

## CHAPTER 2

### Land Division and Subdivision Code

#### Article A      Adoption; Introduction

- 10-2-1      Introduction and Purpose
- 10-2-2      Abrogation and Greater Restrictions
- 10-2-3      Interpretation
- 10-2-4      Severability
- 10-2-5      Repeal
- 10-2-6      Title
- 10-2-7 through
- 10-2-9      Reserved for Future Use

#### Article B      Definitions

- 10-2-10     Definitions
- 10-2-11 through
- 10-2-19     Reserved for Future Use

#### Article C      General Provisions

- 10-2-20     General Provisions
- 10-2-21     Land Suitability
- 10-2-22     Condominium Developments
- 10-2-23 through
- 10-2-29     Reserved for Future Use

#### Article D      Plat Review and Approval

- 10-2-30     Preliminary Consultation
- 10-2-31     Submission of Preliminary Plat for Major Subdivisions
- 10-2-32     Preliminary Plat Review and Approval
- 10-2-33     Final Plat Review and Approval
- 10-2-34     Administrative Fees
- 10-2-35     Replat
- 10-2-36 through
- 10-2-39     Reserved for Future Use
- Appendix A

#### Article E      Technical Requirements for Plats and Certified Surveys

- 10-2-40     Technical Requirements for Preliminary Plats
- 10-2-41     Technical Requirements for Final Plats
- 10-2-42     Technical Requirements for Certified Survey Land Divisions;  
Review and Approval

10-2-43 through  
10-2-49 Reserved for Future Use

Article F      Required Improvements

10-2-50 Improvements Required  
10-2-51 Required Agreement Providing for Proper Installation of Improvements  
10-2-52 Required Construction Plans; Town Review; Inspections  
10-2-53 Street Improvements  
10-2-54 Curb and Gutter  
10-2-55 Sidewalks; Walkways; Bikeways  
10-2-56 Sanitary Sewerage System  
10-2-57 Storm Water Drainage Facilities  
10-2-58 Other Utilities  
10-2-59 Street Signs and Lighting  
10-2-60 Erosion Control  
10-2-61 Partition Fences  
10-2-62 Easements  
10-2-63 Buffer Strips  
10-2-64 Greenways  
10-2-65 through  
10-2-69 Reserved for Future Use

Article G      Design Standards

10-2-70 General Street Design Standards  
10-2-71 Pedestrian Pathways  
10-2-72 Lot Design Standards  
10-2-73 Drainage System  
10-2-74 Non-Residential Land Divisions  
10-2-75 through  
10-2-79 Reserved for Future Use

Article H      Park and Public Land Dedication

10-2-80 General Park and Public Land Dedication Requirements  
10-2-81 Parkland Dedication  
10-2-82 Reservation of Additional Land  
10-2-83 Development of Park Area  
10-2-84 through  
10-2-89 Reserved for Future Use

Article I      Variances; Penalties and Violations

10-2-90 Variances and Exceptions  
10-2-91 Enforcement, Penalties and Remedies

**ARTICLE A**

Adoption; Introduction

**SEC. 10-2-1 INTRODUCTION AND PURPOSE.**

- (a) **Introduction.** In accordance with the authority granted by Sec. 236.45 of the Wisconsin Statutes and for the purposes listed in Sections 236.01 and 236.45 of the Wisconsin Statutes, the Town Board of the Town of Burke, Dane County, Wisconsin, does hereby ordain as follows:
- (1) The provisions of this Chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity, and general welfare of the Town of Burke.
  - (2) This Chapter shall not repeal, impair, or modify private covenants or public ordinances, except that it shall apply whenever it imposes stricter restrictions on land use.
- (b) **Purpose.** The purpose of this Chapter is to promote the public health, safety, convenience, and general welfare of the community. The regulations are designed to lessen congestion in the highways and streets; to foster the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to discourage overcrowding of the land; to protect the community's agriculture base; to facilitate adequate provision for transportation, public water and sewerage, schools, parks, playgrounds and other public necessities; and to facilitate the further division of large tracts of land into smaller parcels. The regulations are made with the reasonable consideration of, but not limited to, the present character of the Town and its environs, with the objectives of conserving the value of the land and improvements placed thereon, providing the most appropriate environment for human habitation, encouraging commerce and industry, protecting farming and open spaces, and providing for the most appropriate use of land in the Town of Burke.

