

## CHAPTER 18

### SUBDIVISION AND PLATTING

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**18.01 PURPOSE AND GENERAL PROVISIONS.**

(1) PURPOSE. The purpose of this chapter, prepared under the authority granted by §236.45, Wis. Stats., is to promote the public health, safety, morals, property, aesthetics and general welfare of the Town and the regulations are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land, to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate adequate provision for transportation, water supply, waste water disposal, schools, parks, playgrounds and other public requirements; prevent scattered development beyond the service areas of community facilities and utilities; conserve the existing and potential value of land, water, air and improvements; provide the best possible environment for human habitation and meet the public demand for aquatic recreation with the least disturbance to shoreland owners; preserve shoreland growth and cover, prevent erosion and sedimentation, and protect surface and subsurface water quality. The regulations of this ordinance are made with reasonable consideration of the character of the Town with a view of conserving the value of the buildings placed upon the lands, providing the best possible environment for human habitation and for encouraging the most appropriate division and use of land throughout the Town.

(2) GENERAL PROVISIONS.

(a) Jurisdiction. The provisions of this chapter shall apply within the corporate limits of the Town. Included in this jurisdiction shall be:

- 1. Any division of land within the Town which results in a subdivision as defined herein shall be surveyed and a plat thereof made, approved and recorded as required by this chapter and by Ch. 236, Wis. Stats.
- 2. Any division of land other than a subdivision resulting in the creation of 2 parcels or building sites shall be surveyed and a certified survey map or assessor's map shall be prepared and be approved by the Town and recorded with the Register of Deeds as required by this chapter. This shall not pertain to those transfers or divisions of land specifically excluded herein, namely: (Am. #260)
  - a. Transfers of interests in land by will or pursuant to court order.
  - b. Leases for a term not to exceed 10 years, mortgages or easements.
  - c. Cemetery plats made under §157.07 and assessor's plats, unless specifically required by the Town, made under §70.27, Wis. Stats., but such assessor's plats shall comply with §§236.15(a) to (g) and 236.20(1) and (2)(a) to (e), Wis. Stats.
  - d. The sale or exchange of parcels of public utility or railroad right-of-way to adjoining property owners if the Town Board and County Planning Agency approve such sale or exchange on the basis of applicable ordinances and the provisions of Ch. 236, Wis. Stats.

(b) Basis of Approval

- 1. Compliance with Chapter 236 of the Wisconsin Statutes.
- 2. Compliance with any Town or County ordinance.
- 3. Compliance with duly approved comprehensive plans, regional plans, County plans or comprehensive plan component including the Zoning Code and official map adopted by the Town.

4. Compliance with the rules of the Department of Industry, Labor and Human Relations, relating to lot size, lot elevation, percolation tests, test borings, etc.
5. Compliance with the rules of the Division of Highways, Department of Transportation Facilities, relating to traffic safety and preservation of public interest and investment in State trunk highways or connecting streets.
6. Compliance with rules of the State Department of Natural Resources setting water quality standards, preventing and abating pollution and regulating septic systems.
7. Compliance with the most restrictive requirements when requirements of approving authorities conflict.
8. Consideration of the Development Review Checklist as adopted by separate resolution of the Town Board which is attached hereto and incorporated herein as an exhibit, including any amendments that may be made thereto from time to time by the Town Board by separate resolution.

(c) Land Unsuitable for Subdividing. No land shall be subdivided for residential use which the Town Board determines to be unsuitable for such use by reason of flooding, bad drainage, adverse earth or rock conditions, topography or any other feature likely to create a subdivision contrary to the purpose of this chapter.

## **18.02 DEFINITIONS.**

(1) GENERAL INTERPRETATION. All words used in the present tense include the future tense; the singular includes the plural and the plural the singular; the word "person" includes associations, co-partnerships or corporations; and the term "shall" is mandatory while the word "may" is permissive. All terms used which are defined in Ch. 236, Wis. Stats., shall have the same meaning as ascribed in the chapter, and as the chapter may hereafter be amended, unless otherwise defined in this chapter or unless the context and subject matter clearly indicates otherwise. In their interpretation and application, the provisions of this chapter shall be held to the 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.

### (2) SPECIFIC WORDS AND PHRASES.

- (a) Approving Authority. Any municipal, County or State agency authorized to approve or disapprove of plats within the Town as provided in Ch. 236, Wis. Stats.
- (b) Objecting Authority. Those agencies authorized to object to a plat by §236.12(2), Wis. Stats.
- (c) Plan Commission. The Town Plan Commission.
- (d) Plat. A map of a subdivision.
  1. "Final Plat" is a map conforming to §18.06 of these regulations and to §236.20, Wis. Stats., and proposed for recording with the Register of Deeds.
  2. "Preliminary Plat" is a map showing the salient features of a proposed subdivision submitted to all approving authorities for purposes of preliminary consideration.
- (e) Certified Survey Map. A map for 4 parcels or less prepared according to §236.34, Wis. Stats.

(f) Development. Subdivision, certified survey map or planned development.

(g) Recording a Plat. The filing of the original of the final plat or certified survey map with the Register of Deeds for Waukesha County.

(h) Street. A way for vehicular traffic other than an alley.

1. Major streets and highways are those which serve as the principal artery of through traffic.

2. Collector streets are those which carry traffic from minor streets to the system of major streets and highways, including the principal entrance streets of a residential development and streets for circulation.

a. Cul-de-sac being a minor street permanently closed at one end with a turn around provided.

b. Alley being a public way affording only secondary access to abutting properties.

c. Parkway being a continuous or semi-continuous park, open space area or drive, usually along a watercourse or park, where the land is owned or reserved for public or semi-public purposes.

d. Marginal access streets or frontage streets which are parallel to and adjacent to major streets and highways and which provide access to abutting properties and protection from through traffic.

(i) Subdivider. Any person, group, corporation or other entity acting as a unity, or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision or certified survey map as defined herein.

(j) Subdivision. (Rev. #00-510) The division of a lot, parcel or tract of land by the owner or his agent for the purpose of sale or building development where: the act of division creates 2 or more parcels or building sites of 5 acres each or less in area; or 2 or more parcels or building sites of 5 acres each or less in area are created by successive divisions of any part of the original property by any person within a period of 5 years; or where the division creates more than three (3) residential parcels or building sites of any size within 5 years. The following shall not constitute a subdivision: cemetery plats, assessor's plats, or the sale or exchange of parcels of land between owners of adjoining property, if additional lots are not thereby created and the lots resulting are not reduced below the minimum size required by applicable ordinances.

(k) Official Map. The map indicating the location and size of existing and proposed streets, highways, parkways, parks and playgrounds as adopted and amended by the Town Board pursuant to §62.23(6), Wis. Stats.

(l) Town. The Town of Delafield.

### **18.03 RESIDENTIAL DEVELOPMENT CONTROL SYSTEM.** (Rep. & rec. #90-260)

(1) PURPOSE. The purpose of the Residential Development Control System is to establish a system to control the rate of growth of the Town and to encourage the location and development of residential dwellings consistent with protection and wise use of the natural resources of the Town, including its soils,

lakes and streams, wetlands, woodlands, wildlife and other environmentally sensitive area; preservation of land areas for agricultural uses in order to maintain the agricultural economy and insure the preservation of those unique rural areas which provide wildlife habitat; preservation of the rural atmosphere of the Town; and development properly related to available and proposed support facilities, including sewage disposal, police, ambulance, fire protection, roads and highways and schools, without imposing an unreasonable tax burden on the taxpayers and residents of the Town and the school district involved.

(2) RESIDENTIAL DEVELOPMENT PERMIT REQUIRED. No development involving proposed residential uses shall be accepted for consideration pursuant to §§18.04(1)(b) of this chapter or §17.10(5)(u) of this General Code, unless residential development permits shall have been issued to the development by the Plan Commission.

(3) PROCEDURE.

(a) Annual Allotment. During each calendar year, the Plan Commission shall allot up to the following number of residential development permits to qualifying developments (each residential development permit representing a residential dwelling unit). Lots created by certified survey map between October 1 and September 30 of the preceding year shall be deducted from the annual allotment for the following year:

1. For the year beginning October 1, 1990, through September 30, 1991, there shall be an allotment of 108 residential development permits. Thereafter, the allotment shall remain at 108 residential development permits for each succeeding year.
2. Any residential development permits within the allotment not issued in a given year shall be carried forward one year only and may be issued only if qualifying development in the succeeding year exceed the residential development permit allotment for that year. If no residential development permits were carried forward into a given year, the Plan Commission may exceed the maximum number of allotted residential development permits in that year by not more than 10%, provided that the total number of residential development permits allotted for any 5 year period does not exceed the total permits for the 5 year period.

(b) Application Procedure.

1. Application for residential development permits shall be made by the developer to the Plan Commission. The application shall be accompanied by the following documents:
  - a. Preliminary layout in general accordance with §18.05(1) showing also the nature and extent of open space and land that will be preserved in agricultural use. Submission of a preliminary layout for purposes of this subsection shall not be considered a filing of a preliminary plat pursuant to §18.04 of this chapter.
  - b. Method of sanitary sewerage disposal. Percolation tests for all developments not served by public sewer.
  - c. Grading plans indicating the existing and proposed grades, the degree of site alterations to the property caused by the proposed development. Such plans shall indicate building sites and driveways to serve these sites.
  - d. Drainage plans indicating the impact of the storm sewer runoff and the methods to control and retain the runoff. Such plans shall include an erosion control plan.

