following restriction lettered on the face of the plat: "This strip reserved for the planting of trees and shrubs, the building of structures hereon prohibited."
- b. Commercial and Industrial Districts. Commercial and industrial districts shall have provided, on each side of the limited access highway, arterial street or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than one hundred fifty (150) feet.
- c. Streets Parallel to a Limited Access Highway. Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street and highway or collector street which crosses said railroad or highway, shall be located at a minimum distance of two hundred fifty (250) feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.
- d. Minor Streets. Minor streets immediately adjacent and parallel to railroad rights of way shall be avoided, and location of minor streets immediately adjacent to arterial streets and highways and to railroad rights of way shall be avoided in residential areas.

b) Specifications for Preparation, Construction and Dedication of Streets and Roads.

1) General Requirements.

- a. Construction Standards. All roadway construction and materials used shall be performed in accordance with the construction methods as listed in the appropriate sections of the "State of Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction" and its supplements, other applicable Town and County ordinances or codes, and this Subdivision Code, whichever is more restrictive. The design requirements of this Section and Section 7.1 shall be applicable to all streets and roads that are to be dedicated to the Town, regardless of whether such streets or roads are part of a new subdivision or land division.
- b. Project Costs. All roadway surveys, dedications, plans and specifications and construction will be at the expense of the applicant or applicants. This includes any expense incurred by the Town in the preparation of plans and review and inspection of plans and construction.
- c. Preliminary Consultation. Prior to the design, preparation and construction of any roadway to be dedicated to the Town or Fond du Lac, the applicant shall notify the Town Development Director. An on site meeting will then be arranged to be attended by the Town Engineer and the applicant. Plans must be provided in order for the Town Engineer to check the design and the drainage.

- d. Material Slips. Copies of material slips for all materials furnished for the road construction projects shall be delivered to the Town before the Town approves the final construction.
 - e. Required Inspections. Although the Town Engineer may conduct additional inspections as necessary at any state of construction, the Town Engineer shall be contacted for required inspections after the following phases of construction:
 - 1) Sub-base grading;
 - 2) Crushed aggregate base courses;
 - 3) Bituminous surface course;
 - 4) Shouldering;
 - 5) Placement of erosion control measures (soil stabilization and stormwater retention/detention measures).
 - 6) Any deficiencies found by the Town Engineer shall be corrected before proceeding to the next phase of construction.
 - f. Tests of Materials. The Town reserves the right to obtain a sample of the roadway base material prior to placement on the roadway for purposes of determining whether the material meets gradation and soundness requirements.
 - g. Pavement Samples. Samples of bituminous concrete may be required to be taken by the Town at the developer's expense during pavement construction operations for purposes of determining that the material meets specifications.
 - h. Town Board Approval. The finished roadway shall meet with the approval of the Town Board, upon the recommendation of the Town Engineer, since the Town will include this road work in their annual request for highway aid. The Town may require that a construction inspector of its choice be onsite during the road construction with the cost thereof to be borne by the subdivider.
- 2) Construction Standards. After completion of the underground utilities and approval thereof, the streets shall be constructed. Unless phasing of construction of improvements is approved by the Town Board or its designee, building permits shall not be issued prior to the installation of the street improvements and the approval of an individual lot grading plan that conforms to the guidelines of the master site grading plan, as determined by the Town Engineer, or his designee. All streets and highways constructed in the Town or to be dedicated to the Town shall fully comply with the following construction standards:

URBAN CROSS SECTION

<i>Type of Street</i>	<i>Right-of-Way Width to be Dedicatd</i>	<i>Pavement Width (face of curb to face of curb)</i>
Statewide Principal, Primary or Standard Aerial Streets	180 feet	*
Statewide Minor Arterial or		

Areawide High or Low Collectors	100 feet	*
Local Streets and Town Road	66 feet	24 feet
Pedestrian Ways	12 feet	4 feet
Cul-de-ssac	65 feet (radius)	50 feet (radius)

RURAL CROSS SECTION

<i>Type of Street</i>	<i>Right-of-Way Width to be Dedicated</i>	<i>Pavement Width (edge to edge)</i>
Statewide Principal, Primary, or Standard Arterial Street	*	*
Local Streets and Town Roads	66 feet	24 feet
Areawide High and Low Collectors	80 feet	*
Cul-de-sac (See section diagram on following page)	65 feet (radius)	50 feet (radius)

* To be determined by the Town Board with advice from the Highway Commissioner and the Town Engineer. The Board may, in its sole discretion, require a traffic study to be done before the required right of way or pavement width is determined.

