

**CHAPTER 18**  
**LAND DIVISION**

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## **18.01 INTRODUCTION**

### **1) AUTHORITY**

- (a) These regulations are adopted under the authority granted by Section 236.45 of the Wisconsin Statutes. Therefore, the Town Board of Supervisors of the Town of Delavan, Wisconsin, do ordain as follows:

### **2) PURPOSE**

- (a) The purpose of this Ordinance is to regulate and control the division of land, condominium development and planned development within the limits of the Town of Delavan, Wisconsin, in order to promote the public health, safety, morals, prosperity, aesthetics, and general welfare of the Town and its environs.

### **3) INTENT**

- (a) It is the general intent of this Ordinance to regulate the division of land so as to:
  - i. Obtain the wise use, conservation, protection, and proper land development of the Town's soil, water, wetland, woodland, and wildlife resources and attain a proper adjustment of land use and development to the supporting and sustaining natural resource base;
  - ii. Lessen congestion in the streets and highways;
  - iii. Further the orderly layout and appropriate use of land;
  - iv. Secure safety from fire, panic, and other dangers;
  - v. Provide adequate light and air;
  - vi. Facilitate adequate provision for housing, transportation, water supply, storm water, wastewater, schools parks, playgrounds, and other public facilities and services;
  - vii. Secure safety from flooding, water pollution, disease, and other hazards;
  - viii. Prevent flood damage to persons and properties and minimize expenditures for flood relief and flood control project;
  - ix. Prevent and control erosion, sedimentation, and other

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- pollution of surface and subsurface waters;
- x. Preserve natural vegetation and cover and promote the natural beauty of the Town;
  - xi. Restrict building sites on floodlands, shorelands, areas covered by poor soils or in other areas poorly suited for development;
  - xii. Facilitate the further division of larger tracts into smaller parcels of land;
  - xiii. Ensure adequate legal description and proper survey documentation of subdivided land;
  - xiv. Provide for the administration and enforcement of this Ordinance;
  - xv. Provide penalties for its violation; and
  - xvi. Implement those municipal, county, watershed, transportation, or regional comprehensive plans or their components adopted by the Town, and in general to facilitate enforcement of Town development standards as set forth in the adopted regional, county, and local comprehensive plans, neighborhood plans, adopted plan components, zoning ordinance, and Town Building Code of the Town of Delavan, Wisconsin.

#### **4) ABROGATION AND GREATER RESTRICTIONS**

- (a) It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to laws. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

#### **5) INTERPRETATION**

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

#### **6) SEVERABILITY**

- (a) If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance

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shall not be affected thereby.

- (b) The Town does not guarantee, warrant, or represent that only those areas designated as floodlands will be subject to periodic inundation and that those soils listed as being unsuited for specific uses are the only unsuited soils within the Town and thereby asserts that there is no liability on the part of the Board of Supervisors, its agencies, or employees for sanitation problems or structural damages that may occur as a result of reliance upon, and conformance with, this Ordinance.

## **7) REPEAL**

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

## **8) TITLE**

- (a) This Ordinance shall be known as, referred to, or cited as the "LAND DIVISION ORDINANCE, TOWN OF DELAVAN, WALWORTH COUNTY, WISCONSIN".

*Established April 17, 2001, Ordinance No. 229*

## **18.02 GENERAL PROVISIONS**

### **1) JURISDICTION**

- (a) Jurisdiction of these regulations shall include all unincorporated lands within the Town of Delavan, Wisconsin. The provisions of this Ordinance as it applies to divisions of tracts of land into less than five (5) parcels shall not apply to:
  - i. Transfers of interests in land by will or pursuant to court order.
  - ii. Leases for a term not to exceed ten (10) years, mortgages, or easements.
  - iii. 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 these regulations, the zoning ordinances, or other applicable laws or ordinances.

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- iv. Cemetery plats made under Wisconsin Statutes, 157.07.
- v. Assessors' plats made under Wisconsin Statutes, 70.27 but such assessors' plats shall comply with Wisconsin Statutes, 236.15(1)(a) to (h) and 236.20(1) and (2)(a) to (e).

## **2) COMPLIANCE**

- (a) No person, firm, or corporation shall divide any land located within the jurisdictional limits of these regulations so that such division results in a condominium, planned development, subdivision, minor land division, or replat as defined herein, and no such condominium, planned development, subdivision, minor land division or replat shall be entitled to recording; and, no street shall be laid out or improvements made to land without compliance with all requirements of this Ordinance and the following documents:
  - i. Chapters 236 and 703, Wisconsin Statutes.
  - ii. Rules of the Wisconsin Department of Industry, Labor, and Human Relations, Division of Health regulating lot size and lot elevation if the land to be subdivided is not served by public sewer and provisions for such services have not been made.
  - iii. Rules of the Wisconsin Department of Transportation relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivider abuts on a state highway or connecting street.
  - iv. Rules of the Wisconsin Department of Natural Resources, Division of Environmental Protection setting water quality standard preventing and abating pollution, and regulating development within floodland, wetland and shoreland areas.
  - v. Duly approved comprehensive plan or comprehensive plan component of the Town of Delavan, Wisconsin.
  - vi. All other applicable local and county ordinances and regulations.
  - vii. The requirements of Chapter 236, Wisconsin Statutes; Section 236.12(2) shall not apply, which relates to minimum street width.
  - viii. The requirements of Chapter 236, Wisconsin Statutes, Section 236.16(3), shall not apply, which relates

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to dedication of public access to lakes and streams with respect to a division of land which results in a subdivision, minor subdivision, or replat as defined by this Ordinance, but shall be applicable to a division of land which results in a subdivision as defined in Section 236.02(8), Wisconsin Statutes.

### **3) DEDICATION AND RESERVATION OF LANDS**

#### **(a) STREETS, HIGHWAYS, AND DRAINAGEWAYS**

- i. Whenever a tract of land to be divided within the jurisdiction of this Ordinance encompasses all or any part of an arterial or collector street, drainageway, or other public way which has been designated on a duly adopted Town or regional comprehensive plan or comprehensive plan component, said public way shall be made a part of the plat and dedicated or reserved by the subdivider in the locations and dimensions indicated on said plan or component and as set forth in Section 9 of this Ordinance.
- ii. Whenever a tract of land to be subdivided, developed by condominium or planned development embraces all or any part of a proposed public playground, park, school site, open space site, or other public land, other than streets, highways, drainageways, other public ways or public access to navigable lakes or streams designated in the adopted regional and County comprehensive plans or adopted plan components of Walworth County, or other adopted Town of Delavan plan, these proposed public lands shall be made a part of the plat, condominium or planned development. The subdivider or developer shall reserve such proposed public lands for a period not to exceed three (3) years, unless extended by mutual agreement, for acquisition by the public agency having jurisdiction.
- iii. Whenever a tract of land to be subdivided, developed as a condominium or planned development embraces any part of existing floodlands, such floodlands shall be made a part of the plat, condominium or planned development. Floodlands included within a subdivision plat shall be included within lots, or reserved for acquisition as provided above, or if approved by the Town Plan Commission, shall be

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reserved in perpetuity for the recreational use of the future residents of the land to be divided or developed.

#### **4) IMPROVEMENTS**

- (a) Before final approval of any plat, condominium or planned development located within the jurisdictional limits of this Ordinance, the subdivider shall install street and utility improvements as hereinafter provided. If such improvements are not installed as required at the time that the final plat or plan is submitted for approval, the subdivider shall, before the recording of the plat, enter into a contract with the Town agreeing to install the required improvements and shall file with said contract a bond or letter of credit meeting the approval of the Town Attorney or a certified check in an amount equal to the estimated cost of the improvements--said estimate to be made by the Town Plan Commission after review and recommendation by the Town Engineer--as a guarantee that such improvements will be completed by the subdivider or his subcontractors not later than one (1) year from the date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied. In addition:
  - i. Contracts and contract specifications for the construction of street and utility improvements on dedicated street right-of-way, as well as the contractors and subcontractors providing such work shall be subject to the approval of the Town Board.
  - ii. Governmental units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.
  - iii. **SURVEY MONUMENTS:** Before final approval of any plat within the Town, the subdivider shall install survey monuments placed in accordance with the requirements of Chapter 236.15 of the Wisconsin Statutes, and as may be required by the Town Engineer.

#### **5) VARIANCES**

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- (a) Where, in the judgment of the Town Plan Commission, it would be inappropriate to apply literally the provisions of Sections 9.0 and Appendix B of this Ordinance because exceptional or undue hardship would result, the Town Plan Commission may waive or modify any requirement to the extent deemed just and proper. No variance to the provisions of this Ordinance shall be granted unless the Town Plan Commission finds by the greater weight of the evidence that all the following facts and conditions exist and so indicates in the minutes of its proceedings:
  - i. **EXCEPTIONAL CIRCUMSTANCES:** There are exceptional, extraordinary, or unusual circumstances or conditions where a literal enforcement of the requirements of this Ordinance would result in severe hardship. (Such hardship should not apply generally to other properties or be of such a recurrent nature as to suggest that the Land Division Ordinance should be changed).
  - ii. **PRESERVATION OF PROPERTY RIGHTS:** That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.
  - iii. **ABSENCE OF DETRIMENT:** That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.
- (b) A simple majority vote of the entire membership of the Town Plan Commission shall be required to grant any modification of this Ordinance.
- (c) The Town Board may waive the placing of monuments, required under Sec. 236.15(1)(b), (1)(c), and (1)(d), for a reasonable time on condition that the subdivider execute a surety bond to insure the placing of such monuments within the required time limits established by the Town.