- e. Preliminary landscape plans, including the existing location of trees over 6" in diameter measured at 6' above the ground and showing the outline of wooded areas and location of trees which are to remain, and including proposed pathways, plantings, lighting and other landscape features.
- f. Preliminary architectural plans, where applicable, consisting of typical architectural elevations and proposed dwelling unit sizes and numbers.
- g. Development schedule setting forth a proposed timetable for development and sale.
- h. Deed restrictions and/or statements as to special amenities proposed for the development.
- i. Such other information as required by the Plan Commission.

2. All applications for residential development permits to be issued for a calendar year should be submitted by October 1 of the preceding year. Applications submitted after October 1 will be considered only to the extent allotted residential development permits have not been allocated to applications submitted prior to October 1. Upon allocation of all residential development permits allotted for a given year, applications will be held for consideration for the following years' allotment after October 1, unless the application is withdrawn by the developer.

#### (4) EVALUATION.

(a) Plan Commission Review. The Plan Commission shall review applications for residential development permits with respect to each of the criteria set forth in par. (b). The Plan Commission may request reports from appropriate Town, county, school district or other governmental agencies, boards or staff as may be required.

(b) Criteria. The Plan Commission shall have the latitude to interpolate between the maximum and minimum score in every category. Such interpolation shall be rounded to the whole number.

##### 1. Sanitary Disposal.

a. A municipal sewer system consisting of a network of sanitary sewers contributory to a regional sewerage treatment plant approved by the State Department of Natural Resources. (2 points)

b. A conventional septic tank system or mound system in soils which have been tested and certified by a certified soil tester, which tests indicate that each lot in the proposed subdivision has sufficient area for a septic system and a replacement system. (1 point)

c. Alternate on-site systems include such nonconventional systems as holding tanks or other means of treating sanitary waste other than sanitary sewer, conventional or mound septic systems. (0 points)

2. Compatibility with Adjacent Development. A proposed development will be considered compatible based on a combination of the surrounding land uses, including existing subdivisions, municipal boundary lines, major highways, parks and permanently preserved open spaces, such as wetlands and the Town's land use plan.

a. Compatible to surrounding area. (3 points maximum)

b. Not compatible. (-3 points minimum)

3. Removal of Significant Agricultural Land. The proposed subdivision will be considered as removing substantial agricultural land if either 40 acres or more of land otherwise available for agricultural use will be consumed by the subdivision or 50% or more of the proposed development consists of land otherwise available for agricultural use that will be consumed by the development. (-1 point)

4. Site Alterations. This shall include alterations necessary to create roads, easements for utilities, building sites, driveways and parking areas for each building site.

a. Minimum site alterations where the only site alterations will be in those areas within proposed street rights-of-way. (1 point)

b. Average site alterations where not more than 20% of the area outside of the street right-of-way will be graded and not more than 10% of any wooded area outside of the street right-of-way will be disturbed. (0 points)

c. Substantial site alterations where more than 20% of the area outside of the street right-of-way will be graded or more than 20% of any wooded area outside of the street right-of-way will be disturbed. (-2 points)

5. Surface Drainage.

a. Good surface drainage where all roadside ditches and other drainage ditches shall have a gradient greater than 0.50% and less than 2% and greater than 50% of the storm water runoff can be retained within the site, and remaining storm water runoff is confined within road rights-of-way or recorded drainage easements with no significant adverse effect upon downstream drainage. (2 points)

b. Average surface drainage where all roadside ditches and other drainage ditches shall have a gradient less than 8% and at least 25% of the storm water runoff can be retained within the site and remaining storm water runoff is confined with road rights-of-way or recorded drainage easements. (0 points)

c. Poor surface drainage where some roadside ditches and drainage ditches are steeper than 8% or there is retention of less than 25% of the storm water runoff within the site. (-3 points)

6. Density Less than Zoning Requirements.

a. Density substantially less than zoning requirements requires that the proposed development have a density (i.e., number of dwelling units per acre) of 1/2 or less of the maximum density permitted by the zoning ordinance for the district in which the property is located. Up to a maximum of 20% of the area of lands zoned Wetlands-Floodplain within the subdivision may be used to determine the density. However, in no case shall the total area of Wetland-Floodplain zoned lands used in the computation exceed 25% of the net area of the development which is zoned other than Wetland-Floodplain. (3 points)

b. Density moderately less than zoning requirements requires a density of one dwelling unit per 3 acres, provided that no development shall receive more than 2 points with respect to density. Up to a maximum of 20% of the area of lands zoned Wetland-Floodplain within the subdivision may be used to determine the density. However, in no case shall the total area of Wetland-Floodplain zoned lands used in the computation exceed 25% of the net area of the subdivision which is zoned other than Wetland-Floodplain. (1 point)

7. Substantial Open Space Preserved.

a. Substantial open space will be deemed to have been preserved for agricultural use if the proposed subdivision contains deed restrictions or other evidence satisfactory to the Plan Commission that either 40 acres or more of the total open space in the development will be used as productive agricultural land or at least 50% of the total area of the development will be used as productive agricultural land. (2 points)

b. Substantial open space for other uses that equal at least 25% of the total area of the development. (1 point)

8. Traffic Circulation and Capacity of Major Street Serving the Development and/or Through the Development. The collector streets and major streets and highways into which traffic from the proposed subdivision shall flow shall be evaluated as to their existing capacity. Failure of any collector street, major street or highway to satisfy the relevant criteria shall constitute an inadequate major street linkage. Entrance roads serving the development shall also be considered. Developments of 15 or more units will be considered inadequate if only served by one entrance road. Developments which connect to existing dead-end streets and improve circulation to and through the Town shall be considered an improvement.

a. Improvement. (1 point)

b. Adequate. (0 points)

c. Inadequate. (-2 points)

9. Outstanding Site Planning and Architectural Standards. This evaluation is to be made by the Plan Commission upon full review of the proposed layout of the development in relation to its environmental surroundings and with regard to proposed architectural standards to be enforced by private deed restrictions or other techniques satisfactory to the Plan Commission. (2 points)

10. Lands Formerly Used for Sludge Application. Lands upon which sewage sludge has been applied shall be assessed -3 points if development is proposed for the year following sludge application, -2 points if development is proposed 2 years following sludge application and -1 point if development is proposed 3 years following sludge application.

11. Fire Protection. If the proposed development includes a water system complete with fire hydrants or if a pond is created with a holding tank installed equipped with a stand pipe capable of producing an adequate water supply for fire protection, the development will be awarded one point.

(5) ALLOCATION.

(a) Timing. After the first meeting of December of each year with respect to applications submitted by October 1 or within 60 days of application for applications submitted after October 1, the Plan Commission shall notify the developer of its allocation decision in writing.

(b) Threshold. No residential development permits shall be issued for a subdivision receiving fewer than 6 points in the Plan Commission evaluation.

(c) Allocation of Residential Development Permits.

1. If the total number of dwelling units in the proposed subdivisions receiving 6 or more points does not exceed the allotment for the year under consideration, residential development permits may be issued for all dwelling units in all developments so qualifying. However, the Plan Commission reserves the right to prorate the allotment over a 3 year period. The balance residential development permits allotted for the year shall be allocated to qualifying subdivisions (those receiving 6 or more points) submitted after October 1 of the preceding year on a time of submission priority basis.

2. If the total number of dwelling units in the proposed subdivisions receiving 6 or more points exceed the allotment for the year under consideration, the qualifying subdivisions shall be prioritized by point totals. The Plan Commission shall allocate the annual residential development permit allotment among some or all of the qualifying developments, provided that the following principles are recognized:

a. The priority must be respected; that is, the development receiving the highest point total must receive some residential development permits and so on down the priority list, to the extent of allotted residential development permits.

b. Residential development permits must be allocated for at least 20% of the proposed dwelling units in a development receiving residential development permits. However no development may receive more than 40% of the residential development permits allotted for that year.

(d) Reversion of Unused Residential Development Permits. If a development which has been allocated residential development permits does not receive final approval within 24 months from the date of allocation, the residential development permits shall be automatically withdrawn from the property in question.

(6) COMPLIANCE. The development shall be carried out substantially in compliance with the representations in the application. To assure compliance with the criteria upon which the Plan Commission evaluation of the development was based and the terms of the allocation, the Plan Commission, the Town Board or both may require plat restrictions, deed restrictions or other agreements necessary to assure such compliance.

(7) APPEAL TO TOWN BOARD. (cr. 2007-002)

#### SECTION 1: IMPACT FEES FOR PARK, PLAYGROUND AND ATHLETIC FIELD FACILITIES

(1)(a) 1. The Town Board of the Town of Delafield hereby imposes an impact fee on the Developer or the property owner of property located in the Town to pay for the capital costs that are necessary to accommodate future land development with regard to park, playground, and athletic field facilities in the Town of Delafield. The amount of the impact fee shall be as follows:

Park Impact Fee	\$ 1,620.00
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(1)(a) 2. The impact fee shall only be applicable to residential development, including parcels developed by certified survey maps.

(1)(a) 3. The Town reserves the discretion to waive all or part of an impact fee for proposed residential development where the Town Board has determined that a dedication of land, under the provisions of §18.09(1), Town of Delafield Code, would best suit the needs of the Town.

(b) In order to account for future increases in construction costs and interest costs, and in order to ensure that the fees are equitably distributed between current and future Developers, the impact fees described herein shall automatically adjust on an annual basis on January 1 of each year by the percentage increase or decrease in the United States Bureau of Labor Statistics, Midwest Region, All Items Consumer Price Index for All Urban Consumers, from January 1 of the preceding year.

(2) ACCOUNTING.

Revenues from each impact fee imposed shall be placed in a separate segregated interest-bearing account and shall be accounted for separately from the other funds of the Town of Delafield. Impact fee revenues and interest earned on impact fee revenues may be expended only for the particular capital costs for which the impact fees were imposed, unless the fee is refunded as provided herein or by statute.

