

Chapter 28 LAND DIVISION*

***Cross references:** Any ordinance regarding plats, land divisions or subdivisions saved from repeal, § 1-9(13); buildings and building regulations, ch. 10; mobile homes and mobile home parks, § 14-301 et seq.; environment, ch. 22; streets, sidewalks and other public places, ch. 38; utilities, ch. 54.

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ARTICLE I. IN GENERAL

Sec. 28-1. Title.

This chapter shall be known and cited as the "Land Division Control Ordinance of the Town of Yorkville," and is enacted pursuant to Wis. Stats. ch. 236.

(Ord. No. 2004-02, § 1(18.01(1)), 9-27-2004)

Sec. 28-2. Purpose.

This chapter is adopted for the following purposes to:

- (1) Regulate and control the division of land within the town.
- (2) Promote the public health, safety and general welfare of the community.
- (3) Promote the conservation and wise use of the natural resource base and the sound physical, social, and economic development within the town to provide a pleasant and habitable environment.
- (4) Guide the future growth and development of the community in accordance with the town's adopted land use plan.
- (5) Preserve the rural character of the town through the permanent preservation of meaningful open space and sensitive natural resources, including those areas identified in the town's resource inventory maps.
- (6) Protect and restore environmentally sensitive areas and biological

diversity, minimize disturbance to existing vegetation, and manage primary and secondary environmental corridors.

- (7) Ensure that appropriate conservation lands will be identified, protected and restored during the development design process to meet future community needs for stormwater management, floodwater storage, and groundwater recharge.
- (8) Use ecological planning principles in the design, construction and longterm management of conservation developments.
- (9) Allow housing to be concentrated on portions of a parcel in order to protect, preserve and restore environmentally sensitive areas or agriculture-productive areas on other portions of the parcel.
- (10) Preserve scenic views by minimizing visibility of new development from existing roads.
- (11) Provide buffering between residential development and nonresidential uses.
- (12) Provide commonly owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.
- (13) Preserve significant archaeological sites, historic buildings and their settings.
- (14) Protect and preserve an interconnected network of open space throughout the town, and to help establish effective buffers around working farms, along boundaries of existing protected lands (such as parks) and along the boundary lines between the Village of Union Grove and the town.

(Ord. No. 2004-02, § 1(18.01(2)), 9-27-2004)

Sec. 28-3. Applicability and compliance.

- (a) It is the goal of the town in adopting this chapter that residential development within the town shall occur through land divisions incorporating conservation themes wherever possible and that conservation subdivisions be proposed wherever possible.
- (b) No person shall divide any land that results in a subdivision or a minor subdivision under the provisions of this chapter without compliance with all requirements of this chapter and the following:
 - (1) The town's land use plan entitled "A Land Use Plan for the Village of Union Grove and the Town of Yorkville: 2020," dated December 2003.
 - (2) The provisions of Wis. Stats. ch. 236 and Wis. Stats. § 80.08.
 - (3) The rules of the state department of commerce, contained in Wis. Admin. Code ch. Comm 83, for land divisions not served by public sewer.
 - (4) The rules of the division of transportation infrastructure development, state department of transportation, contained in Wis. Admin. Code ch.

Trans 233, for subdivisions that abut a state trunk highway or connecting street.

- (5) The rules of the state department of natural resources, contained in Wis. Admin. Code chs. NR 115, 116 and 117, for shoreland, shoreland-wetland and floodplain management.
- (6) The land use and neighborhood plans where applicable and not inconsistent with the land use plan adopted by the town.
- (7) All applicable local, county, and state regulations including zoning, subdivision, sanitary, utility, building and official mapping ordinances.
- (8) All other applicable rules contained in the Wisconsin Administrative Code.
- (9) Unless otherwise excepted in this chapter, where any provision of these regulations imposes restrictions different from those imposed by any other provision of law, the provision, which is more restrictive or imposes higher standards shall control.

(Ord. No. 2004-02, § 1(18.02(1)), 9-27-2004)

Sec. 28-4. Conservation subdivisions.

Conservation subdivisions are required for land divisions resulting in the creation of a subdivision on any parent parcel.

(Ord. No. 2004-02, § 1(18.02(2)), 9-27-2004)

Sec. 28-5. Condominium plats.

A condominium plat prepared under Wis. Stats. ch. 703, which divides land and meets the definition of a subdivision under this chapter, shall be reviewed by the town in the same manner as a conservation subdivision plat as set forth in this chapter and shall comply with the applicable design standards and required improvements of this chapter.

(Ord. No. 2004-02, § 1(18.02(3)), 9-27-2004)

Sec. 28-6. Minor subdivisions.

No person shall divide any land located within the limits of the town which shall result in a minor subdivision without complying with the provisions of this chapter with respect to minor subdivisions, including, but not limited to required improvements under article II, design standards under article III, and certified survey map procedures under article VII.

(Ord. No. 2004-02, § 1(18.02(4)), 9-27-2004)

Sec. 28-7. Land suitability.

No land shall be subdivided which is held to be unsuitable for any proposed use if identified as environmentally sensitive. Areas identified as environmentally sensitive include, but are not limited to:

- (1) All areas mapped as floodplain by the Federal Emergency Management

Agency (FEMA), state department of natural resources, or other public or private entity.

- (2) All wetlands as defined in Wis. Admin. Code § NR 103.02(5), including buffers as required under Wis. Admin. Code ch. NR 151.
- (3) All areas within 75 feet of the ordinary high-water mark of navigable streams and lakes, as identified by state department of natural resources.
- (4) All areas having slopes greater than 20 percent.
- (5) Areas that are known to provide habitat for rare, threatened or endangered species.
- (6) Burial sites and Indian mounds.
- (7) Drainageways that contain running water during spring runoff, during storm events or when it rains. A 25-foot buffer from the edge of the drainageway shall be included.
- (8) Areas otherwise held by the town board to be unsuitable for such use by reason of bad drainage, adverse earth or rock formation or topography, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the community.
- (9) Areas not designated for land divisions by the town's land use plan.

Areas determined to be environmentally sensitive may be included as common open space in a conservation subdivision but shall not be included in the development yield analysis in section 28-122(a)(2) or in the net density calculation as defined in section 28-9 unless otherwise included or excluded in those sections. These lands shall be identified as an out lot or other designation that indicates the land is not available for land division.

(Ord. No. 2004-02, § 1(18.02(5)), 9-27-2004)

Sec. 28-8. Remedies; exceptions.

- (a) *Remedies.* Failure to comply with the requirements of this chapter shall invalidate purported transfers of titles at the option of the purchaser in accordance with the provisions of Wis. Stats. § 236.31(3). The town may also take any action authorized under Wis. Stats. ch. 236. Building permits shall not be issued by the building inspector for construction on sites created in violation of these requirements.
- (b) *Exceptions.* The provisions of this chapter shall not apply to:
 - (1) Transfers of interest in land by will or pursuant to court order.
 - (2) Cemetery plats under Wis. Stats. § 157.07.
 - (3) Assessors' plats made under Wis. Stats. § 70.27, but such plats shall comply with Wis. Stats. § 236.15(1)(a)--(g) and Wis. Stats. § 236.20(1),(2)(a)--(e).
 - (4) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are

not reduced below the minimum sizes required by this chapter, the county zoning ordinance or other applicable laws or ordinances.

(Ord. No. 2004-02, § 1(18.02(6), (7)), 9-27-2004)

Sec. 28-9. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section. All other pertinent terms shall be as defined in Wis. Stats. ch. 236. Words used in the present tense shall include the future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular form. The word "shall" is mandatory and the word "may" is permissive.

Certified survey map means a map showing a division of land, conforming to Wis. Stats. § 236.34 and the Town Code, and prepared by a land surveyor registered in the state.

Common facilities means those facilities which are designated, dedicated, reserved, restricted or otherwise set aside for the use and enjoyment by residents of the development.

Common open space means undeveloped land within a subdivision, minor subdivision, or conservation subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development and for the preservation, restoration and management of historical, agricultural or environmentally sensitive features. Common open space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historical structures and archaeological sites including Indian mounds and/or such recreational facilities for residents as indicated on the approved development plan. It shall be restored and managed in accordance with a stewardship plan that shall be prepared for the open space.

Condominium means a community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirements of the Condominium Ownership Act, Wis. Stats. ch. 703. A condominium is a legal form of ownership of real estate and not a specific building type or style. All sections of this chapter that apply to subdivisions shall apply to a condominium.

Conservation easement means a nonpossessory interest in real property designed to protect natural, scenic and open space values in perpetuity as defined in the Uniform Conservation Easement Act, Wis. Stats. § 700.40, and section 170(h) of the Internal Revenue Code.

Conservation subdivision means a subdivision in which dwelling units are concentrated and/or clustered in specific areas in order to allow other portions of the subdivision to be preserved for common open space, including restoration and management of historical, agricultural or environmentally sensitive features. All sections of this chapter that apply to subdivisions shall apply to a conservation subdivision.

Density factor means the number of dwelling units permitted per acre according to the town's land use plan, applicable neighborhood plans, the town's ordinances, and applicable zoning regulations.

Development envelopes mean areas within which pavement and buildings will be located.

Dwelling means a detached building designed or used exclusively as a residence or sleeping place, including a manufactured home located outside of a mobile home park, but does not include boardinghouses or lodginghouses, motels, hotels, tenements, or cabins.

Ecological restoration means to protect, enhance, recreate or remediate functional and healthy plant and animal communities. Ecological restoration is accomplished by implementing a stewardship plan for uplands, wetland areas, and aquatic resource areas, which include specific remedial and management activities for sustainable maintenance of each of these areas and the planting of those varieties of plants that are indigenous to the area.

Flag lots means a lot with access to the public street only by a narrow strip of land, easement, or private right-of-way and with otherwise insufficient frontage to be considered a buildable lot. Flag lots generally are not considered to conform to sound planning principles.

Homeowners' association means a community association, incorporated or not incorporated, combining individual home ownership with shared use or ownership of common property or common facilities.

Manufactured home means a structure certified and labeled as a manufactured home under 42 USC 5401--5426.

Minor subdivision means any division of land, whether by one or successive owners, which does not constitute a subdivision and which creates one or more parcels or building sites, any one of which is 15 acres or less in size. The remnant parcel, if any, shall count as one of the parcels or building sites created by said division.