- a. Roadway Grading: Ditches. Roads shall be graded to their full width in accordance with approved plans, plus an additional distance necessary to establish a four to one (4:1) back slope, tapered back into the lot. The roadway shall be compacted and graded to subgrade using, where necessary, approved fill material which is in accordance with Wisconsin Department of Transportation standards. Roadside ditches shall be a minimum of twenty-six (26) inches below the finished roadway centerline elevation, or as approved by the Town Board, upon the recommendation of the Town Engineer. Debris may not be buried in the designated road right-of-way. Roadway ditches shall have a normal sope ratio of four to one (4:1) from the edge of the shoulder to the bottom of the ditch slope, and four to one (4:1) on the back slope. Roadway ditches shall have a minimum slope of 0.5%. Roadside ditches shall be finished with 4 inches of topsoil, seed, fertilize, mulch, and furnished with adequate erosion control devices to establish vegetation.
- b. Roadway Base Thickness.
 - 1) Residential, Rural Roads. Residential and rural roads and streets shall have a minimum roadway base thickness of 12 inches total constructed upon an inspected and approved subgrade. The bottom layer shall lbe a minimum of 8 inches of crushed limestone (dense 3-inch size), and the top layer shall be a minimum of 4 inches of crushed limestone (dense ¾-inch size).

- 2) Heavy-Use Roads. Commercial, arterial, collector or other heavy use roads, as determined by the Town Board, shall have a minimum base thickness of 14 inches total constructed upon an inspected and approved subgrade. The bottom layer shall be a minimum of 10 inches of crushed limestone (dense 3-inch size), and the top layer shall be a minimum of 4 inches of crushed limestone (dense ¾-inch size).
 - 3) Supplemental Specifications. In the case of commercial, arterial or other heavy-use roads, the Town Board may, in the alternative to the above standards, have the Fond du Lac County Highway Department and/or Town Engineer provide specifications for such roads after researching the site(s) and conducting a soil analysis.
 - 4) Discretion Reserved. In any case, the Town Board shall have the sole discretion in determining the use and construction classification to be adhered to.
 - 5) Base Course Compaction. In all cases, the base course shall be compacted to the extent necessary to produce a condition so that there will be no appreciable displacement of material laterally and longitudinally under traffic and shall conform to line, grades and shape shown on the approved plans, profiles and cross sections.
- c. Pavement Width. Minimum of thirty-six (36) feet edge to edge for Urban Service Area minor streets, forty (40) feet edge to edge for collector streets or streets serving commercial or industrial areas, twenty-four (24) feet for rural roads, without curb and gutter, and wider when required by the "Town Road Standards" as noted Sec. 86.26, Wis. Stats., or by the Town Subdivision Code, the more restrictive of which shall apply. Rural roads shall comply with the specifications for Urban Service Area minor streets if they are located in an area that in the Town Board's opinion might be annexed to an Urban Service Area within five (5) years.
 - d. Pavement Thickness. Residential and rural roads shall have a minimum of four (4) inches thick of virgin compacted hot mix asphalt (HMA) pavement, type E-0.3, placed in two (2) layers -- a lower layer of two and one-quarter (2-1/4) inches thick and an upper layer of one and three-quarter (1-3/4) inches. On commercial, arterial, collector, or heavy-use roads, there shall be a minimum of four and one-half (4-1/2) inches of virgin compacted hot mix asphalt (HMA) pavement, type E-3, placed in two (2) layers -- a lower layer of two and three-quarter (2-3/4) inches thick and an upper layer of one and one and three-quarter (1-3/4) inches thick. The upper layer shall use 12.5 mm nominal aggregate size and the lower layer shall use 19.0 mm nominal aggregate size. In the case of commercial, arterial or other heavy-use roads, the Town Board may, in the alternative to the above standards, have the Fond du Lac County Highway Department and/or Town Engineer provide specifications for paving such roads after researching the site(s) and conducting a soil analysis. In any case, the Town Board shall have the sole discretion in determining the use and construction classification to be adhered to.
 - e. Shoulder Width. Minimum of two (2) feet wide on each side and wider when required by the "Town Road Standards" as noted in Sec. 86.26., Wis. Stats.