(3) REFUND OF IMPACT FEES.

Impact fees that are imposed and collected by the Town of Delafield pursuant to this ordinance for the park, playground, and athletic field facilities, must be spent or refunded within 7 years, unless extended by resolution, from the date the fee is collected, pursuant to §66.0617(9), Stats. Refunds shall be made to the then-current owner of the property with respect to which the impact fees were imposed.

(4) SPENDING DEADLINE

The reasonable time frame within which the impact fee must be spent or refunded is 7 years, unless extended by resolution for 3 years due to extenuating circumstances or hardship in meeting the 7 year deadline.

(5) PAYMENT.

Developers shall pay in full impact fees to the Town of Delafield within 14 days of the issuance of a Building Permit.

(6) APPEAL.

Pursuant to Wisconsin Statute 66.0617(10), a Developer upon whom an impact fee is imposed has the right to contest the amount, collection or use of the impact fee to the Town of Delafield Town Board utilizing the procedures set forth in §18.03(7) of the Town Code.

(7) INTERPRETATION.

The Town of Delafield exercises this authority pursuant to Wisconsin Statutes Section 66.0617, and this Ordinance shall be interpreted in conjunction with said Statute, including but not limited to the definitions set forth below, including any future revisions thereto:

“Developer” means a person that constructs or creates a land development;

“Land development” means the construction or modification of improvements to real property that creates additional residential dwelling units within a political subdivision or that results in nonresidential uses that create a need for new, expanded or improved public facilities within a political subdivision.

## **18.04 PLAT APPROVAL PROCEDURES.**

### **(1) GENERAL PROCEDURE.**

(a) Preapplication. It is recommended that prior to the filing of an application for the approval of a development, the subdivider shall consult with the Plan Commission and/or its staff to obtain their advice and assistance. This consultation is neither mandatory or binding but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components and 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 effects on the neighborhood and community and the subdivider will gain a better understanding of the subsequently required procedures.

(b) Filing. If the Town is used as a forwarding agency, the subdivider shall file an appropriate number of legible copies of the preliminary or final plat with the Town Clerk who shall note the date of filing on each print.

(c) Forwarding of Plats. Within 2 days after a preliminary or final plat has been submitted for approval, the Clerk shall forward the specified number of copies to the State Department of Development along with a list of all agencies authorized to object or approve the plat and the following:

1. Four copies to the Waukesha County Park and Planning Commission.
2. Two copies to the Town Engineer for his report on the technical aspects of the plat, and for his estimates of the costs involved to install the improvements required by this ordinance.
3. Two copies to the Town Planning Consultant for his comments on the general design of the plat.
4. Two copies to any municipality exercising extraterritorial plat jurisdiction pursuant to §§236.02(2), 236.10(1)(B) and 236.10(2), Wis. Stats.

(d) Alternate Forwarding Agency. The County Park and Planning Commission shall also serve as forwarding agents for plats lying within the Town. Within 2 days after filing of either the preliminary plat or final plat, the Commission shall forward the necessary copies to State agencies required to review the plat and having the right to object, to the Town, to the County Park and Planning Commission, and to any municipality having extraterritorial jurisdiction within the area being platted.

(e) Alternative Procedures. In lieu of the above procedure, the subdivider or his agent may submit the original plat or legible copies, if acceptable, to each of the agencies authorized to object.

(f) Objections to Plat. Within 20 days of the date of receiving the copies of the plat, any agency having the authority to object shall notify the subdivider and all approving or objecting authorities of any objection or, if there is no objection, it shall so certify on the face of a copy of the plat and return that copy to the approving authority from which it was received. In the event any agency having the authority to object, objects to the plat, the plat shall be refiled as described above. The Town Engineer and Town Planning Consultant shall make their report to the Town within the

same 20 day period.

(g) Approvals to Plat.

1. Preliminary plat. The subdivider shall submit a preliminary plat in sufficient detail to determine whether the final plat will meet layout requirements. The subdivider shall also submit data required by the DILHR regarding percolation test and soil borings.

- a. Within 90 days of the date of submittal, the Town Plan Commission shall take action to approve, approve conditionally, or reject such plat and reasons for rejection.
- b. Failure of the approving authority to act within such 90 days shall constitute an approval of the preliminary plat unless the time is extended by agreement with the subdivider.
- c. No subdivider shall proceed with any construction work, including grading, until the preliminary plat has been approved.
- d. The design principles of this chapter shall apply to subdivisions and certified survey maps within the Town.
- e. To defray the administrative costs resulting from the act of subdividing land within the Town, the subdivider shall pay a fee to the Clerk at the time of plat submittal in an amount to be set from time to time by resolution of the Town Board.

2. Final plat. If the final plat conforms substantially to the layout shown in the preliminary plat as approved, including any conditions of that approval, it shall be entitled to approval with respect to such layout.

- a. If the final plat is submitted within 6 months of the last required approval of the preliminary plat, the Town shall take action to approve or reject to the plat. If the final plat is not submitted within 6 months, the Town may refuse to approve the final plat and may require resubmittal of the preliminary plat.
- b. The final plat may, if permitted by the Town, constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time. The Town encourages sequential filing of only that portion of the preliminary plat which will immediately be fully improved with respect to the installation of the required improvements.
- c. The Town Board shall take action to approve or reject the final plat within 60 days of its submission, unless the time is extended by agreement with the subdivider. Prior to approval of the final plat, the Plan Commission shall certify to the Town Board that all conditions of the Subdivision Control Ordinance have been met and that all fees, bonds and other financial responsibilities of the developer have been satisfied. If a plat is rejected, the reasons thereof shall be stated in the minutes of the meeting and a copy thereof or a written statement of the reasons supplied the subdivider and all objecting authorities.
- d. If the Town fails to act within 60 days of submittal and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the final plat shall be deemed approved and, upon demand, a

certificate to that effect shall be made on the face of the plat by the Town Clerk.

e. Any subdivider or his agent who offers or contracts to convey or conveys any subdivision, lot or parcel of land which lies in a subdivision, knowing that the final plat thereof has not been recorded with the Register of Deeds, may be subject to a forfeiture as provided in §18.25 of this chapter; except where the preliminary or final plat of subdivision has been filed for approval with the Town, an offer or contract to convey may be made if that offer or contract states on its face that it is contingent upon approval of the final plat and shall be void if such plat is not approved.

f. The subdivider or his agent shall pay to the Town all costs incurred for engineering, legal and administrative work necessary to process the plat or other provisions of this chapter. At the time of the preliminary plat, the developer shall pay the estimated cost of the engineering and legal fees in an amount as set from time to time by resolution of the Town Board. At the time of submitting the preliminary plat for approval, the developer shall pay a minimum deposit in an amount as set from time to time by resolution of the Town Board. The balance of the fee shall be paid at the time the final plat is submitted for approval, if not paid prior thereto. All fees shall be paid to the office of the Town Clerk.

(2) APPROVALS REQUIRED PRIOR TO RECORDING. The Town Board shall approve the final plat prior to recording. The subdivider shall file a 22" x 30" reproducible linen tracing or acceptable substitute of the final plat with the Clerk before recording the final plat with the Register of Deeds. The Clerk shall certify to approval of the final plat only after this requirement has been met.

(3) RECORDING OF FINAL PLAT. (Am. #91-286) The Town Clerk shall file the original of the final plat with the Register of Deeds within 30 days of the date of the last required approval. Any subdivider recording or attempting to record his final plat, instead of presenting it to the Town Clerk for that purpose, shall be subject to a penalty as provided in §18.25 of this chapter.

(4) PROCEDURE FOR LAND DIVISIONS OTHER THAN SUBDIVISIONS.

(a) Filing. The subdivider shall submit a preliminary map to the Plan Commission in sufficient detail to determine whether the final map will meet layout requirements. A filing fee in an amount as set forth from time to time by resolution of the Town Board at the time of the filing of the preliminary map.

(b) Approval or Rejection. The Town Board shall take action to approve, approve conditionally or reject the certified survey or assessor's map within 40 days of submittal. The subdivider shall be notified in writing of any conditions of approval or the reasons for rejection. The certificate of approval of the Town shall be typed, lettered or reproduced legibly with nonfading black ink on the face of the final map and signed by the Town Chairman and Town Clerk.

(c) Recording of Certified Survey Map. (Am. #91-286) The Town Clerk shall file the certified survey map with the Register of Deeds in conformance with §236.34(2), Wis. Stats. The Town Clerk shall also require the subdivider to file 6 copies of the original certified survey map in the Town Clerk's office. Any subdivider causing his certified survey map to be recorded without submitting it as herein required within 30 days of Town approval shall be subject to a penalty as provided in §18.25 of this chapter.

(d) Notice of Land Division. (Created #96-427) The subdivider, at the time of application, shall certify in writing, on a form to be supplied by the Town Clerk, that all property owners within 300 feet of any boundary of the proposed land division have been notified of said land division. The

application for land division shall not be considered complete for purposes of official Town action until such certification has been filed with and accepted by the Office of the Town Clerk. The failure of such notice to reach any property owner within 300 feet of the proposed land division shall not invalidate any action on the land division by the Plan Commission or the Town Board, and shall not give rise to any cause of action against the Town of Delafield or any of its officials, boards or commissions.

(5) RECORDING OR ASSESSOR'S MAP. Where it is not practicable to require that a final plat of a subdivision created by successive divisions be filed in accordance with the chapter, the Board may order an assessor's map to be made under §70.27, Wis. Stats., and may assess the cost thereof as provided in such section to the subdivider. The subdivider shall file a reproducible tracing with the Town after approval has been given.