## 6) LAND SUITABILITY

- (a) No land shall be subdivided, developed as a condominium or planned development for any use which is determined to be unsuitable for such use by the Town Plan Commission

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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, condominium, or planned development or of the Town. In addition:

- i. **FLOODLANDS:** Any lot served by public sanitary sewer facilities shall have more than fifty percent (50) of its required lot area at least two (2') feet above the elevation of the one-hundred (100) year recurrence interval flood. No lot one (1) acre or less in area served by an on-site sanitary sewage disposal (septic tank) system shall include floodlands. All lots more than one (1) acre in area served by a septic tank system shall contain not less than forty-thousand (40,000) square feet of land which is above flood protection elevation at least two (2) feet above the elevation of the one-hundred (100) year recurrence interval flood, or where such data is not available, five (5') feet above the maximum flood of record.
- ii. Lands made, altered, or filled with non-earth materials within the preceding twenty (20) years shall not be divided into building sites which are to be served by on-site soil absorption sewage disposal systems.
- iii. Lands made, altered, or filled with earth within the preceding seven (7) years shall not be divided into building sites which are to be served by on-site soil absorption sewage disposal systems.
- iv. Lands having a slope of twelve percent (12%) or more shall be maintained in permanent open space use. No lot shall have more than fifty percent (50%) of its minimum required area in slopes of ten percent (10%) or greater.
- v. Lands having bedrock within six (6') feet of the natural undisturbed surface shall not be divided into building sites to be served by onsite soil absorption sewage disposal systems.
- vi. Lands having groundwater within six (6') feet of the natural undisturbed surface shall not be divided into building sites to be served by on-site soil absorption sewage disposal systems.
- vii. Lands covered by soils having a percolation rate

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slower than sixty (60) minutes per inch or faster than ten (10) minutes per inch shall not be divided into building sites to be served by onsite soil absorption sewage disposal systems.

- viii. Lands drained by farm drainage tile or farm ditch systems shall not be divided into building sites to be served by onsite soil absorption sewage disposal systems.
- (b) The Town Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for any use and afford the subdivider an opportunity to present evidence in rebuttal to such finding of unsuitability if they so desire. Thereafter the Town Plan Commission may affirm, modify, or withdraw its determination of unsuitability.

## **7) VIOLATIONS**

- (a) It shall be unlawful to build upon, divide, convey, record or place monuments on any land in violation of this Ordinance or the Wisconsin Statutes; and no person, firm or corporation shall be issued a building permit by the Town of Delavan authorizing the building on, or improvement of, any subdivision, minor land division, replat, condominium or planned development within the jurisdiction of this Ordinance not of record as of the effective date of this Ordinance until the provisions and requirements of this Ordinance have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this Ordinance or the applicable Wisconsin Statutes.

## **8) PENALTIES AND REMEDIES**

- (a) Any person, firm or corporation who violates or fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than one-hundred (\$100) nor more than one-thousand (\$1,000) dollars plus the costs of prosecution for each offense and the penalty for default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding six (6) months. Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant

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penalties shall include:

- i. Recordation improperly made carries penalties as provided in Section 236.30 Wisconsin Statutes.
  - ii. Conveyance of lots in unrecorded plats carries penalties as provided for in Section 236.31 Wisconsin Statutes.
  - iii. Monuments disturbed or not placed carries penalties as provided for in Section 236.32 of Wisconsin Statutes.
- (b) An assessor's plat made under Section 70.27 Wisconsin Statutes, may be ordered as a remedy by the Town, at the expense of the subdivider, when a subdivision as defined herein is created by successive divisions.

## **9) APPEALS**

- (a) Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal such objection or failure to approve as provided in Sections 236.13(5) 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.

## **10) APPLICABILITY TO PENDING PRELIMINARY SUBDIVISION PLATS OR CERTIFIED SURVEY MAPS**

- (a) The provisions of this Ordinance shall not apply to preliminary subdivision plats, certified survey maps, condominium plats or planned development plans which have been filed with the Town Plan Commission prior to the effective date of this Ordinance.

*Established April 17, 2001, Ordinance No. 229*

## **18.03 LAND DIVISION PROCEDURE**

### **1) PRE-APPLICATION**

- (a) It is recommended that, prior to the filing of a

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conceptual plan, the subdivider consult with the Town Plan Commission and/or its staff in order to obtain their advice and assistance. 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, neighborhood plans, and duly adopted plan implementation devices of the Town and to otherwise assist the subdivider in planning his 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 adverse effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.

## **2) CONCEPTUAL PLAN**

- (a) It is recommended that, prior to the filing of an application for the approval of a preliminary plat, the subdivider submit six (6) copies of a conceptual plan of the proposed land division prepared in accordance with this Ordinance for review and comment by the staff, Town Plan Commission, Town Board and Town Engineer. The conceptual plan is intended to provide an early opportunity to review policy issues relating to the development and its possible adverse effects on the adjacent neighborhood and community.

## **3) PRELIMINARY PLAT REVIEW**

- (a) Before submitting a Final Plat for approval, the subdivider shall prepare a Preliminary Plat with supporting data and a letter of application. The Preliminary Plat and supporting data shall be prepared in accordance with this Ordinance, and the subdivider shall file an adequate number of copies of the Plat with supporting data and the application with the Town Clerk together with all necessary fees at least 60 days prior to the meeting of the Town Plan Commission at which first consideration is desired. In addition:
  - i. The subdivider shall file an adequate number of copies of the plat along with the application with the Director of Planning Function of the Wisconsin

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Department of Administration who shall distribute copies in the following manner:

1. Two (2) copies - Wisconsin Department of Transportation if the subdivision abuts or adjoins a state highway or connecting street.
  2. Two (2) copies - Wisconsin Department of Commerce if the subdivision is not served by a public sewer and provision for such service has not been made.
  3. Two (2) copies - Wisconsin Department of Natural Resources if shorelands or floodlands are contained within the proposed subdivision.
- (b) Any fees paid by the subdivider for the required state agency reviews shall be forwarded by the subdivider to the head of the planning function in the Wisconsin Department of Administration, who along with the Wisconsin Department of Transportation and the Wisconsin Department of Commerce shall hereafter be referred to as objecting agencies.
- (c) The Town Clerk shall, within two (2) days after filing, distribute copies of the proposed preliminary plat and supporting data in the following manner:
- i. Two (2) copies - Town Board, Town Plan Commission, Town Public Works Committee, Fire Department, Town Engineer, and Clerk of a City or Village having extraterritorial jurisdiction.
  - ii. Four (4) copies - County Park and Planning Commission.
- (d) The Town Clerk shall also transmit a copy of the Preliminary Plat and supporting data to all other affected Town commissions or departments, school districts and all affected local utility companies for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Town Plan Commission within 20 days from the date the Plat is filed. The Preliminary Plat and supporting data shall then be reviewed by the Town Plan Commission and Town Engineer for conformance with this Ordinance and all ordinances, rules, regulations, comprehensive plans and comprehensive plan

components, and neighborhood plans. The Town Plan Commission shall then recommend approval, conditional approval or rejection of the Preliminary Plat to the Town Board.

#### **4) PRELIMINARY PLAT APPROVAL**

- (a) The objecting agencies shall, within twenty (20) days of the date of receiving their copies of the Preliminary Plat and supporting data, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the Town Clerk. If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objection to the Plat. In addition:
  - i. The Town Board shall, within ninety (90) days of the date of filing of a Preliminary Plat and supporting data with the Town Clerk, approve, approve conditionally, or reject such Plat. One (1) copy of the Plat shall thereupon be returned to the subdivider with the date and action endorsed thereon; and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the Plat. One (1) copy each of the Plat and letter shall be placed in the Town Board's permanent file.
  - ii. Failure of the Town Board to act within ninety (90) days or within the time as extended by agreement with the subdivider shall constitute an approval of the Plat as filed.
  - iii. 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 three (3) months of preliminary plat approval and conforms substantially to the preliminary plat layout as indicated in Section 236.11(1)(b) Wisconsin Statutes, the Final Plat shall be entitled to approval with respect to such layout. The Preliminary Plat and supporting data 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 Town Plan Commission and Town Board at the

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time of its submission.

## **5) FINAL PLAT REVIEW**

- (a) The subdivider shall prepare a Final Plat and a letter of application in accordance with this Ordinance and shall file an adequate number of copies of the Plat and the application with the Town Clerk at least forty-five (45) days prior to the meeting of the Town Plan Commission at which action is desired. In addition:
  - i. The subdivider shall file an adequate number of copies of the plat along with the application with the Director of Planning Function of the Wisconsin Department of Administration who shall distribute copies in the following manner:
    - 1. Two (2) copies - Wisconsin Department of Transportation if the subdivision abuts or adjoins a state highway or connecting street.
    - 2. Two (2) copies - Wisconsin Department of Industry, Labor and Human Relations if the subdivision is not served by a public sewer and provision for such service has not been made.
    - 3. Two (2) copies - Wisconsin Department of Natural Resources if shorelands or floodlands are contained within the proposed subdivision.
- (b) Any fees paid by the subdivider for the required state agency reviews shall be forwarded by the subdivider to the head of the planning function in the Wisconsin Department of Administration, who along with the Wisconsin Department of Transportation and the Wisconsin Department of Commerce shall hereafter be referred to as objecting agencies.
- (c) The Town Clerk shall, within two (2) days after filing, distribute copies of the proposed plat in the following manner:
  - i. Two (2) copies - Town Board, Town Plan Commission, Town Public Works Committee, Fire Department, Town Engineer, and Clerk of a City or Village having extraterritorial jurisdiction.
  - ii. Four (4) copies - County Park and Planning Commission.

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- (d) The Town Plan Commission and Town Engineer shall examine the Final Plat as to its conformance with the approved Preliminary Plat; any conditions of approval of the Preliminary Plat; this Ordinance and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and shall recommend approval, or rejection of the Plat to the Town Board

**(e) PARTIAL PLATTING**

- i. If permitted by the Town Board, the approved Preliminary Plat may be final platted in phases with each phase encompassing only that portion of the approved Preliminary Plat which the subdivider proposes to record at one time, however, it is required that each such phase be final platted and be designated as a "phase" or "addition" to the approved Preliminary Plat.

**6) FINAL PLAT APPROVAL**

- (a) The objecting agencies shall, within twenty (20) days of the date of receiving their copies of the Final Plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the Town Plan Commission. If any objecting agency fails to act within twenty (20) days, it shall be deemed to have no objection to the Plat.
- (b) **SUBMISSION**
  - i. If the Final Plat is not submitted within three (3) months of the last required approval of the Preliminary Plat, the Town Board may refuse to approve the Final Plat.
- (c) The Town Plan Commission shall, within forty-five (45) days of the date of filing of the Final Plat with the Town Clerk, recommend approval, conditional approval or rejection of the Plat and shall transmit the Final Plat and application along with its recommendation to the Town Board.

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- (d) The Town Board shall, within sixty (60) days of the date of filing the original Final Plat with the Town Clerk, 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 of 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 20 days or if filed, have been met.
- (e) Failure of the Town Board to take action on the Plat within sixty (60) days, the time having not been extended and no unsatisfied objections having been filed, the Plat shall be deemed approved.