- f. Shoulder Thickness. The finished shoulder shall consist of compacted in place crushed limestone (dense ¾-inch size), to a thickness matching the thickness of the asphalt pavement.
 - g. Roadway Culverts and Bridges. Roadway culverts and bridges shall be constructed as directed by the Town Engineer and sized utilizing the TR 55 standards listed in Chapter 13, entitled "Drainage," of the "Facilities Development Manual" of the Wisconsin Department of Transportation. All roadway culverts shall be sized to handle the 10-year frequency storm event, and to safely pass the 25-year storm event without inundating the roadway. Larger storm events are allowed to safely overtop the structure and continue along the drainage pathway described in the stormwater management plan. All roadway culverts shall be corrugated metal or reinforced concrete material with a minimum diameter of 18 inches, or equivalent, with endwalls of the like material. A minimum of 18 inches of cover material under the driving surface is required.
 - h. Driveway Culverts. No person shall excavate, fill, install any culverts or make any alterations in any Town highway, construct or create a driveway, or install a concrete driveway culvert abutment, without first obtaining a written permit from the Town. The minimum culvert size will be determined by the Town Permit Issuer based upon the depth of the ditch and existing culverts upstream and downstream of the subject property. The fee for the permit shall be set by resolution of the Town Board. All alterations and installations shall be in accordance with Town road standards and all applicable Town and County ordinances.
 - i. Topsoil, Grass, Seed, Fertilizer and Mulch. All disturbed areas (ditches, backslopes) within the road right-of-way not provided with pavement and shouldering material shall be restored utilizing four (4) inches of topsoil and good quality seed, fertilizer and mulch in accordance with the seeding requirements in Wisconsin Department of Transportation Standards. Ditches along the roadway shall be protected by necessary erosion control materials such as hay bales, sod, erosion control mats, etc., as prescribed by the engineering design for the ditches as approved by the Town Engineer.
 - j. Extra Turn Surface. The radius required shall be twenty-five (25) feet for minor/local streets; heavy traffic/collector street radius shall follow Manual standards.
 - k. Drainage Improvements. In the case of all new roads and streets, the Town Board may require that stormwater retention areas and storm sewers be constructed in order to provide for proper drainage.
 - l. Post-Construction Traffic Limited. No vehicular traffic shall be permitted on the pavement for a minimum period of between twenty-four (24) and seventy-two (72) hours following paving, as determined necessary by the Town Engineer to protect the new pavement.
- 3) Statutory Requirements. The laying out of highways and roads shall be as provided in Chapters 80 and 86, Wis. Stats., except that in the case of subdivisions and certified surveys, the provisions of Sec. 236.29(2), Wis. Stats., shall apply.
 - 4) Final Inspection. Upon completion of the proposed highway and roads, the Town Engineer will proceed to make final inspection, accepting or rejecting the road as the case may be. After all of the provisions of this Subdivision Code have been complied with, the roadway or easement will be inspected by Town officials and, at that time, proof will be

made by the presenting of waivers of liens or receipted bills that all work that has been done has been paid for or arrangements have been made for the payment through written instrument by the subdivider. If the road is rejected, corrections shall be made as required by the Town Board, upon the Town Engineer's recommendation, before final inspection can then be made again. If final acceptance is then made, the owner or owners shall turn over to the Town the deed of all land necessary for the road as previously mentioned, if not already dedicated by Plat or certified survey map.

c) **Block Design Standards.**

- 1) Length; Arrangement The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated, but block length in residential areas shall not exceed one thousand five hundred (1,500) feet nor have less than sufficient width to provide for two (2) tiers of lots of appropriate depth between street lines. As a general rule, blocks shall not be less than seven hundred fifty (750) feet in length (unless located on a cul-de-sac). Blocks shall be so designated as to provide two (2) tiers of lots, unless it adjoins a railroad, major thoroughfare, river or park where it may have a single tier of lots.

d) **Lot Design Standards.**

- 1) Size.
 - a. Access. Every lot shall front or abut on a public street for a distance of at least 66 feet. In unique hardship cases where it is impossible for a lot to abut a public street, a private way may be used for access purposes provided a statement is included on the face of the plat indicating that the lot is served by a private way and that the Town or County has no responsibility for the maintenance of the private way. Any such private way is subject to applicable County zoning or platting ordinances or codes, if any.
 - b. Area and Dimensions of lots shall conform to the requirements of Ch. Comm 85, Wis. Adm. Code and the Town's Zoning Code.
 - c. Area. Sewered lots shall have a minimum size as provided by applicable Town Zoning Code.
- 2) Depth. Lots shall have a minimum depth of as required for that Zoning District under Town Zoning Code. Depth of lots or parcels reserved for commercial or industrial use shall be adequate to provide for screened, off-street service and parking required by the use - contemplated, and the area zoning regulations for such use. An extra twenty (20) feet in depth and width may be required for said lots to be restricted for planting or shrubs and trees to screen said parking or to screen proposed industrial lots.
- 3) Corner Lots. Corner lots for residential use shall have extra width of ten (10) feet to permit building setback from both streets, as required by the Town Zoning Code.
- 4) Side Lots. Side lot lines shall be substantially at right angles to or radial to abutting street lines. Lot lines shall follow Town boundary lines.
- 5) Double and Reversed Frontage Lots. Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