#### **18.05 REQUIREMENTS FOR PLAT, CERTIFIED SURVEY MAPS AND ASSESSOR'S MAPS.**

(1) PRELIMINARY PLAT. The preliminary plat shall clearly show the following features and information:

- (a) Owner and Subdivider. The name and address of the owner and the subdivider.
- (b) Surveyor. The name of the registered land surveyor preparing the preliminary plat.
- (c) Title. The title under which the proposed subdivision is to be recorded.
- (d) Scale. Not more than 100' to one inch.
- (e) North Arrow. A north arrow shall be shown.
- (f) Location. The location of the subdivision by government lot, recorded private claim, quarter section, section, township, range and county noted immediately under the title.
- (g) Vicinity Sketch. A small drawing oriented on the sheet in the same direction as the main drawing of the section of government subdivision of the section in which the subdivision lies with the location of the subdivision indicated thereon.
- (h) Zoning. The zoning on and adjacent to the proposed subdivision.
- (i) Adjoining Properties. The location and names of adjacent subdivisions and owners of the adjoining parcels of unsubdivided land.
- (j) Property Lines. The approximate bearings and distances of the exterior boundary lines of the tract to be subdivided. Approximate dimensions of all lots together with the proposed lot and block number, approximate radii of all curves.
- (k) Topography. Topographic data shall be referred to U.S.G.S. datum and shall be plotted at 2' intervals except where the ground slope exceeds 20% making 5' interval contours acceptable.
- (l) Existing Streets and Other Features. The location, widths, grades and names of all existing or platted streets, easements or other public ways within or adjacent to the tract, and other important features such as existing permanent building, corporation lines, township lines, location of all marshes, rock outcrops, wooded areas, water courses, drainage ditches, railroad right-of-way, parks, easements and other salient features within the tract to be divided or adjacent thereto.
- (m) Proposed Streets, Drainage, Etc. The layout, names, grades, and widths of proposed

streets, alleys and drainage and utility easements; the location and approximate sizes of culverts, catch basins and other drainage structures. The street names shall not be duplicate or closely approximate any existing street names within or near the Town unless they constitute an extension or definite relationship to existing streets.

(n) Street Profiles. The Town may require that proposed street profiles for center line and building line grades extending 300' beyond the boundaries of the subdivision be approved by the Town prior to approval of the preliminary plat.

(o) Utility Location, Size and Elevation. Location, size and invert elevation of any existing sanitary or storm sewers, culverts, power and telephone poles or underground installation, location and size of any existing water and gas mains within the area of the plat or adjacent thereto. If no seers, water mains or other utility facilities are located on or immediately adjacent to the tract, the nearest such facilities which might be extended to serve the tract shall be indicated by their direction and distance from the tract, their size and their invert elevation.

(p) Water Elevations. The water elevations of adjoining lakes, streams, and ponds at the date of the survey and the approximate high- and low-water elevations of such lakes, streams, and ponds, floodland information including the contour line lying 2' above the elevation of the 100 yr. flood. If the subdivision borders any such body of water, a meander line shall be established not less than 20' back from the ordinary high-water mark of the body of water.

(q) Soil Types. Soil types, slopes and boundaries as shown on the soil survey maps prepared by the Soil Conservation Service, U.S. Department of Agriculture. The accurate delineation of the 5' depth to water table contours and all areas where the bedrock is less than 5' below grade.

(r) DILHR Information. Percolation test data, test boring information and any other information requested by DILHR for those subdivisions not being served by sanitary sewer shall be attached to and submitted with the preliminary plat for use by the State and Town.

(s) Testing. The Town may require that additional borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and ground water table.

(t) Public Use. All parcels of land intended to be dedicated or temporarily reserved for public use or to be reserved in the deeds for the common use of property owners in the subdivision, with the purpose, conditions or limitations of such reservation indicated.

(u) Deed Restrictions. The Town may require that any public and specified restrictions pertaining to the land included in the plat be submitted with the preliminary plat.

(v) Additional Information. Any additional information requested by the Town to verify ownership, clarify questions raised during the approval procedure, and any other information the Town deems necessary to reach a decision on the preliminary plat.

(w) Developer's Agreement: The developer shall execute a Developer's Agreement upon approval of the preliminary plat. Said agreement shall be executed prior to the commencement of any construction activity. If said agreement is not filed within 45 days of the preliminary approval, said approval shall be automatically withdrawn. (Cr. 95-388)

## (2) CONSTRUCTION PLANS.

(a) Roads. The Town shall require that the subdivider provide street improvement plans and profiles showing existing ground surfaces, proposed and established street grades, including

extensions for a reasonable distance beyond the limits of the proposed subdivision where requested, and any other pertinent engineering data as may be required by the Town or the Town Engineer. The plans and profiles shall be prepared in accordance with standards contained in this chapter or other Town construction standards and either approved or modified as necessary prior to the commencement of construction in the development. These plans may be required prior to preliminary approval.

(b) Grading. Grading plans including a method of erosion control for the lots or other areas in the proposed development shall also be prepared and submitted for review and approval prior to commencement of grading and construction of roads.

(c) Storm Drainage and Erosion Control. Storm water, drainage and erosion control plans shall be prepared and submitted along with other grading and road construction plans and shall indicate how surface water runoff is to be accommodated on the development and on any downstream properties along with the methods of erosion and sediment control. The developer will be responsible for the storm water runoff to the subdivision limits or to a reasonable distance downstream as approved by the Town to assure that no downstream properties are damaged by the increased runoff. When submitting the storm drainage plan, the developer shall include a system plan showing the sizes of the intersection culverts and the proposed driveway culverts for all lots or parcels within the development.

(d) Sanitary Sewers. When the proposed subdivision is to be served by sanitary sewers, a system plan shall be provided indicating the general layout of the subdivision, location of existing and proposed sewers, showing a plan view and profile of the proposed sewers shall also be submitted.

(e) Water System. If the subdivision is to be served by a water system, a system plan and detail plans shall be provided as above. Plans should also be submitted indicating the source of water, well details, including reservoirs, pumps, etc.

(3) FINAL PLAT. The final plat shall be drawn with waterproof, nonfading black line on muslin backed white paper, 22" wide by 30" long with a 1 1/2" binding margin on the left side of the 30" length and a 1" margin on all other sides. The following information shall be shown:

(a) Boundary Lines. Boundary lines with lengths of courses to hundredths of a foot and bearings to seconds as determined by an accurate field survey performed by a registered land surveyor and balanced and closed with an error of closure not to exceed 1 to 3,000.

(b) Recorded Streets. The exact location and the width along the property lines of all existing recorded streets intersecting or abutting the boundary of the tract.

(c) Tie to Government Survey. True bearings and distances to nearest established survey lines, or other official monuments, which monument shall be located or accurately described on the plat. Any patent or established survey or corporation lines shall be accurately monumented and located on the plat.

(d) Monuments. The accurate location and material of all permanent reference monuments as specified in §236.15, Wis. Stats.

(e) Design. The exact design including:

1. Names, bearings, angles of intersections, widths including widths along the line of any obliquely intersecting street, length of centerlines, etc.

2. Lengths of arcs, bearings and lengths of main chords, radii, central angles and tangent bearings at either the point of curve or point of tangency shall be shown either in their proper place or in a separate table for all streets and alleys. Lot lines may be shown in the same manner or by bearings and distances.

3. Easements and right-of-way shall be shown by centerline and width when lines are parallel to a boundary, otherwise boundary bearings and distances shall be shown.

4. Blocks, if designated, shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively through the several additions. The exact length and bearing of the boundary liens of all blocks shall be shown.

5. All lots in each block shall be consecutively numbered. Outlots shall be lettered in alphabetical order within each block.

6. Distance and bearings for meander lines shall be shown with the distance between the point of intersection of such meander lines with lot lines and high water mark also shown.

7. Additional requirements as required by §236.20, Wis. Stats.

(f) Name of Subdivision. The name of the subdivision shall be shown and shall not duplicate the name of any other subdivision in Waukesha County.

(g) North Arrow, Scale, Date. The north arrow, graphic scale as drawn and dates involved.

(h) Deed Restrictions and Setback Lines. When it is in the best interest of the Town, the Town Board may require that private deed restrictions and setback lines be either shown on the plat or filed with the Register of Deeds.

(i) Affidavits and Certificates. The surveyor's certificate, the owner's certificate, the certificate of taxes paid, and other affidavits and certificates required by Ch. 236, Wis. Stats., shall be lettered in ink or typed legibly with black ribbon on the final plat.

(j) Division of Health Requirements. The final plat of all subdivisions not served by sanitary sewers shall be marked to show preplanned soil absorption systems, if required, in accordance with §ILHR 85.04(6), Wis. Adm. Code.

(k) Reproducible Tracing. An acceptable reproducible tracing of the final plat shall be filed with the Town before the Town's approval is affixed to the final plat.

(l) Temporary Cul-De-Sac. (Cr. #200) On a final plat where a temporary cul-de-sac is created until adjacent land is divided and it is the intention to extend a street to these adjacent lands in the future, a notation shall be placed on all lots within the plat that this cul-de-sac is temporary and such street is intended to be extended.

(m) Additional Information. (Am. #200) All information required by Ch. 236, Wis. Stats., and any additional information requested by the Town.

(4) CERTIFIED SURVEY MAP. A certified survey map for not more than 4 parcels of land may be recorded in the office of the Register of Deeds if such certified survey meets the following requirements:

(a) Preliminary. A preliminary map be prepared in accordance with §236.15(1)(c) and (d), Wis. Stats.