(f) **RECORDATION**

- i. After the Final Plat has been approved by the Town Board and improvements required by the Town and/or Sanitary District either installed or a contract and sureties insuring their installation is filed, the Town Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the County Register of Deeds. The Register of Deeds shall not record the Plat unless it is offered within twelve (12) months from the date of the last approval and within thirty-six (36) months after the first approval.

(g) **COPIES**

- i. The subdivider shall file a minimum of ten (10) copies of the approved Final Plat with the Town Clerk for distribution to the Town Engineer, Building Inspector, Assessor, Treasurer and other affected departments for their files.

**7) PLATS WITHIN THE EXTRA-TERRITORIAL PLAT APPROVAL JURISDICTION**

- (a) When the land to be subdivided lies within one and one-half (1-1/2) miles of the corporate limits of a village or city, the subdivider shall proceed as

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specified in Section 3.1 through 3.6 except:

- i. Transmittal responsibility lies with the Village, City, County, or Town Clerk to whomever the plat is first submitted; and the subdivider shall indicate which one in his application.
- ii. Approval agencies include:
  - 1. Town Board
  - 2. Village Plan Commission, Village Board
  - 3. City Plan Commission, Common Council
  - 4. Walworth County Land Use & Resource Management Department

- (b) The Subdivider shall comply with the land division ordinance of these agencies.
- (c) All improvement requirements, specified by the Town, Village, City or County in matters over which they have jurisdiction, shall be met before signing of the final plat.

#### **8) REPLAT**

- (a) 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 Section 236.40 through 236.44 Wisconsin Statutes. The subdivider, or person wishing to replat, shall then proceed as specified in Section 18.03.
- (b) The Town Clerk shall schedule a public hearing before the Town Plan Commission when a preliminary plat of a replat of lands within the Town's jurisdiction is filed, and shall cause a Class 2 notice of the public hearing to be published and 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 two-hundred (200') feet of the exterior boundaries of the proposed replat.

#### **9) MINOR LAND DIVISION REVIEW (CERTIFIED SURVEY MAP)**

- (a) When it is proposed to divide land into not more than four (4) parcels or building sites, any one of which

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is fifteen (15) acres or less in size, or when it is proposed to create by land division not more than four (4) parcels or building sites within a recorded subdivision plat without changing the exterior boundaries of a block, lot or out-lot, the subdivider may subdivide by use of a Certified Survey Map. The Certified Survey Map shall include all parcels of land fifteen (15) acres or less in size and may, at the owners direction, include any other parcels containing more than fifteen (15) acres. The subdivider shall prepare the Certified Survey Map in accordance with this Ordinance and shall file ten (10) copies of the Map and the letter of application with the Town Clerk at least 30 days prior to the meeting of the Town Plan Commission at which action is desired.

- (b) The Town Clerk shall, within two (2) days after filing, transmit the copies of the Map and letter of application to the Town Plan Commission.
- (c) The Town Clerk shall transmit a copy of the Map to the Town Engineer and all affected Town Boards, commissions or departments for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Town Plan Commission within 10 days from the date the Map is filed.

**10) MINOR LAND DIVISION APPROVAL (CERTIFIED SURVEY MAP)**

- (a) The Map shall be reviewed by the Town Plan Commission for conformance with this Ordinance and all ordinances, rules, regulations, comprehensive plans, and comprehensive plan components, and neighborhood plans.
- (b) The Town Plan Commission shall, within forty-five (45) days from the date of filing of the Map, recommend approval, conditional approval or rejection of the Map, and shall transmit the Map along with its recommendations to the Town Board.
- (c) The Town Board shall approve, approve conditionally and thereby require resubmission of a corrected Certified Survey Map, or reject such Certified Survey Map within 60 days from the date of filing of the Map unless the time is extended by agreement with the subdivider. If the Map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider. If the Map is approved, the Town Board shall cause the Town Clerk to so certify on the

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face of the original Map and return the Map to the subdivider.

(d) **RECORDATION**

- i. The subdivider shall record the Map with the County Register of Deeds within twelve (12) months of its approval by the Town Board.

(e) **COPIES**

- i. The subdivider shall file a minimum of ten (10) copies of the Certified Survey map with the Town Clerk for distribution to the Town Engineer, Building Inspector, Assessor, and other affected departments for their files.

**11) CONDOMINIUM DEVELOPMENT REVIEW**

- (a) When it is proposed to develop land into a condominium, a Condominium Development Plan shall be filed with the Town Clerk. The condominium developer shall file four (4) copies with the Town Clerk at least forty-five (45) days prior to the meeting of the Town Plan Commission at which action is desired. Prior to submitting a Condominium Development Plan, the condominium developer should submit a Preliminary Condominium Development Plan. It shall be clearly marked "Preliminary Condominium Development Plan" and shall be in sufficient detail to determine whether the proposed development will meet the requirements of the Ordinance. If the condominium developer makes application for a conditional use permit with the Walworth County Land Use & Resource Management Department, the condominium developer shall submit a copy of the information provided to the County to the Town Clerk.
- (b) The Town Clerk shall, within two (2) days after filing, transmit a copy of the plan to the Town Board, Town Plan Commission, Town Public Works Committee, Fire Department, Town Engineer and all other affected Town Committees or Departments for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Town Plan Commission within twenty (20) days.

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**12) CONDOMINIUM DEVELOPMENT APPROVAL**

- (a) The plan shall be reviewed by the Town Plan Commission for conformance with this Ordinance and all ordinances, rules, regulations, adopted regional, County or Town comprehensive plan or adopted plan components which affect it.
- (b) The Town Plan Commission shall, within forty-five (45) days of the date of filing copies of the Condominium Development Plan with the Town Clerk, recommend approval, conditional approval or rejection of such Condominium Development Plan unless the time is extended by agreement with the developer.
- (c) The Town Board shall, within sixty (60) days of the date of filing the Condominium Development Plan with the Town Clerk, approve or reject such Condominium Development Plan unless the time is extended by agreement with the developer. If the Condominium Development Plan is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the developer.
- (d) Failure of the Town Board to act within ninety (90) days, the time not having been extended, the Condominium Development Plan shall be deemed approved.

**13) PLANNED DEVELOPMENT REVIEW**

- (a) When it is proposed to develop land into a planned development, a Development Plan shall be filed with the Town Clerk. The developer shall file four (4) copies with the Town Clerk at least forty-five (45) days prior to the meeting of the Town Plan Commission at which action is desired. Prior to submitting a plan, the developer should submit a preliminary development plan. It shall be clearly marked "Preliminary Development Plan" and shall be in sufficient detail to determine whether the proposed development will meet the requirements of the Ordinance. If the developer makes application for a conditional use permit with the Walworth County Land Use & Resource Management Department, the developer shall submit a copy of the information provided to the County to the Town Clerk.
- (b) The Town Clerk shall, within two (2) days after filing, transmit a copy of the Development Plan to the Town Board,

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Town Plan Commission, Town Public Works Committee, Fire Department, Town Engineer and all other affected Town Commissions or Departments for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Town Plan Commission within twenty (20) days.

**14) PLANNED DEVELOPMENT APPROVAL**

- (a) The plan shall be reviewed by the Town Plan Commission for conformance with this Ordinance and all ordinances, rules, regulations, adopted regional, County or Town comprehensive plans or adopted plan components which affect it.
- (b) The Town Plan Commission shall, within forty-five (45) days of the date of filing copies of the Development Plan with the Town Clerk, recommend approval, conditional approval or rejection of such Development Plan unless the time is extended by agreement with the developer.
- (c) The Town Board shall, within sixty (60) days of the date of filing the Development Plan with the Town Clerk, approve or reject such Development Plan unless the time is extended by agreement with the developer. If the Development Plan is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the developer.
- (d) Failure of the Town Board to act within Sixty (60) days, the time not having been extended, the Development Plan shall be deemed approved.

*Established April 17, 2001, Ordinance No. 229*

**18.04 PRELIMINARY PLAT**

**1) GENERAL**

- (a) A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor at a map scale of not more than 100 feet to the inch and shall show correctly on its face the following information:

i. Title or name under which the proposed subdivision

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is to be recorded. Such title shall not be the same or similar to a previously approved and recorded plat, unless it is an addition to a previously recorded plat and is so stated on the plat;

- ii. The location of the proposed subdivision by government lot, quarter-section, section, town, range, county and state;
- iii. General location sketch showing the location of the subdivision within the U.S. Public Land Survey section;
- iv. Date, graphic scale and north arrow;
- v. Names and addresses of the owner, subdivider and land surveyor preparing the plat;
- vi. 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. The Town Plan Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Ordinance and severe hardship would result from strict application thereof.

## **2) PRELIMINARY PLAT DATA**

(a) All preliminary plats shall show the following:

- i. Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in U.S. Public Land Survey and the total acreage encompassed thereby;
- ii. Location, right-of-way width and names of all existing streets, alleys or other public ways, easements, railroad and utility right-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto;
- iii. Location and names of any adjacent subdivisions, parks and cemeteries, and owners of record of abutting un-platted lands;
- iv. Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks and other similar significant natural and man-made features within the tract begin subdivided or immediately adjacent thereto;

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- v. Location, width and names of all proposed public right-of-way and easements;
- vi. Approximate dimensions of all lots together with proposed lot and block numbers and street setback lines;
- vii. Location, approximate dimensions and size of any sites to be reserved or dedicated for parks, playgrounds, drainageways, or other public use or which are to be used for group housing, shopping centers, church sites, or other private uses not requiring platting;
- viii. Approximate radii of all curves;
- ix. Existing zoning on and adjacent to the proposed subdivision;
- x. Any proposed lake and stream access clearly indicating the location of the proposed subdivision in relation to the access;
- xi. Name of the School District and the boundary lines thereof when a proposed subdivision is situated in more than one school district.
- xii. Where the Town 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) COVENANTS**

- (a) The Town Plan Commission shall require submission of a draft of protective covenants whereby the subdivider intends to regulate land use in the proposed subdivision, condominium or planned development and otherwise protect the proposed development. The Town Attorney shall review all covenants for compliance with this Ordinance and conditions as established by the Town and shall approve covenants as to form.