- 6) Natural Features. In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- 7) Land Remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels.
- 8) Building Setback Lines. Building setback lines shall conform to the requirements in the Town Zoning Code. Where not otherwise controlled by ordinance or code, setback lines appropriate to the location and type of development contemplated shall be established as may be required by the Town Board to achieve the purpose and intent of this Subdivision Code.

e) **Drainage System.**

- 1) Drainage System Required. A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. A Final Plat shall not be approved until the subdivider shall submit plans, profiles and specifications as specified in this Section and as may be required by the Town's Stormwater Control Code, which have been prepared by a registered professional engineer and approved by the Town Board, upon the recommendations of the Plan Commission and Town Engineer.
- 2) Drainage System Plans.
 - a. Submission of Plans; Contents. The subdivider shall submit to the Town at the time of filing a Preliminary Plat a preliminary drainage plan or engineering report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the additional runoff which would be generated by the development of the land within the subdivision. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. The report shall also include:
 - 1) Estimates of the quantity of storm water entering the subdivision naturally from areas outside the subdivision;
 - 2) Quantities of flow at each inlet or culvert;
 - 3) Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.
 - 4) A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area within the subdivision.
 - 5) The design criteria for storm drainage systems shall be based upon the following criteria
 - i) Storm Sewer: 10-year design storm, check 25-year event for roadway inundation.

- ii) Culverts: 10-year design discharge, 25-year discharge must not overtop roadway
 - iii) Swales and Ditches: Swales and ditches shall be stable for a 25-year discharge velocity and safely pass the 100-year discharge. Minimum longitudinal slope for major swales and roadside ditches shall be 0.7% (1.0% or more desired). Roadside ditch shall flow parallel to the roadway profile but shall have a minimum longitudinal slope of 0.5%.
 - iv) Overland flow paths shall handle extreme storm events by protecting property and safely conveying stormwater to designated treatment facilities. Off site water entering site shall be considered in all discharge calculations. Design criteria for major drainage structures shall be determined by the Town Board and in compliance with Wisconsin water law.
- 6) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, sod, rip rap, etc.) shall be in compliance with subsection 14-1-7(b)(2) and the Town Board, upon the recommendation of the Town Engineer.
 - 7) Any other information requested by the Plan Commission, Town Board, Town Engineer, or required by applicable Town ordinances or codes.
- 3) Grading. The subdivider shall grade each subdivision in order to establish street, block and lot grades in proper relation to each other and to topography as follows:
- a. Full Width. The subdivider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans.
 - b. Block Grading. Block grading shall be completed by one (1) or more of the following methods:
 - 1) A ridge may be constructed along the rear lot lines which provides for drainage onto the streets;
 - 2) Parts of all lots may be graded to provide for drainage to the street or to a ditch along the rear lot line;
 - 3) Draining across rear or side lot lines may be permitted provided that drainage onto adjoining properties is skillfully controlled.
- 4) Drainage System Requirements. The subdivider shall install all the storm drainage facilities indicated on the plans required in Subsection (a) of this Section.
- a. Street Drainage. All streets shall be provided with an adequate storm drainage system. The street storm system shall serve as the primary drainage system and shall be designed to carry street, adjacent land and building storm water drainage. No storm water shall be permitted to be run into a sanitary sewer system within the proposed subdivision.
 - b. Off-Street Drainage. The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the subdivider shall make provisions, approved in advance by the

Town Board upon terms set in its sole discretion, for dedicating an easement of the Town to provide for the future maintenance of said system. Easements shall be a minimum of twenty (20) feet, but the Town may require larger easements if more area is needed due to topography, size of watercourse, etc.