State Law Reference: Chapter 236, Wis. Stats.

**SEC. 10-2-2 ABROGATION AND GREATER RESTRICTIONS.**

It is not intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements; covenants, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, to the extent that this Chapter contains time limits, deadlines, notice requirements, or other provisions that provide protections for a subdivider that are more restrictive than time limits, deadlines, notice requirements, or other provisions that provide protections for a subdivider contained in Chapter 236 of the Wisconsin State Statutes, the time limits, deadlines, notice requirements or other provisions that provide protections for a subdivider contained in Chapter 236 shall apply. (amended 12.23.2010)

**SEC. 10-2-3 INTERPRETATION.**

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

**SEC. 10-2-4 SEVERABILITY.**

If any provision of this Chapter is invalid or unconstitutional, or if the application of this Chapter to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Chapter which can be given effect without the invalid or unconstitutional provision or application.

**SEC.10-2-5 REPEAL.**

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

**SEC. 10-2-6 TITLE.**

This Chapter shall be known as, referred to, or cited as the "Town of Burke Subdivision Ordinance" or "Town of Burke Land Division and Subdivision Ordinance."

SEC. 10-2-7 THROUGH SEC. 10-2-9 RESERVED FOR FUTURE USE.

## ARTICLE B

## Definitions

## SEC. 10-2-10 DEFINITIONS.

- (a) The following definitions shall be applicable in this Chapter:
- (1) Alley. A public right-of-way which normally affords a secondary means of vehicular access to abutting property.
  - (2) Arterial Street. A street which provides for the movement of relatively heavy traffic to, from or within the Town. It has a secondary function of providing access to abutting land.
  - (3) Bikeway. A general term describing any or all of the following defined types of facilities used for bicycles. A network of bikeways constitutes a bike route system. Class designations are those in the Long Range Bikeway Program:
    - a. Bike Path. (Class I) A bike route completely apart from a street used by motor vehicles and restricted to bicycles unless designated otherwise.
    - b. Bike Lane. (Class II) A designated lane of a street, restricted to bicycle usage and separated from motor vehicles by a painted line, raised divider or curb.
    - c. Mixed Traffic Route. (Class III) A route, designated by signs, along streets used by motor vehicles and bicycles.
  - (4) Block. An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or water bodies.
  - (5) Certified Survey Map. A map or plan of record of a land division, not a subdivision, meeting all the requirements of Sec. 236.34, Wis. Stats., the Dane County Land Division Ordinances, and this Chapter.
  - (6) Collector Street. A street which collects and distributes internal traffic within an urban area such as a residential neighborhood, between arterial and local streets. It provides access to abutting property.
  - (7) Commission. The Plan Commission created by the Town Board pursuant to Sec. 62.23 of the Wisconsin Statutes.
  - (8) Comprehensive Development Plan. A total site plan for an area of land eighty (80) acres or more in size under the control of a developer(s) at the time of submission for review. Said plan specifies and illustrates the location, relationship and nature of all uses, easements, streets, pedestrian paths and common open space.
  - (9) Cul-de-sac. A short street having but one (1) end open to traffic and the other end being permanently terminated in a vehicular turnaround.
  - (10) Division of Land/Land Division. Any action which creates a subdivision, plat, or certified survey, or which creates a new parcel or makes substandard an original parcel.
  - (11) Easement. The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.
  - (12) Extraterritorial Plat Approval Jurisdiction. The unincorporated area within one and one-half (1-1/2) miles of a fourth-class city or a village and within three (3) miles of all other cities.