### **4) PRELIMINARY GRADING AND STORM WATER MANAGEMENT PLAN**

- (a) All preliminary plans shall show the following on a separate sheet:
  - i. The exterior boundaries of the proposed subdivision along with the proposed lots, lot numbers and drainage

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- easements;
- ii. Existing contours at vertical intervals of not more than two (2') feet where the slope of the ground surface is less than ten percent (10%), and of not more than five (5') feet where the slope of the ground surface is ten percent (10%) or more. Elevations shall be marked on such contours based on National Geodetic Datum (mean sea level) where available;
  - iii. Water elevations of adjoining lakes and streams at the date of the submittal and approximate high and low water elevations, all referred to mean sea level datum where available;
  - iv. Floodplain limits 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, five (5') feet above the elevation of the maximum flood of record;
  - v. Location of all existing streets, alleys or other public ways, easements, railroad and utility right-of-way.
  - vi. 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, all to mean sea level datum where available;
  - vii. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catch basins, hydrants, power and telephone poles, and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sanitary or storm sewers or water mains are located on or immediately adjacent to the lands being platted, the nearest such sewers or water mains which might be extended to serve such lands shall be indicated by their direction and distance from the nearest exterior boundary of the plat and their size, and invert elevations;
  - viii. Preliminary street grading showing proposed streets with their proposed elevations and grades;
  - ix. Preliminary storm water management features showing proposed swales, storm sewers and storm water basins. Sizes of proposed storm sewers and storm water basins shall be shown and the supporting calculations

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included in a report, to be filed as part of the preliminary data.

- x. Any proposed lake and stream improvement or relocation;
- xi. Soil, type and boundaries as shown on the detailed operational soil survey maps prepared by the U.S. Soil Conservation Service;
- xii. Location of soil boring tests, where required by Chapter COMM 83 of the Wisconsin Administrative Code, made to a depth of six (6') feet, unless bedrock is at a lesser depth. The number of such tests shall be adequate to portray the character of the soils and the depths of bedrock and groundwater from the natural undisturbed surface. To accomplish this purpose, a minimum of one (1) test per three (3) acres shall be made initially. The results of such tests shall be submitted along with the preliminary plan;

## **5) TESTING**

- (a) The Town Plan Commission, upon recommendation of the Town Engineer, may require that borings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to groundwater table. Where the subdivision will not be served by public sanitary sewer service, the provisions of COMM 83 of the Wisconsin Administrative Code shall be complied with; and the appropriate data submitted with the preliminary plat and plan.

*Established April 17, 2001, Ordinance No. 229*

## **18.05 FINAL PLAT**

### **1) GENERAL**

- (a) 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 Section 236.20 Wisconsin Statutes

### **2) ADDITIONAL INFORMATION**

- (a) The Plat shall show correctly on its face, in addition to the information required by Section 236.20 Wis. Stats,

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the following:

- i. Railroad right-of-way within and abutting the plat;
- ii. Setbacks or building lines if required by the Town Plan Commission or other ordinances;
- iii. Utility and/or drainage easements;
- iv. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat and provisions and plans for its use and maintenance;
- v. Special restrictions required by the Town Plan Commission relating to access control along public ways, delineation of floodland limits, or to the provision of planting strips.
- vi. Additional building setback lines required by the Town Plan Commission which are more restrictive than the zoning district in which the plat is located or which are proposed by the subdivider and which are to be included in recorded protective covenants.
- vii. Additional yards required by the Town Plan Commission which are more restrictive than the zoning district in which the plat is located or which are proposed by the subdivider and which are to be included in recorded protective covenants.
- viii. 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, a vertical distance of five (5') feet above the elevation of the maximum flood of record.
- ix. Where the Town Plan Commission finds that it requires additional information relative to a particular problem presented by a proposed development to review the final plat, it shall have the authority to request in writing such information from the subdivider.

### **3) DEED RESTRICTIONS**

- (a) The Town Plan Commission and/or Town Board may require that deed restrictions be filed with the Final Plat.

### **4) SURVEY ACCURACY**

- (a) Maximum error of closure before adjustment of the survey of the exterior boundaries of the subdivision shall not

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exceed, in horizontal distance or position, the ratio of one (1) part in ten-thousand (10,000), nor in azimuth, four (4) seconds of arc per interior angle.

#### **5) SURVEYING AND MONUMENTING**

- (a) All final plats shall meet all the surveying and monument requirements of Section 236.15 Wisconsin Statutes

#### **6) STATE PLANE COORDINATE SYSTEM**

- (a) Where the Plat is located within a U.S. Public Land Survey quarter-section, the corners of which have been relocated, monumented and coordinated by the Wisconsin Department of Transportation, the Southeastern Wisconsin Regional Planning Commission, or any County, City, Village or Town, the Plat shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner, to which the Plat is tied, shall be indicated on the Plat. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error of closure herein specified for the survey of the exterior boundaries of the subdivision. All distances and bearings shall be referenced directly to the Wisconsin Coordinate System, South Zone, and adjusted to the control survey.

#### **7) CERTIFICATES**

- (a) All final plats shall provide all the certificates required by Section 236.21 Wisconsin Statutes. The surveyor's certificate shall contain a description of the survey beginning at the U.S. Public Land Survey corner to which the survey is tied.

#### **8) RECORDATION**

- (a) The Final Plat shall only be recorded with the County Register of Deeds after the certificates have been signed by the Director of the Planning Function in the Wisconsin Department of Administration, the Town Board,

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the Surveyor, and those certificates required by Section 236.21 Wisconsin Statutes are placed on the face of the plat.

- (b) The Register of Deeds shall not record the Plat unless it is offered within twelve (12) months from the date of the last approval and within thirty-six (36) months after the first approval.

*Established April 17, 2001, Ordinance No. 229*

## **18.06 CERTIFIED SURVEY MAP**

### **1) GENERAL**

- (a) A Certified Survey Map prepared by a registered land surveyor shall be required for all minor land divisions. It shall comply in all respect with the requirements of Section 236.34 Wisconsin Statutes. The minor subdivision shall comply with the design standards and improvement requirements set forth in this Ordinance.

### **2) ADDITIONAL INFORMATION**

- (a) The Map shall show correctly on its face, in addition to the information required by Section 236.34 Wisconsin Statutes, the following:
  - i. All existing buildings, watercourses, drainage ditches and other features pertinent to proper land division.
  - ii. Setbacks or building lines required by the Town Plan Commission and/or other ordinances.
  - iii. Utility and/or drainage easements.
  - iv. All lands reserved for future acquisition.
  - v. Existing contours when required by the Town Engineer at vertical intervals of not more than two (2') feet where the slope of the ground surface is less than 10 percent, and of not more than five (5') feet where the slope of the ground surface is ten percent (10%) or more. Elevations shall be marked on such contours based on National Geodetic Vertical Datum (mean sea level) as available. This requirement may be waived if the parcel(s) created are fully developed.
  - vi. Proposed lot drainage as may be required by the Town Plan Commission, Town Public Works Committee, and/or

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- Town Engineer.
- vii. Date of the map, graphic scale and north arrow.
  - viii. Name and address of the owner, subdivider and surveyor.
  - ix. Location of soil boring tests, where required by Chapter COMM 83 of the Wisconsin Administrative Code, made to a depth of six (6') feet, unless bedrock is at a lesser depth. The number of such tests shall be adequate to portray the character of the soil and the depths of bedrock and groundwater from the natural undisturbed surface. To accomplish this purpose, a minimum of one (1) test per three (3) acres shall be made initially. The results of such tests shall be submitted along with the certified survey map.
  - x. Name of the School District and the boundary lines thereof when a proposed certified survey map is situated in more than one school district.
  - xi. Additional building setback lines required by the Town Plan Commission which are more restrictive than the regulations of the zoning district in which the plat is located or which are proposed by the subdivider and are to be included in recorded protective covenants.
  - xii. Additional yards required by the Town Plan Commission which are more restrictive than the regulations of the zoning district in which the plat is located.
  - xiii. Floodland and shoreland boundaries and the contour line lying at 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, at a vertical distance of five (5') feet above the elevation of the maximum flood of record.
  - xiv. The existence of any protective covenants shall be noted on the face of the map.
  - xv. Where the Town Plan Commission finds that it requires additional information relative to a particular problem presented by a proposed development to review the certified survey map, it shall have the authority to request in writing, such information from the subdivider.

### **3) STATE PLANE COORDINATE SYSTEM**

- (a) Where the Map is located within a U.S. Public Land Survey quarter-section, the corners of which have been

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relocated, monumented and coordinated by the Wisconsin Department of Transportation, the Southeastern Wisconsin Regional Planning Commission, or any County, City, Village or Town, the Map shall be tied directly to one (1) of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the Map is tied shall be indicated on the Map. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the control survey.

#### **4) CERTIFICATES**

- (a) The surveyor's certificate shall contain a description of the survey beginning at the U.S. Public Land Survey corner to which the survey is tied. The Town Board, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map.
- (b) Protective covenants and dedication of streets and other public areas shall require the owner's certificate and the mortgagee's certificate in substantially the same form as required by Section 236.21(2) (a) Wisconsin Statutes.
- (c) The Town Clerk or Town Treasurer and the County Treasurer shall certify on the face of the Certified Survey Map that there are no unpaid taxes or unpaid special assessments on any of the lands included in the Certified Survey Map.

#### **5) RECORDATION**

- (a) The Certified Survey Map shall only be recorded with the County Register of Deeds after the certificates have been signed by the Town Board and the surveyor. The Map shall be recorded within twelve (12) months of its approval by the Town Board.

*Established April 17, 2001, Ordinance No. 229*

### **18.07 CONDOMINIUM PLAT**

#### **1) GENERAL**

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- (a) A condominium plat prepared by a registered land surveyor shall be required for all condominiums. It shall comply in all respects with the requirements of Section 703.11 Wisconsin Statutes. A Condominium Development Plan shall be required for all condominiums and shall comply with the design standards set forth in Appendix B, and with Sections 4.3 and 4.4 of this Ordinance. If the condominium is to be divided into units which have characteristics similar to lots in a subdivision, the provisions of Sections 3.0, 4.0, 5.0 and 6.0 shall be complied with. If the condominium is not to be subdivided into units which have characteristics similar to lots in a subdivision, the provisions of Sections 9.7 and 9.8 shall be inapplicable.
- (b) A preliminary plan shall be submitted to the Town Plan Commission for all tracts of land proposed to be developed as a condominium that contain floodlands or shorelands and shall show all the data required by Section 4.2 of this Ordinance for preliminary plats.