- 5) Protection of Drainage Systems. The subdivider shall adequately protect all ditches to the satisfaction of the Town Board and Town Engineer. Ditches and open channels shall be seeded, sodded or paved depending upon grades and soil types. Generally ditches or channels with grades up to one percent (1%) shall be seeded; those with grades up to four percent (4%) shall be sodded or incorporated appropriate erosion matting to establish vegetation. Four (4) inches of topsoil shall be required on the surface of the drainage system with seeding, fertilizer, and mulch for seeding applications. All discharge velocities from the site shall be non-erosive to protect adjacent land and receiving waters from erosion.

f) **Non-residential Divisions of Land.**

1) General

- a. Commercial/Industrial Land Division. If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall conform to the requirements of this Subdivision Code and all other applicable Town ordinances or codes.
- b. Application of Subdivision Code. A nonresidential subdivision shall also be subject to all the requirements of site plan approval set forth in applicable Town Ordinances or Codes. A non-residential subdivision shall be subject to all the requirements of this Subdivision Code, as well as such additional standards required by the Town and shall conform to the proposed land use standards established by any Town Comprehensive Plan or the Town Zoning Code.
- c. Site Plan Review. Prior to submitting a Preliminary Plat or certified survey map for a division of lands proposed to be used for commercial or industrial purposes, the subdivider shall submit a Site Plan to the Plan Commission for review. The Site Plan shall be drawn to scale and shall, at a minimum, identify and depict the following:
- 1) Existing and proposed surface water drainage ways and detention/retention areas;
 - 2) Any proposed new buildings and the size thereof;
 - 3) Any existing buildings;
 - 4) The location of the nearest municipal sanitary sewer and water lines to which the parcel is proposed to be connected, or the proposed location of private well and septic facilities;
 - 5) Existing roads serving the parcel and proposed access points to existing roads;
 - 6) Any new private or public roads proposed to be constructed;
 - 7) Wetlands or floodplain areas within or adjacent to the parcel;
 - 8) The location and nature of any proposed signage (in compliance with the Town's Sign Code);

- 9) The location and nature of any proposed exterior lighting and its relation to adjacent parcels and roads;
 - 10) Final grade of the parcel after improvements have been constructed;
 - 11) Proposed buffer for parcel if adjacent to residential zoning or residential uses;
 - 12) Current zoning of parcel and adjacent parcels and proposed or required zoning changes;
 - 13) The location of the construction pad and proposed construction ingress and egress to parcel;
 - 14) Proposed final landscaping plan.
- 2) Standards. In addition to the principles and standards in this Subdivision Code, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Town Board that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
- a. Suitability of Site. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
 - b. Street Adequacy. Street rights of way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
 - c. Street Improvements. Special requirements may be imposed by the Town Board with respect to street, curb, gutter and sidewalk design and construction.
 - d. Public Utilities. Special requirements may be imposed by the Town Board with respect to the installation of public utilities, including water, sewer and storm water drainage.
 - e. Adjoining Land Uses. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strips when necessary. Landscaped buffer strips may not be used for buildings, storage or drainageways.
 - f. Commercial Traffic. Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

SEC. 14-1-8 PARK AND PUBLIC LAND

a) General Park and Public Land Dedication Requirements.

- 1) Dedication Requirement. In order that adequate open spaces and sites for public uses may be properly located and reserved and in order that the cost of providing public areas, such as but not limited to, parks, recreation areas and public schools may be equitably apportioned on the basis of additional need created by the subdivision development, each subdivider shall be required to dedicate land or fees in lieu of land for park or other public uses.
- 2) General Design. In the design of a subdivision, land division, planned unit development or development project, provision shall be made for suitable sites of adequate area for schools, parks, playgrounds, open spaces, drainageways and other public purposes. Such sites are to be shown on the concept or Site plan, Preliminary Plat and Final Plat, and shall comply with the Town of Fond du Lac Master Plan or component of said Plan. Consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds, ravines and woodlands, prairie and wetlands, and plant and animal communities.