- (13) Final Plat. The final map, drawing or chart on which the land divider's plan of subdivision is presented for approval and which, if approved, will be submitted to the County Register of Deeds.
- (14) Frontage Street. A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.
- (15) Greenway. An open area of land included under the definition of "Parkway", the primary purpose of which is to carry storm water on the surface of the ground in lieu of an enclosed storm sewer. Greenways may serve the following multiple public purposes in addition to their principal use, including but not limited to, vehicular and/or pedestrian traffic, sanitary sewers, water mains, storm sewers, storm water retention basins, and park development.
- (16) Improvement, Public. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.
- (17) Land Division. See definition for "Division of Land/Land Division".
- (18) Local Street. A street of little or no continuity designed to provide access to abutting property and leading into collector streets.
- (19) Lot. A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter and any applicable zoning ordinance.
- (20) Lot, Area. The area contained within the exterior boundaries of a lot excluding streets, and land under navigable bodies of water.
- (21) Lot, Corner. A lot abutting intersecting streets at their intersection.
- (22) Lot, Reversed Corner. A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.
- (23) Lot, Through. A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a "through lot," both street lines shall be deemed front lot lines.
- (24) Lot Lines. The peripheral boundaries of a lot as defined herein.
- (25) Lot Width. The width of a parcel of land measured along the front building line.
- (26) Major Thoroughfare. A street used or intended to be used primarily for fast or heavy through traffic. Major thoroughfares shall include freeways, expressways and other highways and parkways, as well as arterial streets.
- (27) Minor Street. A street used, or intended to be used, primarily for access to abutting properties; also referred to as a "local street."
- (28) Official Map. The map indicating the location, width and/or extent of existing and proposed streets, highways, parkways, parks and playgrounds, as adopted by the Town Board pursuant to Sec. 62.23(6), Wis. Stats.
- (29) Owner. Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these.
- (30) Parcel. Contiguous lands under the control of a land divider(s), not separated by streets, highways or railroad rights-of-way.
- (31) Park Commission. The Town of Burke Park Commission, if applicable.
- (32) Pedestrian Pathway. A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.

- (33) Plan Commission. The Town of Burke Plan Commission.
- (34) Plat. The map, drawing or chart on which the land divider's plat of subdivision is presented to the Town for approval.
- (35) Preliminary Plat. The Preliminary Plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Plan Commission/Town Board for their consideration as to compliance with the Comprehensive Development Plan and these regulations along with required supporting data.
- (36) Protective Covenants. Contracts entered into between private parties or between private parties and public bodies pursuant to Sec. 236.293, Wis. Stats., which constitute a restriction on the use of all private or platted property within a subdivision for the benefit of the public or property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.
- (37) Recreational Easement. An easement to the Town of Burke to place, replace, maintain or operate recreational facilities according to the rules and regulations of the Town.
- (38) Replat. The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.
- (39) Sanitary District Commission. A board established under Sec. 60.30 or Sec. 66.072, Wis. Stats.
- (40) Shorelands. Those lands within the following distances: one thousand (1,000) feet from the high-water elevation of navigable lakes, ponds and flowages or three hundred (300) feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
- (41) Subdivider/Land Divider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a major subdivision, minor subdivision or replat.
- (42) Subdivision, Major. Any land division which is not a "minor subdivision."
- (43) Subdivision, Minor. The division of land by the owner or land divider resulting in the creation of not more than four (4) parcels or building sites, except where the act of division creates five (5) or more parcels or building sites by successive division within a period of five (5) years, whether done by the original owner or by a successor owner.
- (44) Town. The Town of Burke, Dane County, Wisconsin.
- (45) Urban Service Area. That area in the Town served by public water and sewer facilities, designated on a map adopted by the Town Board and the Dane County Regional Planning Commission.
- (46) Wetlands. An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. (Sec. 23.32(1), Wis. Stats.)
- (47) Wisconsin Administrative Code. The rules of administrative agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system, as directed by Sec. 35.93 and Chapter 227 of the Wisconsin Statutes, including subsequent amendments to those rules.