## **2) ADDITIONAL INFORMATION**

- (a) The Condominium Development Plan and Preliminary Condominium Development Plan shall show correctly on its face, in addition to the information required by Section 703.11 Wisconsin Statutes, the following:
  - i. Date of plan.
  - ii. Graphic scale.
  - iii. Name and address of the owner, condominium developer, and surveyor.
  - iv. All existing buildings, proposed structures, streets, watercourses, drainage ditches and other features pertinent to the development.
  - v. Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages, and wetlands.
  - vi. Additional building setback lines required by the Town Plan Commission which are more restrictive than the regulations of the zoning district in which the condominium is located or which are proposed by the condominium developer and are to be included in recorded protective covenants.

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- vii. Additional yards required by the Town Plan Commission which are more restrictive than the regulations of the zoning district in which the condominium is located.
- viii. All lands reserved for future public acquisition.
- ix. Existing contours in the area of the land to be developed.
- x. Floodland and shoreland boundaries and the contour line lying at 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, at a vertical distance of five (5') feet above the elevation of the maximum flood of record.
- xi. A list of soil types shall be shown on the plan when private on-site sewage disposal systems are proposed to be used. These soils, if classified as having severe restrictions for sanitary purposes, shall be delineated on the plan.
- xii. Where the Town Plan Commission finds that it requires additional information relative to a particular problem presented by a proposed development to review the condominium, it shall have the authority to request in writing, such information from the condominium developer.
- xiii. Name of the School District and the boundary lines thereof when a proposed condominium is situated in more than one.

### **3) DENSITY**

- (a) Adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the zoning district in which it is located.

### **4) REVIEW AND APPROVAL**

- (a) The Town Plan Commission and Public Works Committee shall review the proposed plan, the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effects of the proposed use, structure, operation, and improvement upon the area and upon flood damage

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protection, water quality, shoreland cover, natural beauty and wildlife habitat.

- (b) The Town Plan Commission may recommend approval of the Condominium Development Plan to the Town Board provided that the proposed uses and structures are in accordance with the purpose and intent of this Ordinance and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town.

*Established April 17, 2001, Ordinance No. 229*

## **18.08 PLANNED DEVELOPMENTS**

### **1) GENERAL**

- (a) A Development Plan shall be required for all planned developments based upon a survey prepared by a Registered Land Surveyor. The planned development shall comply with the design standards set forth in Appendix B and with Section 4.3 and 4.4 of this Ordinance. If the planned development is not to be subdivided into lots, the provisions of Sections 9.7 and 9.8 shall be inapplicable.
- (b) A preliminary plan shall be submitted to the Town Plan Commission for all tracts of land proposed to be developed as a planned development that contain floodlands or shorelands and shall show all the data required by Section 4.2 of this Ordinance for preliminary plats.

### **2) ADDITIONAL INFORMATION**

- (a) The Development Plan and Preliminary Development Plan shall show correctly on its face, the following:
  - i. Date of plan.
  - ii. Graphic scale.
  - iii. Name and address of the owner, developer, and surveyor.
  - iv. All existing buildings, proposed structures, streets, watercourses, drainage ditches and other features pertinent to the development.
  - v. Names of adjoining streets, highways, parks,

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- cemeteries, subdivisions, ponds, streams, lakes, flowages, and wetlands.
- vi. Additional building setback lines required by the Town Plan Commission which are more restrictive than the regulations of the zoning district in which the planned development is located or which are proposed by the developer and are to be included in recorded protective covenants.
  - vii. Additional yards required by the Town Plan Commission which are more restrictive than the regulations of the zoning district in which the planned development is located.
  - viii. All lands reserved for future public acquisition.
  - ix. Existing contours in the area of the land to be developed.
  - x. Floodland and shoreland boundaries and the contour line lying at 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, at a vertical distance of five (5') feet above the elevation of the maximum flood of record.
  - xi. A list of soil types shall be shown on the plan when private on-site sewage disposal systems are proposed to be used. These soils, if classified as having severe restrictions for sanitary purposes shall be delineated on the face of the plan.
  - xii. Where the Town Plan Commission finds that it requires additional information relative to a particular problem presented by a proposed development, it shall have the authority to request in writing, such information from the developer.
  - xiii. Name of the School District and the boundary lines thereof when a proposed planned development is situated in more than one.

### **3) DENSITY**

- (a) Adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the zoning district in which it is located.

### **4) REVIEW AND APPROVAL**

- (a) The Town Plan Commission and Public Works Committee

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shall review the proposed plan, the site, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, waste disposal, water supply systems, and the effects of the proposed use, structure, operation, and improvement upon the area and upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat.

- (b) The Town Plan Commission may recommend approval of the Development Plan to the Town Board provided that the proposed uses and structures are in accordance with the purpose and intent of this Ordinance and are found to be no hazardous, harmful, offensive, or otherwise adverse to the environmental quality, water quality, shoreland cover, or property values in the Town.

*Established April 17, 2001, Ordinance No. 229*

## **18.09 REQUIRED LAND IMPROVEMENTS**

### **1) GENERAL**

- (a) No subdivision of land or development shall be approved; construction or installation of improvements began, without a certification of approval by the Town Clerk. The Town Clerk shall, after receiving approvals from the Town Engineer, Plan Commission, Public Works Committee and all other affected departments and agencies, certify to the Town Board that the improvements described in the plans and specifications for the development, together with agreements, meet the minimum requirements of all ordinances and design standards of the Town.

### **2) STREET PLAN**

- (a) The subdivision of land, including the arrangement, character, extent, width, grade and location of all streets, alleys, or other land to be dedicated for public use, shall conform to the County jurisdictional highway system plan, comprehensive plan or plan component, or neighborhood unit development plan of the Town of Delavan, Wisconsin, and other responsible governmental

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bodies and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

### **3) STREET IMPROVEMENTS**

- (a) Street improvements are required to be constructed in conformity with the Design Standards adopted by the Town.
- (b) Final surface for public streets should be delayed to avoid premature damage of final surface course. Final surface course should be installed after approximately 50% of the lots have experienced construction, as determined in the "Contract for Subdivision or Development Improvements", but not more than three years from substantial completion.

### **4) MINIMUM STREET STANDARDS**

- (a) All minimum standards established are intended to be construed solely as minimums. Additional standards may be required depending on the topography, soil and overall geological or special conditions of each individual parcel being developed. The standards for streets shall be in conformance with the Design Standards established by the Town. The Town Engineer may recommend and the Town Plan Commission may require standards beyond the minimums set forth when geological conditions dictate the necessity for additional standards.
- (b) All right-of-way widths shall conform to the dimensions shown in Design Standards adopted by the Town.
- (c) Minor streets shall be so laid out that their use by non-local traffic will be discouraged, without impairing overall traffic or utility efficiency.
- (d) Alleys in residential Districts are not permitted, except where deemed necessary, and at the discretion of the Town Plan Commission.
- (e) **HALF STREETS**, Where an existing dedicated or platted half street is adjacent to the tract being subdivided, the other half of the street shall be dedicated by the subdivider. The platting of new half streets shall not be permitted.

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- (f) Temporary termination of the streets intended to be extended at a later date shall be accomplished with a temporary cul-de-sac in accordance with the design standards set forth above, in Subsections A and B, or by construction of a temporary "T" intersection easement, thirty-three (33') feet in width and thirty-three (33') feet in length abutting the right-of-way lines of the access street on each side.
- (g) No street names may be used which will duplicate, or be confused with the names of the existing streets. Existing street names must be projected across unplatted lands wherever possible. Each street name shall be approved by the Town Board.
- (h) Provisions should be made for serving lots abutting primary, major and arterial streets and highways by the use of restriction of access to internal subdivision streets. Frontage streets should be avoided.
- (i) Streets are the preferred routing of the overland emergency floodway.
- (j) An approval letter from the jurisdiction controlling driveway access shall be provided by the subdivider.
- (k) Single purpose streets shall not be allowed.

## **5) STREET INTERSECTIONS**

- (a) Streets should intersect each other at as nearly right angles as topography and other limiting factors of good design permit. In addition:
  - i. The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two (2).
  - ii. The number of intersections along major streets and highways shall be held to a minimum. Wherever practicable the distance between such intersections shall not be less than twelve-hundred (1,200') feet.
  - iii. Minor streets shall not necessarily continue across arterial or collector streets; but if the centerlines of such minor streets approach the major streets from opposite sides within two-hundred-fifty (250') feet of each other, measured along the centerline of the arterial or collector street, then the location shall be so adjusted that the adjoining across the major or collector street is continuous; and a jog is avoided.

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## **6) EASEMENTS**

- (a) Easements when required for Town or Utility District owned and/or maintained utilities shall be at least twenty (20') feet wide and shall include a provision prohibiting the installation of trees, shrubs, hedges, bushes, playground equipment, fences, sheds, or other buildings and any other type of structure or building other than those owned by the Town or Utility District. All other easements provided for non-municipally owned utilities shall meet the requirements of the individual company.
- (b) The Town Plan Commission may require utility easements of widths deemed adequate for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for electric power and communication lines, wires, conduits, side and rear yard drainage and other utility lines.
- (c) Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such water course, and such further width needed to straighten, or for maintenance access, or both, as will be adequate for the purposes. Parallel streets or parkways may be required in connection therewith.
- (d) Easements shall be added when storm water from public or other private areas drains to a publicly or privately owned and maintained detention and retention areas such that a perpetual right to drain is established and the Town retains the right to enter the easement and perform any necessary maintenance if the private property owner fails to adequately maintain the privately owned area.

## **7) BLOCK STANDARDS**

- (a) The lengths of blocks should as a general rule not to be less than six-hundred (600') feet or more than fifteen-hundred (1,500') feet. Blocks over nine-hundred (900') feet may require crosswalk. Crosswalk dedication of not less than ten (10') feet in width shall be provided where necessary by the Town Plan Commission at the approximate centers of the blocks. A sidewalk shall be constructed on the centerline, and

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full length of the crosswalk. The use of additional crosswalk in any instance to provide safe and convenient access to schools, parks or other similar destinations will be specified by the Town Plan Commission.

- (b) No specific rule concerning the shape of blocks is made, but blocks must fit easily into the overall plan of the subdivision and their design must be evident in the consideration of lot planning, traffic flow, and public areas.
- (c) Blocks intended for commercial and industrial use must be designated as such and the plan must show adequate off-street areas suitably surfaced to provide for parking, loading docks and such other facilities that may be required to accommodate motor vehicles.