Net density means the number of dwelling units permitted in the subdivision prior to calculating and adding any development yield bonus under section 28-125(a). This number is obtained by performing the following calculation:

- (1) Derive the net acreage for the parent parcel by subtracting from the gross acreage of the parent parcel the acreage consisting of the following: any land defined to be unsuitable under section 28-7, existing, dedicated or reserved street rights-of-way, restrictive utilities rights-of-way, and navigable streams, ponds or lakes;
- (2) Determine the density factor as permitted for the parent parcel, taking into account the town preference, if any is indicated on the land use plan, as well as adjustments made by the town board to ensure a density factor that is consistent with the surrounding neighborhood; and
- (3) Multiply the net acreage result under subsection (1) of this definition times the applicable density factor under subsection (2) of this definition to obtain the net density for the parent parcel.

Nonprofit conservation organization means any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open

space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

Owner includes the plural as well as the singular and may mean either a natural person, division, firm, association, syndicate, partnership, limited liability company, private corporation, public or quasi-public corporation or similar organization or any combination of these having legal title or sufficient proprietary interest to seek development of land. For purposes of successive division of a parcel of land by certified survey map, by one owner or successive owners, "owner" shall be taken to include any person, division, firm, association, syndicate, partnership, limited liability company, private corporation, public or quasi-public corporation or similar organization to whom conveyance has been made within seven years of application for approval of a certified survey map.

Parent parcel means the existing parcel of record, as of the effective date of the ordinance from which this chapter is derived or the entire proposed development if combining any existing parcels.

Plan commission means the plan commission of the town.

Primary environmental corridor means a concentration of significant natural resources at least 400 acres in area, at least two miles in length, and at least 200 feet in width, as delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

Professional ecological services means an individual or firm with professional qualifications to prepare and implement an ecological stewardship plan for upland, wetland areas, and aquatic resource areas, including specific remedial and management activities for sustainable management of each of these areas and the planting of those variety of plants that are indigenous to the area.

Racine County Subdivision Ordinance means chapter 18 of the county Code, as amended from time to time.

Racine County Zoning Ordinance means chapter 20 of the county Code, as amended from time to time.

Secondary environmental corridor means a concentration of significant natural resources at least 100 acres in area and at least one mile in length. Where such corridors serve to link primary environmental corridors, no minimum area or length criteria apply. Secondary environmental corridors are delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

Single-family dwelling means a building designed and/or used exclusively for residential purposes for one family only and containing not more than one dwelling unit.

Stewardship plan means a comprehensive management plan for the longterm enhancement and sustainability of natural ecosystems (uplands - including farmlands, woodlands, prairies, meadows, wetlands, shorelands, lakes, river systems and similar ecosystems). Such plans shall include but not be limited to management goals, implementation and monitoring schedules, identification and description of measures to be taken should degradation of the system(s) be noted, and programs for the removal and control of invasive vegetation species.

Stormwater treatment train means a combination of physical and biological

features that are constructed or planted to convey, cleanse, and enhance stormwater quality before the remaining water is released to receiving waters.

Street means a public way for pedestrian and vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

Subdivide means the act of dividing land which constitutes a subdivision or minor subdivision under this chapter.

Subdivider means any person, corporation, partnership, association, individual, firm, trust or agent dividing or proposing to divide land resulting in a subdivision or minor subdivision.

Subdivision means the division of a lot, parcel or tract of land by the owners thereof or their agents, where:

- (1) The act of division of a parent parcel creates four or more parcels or building sites; or
- (2) The act of division creates four or more parcels or building sites by successive divisions within a period of seven years. The term includes resubdivision, and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided, whether by one owner or successive owners.

In determining the number of parcels or building sites created by the division of land, the remnant parcel, if any, shall count as one of the parcels or building sites created by said division.

Two-family dwelling means a building used for residential occupancy by two families living independently of each other.

(Ord. No. 2004-02, § 1(18.03), 9-27-2004; Ord. No. 2005-02, § 1, 10-10-2005)

Cross references: Definitions generally, § 1-2.

Sec. 28-10. Adoption of state statutes and county ordinance.

Except as otherwise properly provided in this chapter, and subject to section 28-3(b)(9), the provisions of Wis. Stats. ch. 236 and the county subdivision control ordinance are hereby adopted by reference and made a part of this chapter.

(Ord. No. 2004-02, § 1(18.04), 9-27-2004)

Sec. 28-11. Fees.

The town board may, by resolution, establish reasonable fees for the administration of this chapter.

(Ord. No. 2004-02, § 1(18.12), 9-27-2004)

Sec. 28-12. Penalty.

Any person who shall violate any provision of this chapter or any order, rule or regulation made under this chapter shall be subject to a penalty as provided in section 1-

14 as well as any other penalties as provided under Wis. Stats. ch. 236.
(Ord. No. 2004-02, § 1(18.13), 9-27-2004)

Secs. 28-13--28-40. Reserved.

ARTICLE II. REQUIRED IMPROVEMENTS

All land divisions must comply with the following improvements:

Sec. 28-41. Water.

Where public water service is available to the subdivision, the subdivider shall install water facilities for connection with such public water facilities, including mains and laterals to the street water main lines. Such facilities shall be installed in accord with and subject to the specifications and inspection of the governmental body with jurisdiction over such public water utility. Water for a conservation subdivision shall be provided by a municipal water system where feasible, or by individual on-site wells or by one or more community wells meeting the permit requirements of the state and the town. Where municipal water is not available, the use of shared or community wells are encouraged. Plans for shared or community wells shall include a wellhead protection plan with separation distances for the zone of influence and sources of pollution. The town may, in its discretion, require the subdivider and/or the homeowners' association to have the wells tested on an annual basis by a qualified consultant with a written report being delivered to the homeowners' association and the town.

(Ord. No. 2004-02, § 1(18.05(1)), 9-27-2004)

Sec. 28-42. Sewer.

Where public sanitary or storm sewer service is available to the subdivision, the subdivider shall install adequate sanitary or storm sewer facilities, including mains and appurtenances thereto and laterals to the street sewer lines. Such facilities shall be installed in accord with and subject to the specifications and inspections of the governmental body with jurisdiction over such public sewer utility. If the public sanitary sewer facilities are not available to the subdivision, lot sizes shall be such that effective private disposal systems can be determined on the basis of recommendations of the agency or agencies of the state with jurisdiction over private sewage disposal systems. When a common sewage treatment and disposal unit is used, it should be jointly owned and maintained by the lot owners of the lots serviced. The town shall have no ownership interest in this type of sanitary sewer system. The subdivider, or its successors and assigns, shall be responsible for all maintenance of the system at its cost, and shall bear the costs of alterations to the system necessitated by any improvements to the streets under which any of the sewer lines run. The subdivider, or its successors and assigns, shall have the mound systems inspected annually by a qualified consultant with a written report being delivered to the homeowners' association and the town.

(Ord. No. 2004-02, § 1(18.05(2)), 9-27-2004)

Sec. 28-43. Streets.

- (a) The subdivider shall construct and install all streets dedicated or provided for in such subdivision in accord with the standards for such streets as specified in the town ordinances or as otherwise specified by the governmental unit with jurisdiction over such streets. The obligation of the subdivider shall include the responsibility for construction of portions of streets dedicated by such plat as well as making improvements to existing streets where additional street right-of-way dedications are made to existing streets by the plat. All such street construction shall be completed only after installation of sewer and water mains, laterals and appurtenances, if the same are required to be installed per the terms of the development agreement.
- (b) The developer shall be liable for the costs of the binder and surface course pavement in an amount necessary to achieve an average of 4 1/2 inches of binder course and 1 1/2 inches of surface course pavement for the width of the roadway and/or required diameter of any cul-de-sacs.

(Ord. No. 2004-02, § 1(18.05(3)), 9-27-2004)

Cross references: Streets, sidewalks and other public places, ch. 38.

Sec. 28-44. Lighting.

As a condition of approval of a subdivision, the subdivider shall be liable for all costs of procurement and installation of streetlights to service the subdivision. The number and placement of the streetlights shall be at the discretion of the town board. Lighting design shall take into account surrounding properties and shall minimize the visual impact of the lighting on those properties to the extent possible.

(Ord. No. 2004-02, § 1(18.05(4)), 9-27-2004)

Sec. 28-45. Drainage.

In addition to any storm sewer improvements which may be required to be made by the subdivider, the subdivider shall make such improvements for the drainage of surface waters from, through and within such subdivision as the town board may require to properly provide for such drainage. In determining what kinds of improvements shall be made by the subdivider, the town board shall consider the drainage problems, both within and without the boundaries of such plat, resulting from the development of such subdivision. If deemed necessary for the resolution of such drainage problems, the town board may require that the subdivider obtain necessary easements outside the boundaries of the plat and require that the subdivider construct such required improvements even though the same may be outside the boundaries of the plat. A registered engineer shall prepare drainage plans.

(Ord. No. 2004-02, § 1(18.05(5)), 9-27-2004)

Sec. 28-46. Street signs.

The subdivider shall install at the intersection of all streets proposed to be dedicated a street sign of a design specified by the town engineer. The town may require additional signs to be installed within the subdivision as it deems necessary. The subdivider shall be liable for all costs associated with the procurement and installation of street signs within or adjacent to the subdivision; however, the town shall procure and

install the street signs.

(Ord. No. 2004-02, § 1(18.05(6)), 9-27-2004)

Sec. 28-47. Other utilities.

- (a) The subdivider shall cause gas, electrical power, and telephone and other communication facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision.
- (b) Plans indicating the proposed location of all gas, electrical power, telephone, and other communications, distribution and transmission lines required to serve the subdivision shall be submitted by the town engineer.

(Ord. No. 2004-02, § 1(18.05(7)), 9-27-2004)

Sec. 28-48. Development agreement.