SEC. 10-2-11 THROUGH SEC. 10-2-19 RESERVED FOR FUTURE USE.

## ARTICLE C

## General Provisions

## SEC. 10-2-20 GENERAL PROVISIONS.

- (a) **Compliance.** No person shall divide any land located within the jurisdictional limits of these regulations which results in a land division or a replat as defined herein; no such land division or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this Chapter and the following:
- (1) The provisions of Ch. 236 and Sec. 80.08, Wis. Stats.
  - (2) The rules of the Division of Health, Wisconsin Department of Industry, Labor and Human Relations, contained in Wis. Adm. Code Chapter H85 for land divisions not served by public sewer.
  - (3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code Chapter HY 33 for subdivisions which abut a state trunk highway or connecting street.
  - (4) The rules of the Wisconsin Department of Natural Resources contained in the Wis. Adm. Code for Floodplain Management Program.
  - (5) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Town Board.
  - (6) All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.
  - (7) The Town of Burke Land Use Plan, or components thereof.
  - (8) Applicable provisions of the Dane County Code of Ordinances.
  - (9) All applicable rules contained in the Wisconsin Administrative Code not listed in this Subsection.
- (b) **Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the Town of Burke. The provisions of this Chapter, as they apply to land divisions, shall not apply to:
- (1) Transfers of interests in land by will or pursuant to court order;
  - (2) Leases for a term not to exceed ten (10) years, mortgages or easements;
  - (3) 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 or other applicable laws or ordinances.
- (c) **Minor Subdivisions.** Any minor subdivision of land other than a subdivision as defined in Sec. 236.02(12), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in Sec. 236.34, Wis. Stats.
- (d) **Building Permits.** The Town of Burke shall not issue any building permit relating to any parcel of land forming all or any part of lands included in a major subdivision, minor subdivision or replat originally submitted to the Town of Burke on or after the effective date of this Chapter until the applicant has complied with all of the provisions and requirements of this Chapter.
- (e) **Applicability to Condominiums.** This Chapter is expressly applicable to condominium developments within the Town's jurisdiction, pursuant to Section 703.27(1), Wis. Stats. For purposes of this Chapter, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of land division.



**SEC. 10-2-21 LAND SUITABILITY.****(a) Suitability.**

- (1) No land division shall be allowed for residential, commercial or industrial use which is held unsuitable for such use by the Plan Commission for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the community. The Plan Commission, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for residential use and afford the land divider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter the Plan Commission may affirm, modify, or withdraw its determination of unsuitability.
- (2) Except as provided herein, the Plan Commission shall preferably determine, land suitability at the time of pre-application conference, following review and recommendation by the appropriate Town Committee(s), and review and comment by the Dane County Soil and Water Conservation District. The land divider shall furnish such maps, data and information as may be necessary to make a determination of land suitability. In addition to the data required to be submitted with the Preliminary Plat or certified survey, the land divider may be required to submit some or all of the following additional information for development located in an area where flooding or potential flooding may be a hazard:
  - a. Two (2) copies of an aerial photograph, or two (2) maps prepared by a registered land surveyor or engineer which accurately locate the proposed development with respect to flood plain zoning district limits, if present, channel or stream fill limits and elevations, and flood-proofing measures taken or proposed to be taken.
  - b. Two (2) copies of a typical valley cross-section showing the channel or the stream, the flood plain adjoining each side of the channel, cross-sectional area to be occupied by the proposed development, and high water information.
  - c. Two (2) copies of a profile showing the slope of the bottom of the channel or flow line of the stream.
  - d. Such other data as may be required.
- (3) When a proposed land division is located in an area where flooding or potential flooding may be a hazard, the Plan Commission may transmit to the Division of Environmental Protection, Wisconsin Department of Natural Resources, one (1) set of the information required and may request that Division to provide technical assistance in determining whether the land is suitable or unsuitable for the use proposed.
- (4) Where a proposed land division is located wholly or partly in an area where flooding or potential flooding may be a hazard, the applicable County Ordinances shall apply.
- (5) The land divider may, as a part of the pre-application procedures, request a determination of land suitability providing that he shall provide all necessary maps, data and information for such a determination to be made.