## **8) LOT STANDARDS**

- (a) The minimum lot dimensions for residential development shall be pursuant to the County Zoning Ordinance at the established building line. Corner lots shall be sufficiently larger than interior lots to allow maintenance of building set back lines on both streets.
- (b) Building lines shall conform to the front yard provisions of the Zoning Ordinance, and in no instance shall the building lines be less than twenty-five (25) feet from the street line.
- (c) All lots shall front or abut publicly dedicated streets for a distance of at least fifty (50') feet.
- (d) Side lines of lots shall be approximately at right angles or radial to the street line.
- (e) Double frontage lots are discouraged except where lots back upon a primary street (major thoroughfare) and in such instances, vehicular access between the lots and the thoroughfare is prohibited or where topography of the land might render subdividing otherwise unreasonable. Such lots shall have an additional rear yard depth of at least twenty (20') feet in order to allow for a protective screen planting.
- (f) Lots abutting a limited access highway, railroad, watercourse, drainage way, channel or stream shall have additional minimum width or depth as required to provide an adequate building site and afford the minimum usable area required in the Zoning Ordinance for front, rear and side yards.



**9) ALLEYS AND CROSSWALK IN COMMERCIAL AREAS**

- (a) Alleys shall be provided in commercial areas unless such areas are otherwise provided with off-street loading.

**10) LAKE AND STREAM ACCESS**

- (a) No land shall be developed as a condominium or planned development, subdivided into lots or outlots, sold or leased, or any interest therein created in such manner as to give access to any lake or stream by easement, common element, right to use, fractional ownership or otherwise to more than one family for each unit of lake or stream frontage equaling in width the minimum required width of a lot under the Walworth County Shoreland Zoning Ordinance for the zoning district in which the land is located.

**11) PUBLIC SITES AND OPEN SPACES**

- (a) In the design of the plat, certified survey map, condominium or planned development due consideration shall be given to the reservation of suitable sites of adequate area for future schools, parks, playgrounds, drainageways and other public purposes. If designated on the comprehensive plan, comprehensive plan component, official map, or component neighborhood development plan, such areas shall be made a part of the plat, certified survey map, condominium or planned development as stipulated in Section 2.3 of these regulations. If not so designated, consideration shall be given in the location of such sites to the preservation of scenic and historic sites, stands of fine trees, marshes, lakes and ponds, watercourses, watersheds and ravines.
- (b) Accordingly, each subdivider or developer of land in the Town of Delavan shall, at the discretion and direction of the Town Plan Commission, either dedicate open space lands designated on the Town Land Use Plan or plan component - or reserve such open space lands and pay a public site fee - or, where no open space lands are directly involved, pay a public site fee. The Town Plan Commission shall, at the time of reviewing the preliminary plat, certified survey map, condominium plat or development plan select one of the following

options and record such selection in the minutes of the meeting at which the preliminary plat, certified survey map, condominium plat or plan of development is presented for approval.

**12) DEDICATION OF SITE OPTION**

- (a) Whenever a proposed playground, park, or other public open space land designated on the Town's Lake Use Plan, neighborhood unit development plan, or other comprehensive plan component is encompassed, all or in part, within a tract of land to be subdivided or developed, the public lands shall be made a part of the plat, certified survey map, condominium or development plan and shall be dedicated to the public by the subdivider or developer at the rate of one (1) acre for each one-hundred (100) proposed or potential dwelling units; and any such proposed public lands in excess of the rate established herein shall be reserved for a period not to exceed three (3) years, unless extended by mutual agreement, for purchases by the public agency having jurisdiction at undeveloped land prices.
- (b) If the lands in excess of the established rate are not acquired within the three (3) year period as set forth herein, the land will be released from reservation to the owner.

**13) RESERVATION OF SITE OPTION**

- (a) Whenever a proposed playground, park, or other public open space land designated on the Town's Land Use Plan, neighborhood unit development plan, or other comprehensive plan component is encompassed, all or in part, within a tract of land to be subdivided or developed, the proposed public open space lands shall be made a part of the plat, condominium or development plan and reserved at the time of final plat, certified survey map, approval for a period not to exceed three (3) years, unless extended by mutual agreement, for acquisition at undeveloped land prices by the public agency having jurisdiction and the subdivider or developer shall pay a public site fee at the time of application for final plat approval at the rate and according to the procedures set forth in Subsection 14 of this Section.

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- (b) If the land is not acquired within the three (3) year time period as set forth herein, the land will be released to the owner for reservation.

**14) PUBLIC SITE FEE OPTION**

- (a) If the proposed subdivision, certified survey map, condominium or planned development does not encompass a proposed public park, parkway, or other open space lands, or if the Town Plan Commission requires the reservation of land as set forth in Subsection 13) (a) of this Section, a fee for the acquisition of public sites to serve the future inhabitants of the proposed subdivision, condominium or planned development shall be paid to the Town Treasurer at the time of first application for approval of a final plat of said subdivision or part thereof, certified survey map, condominium or planned development in the amount of one-thousand dollars (\$1,000) for each proposed dwelling unit within the plat, certified survey map, condominium or planned development. Public site fees collected by the Town Treasurer under the provisions of this Ordinance shall be placed in a non-lapsing special fund for Town parks and shall be separate from the General Fund of the Town, and said special fund shall be used exclusively for the acquisition and development of park, recreation, and other open space areas within the Town.

**15) HYDROLOGY AND SOILS**

- (a) Direction shall be included in both the drawings and specifications in sufficient detail to define what physical measures the developer shall perform to eliminate the effects of soil erosion (refer to Wisconsin Construction Site Best Management Practice Handbook), mud tracking and the resultant sedimentation problems both on and off the site. Control of erosion shall be required both during and following construction, until the soils are stabilized and expiration of the required maintenance bond.

**16) SEWERS**

- (a) Sanitary sewers shall meet the approval of the Sanitary

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District and be installed to comply with specifications established by the Sanitary District and the Town. Sanitary sewers shall be connected to the sanitary disposal system of the Sanitary District if reasonably accessible, as determined by the Sanitary District. Where public sanitary sewers are not reasonably accessible individual septic systems may be permitted provided it is designed in accordance with Chapter COMM 83 of the Wisconsin Administrative Code. A subdivision plat shall in no case be approved which shall be dependent upon individual septic systems and private wells, where lots therein contain less than forty thousand (40,000) square feet each and less than one-hundred (150') feet in width.

- (b) All Town Utility District maintained utilities shall be placed within dedicated right of way and approved easements and specifically these utilities shall not be placed upon private properties except for condominium or planned developments in which alternate agreement(s) are entered into by the Town and Subdivider.

#### **17) STORM WATER DRAINAGE FACILITIES**

- (a) The subdivider or developer shall construct storm water drainage facilities, adequate to serve the subdivision, condominium or planned development, which may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, open channels, storm water detention or detention basins and structures and settling basins. All such facilities shall be of adequate size and grade to hydraulically accommodate the maximum potential volumes of flow and shall be designed in accordance with the Town design standards, and as required by the Town Engineer. Any changes in the storm water drainage system outside the proposed development which are necessary as a result of an increase in storm water discharge rates discharging from the proposed development shall be the responsibility of the subdivider or developer.

#### **18) PUBLIC UTILITIES**

- (a) The subdivider or developer shall cause utilities to be installed in such manner as to make adequate service available to each lot or building site in the subdivision, condominium or planned development.

**19)       LANDSCAPING**

- (a) Landscaping shall be required to be constructed in accordance with the Design Standards adopted by the Town.
- (b) Maintenance of the parkway area, defined as that area adjacent to any lot or parcel, between the property line and any street shoulder or curb, shall be the responsibility of the property owner of said lot or parcel including, but not limited to:
  - i. Mowing of grass or ground cover.
  - ii. Private driveway approaches.
  - iii. The curb (depressed) or flare from the pavement edge extended, for a private driveway approach.
  - iv. Tree trimming and watering to assure a healthy, well-shaped appearance and maintaining adequate roadway and sidewalk clearances, as approved by the building inspector.
  - v. Keeping culvert opening free of debris.
  - vi. Mailboxes and support structures.
  - vii. Sidewalk installation and maintenance, where applicable.

**20)       STREET LIGHTING**

- (a) The Town Board shall require the subdivider or developer to install street lamps along all streets of a design compatible with the neighborhood and type of development proposed. Such lamps shall be placed at each street intersection and at such interior block spacing as may be required by the Town Board.

**21)       SURVEY MONUMENTS**

- (a) The subdivider shall install survey monuments placed in accordance with the requirements of Chapter 236.15 Wisconsin Statutes, and as may be required by the Town Engineer.

**22)       STREET SIGNS AND GUARD RAILS**

- (a) Street signs and guard rails shall, at the option of the Town Board, be obtained by the Town and placed where

necessary by the Town and the cost of the same shall be paid for by the subdivider.

**23) RECORD DRAWINGS**

- (a) One Mylar copy of Record drawings of all items covered in Appendix B shall be furnished to the Town, within sixty (60) days after the installation of the improvements covered therein.

**24) IMPROVEMENTS EXTENDED TO LIMIT OF PARCEL**

- (a) Any and all improvements or utility services required by this Ordinance for the subdivision and/or minor land division of lands within the Town shall be extended to the farthest limit of the parcel unless the owner is excused by the Town Board after referral to the Plan Commission and/or Utility District.

**25) SIDEWALKS**

- (a) Sidewalks shall be installed where required by the Town Board and/or Plan Commission.

**26) STREET TREES**

- (a) The subdivider or developer shall plant at least one (1) tree of an approved species and of at least (6') feet in height for each fifty (50) feet of frontage on all streets. Tree plantings shall be completed in accordance with plans and specifications approved by and at such time as directed by the Town Board.

**27) SHORELAND PLANTING AND SEDIMENT CONTROL**

- (a) The subdivider or developer shall plant those grasses, trees, shrubs, and vines of a species and size specified by the Town Plan Commission, necessary to prevent soil erosion and protect stream and lake banks.

**28) STUDIES AND REPORTS**

- (a) The Town may require studies and reports presented detailing additional information on the impacts of the proposed development on transportation systems, surface

and ground water quality, hydrology, water supply, sanitary sewerage facilities, wetlands, floodplains, and other environmentally sensitive areas. The studies or reports should include discussion of the alternatives, and steps necessary to minimize any adverse effects of the proposed development.