(b) Registered Land Surveyor. The final survey shall be performed and the map prepared by a qualified registered land surveyor.

(c) Monuments. All corners shall be monumented in accordance with §236.15(1)(c) and (d), Wis. Stats.

(d) Map. The map shall be prepared in accordance with §236.20(2)(a), (b), (c), (e), (f), (g), (i), (j), and (k) on durable white paper 8 1/2" wide by 14" long. All lines shall be made with nonfading black ink on a scale of not more than 200' to an inch.

(e) Certificates and Description. The certified survey map shall include the certificate of the registered land surveyor who surveyed and mapped the parcel, including a clear and concise description of the land surveyed by bearings and distances, commencing with some corner marked and established in the government survey, and acceptable to the Town Engineer. The owner's certificate duly notarized, and the Town Board approval certificate shall also be shown.

(f) Percolation and Boring Tests. At least one percolation test and one 6' boring per lot shall be submitted with the certified survey map. The Town may request other information for the parcels not served by sanitary sewer.

(g) Additional Information. The map also shall show all existing buildings, watercourses, drainage ditches, setbacks or building lines if required by the Town Board, and other information deemed pertinent by the Town.

(5) ASSESSOR'S MAP. An assessor's map shall meet the following requirements:

(a) Registered Land Surveyor. The survey shall be performed and the map prepared by a registered land surveyor.

(b) Monuments. All corners have been monumented in accordance with §236.20, Wis. Stats., insofar as they are applicable.

(c) Map. The map shall be prepared in accordance with §236.20 insofar as it is applicable with all lines made with nonfading black ink on a scale of not more than 100' to the inch.

(d) Certificates and Description. The Assessor's map shall include the Surveyor's certificate including the name of the government body by whose order the plat was made and the date of the order; a clear and concise description of the land surveyed and mapped, commencing with some corner marked and established in the government survey, and acceptable to the Town Engineer; a statement that the plat is a correct representation of all exterior boundaries of the land surveyed and each parcel thereof; and a statement that he has fully complied with the provisions of §70.27, Wis. Stats.

(e) Additional Information. The map shall also show any other information deemed pertinent by the Town relating to existing buildings, watercourses, drainage ditches, easements, setbacks and building lines, etc.

## **18.06 DESIGN STANDARDS.**

### **(1) STREETS.**

(a) Design Criteria. The streets shall be designed and located in relation to existing and planned streets to topographical conditions and natural terrain features, such as streams and tree growth,

to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

(b) Construction Standards. Streets shall be constructed to conform to §§18.06 and 18.07 and to all applicable policies of the Town Board; in particular, Ch. 8 of this Code. The pavement shall be centered on the platted right-of-way.

(c) Widths and Locations. The widths and locations of all streets shall conform to the Official Map of the Town and to applicable State and County ordinances. When the typical section cannot be constructed within the limits of the street right-of-way, the developer shall provide slope easements over those lots on which the road ditches encroach for the purpose of ditch maintenance. These easements shall be included on the final plat.

(d) Arrangement.

1. Major streets shall be properly integrated as principal arteries of through traffic.
2. Collector streets shall be properly related to mass transit routes, to special traffic generating from facilities such as schools, churches, shopping centers, to population densities and to the major streets into which they feed traffic.
3. Minor streets shall be designed to conform to topography, to discourage use by through traffic, to permit efficient drainage, and to require the minimum length of street necessary to provide convenient, safe access to property. Cul-de-sacs shall not generally exceed 1000' in length. Frontage streets shall be designed in relation to the major street which it serves and to the existing topography to provide for safe traffic flow and property value preservation.
4. Street names shall not duplicate the names of existing streets in the Town or any community adjacent to the Town unless they can be considered as continuations or definitely related to the existing streets to warrant the same name.
5. Where a half-street exists adjacent to the subdivision, the other half-street shall be dedicated by the subdivider. Platting of the new half-streets shall be permitted only with specific approval of the Town Board.
6. Reserve strips controlling access to streets shall be prohibited except where the access control has been placed under Town Board control and such control has been accepted by the Town Board.
7. All developments serving 15 or more units shall be connected to the existing street network by a minimum of 2 roadways. (Cr. #88-200)

(e) Controlled Access. Where a subdivision borders on or contains an existing or proposed major street, the Plan Commission may require that marginal access streets be provided, when in the judgment of the Plan Commission, such marginal access streets are required on account of traffic on such existing or proposed major street and in order to protect life and property. The Plan Commission may require that the backs of lots about the proposed or existing major streets and be provided with screen planting contained in a non-access reservation along the real property line. The Plan Commission may further require that deep lots be provided with rear service alleys or that other provisions be made for the adequate protection for residential properties and the operation of through and local traffic.

## (2) INTERSECTIONS.

(a) Right Angle. Streets shall intersect as nearly as possible at right angles and not more than 2 streets shall intersect at one point unless approved by the Town Board.

(b) Corners. Property lines at street intersections shall be rounded with a radius of 15' or of a greater radius where the Town Board considers it necessary. This may be accomplished either by dedication or by easement.

(c) Jogs. Street jogs with centerline offsets of less than 125' shall be avoided. Where streets intersect major streets, their alignment shall be continuous.

(d) Vision Corners. Vision corners shall be provided creating unobstructed views of the intersection. No building or obstruction to view is permitted in this triangular area and appropriate statements shall be provided on the plat.

(3) ALLEYS.

(a) Residential Districts. Alleys shall not be provided in residential districts unless necessitated by topographic or other exceptional circumstances accepted by the Town Board.

(b) Commercial and Industrial Districts. The Town Board may require alleys in commercial and industrial districts when necessary to assure service access for off street loading and parking.

(c) Dead End Alleys. Dead end alleys and "T" or "L" shaped alleys shall be prohibited.

(4) EASEMENTS. Easements shall be centered on rear or side lot lines whenever possible.

(a) Utility. Easements at least 10' wide shall be provided for utilities where required by the Town Board.

(b) Drainage. 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 with the lines of the water course, and such further width or construction, or both, as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(5) BLOCKS.

(a) General. The width, length and shapes of blocks, shall be suited to the planned use of the land; zoning requirements; need for convenient access, control and safety of street traffic; and the limitations and opportunities of topography.

(b) Pedestrian Crosswalks. Pedestrian crosswalks not less than 15' wide may be required by the Town where deemed desirable to provide convenient pedestrian circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

(6) LOTS.

(a) General. The size, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(b) Dimensions.

1. Lots shall be designed so that the depth to width ratio does not generally exceed 2.5 to 1.
2. Lot area shall meet the minimum requirements of the Zoning Code. Residential lots to be served by private sewerage disposal facilities shall comply with the rules of the DILHR as to minimize area where it exceeds the minimum required by the Zoning Code.
3. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off street service and parking facilities required by the type of use and development contemplated.
4. Residential lots, fronting or backing into major streets should be platted with extra depth to permit generous distances between the building and such traffic ways even if the 2 1/2 to 1 ratio has to be exceeded.

(c) Corner Lots. Corner lots for residential use shall have extra width to permit full building setback from both streets.

(d) Access to Public Streets. Every lot shall front or abut on a public street. Lots with access only to private drives or streets shall be permitted only with Town Board approval and subject to the conditions of the approval.

(e) Right Angles. Lots at right angles, butt lots, shall be avoided.

(f) Lot Lines. Lot lines shall be substantially at right angles or radial to street lines.

(g) Town Boundaries. Lots shall follow Town boundary lines wherever practicable.

(h) Double Frontage and Reversed Frontage. Double frontage and reversed frontage lots shall be avoided except where necessary to provide separate or residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

(7) MINIMUM STREET RIGHT-OF-WAY WIDTHS. The minimum right-of-way dedication for newly created streets shall be as follows:

(a) Major Streets. As shown on the Official Map but not less than 80'.

(b) Collector Streets. 80'.

(c) Minor Streets. 66' except as noted below.

1. Cul-de-sacs shall have a minimum radius 75' with center island radius of 35'.
2. Frontage streets shall be 50' in width.
3. Alleys shall be 30' in width.

(d) Highway. Where a subdivision adjoins a State, federal or County highway, the width as established by the proper authority shall apply.

(e) Other. Where deemed to be in the best interest of the public, the Town Board may specify widths other than those listed below.

(8) MINIMUM PAVEMENT WIDTHS.

(a) Major Streets. Depends on the pavement cross section selected, but not less than 44'.

(b) Collector Streets. 44' or 24' with 10' outside shoulders.

(c) Minor Streets. 24' except as noted below.

1. Cul-de-sacs shall have 16' pavement width.
2. Frontage streets shall have a 24' pavement width.
3. Alleys shall have a 20' pavement width.

(9) MINIMUM AND MAXIMUM STREET GRADES.

(a) Minimum Grades. The minimum grade for all streets and alleys shall be 0.50%, and such minimum shall not be permitted for long sustained distances.

(b) Maximum Grades. Unless conditions warrant otherwise, the maximum grades for all streets and alleys shall be:

1. 6% for major and collector streets.
2. 10% for minor streets.

(10) HORIZONTAL AND VERTICAL CURVES.

(a) Horizontal Curves. Horizontal curves shall be designed so that a minimum sight distance with clear visibility along the center line is provided as follows:

1. 300' for major streets.
2. 250' for collector streets.
3. 100' for minor streets.

(b) Vertical Curves. Vertical curves shall be designed so that all changes in grade in excess of one per cent shall be connected by vertical curves of a minimum length equal to 15 times the algebraic difference in the rate of grade.

(c) Tangents. A tangent of at least 100' in length shall be provided between reverse curves on major and collector streets.