- (a) As a condition of final approval of any plat, the subdivider shall enter into an agreement with the town, whereby the subdivider shall agree to install all such improvements required to be installed under the terms of this chapter. Such agreement shall be guaranteed by cash, surety bond or letter of credit running to the town in such amount as the town board shall determine to be required to ensure performance by the subdivider in accord with such development agreement within a reasonable period of time. The development agreement shall include, but is not limited to, the following terms and conditions:
 - (1) The roads and highways and appurtenances thereto shall be constructed at the expense of subdivider in accordance with the provisions of the Code which are in effect at the time of such construction.
 - (2) In such cases where the subdivider shall own the land adjoining the roads and highways, the subdivider shall agree to prohibit the planting of shrubs or trees or the installation of fences of such construction as would obstruct vision on curves and intersections within such distances from the edge of the highway as is prescribed by the town board.
 - (3) Sanitary and water mains and laterals, and storm water drainage facilities shall be installed by the subdivider prior to submission of the roads to the town for acceptance.
 - (4) The subdivider shall agree to indemnify and hold the town and its agents harmless from and against claims related to the performance of work at or for the construction site.
 - (5) The subdivider's principals shall be personally responsible for reimbursement of costs to the town in the event the subdivider does not proceed with the actual installation of the subdivision improvements.
 - (6) The subdivider shall be responsible for payment of the town's costs, disbursements and attorney's fees in the event the town brings legal action to enforce compliance with the agreement and a final determination is made in favor of the town.
 - (7) The subdivider shall grant its permission and make application, in

advance, for the vacation of the plat in accordance with Wis. Stats. ch. 236 in the event improvements to the subdivision, for which the subdivider is responsible, are not completed within five years of final plat approval.

- (8) The subdivider shall convey all necessary easements, including a conservation easement as required under the Town Code.
 - (9) Other terms that the town and subdivider shall deem appropriate.
- (b) The terms and conditions of the agreement of subsection (a) of this section shall extend to the heirs, administrators, successors in title and assigns of the subdivider, including personal liability. However, the subdivider may not assign its rights, duties and responsibilities under this agreement to any other third party without first obtaining the prior written consent of the town.

(Ord. No. 2004-02, § 1(18.05(8)), 9-27-2004)

Sec. 28-49. Building permits.

Until all improvements are installed as required by this article and the development agreement in section 28-48, including the binder course of asphalt, the building inspector shall issue no building permits for construction in such subdivision. However, upon written consent of the town board, the subdivider may develop the subdivision in such stages as approved by the town board, in which case the town board may provide that building permits may issue as to such portions of the subdivision wherein all such improvements have been installed.

(Ord. No. 2004-02, § 1(18.05(9)), 9-27-2004)

Sec. 28-50. Monuments.

All monuments erected, established or used in laying out and platting a subdivision, unless otherwise specifically provided by the town board, shall be oriented to the monuments erected with respect to State Highway 20 or County Trunk Highway A.

(Ord. No. 2004-02, § 1(18.05(10)), 9-27-2004)

Sec. 28-51. Engineering, planning, legal and administrative costs; land division fee.

- (a) The subdivider and town shall enter into a predevelopment agreement requiring the subdivider to pay to the town all reasonable costs for engineering, planning, legal and administrative expenses incurred by the town in:
 - (1) Processing, reviewing, revising, and approving conceptual, preliminary or final development plans, including certified survey maps, preliminary and final plats; and
 - (2) Processing, reviewing, revising, drafting and approving any agreements, easements, deed restrictions or other documents associated with the proposed subdivision or development.
- (b) Such costs shall include the costs of the town's own engineers, attorneys,

inspectors, agents, subcontractors and employees. The cost for town employees' time shall be based upon the classification of the employee and the rates established by the town board, from time to time, for each such classification.

- (c) At the time of the submission or review of a conceptual plan, certified survey map, or preliminary plat, the subdivider shall execute a predevelopment agreement and deposit with the clerk-treasurer the sum of \$3,000.00 in the form of cash for a subdivision plat. At the direction of the town board, a cash deposit may also be required at the time of submission of a certified survey map. The town shall apply such funds toward payment of the above costs. If at any time such deposit becomes insufficient to pay expenses incurred by the town for the above costs, the subdivider shall deposit required additional amounts within 15 days of written demand by the town engineer. Until the required funds are received, the town as to the development plan under consideration will perform no additional work or review. The town may also reject any pending certified survey map, preliminary or final plat for nonpayment of the costs under this section. Within 60 days after final approval of the plat or certified survey map, and execution of any documents by all parties, or upon abandonment of the conceptual plan, certified survey map or plat and prior to final approval, including abandonment due to rejection by any reviewing agency, the town shall furnish the subdivider with a statement of all such costs incurred by it with respect to such conceptual plan, certified survey map or plat. Any excess funds shall be remitted to the subdivider, and any costs in excess of such deposit shall be paid by the subdivider. Any interest earned on such deposit shall remain the property of the town to partially offset administrative expenses associated with planning and development.
- (d) In addition to reimbursement of the above costs, the subdivider shall be responsible for payment to the town of a land division fee in the amount of \$100.00 per parcel created. Such fee shall be submitted at the time of execution by the subdivider of the development agreement required in section 28-48.
- (e) In addition to any discretionary deposit required by the town board to cover expected costs associated with the submission of a certified survey map, any person submitting a CSM shall pay, at the time of submission, a nonrefundable land division fee in the amount of \$100.00 per parcel created by the proposed certified survey map.

(Ord. No. 2004-02, § 1(18.05(11)), 9-27-2004)

Secs. 28-52--28-80. Reserved.

ARTICLE III. DESIGN STANDARDS

All subdivisions and minor subdivisions must comply with the following design standards:

Sec. 28-81. Streets.

- (a) *General.* Streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be

served by such streets, and to the most advantageous development of adjoining areas. The subdivision or minor subdivision shall be such as to provide each lot by means of a public street satisfactory access to any existing public street.

(b) *Arrangement.*

- (1) Major streets and highways shall be properly integrated with the existing and proposed system of major streets and highways and insofar as practicable shall be continuous in alignment with existing, planned or platted streets with which they are to connect.
- (2) Collector streets shall be properly located to the mass transportation system, to special traffic generators such as schools, churches and shopping centers, to concentrations of population and to the major streets into which they feed.
- (3) Minor streets shall be designed to conform to the topography to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems and to require the minimum street area necessary to provide safe and convenient access to abutting property.
- (4) Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions, or unless in the opinion of the town board such extension is not necessary or desirable for the coordination of the layout of the subdivision or minor subdivision for the advantageous development of the adjacent tracts.

(c) *Intersections.*

- (1) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
- (2) The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two.
- (3) The number of intersections along major streets shall be held to a minimum. Wherever practicable, the distance between such intersections shall not be less than 1,000 feet.

(d) *Minor streets.* Minor streets shall not necessarily continue across major or collector streets, but if the centerlines of such minor streets approach the major from opposite sides thereof, within 300 feet of each other measured along the centerline of the major or collector street, their location shall be adjusted so that the alignment across the major or collector street is continuous and a jog is avoided.

(e) *Widths of streets and pavements.*

- (1) The minimum right-of-way of all proposed streets shall be 66 feet.
- (2) All cul-de-sac streets shall terminate in a circular turn around having a minimum right-of-way diameter of 150 feet.

(f) *Half streets.* Where an existing dedicated or platted half street is adjacent to the tract being subdivided, the other half of the street shall be dedicated by the subdivider. Plats with half streets less than 33 feet in width on the borders of the

subdivision shall not be approved unless the owner places on record an agreement running with the land which shall state in effect that lots which are dependent upon the half street of less than 33 feet for ingress and egress purposes shall not be sold, and stating further that no structures shall be erected on such lots with ingress and egress facilities facing the half street until the full width of the street of at least 66 feet shall have been opened, constructed, improved and accepted by the town.

- (g) *Street names.* New street names shall not duplicate or be similar to existing street names, and existing street names shall be projected wherever possible.

(Ord. No. 2004-02, § 1(18.06(1)), 9-27-2004)

Cross references: Streets, sidewalks and other public places, ch. 38.

Sec. 28-82. Easements.

- (a) The town board may require easements of widths deemed adequate by the board for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, or other utility lines. Wherever possible, the stormwater drainage shall be maintained by either landscaped open channels or enclosed conduits of adequate size and grade to hydraulically accommodate maximum potential volumes of flow.
- (b) Where a subdivision or minor subdivision is traversed by a watercourse, drainageway, channel or stream, an adequate drainageway or easement shall be provided as required by the town board. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the town board. Where a subdivision or minor subdivision is traversed by a public or private drainage tile line, the town board may require that provision be made for the reconstruction, relocation or replacement of any such tile line which may be disturbed by the development of such subdivision or minor subdivision so as to provide for the continued operation of such tile line as before development of such subdivision or minor subdivision.

(Ord. No. 2004-02, § 1(18.06(2)), 9-27-2004)

Sec. 28-83. Blocks.

The lengths, widths 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.

(Ord. No. 2004-02, § 1(18.06(3)), 9-27-2004)

Sec. 28-84. Lots.

- (a) In addition to complying with applicable provisions of this section, a lot created by subdivision or condominium plat shall comply with the additional lot requirements set forth in section 28-125.
- (b) The size, shape and orientation of the lots shall be appropriate for the location of

the subdivision or minor subdivision and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing building site, and a proper architectural setting for the buildings contemplated.

- (1) *Shape.* Lots shall be approximately rectangular, with the exception of lots located on a curved street or on a cul-de-sac turnabout.
 - (2) *Flag lots.* Flag lots shall not be approved.
- (c) Every lot shall front or abut on a public street, or other officially approved means of access.
- (d) Except as otherwise provided in this section, lot dimensions shall conform to the minimum requirements of the county zoning ordinance and the county subdivision control ordinance, as amended from time to time and any applicable statutes and regulations, provided that:
- (1) A lot created by certified survey map and served by public sanitary sewer shall have an area of not less than one acre, exclusive of areas dedicated for public rights-of-way, and at least 150 feet of frontage on a public street and at the setback line as measured from side lot line to side lot line.
 - (2) A lot created by certified survey map and not served by public sanitary sewer shall have an area of not less than three acres, exclusive of areas dedicated for public rights-of-way, and at least 300 feet of frontage on a public street or at the setback line as measured from side lot line to side lot line.
 - (3) The ratio of the length of the side of a residential lot to the frontage on the public street shall not be greater than 2.5:1.
 - (4) A lot on a cul-de-sac must satisfy the front footage requirements on the right-of-way or at the setback line.
 - (5) If the above density, area or front footage requirements conflict with the town's land use plan, the provision which is more restrictive or imposes higher standards shall control, except that parcels located within the boundaries of the Village of Union Grove Urban Service Area: 2020 shall comply with the densities set forth for the "suburban residential," "low density residential," and "medium density residential" categories.
- (e) Side lot lines shall be at right angles to straight street lines or radial to curved street lines on which the lots face.

(Ord. No. 2004-02, § 1(18.06(4)), 9-27-2004)

Sec. 28-85. Sites.