b) **Land Dedication.**

- 1) Shoreland.
 - a. Public Access. If required by the Plan Commission and approved by the Town Board, all subdivisions abutting on a navigable lake or stream shall provide public access at least sixty (60) feet wide, providing access to the low watermark which is connected to existing public roads, at such points approved by the Town and by the Wisconsin Department of Natural Resources and the Wisconsin Department of Development, and excluding shore areas where public parks or open-space streets or roads on either side of a stream are provided. No public access established under this Subdivision Code may be vacated except by Circuit Court action. This Subsection does not require the Town to improve land provided for public access.
 - b. Lands Abutting Water's Edge. The lands lying between the meander line, established in accordance with Section 236.20(2)(g), Wis. Stats., and the water's edge, and any otherwise un-plattable lands which lie between a proposed subdivision and the water's edge shall be included as part of lots in any plat abutting a lake or stream. This Subsection applies not only to lands proposed to be subdivided but also to all lands under option to the subdivider or in which the subdivider holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream.
- 2) Unknown Number of Dwelling Units. Where the plat does not specify the number of dwelling units to be constructed, the land dedication shall be based upon the maximum number of units permitted by the Town Zoning Code and this Subdivision Code.
- 3) Deeded to the Town. Land dedicated for public purposes shall be deeded to the Town at the time the Final Plat is approved.
- 4) Access to Dedicated Land. All dedicated land shall have frontage on a public street and shall have unrestricted public access.
- 5) Utility Extensions. The subdivider shall install or provide for installation of water and sanitary sewer lines to the property line of all dedicated land, where such services are to be provided to the adjacent properties.

c) **Park Fund.**

- 1) Method of Calculation. Where there is no land suitable or desirable for parks within the proposed subdivision or the dedication of land would not be compatible with the Town's comprehensive development or park plan, or the Town Board determines that a cash contribution would better serve the public interest, the Board may require the subdivider to contribute cash payment in lieu of land according to the following provisions:
 - a. Method of Calculation.
 - 1) The fee is to be calculated and is payable at the time application is made for a building permit.
 - 2) The fee shall be \$200 per lot for residential subdivisions and .0035 % of the value of the proposed improvements, for commercial and industrial subdivisions and developments.
 - b. Alternate Method of Calculation. The subdivider may elect to calculate and pay the fee at the time of Final Plat acceptance for residential subdivisions.
- 2) Park Fund. Funds paid to the Town under any Fees in Lieu of Land provision or contributed from other sources for park development and improvement are to be placed in a separate account designated for park development and improvement projects. The Town Board shall have the final right to approve or reject such projects. Said account shall be a continuing account and shall not lapse at the end of a budget period.

SEC. 14-1-9 VARIANCES; PENALTIES AND VIOLATIONS

a) **Variations and Exceptions.**

- 1) Variances. Where, in the judgment of the Town Board, on the recommendation of the Plan Commission, it would be inappropriate to apply literally the provisions of this Subdivision Code because exceptional or undue hardship would result, the Town Board may waive or modify any requirements to the extent deemed just and proper. Application for any such variance shall be made in writing by the subdivider at the time when the Preliminary Plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Plan Commission and Town Board in the analysis of the proposed project.
- 2) Plan Commission Recommendation. The Plan Commission shall not recommend nor shall the Town Board grant variations or exceptions to the regulations of this Subdivision Code unless it shall make findings based upon the evidence presented to it in each specific case that:
 - a. Standards. The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
 - b. Conditions. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property;

c. Hardship. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, financial hardship or self-imposed hardship, if the strict letter of the regulations were carried out.

3) Town Board Action. Any recommendations by the Plan Commission shall be transmitted to the Town Board. The Town Board, if it approves of the variance, shall do so by motion or resolution and instruct the Town Clerk to notify the Plan Commission and the subdivider.

4) Variance Standards. Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Subdivision Code or the desirable general development of the Town in accordance with any Town Comprehensive Plan or component thereof, this Subdivision Code, or Zoning Code of the Town of Fond du Lac. A majority vote of the entire membership of the Town Board shall be required to grant any modification of this Subdivision Code, and the reasons shall be entered in the minutes of the Board.

5) Monument Waiver. The Town Board may waive the placing of monuments, required under Sec. 236.15(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the subdivider execute a surety bond to insure the placing of such monuments within the time required.

b) Enforcement, Penalties and Remedies.

1) Violations. It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Subdivision Code or the Wisconsin Statutes and no person shall be issued a building permit by the Town authorizing the building on, or improvement of, any subdivision, land division or replat with the jurisdiction of this Subdivision Code not of record as of the effective date of this Subdivision Code until the provisions and requirements of this Subdivision Code have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this Subdivision Code or the applicable Wisconsin Statutes.

2) Penalties. Any person, firm or corporation who fails to comply with the provisions of this Subdivision Code shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and the costs of prosecution for each violation, and in default of payment of such forfeiture costs shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.

3) Appeals. Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in Sections 236.13(5) and 62.23(7)(e)10, 14 and 15 of the Wisconsin Statutes, within thirty (30) days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.