(11) INTERSECTION GRADES. The change in grade across an intersection and within 50' of the property line limits of the intersection shall not exceed 4% unless exceptional topography would prohibit these grades.

(12) DRIVEWAYS. (Cr. #88-200) Lots shall be designed so that access to the building site shall be by a paved driveway at least 16' wide with slopes no greater than 12%.

**18.07 REQUIRED IMPROVEMENTS AND RESERVATIONS.**

(1) GENERAL. Before the final plat of a subdivision, certified survey map or assessor's map will be approved, the subdivider shall provide and dedicate the following facilities and improvements, all of which

shall be installed or constructed prior to approval of the final plat.

(a) Streets. Streets graded, surfaced with initial lift of asphalt, and improved, according to the Town Construction Standards outlined below and in Ch. 8 of this General Code.

(b) Fire Protection Reservoirs. See Section 18.13 for specific requirements. (Cr. 95-388)

(c) Utilities. (Am. #88-200) Telephone and electrical lines shall be installed underground unless the Town Board specifically approved overhead service. Underground electric wiring for street lighting shall be installed at the subdivider's expense when requested by the Town Board. All gas, electric, cable and telephone services shall be made prior to paving the street. The final responsibility for suitable restoration shall remain with the developer until final acceptance is given.

(d) Drainage Facilities. Drainage channels, culverts, storm sewers and such other facilities necessary to provide adequately for surface drainage according to the established standards of the Board may require the subdivider to pave, rip-rap or sod the ditches depending on the circumstances in each instance. When culverts are required, corrugated metal or reinforced concrete culverts shall be installed prior to acceptance of streets.

(e) Erosion Control. Factors which will be considered in reviewing land suitability, runoff, erosion control plans, shall relate to the specific site conditions. An erosion plan should be submitted keeping land grading and land disturbance to a minimum. Both surface runoff and storm water drainage systems should be integrated to accommodate the increased runoff incurred during land grading. Existing temporary and future protective vegetation should be emphasized. The plan shall coordinate grading operations and sedimentation control measures so as to minimize land exposure to erosion to the briefest possible time. Sediment basins below high sediment producing areas should be planned, installed and maintained as safety devices to catch and trap excessive sediment from the development site. The plan should utilize available technologies to keep soil erosions to a minimum level.

(f) Approvals. (Rep. & rec. #2009-07) 1. The adequacy of such facilities and improvements and their proper installation shall be subject to approval of the Town Board and the Town Engineer with the acceptance of the facilities only following such approval. Upon written request of the developer, the Town Board may elect to allow the developer to file a letter of credit or other financial guarantee satisfactory to the Town Board after review and recommendation of the Town Attorney to assure completion of all uncompleted construction in order to permit filing of the final plat within the 24 months specified in §18.03(5)(d). All required improvements not installed at the time the final plat is recorded shall be guaranteed by a surety bond, irrevocable letter of credit or other satisfactory financial guarantee in an amount equal to double the cost of the improvements as estimated by the Town Engineer. The type and form of the financial guarantee shall be at the discretion of the Town Board after review and recommendation of the Town Attorney. If the improvements are not installed within one year from the date of approval of the final plat by the Town Board, the Board may cause all uncompleted work to be constructed and the parties executing the bond, irrevocable letter of credit or other financial guarantee shall be firmly bound for the payment of all necessary costs thereof. In addition to the foregoing purposes, the financial guarantee shall ensure the developer's compliance with the prevailing wage and hour requirements of Wisconsin Statutes Section 66.0903 and 66.0904, and the letter of credit shall not be reduced below the total cost of the improvement work unless and until (1) the developer proves full compliance with such statutes to the satisfaction of the Town Engineer; or (2) two years has passed from the date of the Town's final acceptance of all improvements and no claims have been made against the Town or by the Town against the developer in that regard.

(g) Maintenance. (Rep. & rec. #93-352) The developer shall guarantee all material and

workmanship for a period of one year after the acceptance by the Town by filing a maintenance bond, irrevocable letter of credit or other satisfactory financial guarantee in an amount equal to 50% of the entire improvement costs. The type and form of the financial guarantee shall be at the discretion of the Town Board after the review and recommendation of the Town Attorney. If the Town determines that any repairs are required, the Town Clerk shall give the developer a 14-day written notice to perform such repairs. If the repairs are not begun within the 14-day period and completed within a reasonable time thereafter, as determined by the Town, the Town may complete the repairs. The costs thereof shall be billed to the developer and paid by the developer or drawn from the financial guarantee.

(h) Maintenance Fee. The subdivider shall be assessed an amount as set forth from time to time by resolution of the Town Board for each lineal foot of new roadway in any subdivision or certified survey map before final approval is granted. This fee shall cover routine maintenance including snow plowing, provided the roads have received the initial lift of asphalt. Payment of this fee does not relieve the developer of his responsibilities as described above. The amount of this fee shall be determined by the Town Engineer. Payment shall be made at the time the final plat is submitted for approval by the Town Board.

(i) Permits. Where the proposed road intersects with or abuts a County or State trunk highway, the plans and layout shall be submitted to the County Highway Department or State Division of Highways by the developer. At the same time, the developer shall apply to the appropriate agency for a construction permit. A copy of the issued permit and the construction conditions made a part thereof shall be given to the Town Clerk by the developer. Initial or final acceptance of the construction will not be given by the Town until the permit conditions are satisfied.

(j) Road Extension. On temporary dead end roads, a tee-shaped turnaround shall be provided at the dead end. The tee shall be surfaced to the same width as the adjoining road and extend at least 40' each side of the centerline of the adjoining road. Accordingly, the roadway on the temporary dead end roads shall be constructed to the property line as platted. Where roads in a proposed development connect to existing roads which have terminated in temporary circular or tee-shaped turnarounds, it shall be the responsibility of the developer, at his expense, to connect to the existing road and obliterate the temporary turnaround as the Town Board and Engineer direct.

(k) Stage Development. In all instances when it shall appear to the satisfaction of the Town Board that the whole of a platted subdivision cannot immediately be fully improved with respect to the installation of the required improvements by reason of unavoidable delay not caused by the developer, or for other good reason to cause, the Town Board may, in its sole discretion, authorize the subdivider to proceed with the installation of improvements required under this chapter on a portion or part of the subdivision and, in such event, the requirements of this chapter shall apply to that portion or part thereof authorized for immediate improvement. All required improvements not installed at the time the final plat is recorded shall be guaranteed by a surety bond or other satisfactory financial guarantee by a surety bond or other satisfactory financial guarantee approved by the Town Attorney in an amount equal to double the cost of the improvements as estimated by the Town Engineer. If the improvements are not installed within 2 yrs. from the date of approval of the final plat by the Town Board, the Town Board may cause all uncompleted work to be constructed and the parties executing the bond or financial guarantee shall be firmly bound for the payment of all necessary costs thereof.

(l) Street Lights. (Cr. #88-200) The developer shall provide, arrange for and reimburse the electric company for street lights as required by the Town. Street lighting shall be required where each entrance road for a development intersects with a county or State highway or Town collector street.

(2) CONSTRUCTION STANDARDS.

(a) Streets.

1. Copies of the typical section are available from the Town Clerk. Other sections will be discussed at the time of platting for major and collector streets.
2. The Town Board shall require that profiles of streets to be constructed be prepared by a registered professional engineer or registered land surveyor and be submitted to the Town Board for approval of all grades and drainage easements prior to proceeding with any grading.
3. The length and size of all culverts for all road crossings and driveways shall be determined by the owner's engineer and approved by the Town Engineer. All culverts shall be arch culverts. The minimum size driveway culvert shall be a 15" arch pipe. The minimum size roadway culvert shall be an 18" arch pipe. Instead of installing individual culverts larger than the 30" arch pipe (35" x 24") multiple culverts of equal capacity shall be required unless unusual conditions warrant the installation of a larger pipe.
4. All streets shall be graded and surfaced according to Ch. 8 of this code. The final inch of asphalt shall be installed by the developer one year after the initial lift is installed. To guarantee installation of the final inch of asphalt, the developer shall file a bond or other financial guarantee in an amount determined by the Town Engineer. If the asphalt is not installed within one year from the installation of the initial lift of asphalt, the Town Board may cause the final inch of asphalt to be installed and the parties executing the bond or financial guarantee shall be firmly bound for the payment of all costs. Maintenance of the streets shall be the responsibility of the subdivider until acceptance by the Town.
5. Topsoil, mucky soil, peat and other deleterious material shall be removed below the subgrade of streets and replaced with suitable, sound fill material approved, placed and compacted as directed by the Town Engineer.
6. Street signs, culverts posts, guard rails, etc., as required by the Town Board, shall be obtained and placed by the Town with the expenses incurred paid by the subdivider.
7. Side slopes shall be covered with topsoil, prepared, seeded, sodded or other acceptable ground cover, fertilized and maintained for a sufficient period to provide adequate grass cover prior to acceptance by the Town Board.
8. An abutment of mortared stone or reinforced concrete or other approved material shall be constructed at each end of all culverts by the subdivider.

(b) Drainage Easements. All drainage easements shall be graded so as to confine water flow to the easement area as shown on the plat and all such grading shall be approved by the Town Engineer.

(c) Specifications. Street specifications shall conform to Ch. 8 of this code. Any items not covered by these standards shall conform to the "Standard Specifications for Road and Bridge Construction", State of Wisconsin, most recent edition. Sewer and Water Specifications shall conform to the "Standard Specifications for Sewer and Water Construction in Wisconsin", most recent edition.