- (a) *Public reservation.* In the design of the plat, due consideration shall be given to the reservation of suitable sites of adequate area for future schools, parks, playgrounds, drainage ways and other public purposes.
- (b) *Scenic and historic preservation.* In the design of the subdivision or minor subdivision, consideration shall be given to the preservation of scenic, historic and archaeological sites, including historic buildings and their settings.

(Ord. No. 2004-02, § 1(18.06(5), (6)), 9-27-2004)

Sec. 28-86. Open space and conservation.

- (a) *Consideration.* Every subdivider shall consider the creation, preservation, and restoration of open and natural spaces within a subdivision and a minor subdivision, including farmland and agricultural soils, natural habitats for rare, threatened and endangered species, wildlife habitat areas, parklands, prairies, stands of trees and woodlands, marshes, lakes, streams, ponds, watercourses, watersheds and other wetland areas, ravines, and outdoor recreation areas.
- (b) *Required.* Subdividers proposing to subdivide land on parent parcels shall create a conservation subdivision and comply with article IV of this chapter in addition to all other applicable provisions of this chapter.

(Ord. No. 2004-02, § 1(18.06(7)), 9-27-2004)

Sec. 28-87. Drainage.

In designing drainage improvements to be installed in a subdivision under this chapter, the improvements shall be such that the rate of runoff from the subdivision, or any part thereof, shall not exceed the equivalent runoff from a ten-year storm occurrence from undeveloped land at that site. The design shall also provide for facilities of the storage for water such that the permitted rate of runoff will not be exceeded during a storm occurrence of up to a 100-year storm, assuming that the subdivision has been fully developed. Drainage plans shall be prepared by a registered engineer and submitted to the town.

(Ord. No. 2004-02, § 1(18.06(8)), 9-27-2004)

Cross references: Utilities, ch. 54.

Sec. 28-88. Minimum floor areas and foundation requirements for dwellings.

- (a) *Floor area for single-family dwellings.*
 - (1) The ground floor area of all one-floor single-family dwelling units, exclusive of attics, open porches, basements, crawl spaces, and garages, shall not be less than 1,400 square feet.
 - (2) For other than single floor structures, the upper and lower floors shall not be less than 1,600 square feet with a minimum of 1,000 square feet on the first floor.
- (b) *Floor area for two-family dwellings.* The minimum floor area for a two-family dwelling shall not be less than 1,400 square feet per family. For a two-family dwelling with multiple floors for each family, there shall be a minimum floor area of 1,000 square feet per family on the first floor.
- (c) *Foundation requirements for dwellings.* All dwellings must be set on an enclosed foundation in accordance with subchapters III, IV and V of Wis. Admin. Code ch. Comm 21. The building inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.

(Ord. No. 2004-02, § 1(18.06(9)), 9-27-2004)

Sec. 28-89. Landscape plan.

- (a) A landscape plan shall be required for all subdivisions and minor subdivisions, except those preparing a stewardship plan under section 28-125(f)(8). Eighteen full-size copies of a landscape plan shall be submitted with the final certified survey map or the final plat. The landscape plan shall be prepared on paper of good quality at a map scale of not more than 100 feet to one inch and shall show correctly the following information:
- (1) The proposed name of the certified survey map or subdivision.
 - (2) The location of the proposed certified survey map or subdivision.
 - (3) The names, addresses, and telephone numbers of the owners and/or subdividers and of the designer of the plan.
 - (4) The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.
 - (5) The boundary lines of all proposed lot lines and open space areas.
 - (6) The location, extent, type (common name and scientific name in the case of plant materials), and sizes of all existing trees and natural resource features in all areas of subdivision or minor subdivision to be maintained and credited toward the landscaping requirements of this chapter. If any existing vegetation or other natural resource features are to be demolished or mitigated, the extent of such demolition or area to be mitigated shall also be clearly delineated and so noted on the plan.
 - (7) The location, extent, type (common name and scientific name in the case of plant materials), and sizes of proposed landscaping and landscape planting in all areas, including any landscaped entrances or other special landscaped features of the subdivision or minor subdivision.
- (b) All new landscape plant material shall be grown in a nursery located in plant hardiness zone 4 and shall conform to the applicable requirements as specified in the current edition of American Standard for Nursery Stock as approved by the American National Standards Institute, Inc., and sponsored by the American Association of Nurserymen, Inc. The American Joint Committee on Horticultural Nomenclature shall in accordance with the current edition of Standardized Plant Names prepare botanical plant names.
- (c) Areas of a subdivision or minor subdivision designated as landscape easement areas shall be maintained and kept free of all debris, rubbish, and noxious weeds by the property owner.

(Ord. No. 2004-02, § 1(18.06(10)), 9-27-2004)

Secs. 28-90--28-120. Reserved.

ARTICLE IV. CONDOMINIUM AND CONSERVATION SUBDIVISION

Sec. 28-121. Subdivision development.

All proposed subdivisions, whether by condominium or subdivision plat, are required to be developed as a conservation subdivision. A condominium or conservation subdivision plat must comply with the requirements of this article in addition to all other applicable sections of this chapter.

(Ord. No. 2004-02, § 1(18.07(intro. ¶)), 9-27-2004)

Sec. 28-122. Concept plan required.

(a) *Submission.* The subdivider shall submit a series of maps and descriptive information, development yield analysis, and concept plan according to the criteria set forth in this section. Mapping can be done in any combination of features as long as individual map components can be distinguished and the relationship between map components can be determined.

(1) *Inventory and mapping of existing resources.* The subdivider shall include the following mapped at a scale of no less than one inch equals 50 feet:

- a. Topographic contours at two-foot intervals.
- b. United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems. Identification of hydric soils (wetland soils). Type and stability of bedrock should also be noted, particularly in Karst areas and areas with high potential for groundwater contamination due to fractured bedrock or the presence of arsenic and mercury.
- c. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas (using existing data from local, state and federal sources; i.e., no new field work is required), wetlands, natural swales, drainageways, and slopes of 20 percent or greater.
- d. Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a caliper of more than 24 inches measured four feet off the ground. The inventory shall include comments on the health and condition of the vegetation. Woodlands shall be classified as deciduous, coniferous, or mixed. Use state land or comparable cover type classifications and do on-site cover type analysis.
- e. Known critical habitat areas for rare, threatened or endangered species.
- f. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.
- g. Mapping of offsite adjacent ecological, hydrological, recreational and cultural resources.

town attorney and the proposed conservation easement holder at the same time it is delivered to the town engineer.

- (6) *Phase I environmental site assessment.* The subdivider shall have a phase I environmental site assessment in compliance with ASTM Standard E1527-00 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" and shall provide a copy of the assessment to the town and to the proposed conservation easement holder. All costs incurred for this assessment shall be the responsibility of the subdivider.
- (b) *Review of concept plan.*
- (1) The town engineer shall make the determination of whether the entire submittal is complete within 30 days following the filing of a submittal. If it is incomplete, the town engineer will contact the subdivider regarding the additional information required. No action will be taken by the town on incomplete submittals.
 - (2) Within 30 days of the determination of a complete submittal, the clerk-treasurer shall place the submittal on the agenda of the next regularly scheduled plan commission meeting.
 - (3) Prior to the plan commission meeting, the town engineer and any other municipal officers may schedule a site visit with the subdivider to review the existing features of the site and the concept plan. As a condition of further review of the concept plan, the subdivider shall and hereby does grant permission for town officers, employees and agents to enter upon the subject property in furtherance of their official duties. The town engineer shall provide a written report informing the subdivider and the plan commission of his evaluation of the submittal and any additions, changes, or corrections to the concept plan.
 - (4) Staff from appropriate county and state agencies may also be requested by the town to review the submittal under this section.
 - (5) The subdivider is required to provide written notice of the plan commission meeting to all adjacent landowners to the parent parcel at least seven days in advance of the meeting to permit members of the public an opportunity to speak as to the proposed concept plan. Such notice must be by certified mail, return receipt requested. The subdivider shall provide copies of the mailings and return receipts to the clerk-treasurer prior to the plan commission meeting. Failure of the subdivider to provide such notice may, at the option of the plan commission, result in all discussions concerning the submittal being deferred to the next regularly scheduled plan commission meeting.
 - (6) The plan commission shall review the concept plan and other documents submitted and request adjustments, if deemed necessary, based upon the town engineer's report, consideration of the natural features of the site, the town's land use plan, available neighborhood plans, available or anticipated infrastructure, and the density of the surrounding areas. The town board is not bound by the plan commission review and any requested adjustments.

(Ord. No. 2004-02, § 1(18.07(1)), 9-27-2004)

Sec. 28-123. Preliminary plat.

The preliminary plat shall be submitted and reviewed pursuant to article V of this chapter.

(Ord. No. 2004-02, § 1(18.07(2)), 9-27-2004)

Sec. 28-124. Final plat.

The final plat shall be submitted and reviewed pursuant to article VI of this chapter.

(Ord. No. 2004-02, § 1(18.07(3)), 9-27-2004)

Sec. 28-125. Conservation design and improvements.

(a) *Development yield.* The number of residential units for a parent parcel shall be determined in accordance with the following:

(1) *Base development yield.* The base development yield shall equal the net density of the parent parcel.

(2) *Bonus.* The base development yield may, at the discretion of the town board, be increased by the addition of a bonus or bonuses if the development complies with one or more of the standards of this subsection. Each standard provides a bonus of up to two percent of the base development yield. The maximum bonus permitted is ten percent. No bonus shall be allowed for any subdivision that is located within primary or secondary environmental corridors. The standards are as follows:

a. Preserving 50 percent of the common open space as prime agricultural soils and farmland.

b. Encouraging public trail connection by linking new trails within the development to existing local or regional public recreational trails, parks, primary or secondary environmental corridors, or other recreational facilities acceptable to the town board.

c. Reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin. The U.S. Department of Interior's Standards for Rehabilitation of Historic Properties shall apply.

d. Providing for more than 75 percent of the lots within a neighborhood to abut significant open space on at least one side. If awarded, a bonus under this subsection shall be prorated on the basis for one half percent of each five percent over the minimum as follows:

80 % = 1/2 % bonus

85 % = 1% bonus

90 % = 1 1/2 % bonus

95 % = 2 % bonus

e. Providing improved public parks, public open space or public facilities acceptable to the town.

(3) *Total development yield.* The base development yield, plus any bonus, shall equal the total development yield for the subdivision. Any fractional development yield amounts shall be determined by conventional rounding principles such that if the addition of the development yield bonus results in a number of 0.5 or greater, this number is rounded to the next highest whole number.