- (b) **Existing Flora.** The land divider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices,

possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the land divider.

(c) **Additional Considerations.**

- (1) Areas of archaeological and/or historical interest including those designated by the State Historical Society.
- (2) Areas of geological interest including those designated by the State Geological and Natural History Survey.
- (3) Suitability of land for private sewerage systems shall be determined in accordance with Chapter ILHR 83, Wisconsin Administrative Code.
- (4) Land divisions shall satisfy the environmental assessment criteria of this Chapter.

Cross-Reference: Section 10-2-30.

**SEC. 10-2-22 CONDOMINIUM DEVELOPMENTS.**

(a) **Purpose.**

- (1) The Town Board hereby finds that certain issues arise in condominium developments that require limited applicability of this Chapter to condominium developments. The State Legislature has recognized that land division ordinances may apply to condominiums, but that subdivision ordinances shall not impose burdens upon condominiums that are different from those imposed on other property of a similar character not subject to a declaration of condominium.
- (2) The factor that makes this Chapter applicable to a condominium development is the creation of multiple, distinct property entities at or near the ground surface, subject to property taxation as separate "parcels", with each property entity having different ownership and management. The Town determines that this factor makes a condominium development dissimilar, both physically and in ownership, from developments in which the land and improvements are under unitary ownership, management and control.
- (3) Thus, the Town Board hereby finds that new condominium developments can place impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. These impacts include:
  - a. Additional population density;
  - b. Possibility of use of particular land in a manner unsuitable to the land's characteristics;
  - c. Additional demands upon Town area parks, recreation areas, utility facilities and schools;
  - d. Additional traffic and street use.

(b) **Portions of Chapter Applicable to Condominium Developments.** The following sections of this Chapter shall apply to condominium developments:

- (1) Sections 10-2-21, relating to land suitability and construction practices;
- (2) Sections 10-2-30 through 10-2-32, relating to preliminary plat approval. The technical requirements for preliminary plats set forth in Section 10-2-40 shall not apply, since condominiums have separate technical standards set forth in Chapter 703, Wis. Stats.
- (3) Section 10-2-34, relating to fees for review;

- (4) Article F, relating to required improvements;
  - (5) Article G, relating to design standards for improvements;
  - (6) Article H, relating to dedication requirements.
- (c) This Section shall not apply to the following condominiums:
- (1) Any condominium plat recorded prior to the effective date of this Chapter;
  - (2) Any conversion of a structure or structures in existence on the effective date of this Chapter to a condominium after the effective date of this Chapter, unless additional residential or commercial units are created.

**SEC. 10-2-23 THROUGH SEC. 10-2-29 RESERVED FOR FUTURE USE.**

## ARTICLE D

## Plat Review and Approval

**SEC. 10-2-30 PRELIMINARY CONSULTATION.**

Before filing a Preliminary Plat or certified survey, the land divider is encouraged to consult with the Plan Commission for advice regarding general subdivision requirements. Information on meeting dates, agenda deadlines and filing requirements may be obtained from the Town Clerk. The land divider shall also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the land divider of the purpose and objectives of these regulations, the Town land use plan, comprehensive plan components and duly adopted plan implementation devices of the Town and to otherwise assist the land divider in planning his development. In so doing, both the land divider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The land divider will gain a better understanding of the subsequent required procedures.

Cross-Reference: Section 10-2-21.