(d) Final Inspection and Acceptance. Prior to the request for final street inspection, the subdivider shall provide the Town Engineer with a written certification from the subdivider's

engineer or surveyor to the effect that the streets conform to the grades as indicated on the profile maps previously approved. Final acceptance of the streets, drainage ditches, culverts, etc., will be made only between May 1st and November 1st of any year.

(e) Town Engineer Expenses. The expenses of the Town Engineer due to the subject subdivision, to the extent they exceed the fee paid at the time the final plat was submitted, shall be paid by the subdivider or owner as required by the Town Board.

(3) PUBLIC SITES, OPEN SPACES AND CAPITAL IMPROVEMENT. (Am. #88-200) In order that adequate open spaces and sites for public uses may be properly located and preserved as the community develops; and in order that the cost of providing the public parks, recreation sites and other facilities necessary to serve the additional families brought into the community by new developments may be most equitably apportioned on the basis of the additional need created by the individual development, the following provisions are established:

(a) Reservation of Potential Sites.

1. In the design of the plat, division of land or planned unit development, consideration shall be given to the adequate provisions of and correlation with such public sites or open areas.

2. Where it is determined by the Town Plan Commission that a portion of the plat, planned unit development or division of land is required for public sites or open spaces, the developer may be required to reserve such area for a period not to exceed 3 years, after which the Town shall either acquire the property or release the reservations.

(b) Dedication of Sites.

1. Within the corporate limits of the Town where feasible and compatible with development of the community, the developer shall provide and dedicate to the public adequate land to provide for the needs of the development.

2. The amount of land to be provided shall be determined on the basis of an amount of land equal in value to an amount as set forth from time to time by resolution of the Town Board per residential lot created by the division. In the case of a multi-family development the amount of land shall equal in value an amount as set forth from time to time by resolution of the Town Board for each residential unit. The value of the land to be dedicated shall be determined by the Town Assessor on the basis of full and fair market value of the land prior to dividing. If the developer is not satisfied with such appraisal, he may appeal such determination, in which case an appraisal board consisting of one appraiser selected by the Town at its own expense, one selected by the developer at his own expense and a third selected by the other 2 appraisers at Town expense, shall determine the value.

#### **18.08 REPLATS, VACATING AND ALTERING PLATS, CORRECTION INSTRUMENTS.**

(1) REPLATS. A replat of all or any part of a recorded subdivision may not be made or recorded except after proper court action has been taken to vacate the original plat or the specific part thereof when all the parties in interest in writing agree thereto. The subdivider shall follow the same procedure for processing a replat as he does for any preliminary or final plat. The Town will then apply the applicable provisions of this chapter to the replat.

(2) VACATING AND ALTERING PLATS. The owner of the subdivision, the owner of any lot in the subdivision by tax deed, or the County Board, if the County has acquired an interest in the subdivision or

in any lot in the subdivision by tax deed, may apply to the Circuit Court for Waukesha County for the vacation or alteration of all or part of the recorded plat of that subdivision. The provisions of §§236.40, 236.41, 236.42, 236.44 and 236.445, Wis. Stats., shall be followed.

(3) CORRECTION INSTRUMENTS. Correction instruments approved by the Town Board shall be recorded with the Register of Deeds as provided by §236.293, Wis. Stats.

#### **18.09 APPEALS.**

Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom as provided in §62.23(7)(e)10. to 15., Wis. Stats., within 30 days of notification of the rejection of the plat. For the purpose of such appeal the term "Board of Appeals" means an "approving authority". Where the 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 authority or objecting agency is arbitrary, unreasonable or discriminatory.

#### **18.10 MODIFICATIONS AND EXCEPTIONS.** (Am. #90-260)

In any particular case where the subdivider can show that strict compliance with any requirements of this chapter would cause practical difficulty or exceptional and undue hardship, the Town Board may relax such difficulty or hardship, provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of this chapter of the desirable general development of the neighborhood and the Town. A 3/4 vote of the entire Town Board shall be required to grant modifications or exceptions to this chapter, and any modification or exception so granted shall be entered in the minutes of the Town Board setting forth the reasons justifying the action.

**18.11** Repealed in its entirety (2002- \*\* - \*\*)

#### **18.12 SITE EROSION CONTROL.** (Cr. #90-259)

(1) APPLICABILITY. This section applies to land disturbing and land developing activities on lands within the boundaries and jurisdiction of the Town.

(2) DEFINITIONS.

Administering Authority. The designee of the Town Board to administer this section. Generally the administrative authority will be the Town Building Inspector. However, in certain instances the Town Board will designate the Town Engineer or some other qualified person to administer this section.

Agricultural Land Use. Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.

Commercial Land Use. Use of land for the retail or wholesale sale of goods or services.

Construction Site Control Measure. A control measure used to meet these requirements.

Control Measure. A practice or combination of practices to control erosion and attendant pollution.

Control Plan. A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this section submitted by the applicant for review and approval by the Town's designated administrative authority.

Erosion. The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

Land Developing Activity. The construction of buildings, roads, parking lots, paved storage areas and similar facilities.

Land Disturbing Construction Activity. Any man-made change of the land surface, including removing vegetative cover, excavating, filling and grading, but not including agricultural land uses, such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens, harvesting of trees and landscaping modifications.

Landowner. Any person holding title to or having an interest in land.

Land User. Any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his land.

Runoff. The rainfall, snow melt or irrigation water flowing over the ground surface.

Site. The entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.

(3) DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR CONTROL MEASURES. All control measures required to comply with this section shall meet the design criteria, standards and specifications for the control measures based on accepted design criteria, standards and specifications identified by the Town administering authority. Unless designated to the contrary, the criteria shall conform to the latest edition of the "Wisconsin Construction Site Best management Practice Handbook," published by the Wisconsin Department of Natural Resources' Bureau of Water Resource Management Non Point Source and Land Management section or to other standards which may be adopted by the Town Plan Commission.

(4) MAINTENANCE OF CONTROL MEASURES. All sedimentation basins and other control measures necessary to meet the requirements of this section shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a manner satisfactory to the Town's administering authority to ensure adequate performance and to prevent nuisance conditions.

(5) CONTROL OF EROSION AND POLLUTANTS DURING LAND DISTURBANCE AND DEVELOPMENT.

(a) Applicability. This subsection applies to the following sites of land development or land disturbing activities:

1. Those requiring a subdivision plat or certified survey map approval which requires the installation of road or utilities, houses or commercial, industrial or institutional buildings on lots of approved subdivision plats.
2. Those requiring the construction of houses or commercial, industrial or institutional buildings.
3. Those involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of 4,000 sq. ft. or more.
4. Those involving excavation or filling or a combination of excavation and filling affecting

400 cu. yds. or more of dirt, sand or other excavation or fill material or as specified in Waukesha County Shoreland and Floodland Ordinance for lands within the jurisdiction of such ordinance.

5. Those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.

6. Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300' or more.

(b) Erosion and Other Pollutant Control Requirements. The following requirements shall be met on all sites described in par. (a):

1. Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls designed and used to remove particles of 100 microns or greater for the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than 100 microns during dewatering operations, then no control is needed before discharge. Water may not be discharged in a manner that causes erosion of the site or receiving channels.

2. Waste and Material Disposal. All waste and unused building materials, including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials, shall be properly disposed and not allowed to be carried by runoff into a receiving channel or storm sewer system.

3. Tracking. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tacked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning, not flushing, before the end of each workday.

4. Drain Inlet Protection. All storm drain inlets shall be protected with a straw bale, filter fabric or equivalent barrier meeting accepted design criteria, standards and specifications.

5. Site Erosion Control. The following criteria (subpars. a. through d.) apply only to land development or land disturbing activities that result in runoff leaving the site:

a. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in subpar. c. Sheetflow runoff from adjacent areas greater than 10,000 sq. ft. in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than 0.5'/sec. across the disturbed area. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels. Soil and conservation service guidelines for allowable velocities in different types of channels shall be followed.

b. All activities on the site shall be conducted in a logical sequence to minimize the area of bar soil exposed at any one time.

c. Runoff from the entire disturbed area on the site shall be controlled by meeting either subpars. i or ii or i and iii.

i. All disturbed ground left inactive for 14 or more days shall be stabilized

by seeding or sodding (only available prior to September 15), by mulching or covering or other equivalent control measures.

ii. For sites with more than 10 acres disturbed at one time or if a channel originates in the disturbed area, one or more sedimentation basin shall be constructed. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

iii. For sites with less than 10 acres disturbed at one time, filter fences, straw bales or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.

d. Runoff from site on slopes of 12% or more may require additional or different controls than listed in subpar. c. above.

e. Any soil or dirt storage piles containing more than 10 cu. yds. of material shall not be located within a downslope drainage length of less than 25' to a roadway or drainage channel. Straw bales or filter fabric barriers shall be placed immediately on the downslope side of piles. If remaining for more than 30 days, they shall be stabilized by mulching, vegetative cover, tarps or other means. In-street utility repair or construction soil or dirt storage piles located closer than 25' of a roadway or drainage channel must be covered with tarps or suitable alternative control if exposed for more than 7 days and the storm drain inlets must be protected with straw bale or other appropriate filtering barriers. If any soil or dirt storage pile described in this subparagraph is in existence for more than 6 months, the filter fabric or straw bales shall be replaced upon order of the administering authority.

(6) PERMIT APPLICATION, CONTROL PLAN AND PERMIT ISSUANCE. No landowner or land user may commence a land disturbance or land development activity subject to this section without receiving prior approval of a control plan for the site and a permit from the Town administering authority. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this section shall submit an application for a permit and a control plan and pay an application fee as set from time to time by the Town Board to the Town Clerk. By submitting an application, the applicant is authorizing the Town administering authority to enter the site to obtain information required for the review of the control plan.