(4) *Permitted allowable density.* For those areas that are subject to a range of permitted density as set forth on the town's land use plan, the total development yield shall not exceed the maximum allowable density permitted under the plan for that area.

(b) *Standards.*

(1) Conservation subdivisions shall identify a conservation theme or themes. Their themes shall be identified at the time of the concept plan. Conservation themes may include, but are not limited to, forest stewardship, water quality preservation and enhancement, farmland preservation, natural habitat restoration, viewshed preservation, archaeological and historic properties preservation, integration of ecological resources, or passive recreational uses. The town board, upon recommendation of the plan commission, shall have the authority to specify which areas shall be preserved.

(2) Conservation subdivisions shall preserve, restore, if needed, and/or create environmentally sensitive areas such as wetlands, natural habitats for rare, threatened and endangered species, woodlands, shorelands, rain gardens, prairies, meadows, primary or secondary environmental corridors, parklands and viewsheds and establish plans and the means to restore, if needed, manage and maintain such areas.

(3) Common open space shall, to the extent practicable, include open space areas in addition to water bodies, ponds, or mapped wetlands that have been identified.

(c) *Residential lot requirements.*

(1) Areas to be served by public sanitary sewer shall be zoned for a planned unit development (PUD) per the county Code. The principal building setbacks, front-footage requirements, accessory building setbacks, rear lot line, and maximum building height shall be as established for a PUD. A lot shall have an area of not less than one acre, exclusive of areas dedicated for public rights-of-way.

(2) Areas not served by public sanitary sewer shall be zoned for a C-2 conditional use development per the county Code. The front-footage requirements, principal building setbacks, accessory building setbacks, rear lot line, and maximum building height shall be as established for a C-

2 development. Areas not served by sewer shall have a minimum net density of one dwelling unit per five acres. A lot shall have an area of not less than one acre, exclusive of areas dedicated for public rights-of-way, unless a larger lot is necessary to accommodate a private on-site wastewater treatment facility in accordance with section 28-42.

- (3) All areas shall comply with the following:
- a. Most lots shall have access from interior local streets. However, any existing farmstead that is to be preserved that has a driveway, as part of the historic landscape and that does not access a local street, should also be preserved; and a farmstead that requires a driveway that does not access a local street should be allowed.
 - b. Lots shall be configured to minimize the amount of impervious surface including street length and width required for the subdivision.
 - c. Development envelopes shall be configured to minimize loss of woodlands. However, when the objective is to preserve prime farmland soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than 20 percent of a single lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and private on-site waste treatment system.
 - d. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate buffers between agricultural uses and residential structures.
 - e. At least 75 percent of the lots within a neighborhood shall abut common open space on at least one side. A local street may separate lots from the common open space.
 - f. Lots shall be adjacent to or around one or more of the following:
 1. A central green or square; and/or
 2. A physical amenity such as a meadow, a stand of trees, a stream or other water body, or some other natural or restored feature.
 - g. To the greatest extent possible, development envelopes should be screened from peripheral public streets or other visually prominent areas and should not be located on ridges or hilltops.
 - h. A 30-foot area of native vegetation shall be maintained around open water areas, unless a specific common beach or grassed area is identified.
 - i. Stormwater management.
 1. Minimize the use of curb and gutter and maximize the use of open swales.
 2. Roof down spouts should drain to porous surfaces.

3. Peak discharges during the two-, ten- and 100-year storm events shall be no more than the corresponding discharges under predeveloped conditions.
4. The development should have stormwater management practices and facilities designed to capture at least 80 percent of the postdevelopment sediment load on an annual basis.
5. Landscape plantings should be used to increase infiltration and decrease runoff where soil conditions are suitable and building foundation problems or sanitary sewer infiltration problems will not be created.
6. Preserve natural open drainage systems and incorporate them into the stormwater management system of the subdivision where permitted by the department of natural resources guidelines.

If the density, area or front-footage requirements of this subsection (c) conflict with the town's land use plan, the provision which is more restrictive or imposes higher standards shall control, except that parcels located within the boundaries of the Village of Union Grove Urban Service Area: 2020 shall comply with the densities set forth for the "suburban residential," "low density residential," and "medium density residential" categories.

(d) *Residential dwellings siting standards.* The siting standards for residential dwellings shall be as follows:

- (1) Residential dwellings shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
- (2) Residential dwellings shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the department of natural resources.
- (3) House design should minimize the visible obtrusiveness of the garage from the street view, including, but not limited, to the use of setback or side-entry design garages, where possible.
- (4) Whenever possible, common open space shall connect internally and with existing or potential common open space lands on adjoining parcels and local or regional recreational trails, public parks or public open spaces.
- (5) Residential dwellings should be sited to achieve the following goals, to the extent practicable:
 - a. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
 - b. Minimize disturbance to woodlands, wetlands, grasslands, primary or secondary environmental corridors, mature trees or other significant native vegetation.

- c. Prevent downstream impacts due to runoff through adequate on-site stormwater management practices.
 - d. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
 - e. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
- (6) Landscaping around the proposed residential dwellings may be necessary to reduce off site views of residences.
- (e) *Open space design.*
- (1) Common open space shall be designated as part of the subdivision. The minimum required common open space is 64 percent of the gross acreage.
 - (2) The minimum common open space required shall be owned and managed under one of the alternatives listed in subsection (f) of this section, as approved by the town. The uses within the common open space shall be accessible to the residents of the subdivision. These uses may also be available to the general public providing the proper approvals are received. The required common open space shall be undivided and restricted from further development, as specified in subsection (f) of this section.
 - (3) Common open space conservation ranking (in order of significance). The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enlarge the best quality natural features of each particular site.
 - a. First priority will be given to farmland preservation, intact natural communities, rare, threatened and endangered species, primary or secondary environmental corridors, natural and restored prairies, significant historic and archaeological properties, and slopes of 20 percent or greater.
 - b. Second priority will be given to areas providing some plant and wildlife habitat and common open space values.
 - c. Third priority will be given to areas providing little habitat but providing viewshed, recreation, or a sense of common open space.
 - (4) The following areas or structures may be located within the common open space area and shall be counted toward the overall common open space percentage required:
 - a. Parking areas for access to and use of the common open space developed at a scale limited to the potential users of the common open space.
 - b. Privately held buildings or structures provided they are accessory to the use of the common open space.

- c. Shared septic systems and shared potable water systems located on common open space.
- (5) Road rights-of-way shall not be counted towards the required minimum common open space, except that common open space within landscaped cul-de-sac islands and medians of boulevards may be counted upon recommendation by the plan commission and approval of the town board.
 - (6) That portion of common open space designed to provide plant and animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
 - (7) Accessible common open space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archaeological sites.
 - (8) A pathway system connecting common open space areas accessible to neighborhood residents and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall, if applicable, be identified in the plan.
 - (9) The design shall provide for the connection of internal open spaces, whenever possible and connection with existing or potential open space lands or adjoining parcels outside of the development.
 - (10) Common open space in condominium plats. In condominium plats where the subdivider proposes a condominium in which the unit will encompass only the building pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, the side, back and front yards shall not be counted toward the required minimum common open space.
 - a. *Purpose.* The purpose of this section is to exclude side, back and front yards as common open space because inclusion of these areas does not fulfill the definitional requirement of common open space or meet the purposes of this ordinance.
 - b. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection:
 - 1. *Building pod.* The area of a lot including the house, garage, patio, deck, air conditioning unit and other similar improvements attached or abutting the house.
 - 2. *Building envelope.* The area of a lot including a building pod in addition to setbacks of 7.5 feet for each side of the building pod and 25 feet each for the front and back yards.
 - 3. *Calculation.* If the subdivider is proposing a condominium in which the lot will encompass only the building pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, then one of the following shall not be counted toward the minimum

common open space requirements:

- i. If the actual square footage of the building pod and building envelope are not known, subtract 4,000 square feet for each proposed unit, the calculation being: # of units multiplied by 4,000 square feet for the total amount of square feet not to be included in common open space.
- ii. If the actual square footage of the building pod is known, then perform the following: (1) Calculate the total area of setbacks around the building pod of 7.5 feet for each side yard and 25 feet each for the front and back yards for each proposed unit; and (2) Add together the total area encompassing the setbacks for each unit for the total amount of square feet to be excluded from the common open space.

(f) *Common open space and common facilities, ownership and maintenance.*

(1) *Alternatives.* The designated common open space and/or common facilities may be owned and managed by one or a combination of the following:

- a. A homeowners' association.
- b. A condominium association established in accordance with the Condominium Ownership Act, Wis. Stats. ch. 703.
- c. A nonprofit conservation organization.
- d. The town or another governmental body empowered to hold an interest in real property.
- e. An individual who will use the land for common open space purposes as provided by a conservation easement.

(2) *Conservation easement.* Common open space and/or common facilities shall be subject to a conservation easement conveyed to a qualified holder.

(3) *Homeowners' association.* A homeowners' association shall be established if the common open space and/or common facilities are proposed to be owned by a homeowners' association. Membership in the association is mandatory for all purchasers of homes in the development and their successors. The homeowners' association bylaws, guaranteeing continuing management of the common open space and/or other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners' association shall be submitted for approval to the town as part of the information required for the preliminary plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions of the homeowners' association shall contain the following information:

- a. The legal description of the proposed common open space;

- b. A description of common facilities;
 - c. The restrictions placed upon the use and enjoyment of the common open space and/or common facilities;
 - d. Persons or entities entitled to enforce the restrictions;
 - e. A mechanism to assess and enforce the common expenses for the common open space and/or common facilities including upkeep and management expenses, real estate taxes and insurance premiums;
 - f. A mechanism to implement restoration, maintenance and management of the common open space and/or common facilities;
 - g. A mechanism for resolving disputes among the owners or association members;
 - h. The conditions and timing of the transfer of ownership and control of common open space and/or common facilities to the association;
 - i. Any other matter the subdivider or town deems appropriate.
- (4) *Condominium association.* If the common open space and/or common facilities are to be held under the Condominium Ownership Act, Wis. Stats. ch. 703, the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the common open space and/or common facilities. The condominium instruments shall be submitted for approval to the town as part of the information required for the preliminary plat and shall comply with subsection (3) of this section. All common open space and common facilities shall be held as a "common element" as defined in Wis. Stats. § 703.02(2).
- (5) *Nonprofit conservation organization.* If the common open space and/or common facilities are to be held by a nonprofit conservation organization, the organization must be acceptable to the town. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion or succession to a subsequent nonprofit conservation organization or other acceptable entity in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.
- (6) *Public dedication of common open space.* The town may accept the dedication of a conservation easement or fee title to the common open space and/or common facilities; provided:
- a. The common open space and/or common facilities are as accessible to the residents of the town as they are to members of the general public.
 - b. The town agrees to and has access to maintain and manage the common open space and/or common facilities.
- (7) *Separate ownership.* An individual may hold fee title to the land while a nonprofit conservation organization or other qualified organization holds a

conservation easement prescribing the acceptable uses and obligations for the common open space and/or common facilities.