*29) Established April 17, 2001, Ordinance No. 229*

## **18.10 ACCEPTANCE PROCEDURE**

### **1) SUBSTANTIAL COMPLETION**

- (a) Upon written request of the subdivider, and after all the required improvements have been substantially completed, the Town Engineer shall make an inspection of the work.
- (b) The Engineer shall then prepare a Substantial Completion Certificate and Punch list for correction of items which do not comply with the approved drawings and specifications or Design Standards of the Town, which need immediate attention. Upon completion of all items listed in the punch list, the subdivider shall sign and return the Substantial Completion Certificate. If all punch list items are found to be completed, the Town Engineer shall notify the Town Clerk, in writing, that the project has been substantially completed. If items required for substantial completion are not taken care of in a timely manner, the Town Board reserves the right to make a claim on the developers bond or letter of credit to complete the necessary work, or withhold building and occupancy permits.
- (c) Improvements shall be maintained by the developer until such time as they are accepted by the Town.

### **2) FINAL ACCEPTANCE**

- (a) Upon written request of the subdivider, after all the required improvements have been completed and record drawings have been submitted, the Town Engineer shall make a final inspection of the completed work.
- (b) The Engineer shall then prepare a Final Completion Certification and Final Punch list for correction of items which do not comply with the approved drawings and specifications or Design Standards of the Town.

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Upon completion of all items listed in the final punch list, the subdivider shall request, in writing, a re-inspection. If all punch list items are found to be completed, the Town Engineer shall notify the Town Clerk, in writing, of his recommendation for approval and acceptance of the work. The Town Clerk shall schedule the acceptance for the next regular Town Board meeting.

- (c) Prior to final acceptance of the public improvements, the subdivider shall pay any outstanding invoices and submit five percent (5%) guarantee bond, letter of credit or cash deposit for the full value of the public improvements as estimated by the sub-divider's engineer and verified by the Town Engineer. Said bond, letter of credit or cash deposit shall be the developer's guarantee against defects of the public improvements and shall terminate eighteen (18) months after acceptance of the public improvements by the Town Board.
- (d) Upon acceptance by the Town Board, the balance of the public improvements construction guarantee, cash or letter of credit and any deposited fees remaining shall be released to the subdivider.

### **3) GUARANTEE PERIOD**

- (a) Before the end of the eighteen (18) month guarantee period, the Town Engineer shall make an inspection of the completed work.
- (b) The Engineer shall prepare a punch list for correction of items not meeting Town standards.
- (c) If deficient items are not corrected by the developer prior to the end of the guarantee period, the Town Board reserves the right to make a claim on the maintenance bond to complete the necessary work, or withhold building and occupancy permits.

### **4) BUILDING PERMIT**

- (a) No building permit shall be issued by any governing official for the construction of any building, structure or improvement to the land or any lot within a subdivision as defined herein, which has been approved for platting, re-platting, or within a condominium or planned development, until all requirements of this ordinance have been fully complied with, nor will any

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permit for any temporary or permanent facilities or structures be issued until all roadways are capable to support emergency equipment.

#### **5) OCCUPANCY PERMIT**

- (a) No occupancy permit shall be granted by any governing official for the use of any structure within a subdivision approved for platting and re-platting until required utility facilities have been installed and made ready to service the property, and that roadways providing access to the subject lot or lots have been substantially completed, excluding final surface course. In case of corner lots, this shall include both streets upon which the property is located.

#### **6) ENFORCEMENT**

- (a) No plat of any subdivision or condominium, or Development Plan for a planned development shall be entitled to be recorded or conditional use granted until it shall have been approved in the manner prescribed by this Ordinance.

*Established April 17, 2001, Ordinance No. 229*

### **18.11 AGREEMENTS**

#### **1) GENERAL**

- (a) Prior to making public improvements to any property, a final plat, certified survey map, condominium declaration and plat, or plan for a planned development must be filed for record and be accompanied by the following:
  - i. An opinion of probable cost of all public improvements prepared by professional engineers licensed in the State of Wisconsin.
  - ii. Construction plans and specifications for such improvements previously approved by the Town Engineer.
  - iii. Agreements executed by the Town and the subdivider wherein they agree to make and install the improvements, in accordance with the plans and

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- specifications accompanying the Final Plat.
- iv. Letter of Credit in a form approved by the Town in the amount of one-hundred-ten percent (110%) of the Town Engineer's opinion of probable cost of the installation of such improvements issued by a responsible financial institution, to be approved by the Town Board, conditioned upon the installation of the required improvements within two years of the approval of the Final Plat.
  - v. Maintenance Bond, Letter of Credit or Cash Deposit in an amount not less than five percent (5%) of all public improvements, approved by the Town Engineer, providing guarantee of workmanship and materials. The maintenance bond shall be delivered to the Town and shall guarantee for a period of eighteen (18) months from the projects final acceptance the public improvements items and improvements of a public nature that are constructed in a private development, including but not limited to streets, ditches, sewer mains, water mains and street lights.
  - vi. The work schedule for each major phase of work to be performed under this agreement, with estimated starting and completion dates.

## **2) REDUCTION OF LETTER OF CREDIT**

- (a) The Letter of Credit can be periodically reduced by the Town Board upon recommendation of the Town Engineer.
- (b) The subdivider shall submit to the Town Engineer a list of completed items and their cost along with copies of Waivers of Lien for the completed items. Upon review of these submittals, the Town Engineer shall recommend to the Town Board the reduction in the value of the letter of Credit to be approved. The amount of the reduced letter of credit shall not be less than the estimated cost of completing the improvements. Each reduction requested shall not be more than the value of items estimated in the approved letter of credit guaranty amount.
- (c) The ten percent (10%) contingency shall be held as a retainer and not released until acceptance of the project and receipt of the five percent (5%) maintenance bond, letter of credit or cash deposit as specified in Section 10 of this Ordinance.

### **3) INSURANCE**

- (a) The Subdivider's contractor shall provide and maintain Comprehensive General Liability Insurance which will protect the Town of Delavan and each of its officers, employees, agents, and consultants from claims which may arise out of or result from the performance of work by anyone directly or indirectly employed by the contractor or subcontractor, or by anyone for whose acts the contractor may be liable.
- (b) Comprehensive General Liability Insurance shall provide coverage in the amounts as shown in Exhibit C.
- (c) The Subdivider's contractor shall not commence work until certificates of insurance showing coverage of all insurance required, signed by the insurance companies or their authorized agents have been filed with both the Town and Town Engineer.
- (d) The policies of insurance so required by this paragraph to be purchased and maintained shall:
  - i. With respect to comprehensive general liability insurance, include as additional insured's the Town and the Town Engineer, all of whom shall be listed by name as additional insured, and include coverage for the respective officers and employees of all such additional insured's;
  - ii. Remain in effect at least until final payment and at all times thereafter when the subdivider may be correcting, removing or replacing defective work in accordance with this Ordinance, and
  - iii. With respect to completed operations insurance, shall remain in effect for at least two (2) years after final payment (and the subdivider shall furnish the Town and any other additional insured to which an insurance policy has been furnished, evidence satisfactory to the Town and any such additional insured of continuation of such insurance at final payment and one (1) year thereafter).

*Established April 17, 2001, Ordinance No. 229*

### **18.12 DEFINITIONS**

#### **1) GENERAL DEFINITIONS**

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- (a) For the purposes of this Ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory.

## 2) SPECIFIC WORDS AND PHRASES

- (a) **ALLEY** shall mean a special public way affording only secondary access to abutting properties.
- (b) **ARTERIAL STREET** shall mean a street used, or intended to be used primarily for fast or heavy through traffic. Arterial Street shall include freeways and expressways as well as standard arterial streets, highways and parkways.
- (c) **BLOCK** shall mean a tract of land bounded by streets or a combination of streets, public parks, cemeteries, railroad right-of-way, shorelines of navigable waters, and municipal boundaries.
- (d) **BUILDING LINE** shall mean a line parallel to a lot line and at a distance from the lot line to comply with the terms of this Ordinance.
- (e) **COLLECTOR STREET** shall mean a street used, or intended to be used, to carry traffic from minor streets to the major system of arterial streets including the principal entrance streets to residential developments.
- (f) **COMMUNITY** shall mean a town, municipality, or a group of adjacent towns and/or municipalities having common social, economic or physical interests.
- (g) **COMPREHENSIVE PLAN** shall mean the extensively developed plan, also called a master plan, including detailed neighborhood plans, proposals for future land use, transportation, urban redevelopment and public facilities. Devices for the implementation of these plans, such as zoning, official map, land division, and building line ordinances and capital improvement programs shall also be considered a part of the comprehensive plan.
- (h) **CONDOMINIUM** shall mean any property subject to a condominium declaration established under Chapter 703 of Wisconsin Statutes.
- (i) **CONDUIT** shall mean a buried pipe for the installation of wires, cables or the conveyance of gas, water, storm water or sewage.

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- (j) **CONTRACTOR** shall mean an individual, company, firm or other party or organization who contracts to physically construct all or a portion of a project for either a Subdivider or the Town.
- (k) **CRADLE** shall mean bedding placed under and around a conduit for proper support.
- (l) **CROSSWALK** shall mean a strip of land dedicated to public use, which is reserved across a block to provide pedestrian access to adjacent areas.
- (m) **CUL-DE-SAC** shall mean a local street with only one (1) outlet and having an appropriate turn-around for the safe and convenient reversal of traffic movement.
- (n) **DESIGN ENGINEER** shall mean the individual or firm retained by the Subdivider who is responsible for the design and preparation of construction documents for a project.
- (o) **DEVELOP** shall mean to convert raw land into an area suitable for residential, recreational or business purposes or to alter the characteristics of an area so as to make the same suitable for new or different residential, recreational or business purposes.
- (p) **DEVELOPER** shall mean one who develops land other than by subdividing.
- (q) **EASEMENT** shall mean a grant by a property owner for the use of a strip or parcel of land by the general public, a corporation, or a certain person or persons for a specific purpose or purposes.
- (r) **EXTRA-TERRITORIAL PLAT APPROVAL JURISDICTION** shall mean 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.
- (s) **FIELD INSPECTOR** shall mean an individual, company or firm appointed by the Town to observe construction for compliance with approved drawings and specifications.
- (t) **FLOOD PROTECTION ELEVATION** shall mean an elevation two (2) feet above the elevation of the one-hundred (100) year recurrence interval flood.
- (u) **FLOODLANDS** shall mean those lands, including the channels, floodways, and floodplain fringe of any given reach, which are subject to inundation by a flood with a given recurrence frequency. The one-hundred (100) year recurrence interval flood (or that flood having a one percent probability of occurring in any given year) is generally used for zoning regulation. Other flood events used in this Ordinance are the ten (10) year

recurrence interval flood (or that flood having a ten percent probability of occurring in any give year) and the two (2) year recurrence interval flood (or that flood having a fifty percent (50%) probability of occurring in any given year). Where detailed flood data is not available, the maximum flood of record is used.