(a) Content of the Control Plan for Land Disturbing Activities Covering One or More Acres.

1. Existing Site Map. A map of existing site conditions on a scale of at least 1" equals 100' showing the site and immediately adjacent areas:

- a. Site boundaries and adjacent lands which accurately identify site location.
- b. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site.
- c. 100 year floodplains, flood fringes and floodways.
- d. Location of the predominant soil types.
- e. Vegetative cover.

- f. Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site.
- g. Locations and dimensions of utilities, structures, roads, highways and paving.
- h. Site topography at a contour interval not to exceed 2'.

2. Plan of Final Site Conditions. A plan of final site conditions on the same scale as the existing site map showing the site changes.

3. Site Construction Plan. A site construction plan, including:

- a. Locations and dimensions of all proposed land disturbing activities.
- b. Locations and dimensions of all temporary soil or dirt stockpiles.
- c. Locations and dimensions of all construction site management control measures necessary to meet the requirements of this section.
- d. Schedule of anticipated starting and completion date of each land disturbing or land developing activity, including the installation of construction site control measures needed to meet the requirements of this section.
- e. Provisions for maintenance of the construction site control measures during construction.

(b) Content of Control Plan Statement for Activities of Less than One Acre but Meeting Requirements Herein. An erosion control plan statement with simple map shall be submitted to briefly describe the site and erosion controls, including site development schedule, that will be used to meet the requirements of this section.

(c) Review of Control Plan. Within 45 days of receipt of the application, control plan or control plan statement and fee, the administering authority shall review the application and control plan to determine if the requirements of this section are met. The administering authority may request comments from other departments or agencies. If the requirements of this section are met, the administering authority shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the administering authority shall inform the applicant in writing and may either require needed information or disapprove the plan. Within 30 days of receipt of needed information, the administering authority shall again determine if the plan meets the requirements of this section. If the plan is disapproved, the administering authority shall inform the applicant in writing of the reasons for disapproval.

(d) Permits.

1. Duration. Permits shall be valid for a period of 180 days or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Town administering authority may extend the period one or more times for up to an additional 180 days. The administering authority may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this section.

2. Financial Guarantee. As a condition of approval and issuance of the permit, the Town shall require the applicant to deposit a surety bond, irrevocable letter of credit or other

satisfactory financial guarantee to guarantee a good faith execution of the approved control plan and any permit conditions. The type and form of the financial guarantee shall be at the discretion of the Town Board after review and recommendation of the Town Attorney.

3. Permit Conditions. All permits shall require the permittee to:

- a. Notify the Town Clerk within 48 hours prior to commencing any land disturbing activity.
- b. Notify the Town Clerk of completion of any control measures within 24 hours after their installation.
- c. Obtain permission in writing from the Town administering authority prior to modifying the control plan.
- d. Install all control measures as identified in the approved control plan.
- e. Maintain all road drainage systems, storm water drainage systems, control measures and other facilities identified in the control plan.
- f. Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities.
- g. Allow the Town's designated agent to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan.
- h. Keep a copy of the control plan on the site.

(7) INSPECTION.

(a) The administering authority shall inspect construction sites at least once a month during the period starting March 1 and ending October 31 and at least 2 times during the period starting November 1 and ending February 28 to ensure compliance with the control plan.

(b) If land disturbing or land development activities are being carried out without a permit, the Town's administering authority shall enter the land pursuant to the provisions of §§66.122 and 66.123, Wis. Stats.

(8) ENFORCEMENT.

(a) The Town administering authority may post a stop work order if:

1. Any land disturbing or land developing activity regulated under this section is being undertaken without a permit.
2. The control plan is not being implemented in a good faith manner.
3. The conditions of the permit are not being met.

(b) If the permittee does not cease the activity or comply with the control plan or permit conditions within 10 days, the Town Board may revoke the permit.

(c) If the landowner or land user where no permit has been issued does not cease the activity within 10 days, the Town Board may request the Town Attorney to obtain a cease and desist order.

(d) Once a cease and desist order has been issued, only the Town Board or the Town Board of Appeals may retract the stop work order or the revocation.

(e) Ten days after posting a stop work order, the Town administering authority may issue a notice of intent to the permittee, landowner or land user of the Town's intent to perform work necessary to comply with this section. The Town's designated agent may go on the land and commence the work after 14 days from issuing the notice of intent. The costs of the work performed by the administering authority, plus interest at the rate authorized by the administering authority, shall be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due, the Town Clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to §66.60(16), Wis. Stats.

(f) Compliance with the provisions of this section may also be enforced by injunction.

(9) APPEALS.

(a) Board of Appeals. The Board of Appeals created pursuant to §17.45 of this General Code:

1. Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Town's administering authority in administering this section.
2. Upon appeal, may authorize variances from the provisions of this section which are not contrary to the public interest and, where owing to special conditions, a literal enforcement of the provisions of this section will result in unnecessary hardship.
3. Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(b) Who May Appeal. Any applicant, permittee, landowner or land user may appeal any order, decision or determination made by the Town's administering authority in administering this section.

**18.13 FIRE PROTECTION RESERVOIRS.** (Cr. #95-388)

(1) GENERAL REQUIREMENTS. To insure adequate water is available for the purposes of fire suppression, any developer or owner who subdivides lands into five (5) or more residential or commercial lots shall provide a system of Fire Protection Reservoirs within the platted area for fire suppression purposes. The full and total cost of all engineering and legal fees, reservoirs, installation, plumbing, fire fittings, painting, access lanes/roads, initial filling with water, land restoration, and other cost of compliance with this ordinance shall be the responsibility of the developer or owner.

(a) The system of reservoirs or accepted alternatives shall be in place, approved and functional before any new building construction begins with the platted areas.

(b) A Fire Protection Reservoir surety in a form and in an amount determined by the Town Board, shall be required to insure the system is installed and fully functional prior to any building construction. The required surety amount shall be in an amount as set forth from time to time by resolution of the Town Board. Application for release of the surety shall not be considered until final approval of the system is obtained from the Fire and Highway Departments and all materials

defined herein are provided.

(c) The requirements for Fire Protection Reservoirs shall apply equally to new and existing developments if, after the date of enactment, in excess of four (4) lots are created.

(d) All specifications and installations shall follow established engineering practices, the Fire Department's "Tank Installation Guidelines" and NFPA 1231, "Standard on Water supplies for Suburban and Rural Fire Fighting" as they may be amended from time to time. All proposed installation plans and specifications shall be approved by the Town Engineer before work is begun.

(e) Within 30 days of completion and final approval of the system, a complete set of record drawings, specifications, warranties and other requested information shall be provided to the Town Fire and Highway Departments.

(f) The complete installation and all associated items shall have a 24 month warranty, beginning at the final acceptance date, to be free from defects in materials and/or workmanship. If during this period the Town, at its sole discretion, determines corrective actions are necessary, the developer shall make the corrections at his expense in a period determined by Town but not to exceed 60 days from notification of defect.

(2) RESERVOIRS REQUIRED. The developer of new or expanded plats shall provide "EMERGENCY WATER RESERVOIRS" as hereby defined:

5 - 39 lots - minimum of one (1) 10,000 gallon storage tank  
40 or more lots - 250 gallon storage capacity minimum for each lot

(a) The Town, upon recommendation of the Fire Chief, may require greater or less capacity if it is determined, after reviewing the proximity of other water sources, that such capacity is appropriate.

(b) Natural sources or man-made ponds may also be used as water reservoirs provided they comply with the same general requirements as tanks for location and number. These types of sources shall be of the dry hydrant type and installed as defined and specified by the State of Wisconsin Department of Natural Resources and Fire Department.

(c) All fire fittings used or installation shall be as specified by the fire Department and the cost of these fittings shall be included as part of the overall installation.

(3) TANK LOCATION. Tank location shall be determined by the Town after receiving a recommendation from the Fire Chief, Highway Superintendent and Town Engineer. The locations selected shall be noted on a map to be kept on file with the Fire Chief and Highway Superintendent for future reference.

(4) INSPECTION AND ACCEPTANCE. When all work has been completed and the tanks are functional, the developer may request an inspection. This inspection will be made by the Fire Chief and Highway Superintendent using the Fire Department Water Tank Inspection report form. In addition, a test pumping may be performed to insure that adequate water flow can be obtained.

(a) If a second inspection is required as a result of problems noted during the initial inspection, a fee in an amount as set forth from time to time by resolution of the Town Board shall be assessed for each additional inspection.

(b) When all requirements contained herein have been satisfied the Town Board shall provide final acceptance of the water source.

**18.15 ENFORCEMENT AND PENALTIES.**

(1) ENFORCEMENT. The Town may institute an injunction or other appropriate action or proceeding to enjoin a violation of this chapter or any provision of Ch. 236. Wis. Stats., adopted by reference.

(2) PENALTIES. Except as otherwise expressly provided, any subdivider who fails to comply with the provisions of this chapter shall be subject to a penalty as provided in §25.04 of this code. In addition, the remedies provided by §236.30 and 236.31, Wis. Stats., shall apply.

(3) OTHER PENALTIES OR REMEDIES. (Cr. #91-308) In addition to any other penalties imposed by this chapter, any costs incurred by the Town to gain compliance with plat approval, subdivision approval or site erosion or pollution control requirements or any other provision of this chapter including, but not limited to, the Town's installation of the required improvements and the Town's cost of enforcement thereof, shall be collected as a debt from the developer and/or owner of the property involved. If after notice of the debt is given to the developer and/or owner it remains unpaid for more than 30 days, such cost shall, at the option of the Town Board, be assessed as a special charge against any real estate located in the Town owned by the developer and/or owner.