(8) *Stewardship plan.* Every conservation subdivision must include a plan that provides a means to properly manage the common open space in perpetuity, and the longterm means to properly manage and maintain all common facilities. The town in conjunction shall approve the plan with the development agreement prior to or as a condition of final plat approval.

a. The plan shall do the following:

- i. Designate the ownership of the common open space and/or common facilities in accordance with subsection (f)(1) of this section.
- ii. Establish necessary regular and periodic operation and management responsibilities.
- iii. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
- iv. Include a land stewardship plan specifically focusing on the longterm management of common open space lands. The land stewardship plan shall include a narrative, based on the site analysis required in section 28-122(a)(3) describing:
 - a) Existing conditions including all natural, cultural, historic, and scenic elements in the landscape. This baseline documentation of existing site conditions shall be agreed upon at the time of execution of the conservation easement.
 - b) The proposed end state for each common open space area; and the measures proposed for achieving the end state.
 - c) Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion; and measures for restoring historic features and habitats or ecosystems.
 - d) The operations needed for managing the stability of the resources for five years, including but not limited to: mowing schedules; weed control; planting schedules; assessment schedule; and clearing and cleanup. At the town's discretion, the applicant may be required to place in escrow sufficient funds for the management and operation costs of the common open space and/or common facilities for a maximum of five years.
 - e) Education component for educating the

homeowners on the stewardship plan and status of the common open space. The holder of the conservation easement shall determine the content of the educational component; however, the holder shall hold an educational meeting with the homeowners at least annually after the annual assessment is conducted.

- f) Any stewardship plan of an abutting subdivision that has a stewardship plan in place and addressing any impact that stewardship plan may have on the proposed subdivision.
- v. If ownership is vested in a homeowners' association or a condominium association, then the association must contract with a competent contractor, such as a professional ecological service, as approved by the town to oversee and sustain the plan. The town's approval shall not be unreasonably withheld.
- b. In the event that the organization established to own and manage the common open space and/or common facilities, or any successor organization, fails to manage all or any portion of the common open space and/or common facilities in reasonable order and condition in accordance with the stewardship plan and all applicable laws, rules, and regulations, the town may serve written notice upon such organization and upon the residents and owners of the common open space and/or common facilities, setting forth the manner in which the organization has failed to manage the common open space and/or common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this chapter, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The town may enter the premises and take corrective action.
- c. The costs of corrective action by the town shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common open space and/or common facilities and shall become a lien on said properties. The town, at the time of entering upon such common open space and/or common facilities for the purpose of management, shall file a notice of such lien in the office of the county register of deeds upon the properties affected by such lien.
- d. Stewardship plans may be amended by the owner identified under subsection 28-125(f)(1) of this section with the approval of the town board.
- e. The town may require the common open space to be inspected and assessed annually by the holder of the conservation

easement or an independent professional ecologist, or may contract with an independent individual, organization, or business, for a periodic assessment of the common open spaces and/or common facilities of the development to ensure compliance with the stewardship plans. The cost for this periodic assessment of the common open spaces and/or common facilities shall be specially assessed, equally against the properties that have the right of enjoyment of the common open spaces and/or common facilities and shall become a lien on such properties if not paid.

(Ord. No. 2004-02, § 1(18.07(4)), 9-27-2004)

Secs. 28-126--28-150. Reserved.

ARTICLE V. PRELIMINARY PLAT

Sec. 28-151. Filing application with town.

The subdivider shall file with the town an application for review and approval of a preliminary plat prepared in accordance with this chapter along with a completed checklist and 18 copies of the preliminary plat for review by the town. Additional copies of the preliminary plat shall be provided to the town attorney and to the proposed conservation easement holder. The town engineer may require in his/her discretion, the submittal of complete road, grading and/or drainage plans at the time of submission of the preliminary plat. No preliminary plat shall be accepted for review unless the subdivider has completed the concept plan requirements set forth in section 28-122. If the preliminary plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed.

(Ord. No. 2004-02, § 1(18.08(intro. ¶)), 9-27-2004)

Sec. 28-152. Review and approval procedures.

- (a) *Referral; administrative staff and utility commission reviews.* The clerk-treasurer shall provide copies of the preliminary plat to the town department heads, to the appropriate objecting agencies under Wis. Stats. § 236.12, and to the appropriate utilities for their review and comment. The town staff and utility comments will be forwarded to the town plan commission and town board for consideration during the review process.
- (b) *Town plan commission review; informational meeting.* The clerk-treasurer shall give notice of the plan commission's review of the preliminary plat by listing it as an agenda item in the plan commission's meeting notice. The notice shall include the name of the subdivider, the address of the parent parcel, and the requested action. The clerk-treasurer may schedule an informational meeting on the preliminary plat prior to plan commission review. The subdivider shall provide written notice of the plan commission review and/or the informational meeting to all property owners within 300 feet of the parent parcel at least seven days in advance of such meeting. The cost for such written notice shall be borne by the subdivider. Such notice must be by certified mail, return receipt requested. The subdivider shall provide copies of the mailings and return receipts to the clerk-

treasurer prior to the plan commission meeting. Failure of the subdivider to provide such notice may, at the option of the plan commission, result in all discussions concerning the submittal being deferred to the next regularly scheduled plan commission meeting.

- (c) *Plan commission recommendation.* After review of the preliminary plat and discussions with the subdivider on changes and the kind and extent of public improvements that will be required, the plan commission shall recommend to the town board disapproval, approval, or conditional approval of the preliminary plat within 60 days of the filing date. Any preliminary plat recommended for approval shall be deemed to include conditions, to the extent applicable, of a development agreement, conservation easement, and stewardship plan in forms acceptable to the town board and in compliance with the town ordinances.
- (d) *Board action.* After receipt of the town plan commission's recommendation, the town board shall, within 90 days of the date the preliminary plat was filed with the town, approve, approve conditionally, or reject such preliminary plat and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the subdivider, failure of the town board to act within 90 days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The clerk-treasurer shall communicate to the subdivider the action of the town board. If the preliminary plat is approved, the town chairperson shall endorse it for the town board. Any preliminary plat recommended for approval shall be deemed to include conditions, to the extent applicable, of a development agreement, conservation easement, and stewardship plan in forms acceptable to the town board and in compliance with the town ordinances.
- (e) *Effect of approval.* Approval of a preliminary plat shall be valid for 24 months from the date of approval or conditional approval. Subject to Wis. Stats. § 236.11(1)(b), approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the plan commission and town board at the time of its submission.
- (f) *Amendment.* If the subdivider desires to amend the preliminary plat as approved, the subdivider may resubmit the amended plat, unless the amendment is, in the opinion of the town board, of such scope as to constitute a new plat, in which case it shall be refiled. The town reserves the right to require an additional fee where, in the opinion of the town board, such amendment requires significant additional town resources.

(Ord. No. 2004-02, § 1(18.08(1)), 9-27-2004)

Sec. 28-153. Requirements.

A licensed land surveyor or engineer shall prepare the preliminary plat at a convenient scale not less than one inch equals 100 feet. A preliminary plat shall be prepared in accordance with applicable state statutes, the County Code and this chapter. More than one sheet may be used to present the following required information:

- (1) *Name of the proposed subdivision.* The proposed name of the subdivision shall not duplicate or be alike in pronunciation of the name of any plat previously recorded in the county.
- (2) *Project ownership and development information.*
 - a. Name, address, and telephone number of the legal owner of the parent parcel and, if applicable, agent of the property.
 - b. Name, address, and telephone number of the professional persons responsible for subdivision design, for the design of public improvements, and for surveys.
 - c. Date of preparation.
- (3) *Existing site conditions.* Provide this information on a property survey map. It is the responsibility of the subdivider to verify the accuracy of information and resources relied upon to compile the following information:
 - a. Boundary line of the proposed site and all property to be subdivided. Include all contiguous land owned or controlled by the subdivider.
 - b. Location, width, and names of all existing platted streets and rights-of-way to a distance of 300 feet beyond the site.
 - c. Show the type, width and condition of street improvements; railroad or major utility rights-of-way, parks and other public open spaces, location and widths of existing snowmobile or other recreation trails; and permanent buildings and structures to a distance of 300 feet beyond the site, if any.
 - d. Location, widths, and names of all existing public and private easements to a distance of 300 feet beyond the site.
 - e. Identify by name and ownership boundary lines of all adjoining lands within 100 feet of the proposed plat.
 - f. Topographic data including contours at vertical intervals of not more than two feet. Elevation values shall be based on the National Geodetic Vertical Datum of 1929 (NGVD 29) or the North American Vertical Datum of 1988 (NAVD 88) or future adjustments to NAVD 88 as defined by the National Geodetic Survey, if applicable for that parcel, and should also be so noted on the plat.
 - g. Significant natural resource features on the site, including: jurisdictional wetlands, floodplains, watercourses, existing wooded areas, slopes of 20 percent or greater, drainageways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission and official mapping on file with the county, and other natural resource features, views and other prominent visual features. Where steep slopes may be present, the town may require a survey by a registered land surveyor of the areas

containing slopes. This survey shall be referenced to the proposed cross section of the adjacent road.