- (v) **FRONTAGE** shall mean the smallest dimension of a lot abutting a public street measured along the street line.
- (w) **FRONTAGE STREET** shall mean a minor street auxiliary to and located on the side of any arterial street for control of access and for service to the abutting development.
- (x) **HIGH GROUNDWATER ELEVATION** shall mean the highest elevation to which subsurface water rises. This may be evidenced by the actual presence of water during wet periods of the year, or by soil mottling during drier periods. "Mottling" is a mixture or variation of soil colors. In soils with restricted internal drainage, gray, yellow, red, and brown colors are intermingled giving a multi-colored effect.
- (y) **HIGH WATER ELEVATION (SURFACE WATER)** shall mean the average annual high water level of a pond, stream, lake, flowage, or wetland referred to an established datum plane or, where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic, or vegetative characteristic.
- (z) **LIVE STORAGE** shall mean that volume available in a reservoir for holding storm water in accordance with the requirements of the Design Standards.
- (aa) **LOT** shall mean a parcel of land of at least sufficient size to meet minimum zoning requirements for use, width, and area as set forth in this and County Ordinances.
- (bb) **LOT, CORNER** shall mean a lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.
- (cc) **LOT, DOUBLE FRONTAGE** shall mean a lot, other than a corner lot, with frontage on more than one (1) street. Double frontage lots shall normally be deemed to have two (2) front yards, two (2) side yards and no rear yard. Double frontage lots shall not generally be permitted unless the lot abuts an arterial highway. Double

frontage lots abutting arterial highways should restrict direct access to the arterial highway by means of a planting buffer or some other acceptable access buffering measure.

- (dd) **MINOR LAND DIVISION** shall mean any division of land not defined as a "subdivision". Minor land divisions include the division of land by the owner or subdivider resulting in the creation of two (2), but not more than four (4), parcels or building sites, any one of which is fifteen (15) acres or less in size; or the division of a block, lot or outlot within a recorded subdivision plat into not more than four (4) parcels or building sites without changing the exterior boundaries of said block, lot or outlot.
- (ee) **MINOR STREET** shall mean a street used, or intended to be used, primarily for access to abutting properties.
- (ff) **MUNICIPALITY** shall mean an incorporated village or city.
- (gg) **NATIONAL MAP ACCURACY STANDARDS** shall mean standards governing the horizontal and vertical accuracy of topographic maps and specifying the means for testing and determining such accuracy, endorsed by all federal agencies having surveying and mapping functions and responsibilities. These standards have been fully reproduced in Appendix D of SEWRPC Technical Report No. 7, Horizontal and Vertical Survey Control in Southeastern Wisconsin.
- (hh) **NAVIGABLE STREAM** shall mean any stream capable of floating any boat, skiff, or canoe of the shallowest draft used for recreational purposes.
- (ii) **OUTLOT** shall mean a parcel of land, other than a lot or block, so designated on the plat, but not of standard lot size, which can be dedicated to the public, re-divided into lots or combined with one (1) or more other adjacent outlots or lots in adjacent subdivisions or minor subdivisions in the future for the purpose of creating buildable lots.
- (jj) **PARKWAY** shall mean that area of a street right-of-way between the back of curb or pavement edge and the right-of-way line intended for use primarily by pedestrian traffic or roadside ditches and developed in a park-like character.
- (kk) **PLANNED DEVELOPMENT** shall mean any proposed residential or commercial-recreation business use involving the development of land pursuant to a plan approved by the zoning agency, other than by subdividing.

- (ll) **PUBLIC WAY** shall mean any public road, street, highway, walkway, drainageway, or part thereof.
- (mm) **RECORD DRAWINGS** shall mean design drawings checked in the field and which are revised to show as-constructed location, elevation, grading and specification of material for improvements and utilities.
- (nn) **RELEASE RATE** shall mean the controlled rate at which storm water is released from a holding reservoir.
- (oo) **REPLAT** shall mean the process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat, certified survey map, or part thereof. The division of a large block, lot or outlot within a recorded subdivision plat or certified survey map without changing the exterior boundaries of said block, lot, or outlot is not a replat.
- (pp) **SHORELANDS** shall mean those lands, lying within the following distances: one-thousand (1,000') feet from the high water elevation of navigable lakes, ponds, and flowages or three-hundred feet (300') from the high water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
- (qq) **SINGLE PURPOSE ROAD** shall mean any road, driveway or way which primarily serves a single parcel of property and is determined by the State of Wisconsin Department of Transportation, to be ineligible for highway aids to the Town.
- (rr) **SOIL MAPPING UNIT** shall mean soil type, slope, and erosion factor boundaries as shown on the operational soil survey maps prepared by the U.S. Soil Conservation Service.
- (ss) **STANDARD SPECIFICATIONS** shall mean the most current edition of the "Standard Specifications for Road and Bridge Construction", State of Wisconsin, Department of Transportation, which may be used in conjunction with the specifications of the Town.
- (tt) **STORM WATER DETENTION BASIN** shall mean a reservoir for the temporary storage of storm water.
- (uu) **STORM WATER RETENTION BASIN** shall mean a reservoir for the permanent storage of water including a volume for the temporary storage of storm water.
- (vv) **STREET R.O.W.** shall mean the shortest distance between the lines of lots delineating the public street.
- (ww) **STREET** shall mean an area of land which serves or is intended to serve as a vehicular and pedestrian access to abutting lands or to other streets.



- (xx) **STREET, PUBLIC** shall mean all primary, secondary and minor streets which are shown on the subdivision plat and are to be dedicated for public use.
- (yy) **STREET, MAJOR** shall mean a street for interurban continuity or regional importance; that provides reasonably continuous routes through the whole or major portion of the Town, or any street which carries volume greater than twelve-thousand (12,000) vehicles per day.
- (zz) **STREET, SECONDARY** shall mean those which carry volumes between five-thousand (5,000) and twelve-thousand (12,000) vehicles per day and act as main feeders or connector streets between major streets, serving as major traffic ways for heavy traffic flow between the various residential districts and areas in and surrounding the Town.
- (aaa) **STREET, COMMERCIAL AND INDUSTRIAL** shall mean those which act as feeders to commercial and industrial districts from and between major secondary streets, serving as major traffic ways for heavy vehicle and truck traffic regardless of volume.
- (bbb) **STREET, MAJOR RESIDENTIAL** shall mean those carrying one-thousand (1,000) to five-thousand (5,000) vehicles per day from minor streets within residential development areas, to secondary or major streets.
- (ccc) **STREET, RESIDENTIAL** shall mean those having limited continuity and carrying up to one-thousand (1,000) vehicles per day which are used primarily for access to abutting properties, or to meet the local traffic flow needs of a neighborhood or community.
- (ddd) **SUBDIVIDER** shall mean any person, firm, corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor land division (Certified Survey Map) or replat, responsible for preparing and recording the plats of the subdivision and for complying with these requirements. The term Subdivider encompasses the work "Developer" and the two words may be used interchangeably for the purpose of the standards set forth in this ordinance.
- (eee) **SUBDIVISION** shall mean the division of a lot, parcel or tract of land by the owners thereof, or their agents, for the purpose of transfer of ownership or building development where the act of division creates five (5) or more parcels or building sites of fifteen (15) acres each or less in area; or where the act of division creates five (5) or more parcels or building sites of fifteen

- (15) acres each or less in area by successive division within a period of five (5) years.
- (fff) **SUBSTANTIAL COMPLETION** shall mean improvements are considered to be substantially complete when they can be utilized for the purposes for which they were intended, as determined by the Town.
- (ggg) **SURETY BOND** shall mean a bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider.
- (hhh) **SWALE** shall mean a ditch or surface drainage channel meeting certain specific criteria as established herein for the surface movement of storm water.
- (iii) **TOWN ENGINEER** shall mean the individual or firm appointed or contracted by the Town who is licensed to practice professional engineering in the State of Wisconsin and is responsible for reviewing subdivision plans on behalf of the Town, recommends changes from time to time to these Design Standards and performs other duties as directed by Town Ordinance.
- (jjj) **WETLANDS** shall mean 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.
- (kkk) **WISCONSIN ADMINISTRATIVE CODE** shall mean the rules of administrative agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system as directed by Section 35.93 and Chapter 227 of Wisconsin Statutes, including subsequent amendments to those rules.

*Established April 17, 2001, Ordinance No. 229*

## **18.13 ADOPTION AND EFFECTIVE DATE**

### **1) PLAN COMMISSION RECOMMENDATION**

- (a) The Town Plan Commission recommended to the Town Board the adoption of this Land Division Ordinance at a meeting held on February 7, 1995.

### **2) APPENDICES AND EXHIBITS**

- (a) Appendices A and B are adopted as part of the Land Division Ordinance. Exhibits A through G, inclusive,

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are recommended forms which may be varied to adapt to specific fact situation.

### **3) PUBLIC HEARINGS**

- (a) The Town Board of the Town of Delavan held a public hearing on this proposed Land Division Ordinance on February 21, 1995.

### **4) TOWN BOARD APPROVAL**

- (a) The Town Board of the Town of Delavan proceeded to adopt the Land Division Ordinance at a meeting held on February 21, 1995.

### **5) EFFECTIVE DATE**

- (a) This Land Division Ordinance shall take effect upon passage and adoption by the Town Board and the filing of proof of posting or publication in the Office of the Town Clerk.

*Established April 17, 2001, Ordinance No. 229*

## **18.14 MORATORIUM ON DEVELOPMENT WITHIN TRADITIONAL LAKEFRONT RESIDENTIAL ZONE**

- 1) The Town shall not approve any land division nor any request to rezone property for any properties in the Town that are located within the Traditional Lakefront Residential zone, as that term is defined in the text of the 2002 Town of Delavan Master Plan Update. This moratorium shall remain in effect until November 15, 2006, and shall automatically expire and be repealed thereafter, unless otherwise renewed by the Town.

*Established November 15, 2005, Ordinance No. 262, repealed and recreated March 21, 2006, Ordinance No. 271*

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