- h. Burial sites categorized under Wis. Stats. § 157.70, Indian mounds, national and state register listed properties, and locally designated historic properties.
 - i. Existing soil classifications including identification of poor, hydric soils.
 - j. Legal description of the property.
 - k. Existing zoning classifications for land in and abutting the subdivision.
 - l. Total acreage of the proposed site.
 - m. Provide graphic scale, north arrow, and date.
 - n. Conservation easements.
 - o. Restoration zones, including association land included in native landscaping, buffers, and drainage easements.
- (4) *Subdivision design features.* Provide the following information on the preliminary plat:
- a. Layout of proposed streets, showing right-of-way widths, pedestrian walkways, types of improvements, street surface widths, and proposed street names.
 - b. Locations and type of proposed public easements (i.e., drainage, utility, pedestrian, public access to waterways, etc.); and all conservation easements.
 - c. Layout of proposed blocks and lots within the plat.
 - d. Basic data regarding proposed and existing (if applicable) lots and blocks, including numbers, dimensions, area.
 - e. Minimum front, side and rear yard building setback lines for all lots.
 - f. Indication of the use of any lot.
 - g. Location and size of all proposed and existing sanitary sewer lines and water mains, proposed community sewer and water system, or individual on-site septic systems and potable water sources.
 - h. Location and size of all proposed and existing storms sewers (lines, drain inlets, manholes), culverts, retention ponds, swales, infiltration practices and areas, and other stormwater facilities within the plat and to a distance of 100 feet beyond the site.
 - i. Common open space areas, other than pedestrian ways and utility easements, intended to be dedicated or reserved for use by the residents of the development, including the size of such area or areas in acres. Provide information on the conditions, if any, of the

dedication or reservation.

- j. Proposed preservation, if any, of historical buildings and structures.
 - k. Development envelopes showing areas for grading, lawns, pavement and buildings.
 - l. Stewardship plan for restoration and longterm management of the open space areas.
- (5) *Preliminary construction plans.* Provide the following information on one or more sheets:
- a. *Plan and profile.* Proposed street centerline profile grades, showing the existing and proposed profile grade lines.
 - b. *Grading and erosion control plan.* A plan showing existing and proposed grades, drainage patterns, and stormwater facilities. The plan shall show the location and extent of grading activities in and adjacent to the plat, overall area of the site in acres, total impervious surface area of project, total pervious area, stockpile locations, erosion and sediment control facilities, and a schedule for erosion and sediment control practices, including site specific requirements to prevent erosion at the source. Major trees to be preserved, with a diameter of four inches or more measured 12 inches above ground level, shall be shown on the preliminary grading and erosion control plan. Adequate measures for protecting major trees shall be shown on the plan.
 - c. *Disposal, management and flood control.* Provisions for sewage disposal, water supply, stormwater management, and flood control.
- (6) *Easements.* No plat or subdivision shall be accepted by the town unless the plat or subdivision provides for an easement across the rear 12 feet of each lot abutting upon a lot in the same plat subjected to a similar easement, making it all an easement of 24 feet. The easement shall be established for the installation of all public utilities. In the event such lot does not abut upon a lot subjected to a similar easement, such nonabutting lot shall be subject to an easement of at least 12 feet in width for the same purposes as hereinbefore set forth. In the event compliance with this requirement is not practicable in the opinion of the town board, the town board may waive the requirements herein provided. The subdivider shall dedicate such other lands or grant such other easements as the town board determines to be reasonably required in accord with state statutes, to provide for public utilities and public uses and needs with respect to such subdivision development.

(Ord. No. 2004-02, § 1(18.08(2)), 9-27-2004)

Secs. 28-154--28-180. Reserved.

ARTICLE VI. FINAL PLAT

Sec. 28-181. Compliance with article.

A final subdivision plat shall be filed in accordance with the requirements of this article.

(Ord. No. 2004-02, § 1(18.09(intro.)), 9-27-2004)

Sec. 28-182. Filing of plat, letter of application; evidence of ownership.

The subdivider shall prepare a final plat, a checklist, and a letter of application in accordance with this chapter and shall file 18 copies of the plat and the application with the clerk-treasurer at least 21 days prior to the meeting of the plan commission at which action is desired. Copies of the final plat shall also be filed with the town attorney, the proposed conservation easement holder, and with the county planning and development department in accordance with the county Code. The owner or subdivider shall file the final plat not later than two years after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the town. The subdivider shall also submit at this time a current certified abstract of title or such other evidence as the town may require showing ownership or control in the applicant. Preparation of the final plat shall be in accordance with applicable state statutes, the County Code and this chapter. If the final plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed.

(Ord. No. 2004-02, § 1(18.09(1)(a)), 9-27-2004)

Sec. 28-183. Objecting agencies.

The subdivider shall submit the original plat to the plat review section, state department of administration, which shall forward two copies to each of the agencies authorized to object under Wis. Stats. § 236.12(2). The department shall have the required number of copies made at the subdivider's expense.

(Ord. No. 2004-02, § 1(18.09(1)(b)), 9-27-2004)

Sec. 28-184. Final construction plans.

Simultaneously with the filing of the final plat, the subdivider shall file with the town four copies of the final plans and specifications of public improvements required by the town.

(Ord. No. 2004-02, § 1(18.09(1)(c)), 9-27-2004)

Sec. 28-185. Installation, protection and management plans.

The subdivider shall also submit stewardship plans prepared by a professional ecological service for areas to be protected and/or into which native vegetation will be introduced or in the alternative a landscape plan pursuant to section 28-89. The town may provide information to guide the subdivider and the town will set minimum standards which may be amended from time to time by resolution of the town board. Town approval shall be required of the professional ecological service to be used; the town's approval shall not be unreasonably withheld. The stewardship plan shall be

reviewed by the proposed easement holder if it has a qualified ecologist on staff and acceptable to the town. If the proposed easement holder does not have a qualified staff person, then a qualified professional ecologist acceptable to the town and unaffiliated shall review the plan with the drafter of the stewardship plan. The reviewer shall provide a written report and any recommended revisions to the town engineer at the time the final plat is submitted for approval. The plan shall be revised, if deemed necessary by the town board prior to consideration of the final plat. Any costs incurred for the review of the stewardship plan by the easement holder or a qualified professional ecologist shall be the responsibility of the subdivider. The final stewardship plan shall be submitted to the plan commission, along with the written report, for its information and reference, when it reviews the final plat.

(Ord. No. 2004-02, § 1(18.09(1)(d)), 9-27-2004)

Sec. 28-186. Referral.

The clerk-treasurer shall provide copies of the final plat to town department heads and to the appropriate utilities for their review and comment. The town staff and utility comments will be forwarded to the town plan commission and town board for their consideration during the review process. Prior to the referral of the final plat by the clerk-treasurer, the final drainage plans must have received their necessary approvals.

(Ord. No. 2004-02, § 1(18.09(1)(e)), 9-27-2004)

Sec. 28-187. Town plan commission review.

- (a) *Examination of conformance; condition of approval.* The plan commission shall examine the final plat as to its conformance with the preliminary plat; any conditions of approval of the preliminary plat; this chapter; and all applicable ordinances, rules, regulations, the stewardship plan, and the town's land use plan elements that may affect it and shall recommend approval or rejection of the plat to the town board.
- (b) *Recommendation of approval or rejection; review period extension request.* The plan commission shall, within 30 days of the date of filing of the final plat, recommend approval or rejection of the plat and shall transmit the final plat and application along with its recommendations to the town board. Any condition of approval of the preliminary plat that has not been complied with shall remain a condition if the town board approves the final plat. Plats with incomplete or inadequate information shall be rejected unless an extension of the review period is requested by the subdivider and agreed to in writing by the plan commission.

(Ord. No. 2004-02, § 1(18.09(1)(f)), 9-27-2004)

Sec. 28-188. Town board review and approval.

The clerk-treasurer shall provide a copy of the final plat, the recommendation of the plan commission, a draft of the proposed conservation easement and the stewardship plan to the town board for its review, consideration and possible approval. The town board shall, within 60 days of the date of filing the original final plat, approve or reject such plat unless the time is extended by agreement with the subdivider. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written

statement of the reasons forwarded to the subdivider. The town board may not inscribe its approval on the final plat unless the clerk-treasurer certifies on the face of the plat that the copies were forwarded to objecting agencies as required in section 28-183, the date thereof, and that no objections have been filed within 20 days or, if filed, have been met.

- (1) The town board shall, when it determines to approve a final plat, give at least ten days prior written notice of its intention to the municipal clerk of any municipality within 1,000 feet of the final plat.
- (2) If the town board fails to act within 60 days, without a time extension and no unsatisfied objections having been filed, the plat shall be deemed approved.
- (3) After the final plat has been approved by the town board and required improvements either installed or a contract and sureties ensuring their installation is filed, the clerk-treasurer shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the county register of deeds, along with all conservation easements and deed restrictions. The final plat can be recorded when it has received all required approvals pursuant to applicable state statutes, the county Code and this chapter. The register of deeds cannot record the plat unless it is offered within six months from the date of the town board's final approval and within 24 months after the first approval.
- (4) The subdivider shall file eight copies of the final plat with the clerk-treasurer for distribution to the approving agencies, affected utility districts, and other affected agencies for their files. The subdivider shall also provide a copy of the recorded final plat to the conservation easement holder and town attorney.

(Ord. No. 2004-02, § 1(18.09(1)(g)), 9-27-2004)

Sec. 28-189. Requirements.

- (a) A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply with the requirements of Wis. Stats. § 236.20, with the county Code and this chapter.
- (b) In addition to the information required by Wis. Stats. § 236.20, the final plat shall show correctly on its face, have attached to it, or submitted with it, the following:
 - (1) Exact length and bearing of the centerline of all streets.
 - (2) Exact street width along the line of any obliquely intersecting street.
 - (3) Exact location and description of utility and drainage easements.
 - (4) Railroad rights-of-way within and abutting the plat.
 - (5) All lands reserved for future public acquisition or reserved for the common use of property owners within the plat, including public access to waterways.
 - (6) Restrictions relating to access control along public ways.

- (7) Setback or building lines.
- (8) Any restrictive covenants, deed restrictions, or conservation easements for the proposed subdivision.
- (9) The legal instruments detailing the ownership of the common open space, as required in section 28-125.
- (10) All the surveying and monumenting requirements of Wis. Stats. § 236.15.
- (11) State plane coordinate system. Where the plat is located within a quarter section, the corners of which have been relocated, monumented, and coordinated by the town, the plat shall be tied directly to two of the section or quarter corners so relocated, monumented, and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat.
- (12) Certificates. All final plats shall provide all the certificates required by Wis. Stats. § 236.21. In addition, the surveyor shall certify that the surveyor has fully complied with all sections of this chapter.

The final plat shall be recorded as required by Wis. Stats. § 236.25.

(Ord. No. 2004-02, § 1(18.09(2)), 9-27-2004)

Secs. 28-190--28-220. Reserved.

ARTICLE VII. CERTIFIED SURVEY MAPS

Sec. 28-221. Compliance.

A certified survey map is required for all minor subdivisions. Certified survey maps shall incorporate conservation values, themes, and goals into their design to meet the purposes of the chapter as indicated under sections 28-2 and 28-86.

(Ord. No. 2004-02, § 1(18.10(1)), 9-27-2004)

Sec. 28-222. Preapplication conference.

Prior to the filing of an application for the approval of a certified survey map, the subdivider shall consult to obtain assistance in planning with the town engineer and the county planning and development department to obtain information concerning this chapter, county ordinances, the county development plan, the town's land use plan, and applicable neighborhood plans.

(Ord. No. 2004-02, § 1(18.10(2)), 9-27-2004)

Sec. 28-223. Initial application; preliminary certified survey maps.

- (a) After the preapplication conference, the subdivider shall submit an executed predevelopment agreement, the fees required above, the checklist for certified

survey maps and the preliminary certified survey map to the town engineer for review. As a condition of further review of the preliminary certified survey map, the subdivider shall and hereby does grant permission for town officers, employees and agents to enter upon the subject property in furtherance of their official duties. The town engineer may require the subdivider to submit at the time of the initial application a complete inventory of items listed under section 28-226 as an attachment to the preliminary certified survey map or delineated directing on the map if within 100 feet of the proposed building envelopes.

- (b) The town engineer shall make the determination of whether the initial application is complete. Within 15 days following the filing of a complete initial application, the town engineer shall schedule a meeting with the subdivider to review the initial application.
- (c) Staff from appropriate county and state agencies may also be requested by the town to review the application and the subdivider shall be liable for costs for any reviews.
- (d) The town engineer may also schedule a visit to the site with the subdivider to review the existing features of the site and the preliminary certified survey map. The visit shall occur prior to or as part of the meeting.
- (e) Within 15 days following the meeting, the town engineer shall provide a written report informing the subdivider of any additions, changes, or corrections to the preliminary certified survey map submitted as part of the initial application.
- (f) Before submission of the final certified survey map, the plan commission shall review and discuss the preliminary certified survey map along with the written report from the town engineer. The public shall have an opportunity to speak as to the preliminary map. Notice of the meeting shall be sent in accordance with the procedure set forth in section 28-122(b).

(Ord. No. 2004-02, § 1(18.10(3)), 9-27-2004)

Sec. 28-224. Proof of ownership.

The subdivider shall submit a report of title from a title company acceptable to the town showing current ownership of the property proposed to be divided and all encumbrances shall be detailed on the certified survey map when submitted.

(Ord. No. 2004-02, § 1(18.10(4)), 9-27-2004)

Sec. 28-225. General requirements for final certified survey map.

- (a) The final certified survey map shall comply with the provisions of Wis. Stats. § 236.34, and shall describe the entire lands involved in the process of division, as well as all lands owned or controlled by the subdivider that are contiguous to the land to be divided.
- (b) If any lots in the certified survey map are not served by municipal sanitary sewer, soil and site evaluations shall be submitted for approval to the county code administration office and/or the department of commerce according to the procedure and standards established under the applicable rules of Wis. Admin. Code ch. Comm 83.

- (c) Where the subdivider owns or controls land that is contiguous to the land being divided, a conceptual development plan shall be submitted along with the proposed final certified survey map. The plan shall be drawn to scale, and shall identify proposed future development of the parcels, including approximate street, driveway and building locations.

(Ord. No. 2004-02, § 1(18.10(5)), 9-27-2004)

Sec. 28-226. Detailed requirements.

A certified survey map shall comply with the provisions of Wis. Stats. § 236.34, applicable sections of this chapter, and shall set forth the following:

- (1) Date of map.
- (2) Graphic scale, location map and north point.
- (3) Name and address of the owner, subdivider, and surveyor.
- (4) All existing buildings, watercourses, drainage ditches, existing and required easements, and other features pertinent to proper division.
- (5) Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages and wetlands.
- (6) Soil boring locations on sites to be served with a private on-site wastewater treatment system.
- (7) All lands reserved for future public acquisition or dedication.
- (8) Floodland and shoreland boundaries and the contour line lying at a vertical distance of two feet above the elevation of the 100-year recurrence interval flood.
- (9) Significant natural resource features on the site, including wetlands, floodplains, watercourses, shoreland boundaries, existing wooded areas, slopes of 20 percent or greater, drainageways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission ("SEWRPC") and the county, and other natural resource features, views and other prominent visual features.
- (10) Where the map is located within a quarter section, the corners of which have been relocated, monumented and placed on the Wisconsin State Plan Coordinate System by the state department of transportation, Southeastern Wisconsin Regional Planning Commission, the county or any city, village or town, the map shall be tied directly to one of the section or quarter corners so coordinated. The exact grid bearings and distance of such tie shall be determined by field measurements, and the material and Wisconsin State Plan Coordinate System, south zone, and adjusted to the county control survey.
- (11) The surveyor shall certify on the face of the map that it fully complies with all the provisions of this chapter.
- (12) Any additional information required by the town board.

(Ord. No. 2004-02, § 1(18.10(6)), 9-27-2004)

Sec. 28-227. Final map review and approval procedures.

- (a) *Subdivider to file with town engineer.* Following review and comment of the town engineer on the initial application, the subdivider shall file with the town engineer 18 copies of the proposed final certified survey map, along with an application for review and approval of a certified survey map by the town plan commission. One additional copy of the certified survey map shall be provided to the town attorney.
- (b) *Referral; administrative staff and utility commission reviews.* The town engineer shall provide copies of the certified survey map to town department heads and to the appropriate utilities for their review and comment. The town staff and utility comments will be forwarded to the town plan commission and town board for consideration during the review process.

(Ord. No. 2004-02, § 1(18.10(7)), 9-27-2004)

Sec. 28-228. Plan commission review and informational meeting.

The clerk-treasurer shall give notice of the plan commission's review of the certified survey map by listing it as an agenda item in the plan commission's meeting notice. The notice shall include the name of the applicant, the address of the property in question, and the requested action. The clerk-treasurer may schedule an informational meeting. Notice of the plan commission review and informational meeting shall be sent to neighboring property owners in accordance with the procedures set forth in article V of this chapter. The cost for such written notice shall be borne by the subdivider.

(Ord. No. 2004-02, § 1(18.10(8)), 9-27-2004)

Sec 28-229. Plan commission recommendation.

After review of the certified survey map and discussions with the subdivider on changes and the type and extent of public improvements that will be required, if any, the plan commission shall recommend to the town board disapproval, approval, or conditional approval of the certified survey map within 45 days of the filing date of the proposed final certified survey map.

(Ord. No. 2004-02, § 1(18.10(9)), 9-27-2004)

Sec. 28-230. Board action.

After receipt of the town plan commission's recommendation, the town board shall, within 90 days of the date the proposed final certified survey map was filed with the town engineer, approve, approve conditionally, or reject such certified survey map and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the subdivider, failure of the town board to act within 90 days or extension thereof shall constitute an approval of the proposed final certified survey map. The clerk-treasurer shall communicate to the subdivider the action of the town board. If the certified survey map is approved, the town engineer shall endorse it for the town board. The certified survey map shall be recorded with the register of deeds office for the county within six months after final town board approval and within 24

months after the first approval of the map.

(Ord. No. 2004-02, § 1(18.10(10)), 9-27-2004)

Sec. 28-231. Public improvements.

In the event public improvements are required plans, computations and specifications, which conform to the provisions, required for subdivision improvements shall be submitted to the town engineer at the time of submission of the proposed certified survey map. Such plans must be approved by the town engineer before town board approval of the certified survey map. Prior to, or as a condition of, town board approval of the certified survey map, the subdivider shall enter into a development agreement pursuant to section 28-48 and deposit required fees (the "Development Agreement"). In cases where public lands or rights-of-way are reserved or dedicated for future construction of public improvements, the subdivider shall enter into an agreement with the town concerning future costs and liability prior to, or as a condition of, certified survey map approval.

(Ord. No. 2004-02, § 1(18.10(11)), 9-27-2004)

Secs. 28-232--28-260. Reserved.

ARTICLE VIII. MODIFICATIONS OR WAIVERS

Sec. 28-261. Authority; application.

- (a) Where, in the judgment of the town board, it would be inappropriate to apply literally the provisions of this chapter because an exceptional circumstance exists, the town board may waive or modify any requirements to the extent deemed just and proper.
- (b) Application for any such modification or waiver shall be made in writing by the subdivider at the time when the concept plan or preliminary plat is filed for consideration whichever occurs first, stating fully all facts relied upon by the subdivider, and shall be supplemented with maps, plans, or other additional data that may aid the town board in the analysis of the proposed project.
- (c) Before the town board may act on a request for modification or waiver, the application and all supporting material must first be presented to the plan commission for its review and recommendation based upon the factors set forth in section 28-262. The clerk-treasurer shall, within 45 days of receipt of the application for a modification or waiver, place the matter on a town plan commission agenda for review and action.

(Ord. No. 2004-02, § 1(18.11(1)), 9-27-2004)

Sec. 28-262. Considerations.

The town board shall consider the following factors, in addition to any other factors deemed relevant by it:

- (1) Whether the request for a waiver or modification, if granted, would be

consistent with the general intent of the chapter.

- (2) Whether the request for a waiver or modification, if granted, would adversely affect property owners in the surrounding area.
- (3) Whether the request for waiver or modification, if granted, would benefit the subdivider's project in a way that is not consistent with the town's interests.
- (4) Whether the subdivider is in full compliance with other applicable ordinances and agreements with the town.
- (5) Whether, instead of granting the request for a waiver or modification, the chapter itself should be changed to accommodate the kind of situation presented by the subdivider.
- (6) Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.
- (7) Whether the request for modification or waiver, if granted, would be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

(Ord. No. 2004-02, § 1(18.11(2)), 9-27-2004)

Sec. 28-263. Granting by town board.

- (a) The town board, if it approves of the modification or waiver of the application of this chapter or any portion of it, shall do so by motion or resolution and shall instruct the clerk-treasurer to notify the subdivider.
- (b) A majority vote of the town board shall be required to grant any modification or waiver to this chapter. The reasons why such modification or waiver was granted shall be entered in the minutes.

(Ord. No. 2004-02, § 1(18.11(4)), 9-27-2004)

Sec. 28-264. Past noncompliance not waived.

A waiver or modification that is granted pursuant to a written request as described in this article shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of this chapter that took place prior to the date of the request being granted, unless specifically stated otherwise in the decision of the town board.

(Ord. No. 2004-02, § 1(18.11(5)), 9-27-2004)