**SEC. 10-2-31 SUBMISSION OF PRELIMINARY PLAT FOR MAJOR SUBDIVISIONS.**

- (a) **Submission.** Before submitting a Final Plat for approval, the land divider shall prepare a Preliminary Plat and a letter of application. The land divider shall submit twenty (20) copies of the Preliminary Plat. The Preliminary Plat shall be prepared in accordance with this Chapter, and the land divider shall file copies of the Plat and the application as required by this Section with the Town Clerk between seven (7) and fifteen (15) days prior to the regular meeting of the Plan Commission at which action is desired. All items and documents required by this Section must be submitted to the Town Clerk before the time requirements for review of land divisions will legally commence. The Town Clerk shall submit a copy of the Preliminary Plat to the Plan Commission and to the Town Engineer for review and written report of his recommendations and reactions to the proposed plat. The land divider shall also at this time submit a written description of the proposed land division and a completed copy of the Environmental Assessment Checklist required by Section 10-2-32.
- (b) **Public Improvements, Plans and Specifications.** Simultaneously with the filing of the Preliminary Plat, the owner shall file with the Town Clerk nine (9) complete sets of engineering reports, plans and specifications for the construction of any public improvements required by this Chapter, specifically addressing sewer and water service feasibility, drainage facilities, traffic patterns, typical street cross sections, erosion control plans, pavement design and other improvements necessary in the land division.
- (c) **Property Owners Association; Restrictive Covenants.** Three (3) copies of a draft of the legal instruments and rules for proposed property owners associations, when the land divider proposes that common property within a land division would be either owned or maintained by such an organization of property owners

or a subunit of the Town pursuant to Sec. 236.293, Wis. Stats., and proposed deed restrictions or restrictive covenants, shall be submitted at the time of filing the Preliminary Plat with the Town Clerk. (Note: Deed restrictions and restrictive covenants in subdivisions are private contractual agreements and are not enforceable by the Town.)

- (d) **Affidavit.** The surveyor preparing the Preliminary Plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this Chapter.
- (e) **Supplementary Data to be Filed with Preliminary Plat.** The following shall also be filed with the Preliminary Plat:
  - (1) **Use Statement.** A statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population; and
  - (2) **Zoning Changes.** If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and
  - (3) **Area Plan.** Where the land divider owns property adjacent to that which is being proposed for the land division, the Plan Commission and/or Town Board may require that the land divider submit a concept plan of the remainder of the property so as to show the possible relationships between the proposed land division and future land divisions. In any event, all land divisions must be shown to relate well with existing or potential adjacent land divisions.
  - (4) A record of any adjacent land divisions made within the last five (5) years.
- (f) **Street Plans and Profiles.** The land divider shall provide street plans and profiles showing existing ground surface, and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed land division when requested.
- (g) **Soil Testing.** The land divider shall provide a preliminary soils report, listing the types of soil in the proposed land division, their effect on the land division and a proposed soil testing and investigation program. A Soil Conservation Service Map would meet the requirements of this Subsection. Pursuant to the public policy concerns prescribed in Section 10-2-21, the Town Board may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table.
- (h) **Environmental Assessment Checklist.**
  - (1) **Submission.** The Environmental Assessment Checklist, found in "Appendix A," shall be given to the land divider, preferably before the pre-application conference, to be completed for submission with the Preliminary Plat.
  - (2) **Purpose.** The purpose of this Environmental Assessment Checklist is to provide the basis for an orderly, systematic review of the effects of a new land division upon the community environment in accordance with the principles and procedures of Sec. 236.45(1), Wis. Stats. The goals of the community are to eliminate pollution and siltation or reduce them to acceptable standards, assure ample living space per capita, preserve open space and parks for recreation, and provide adequately for storm water control, maintain scenic beauty and aesthetic surroundings, administer to the economic and cultural needs of the citizens, and provide for the effective and efficient flow of goods and services.
  - (3) **Determination of Need for Expanded Environmental Assessment.** The Environmental Assessment Checklist shall be reviewed by the Plan Commission following submittal. The Plan Commission may, for reasons

stated in a written determination, decide that the preliminary environmental assessment raises unusually significant questions on the effects on the environment and that review by other Town Committee(s) and commission(s) is required and/or that an unusually high level of citizen interest has resulted from questions raised in a preliminary assessment. Such a decision shall be made within fourteen (14) days of the review and shall be followed by adoption by the Plan Commission of a resolution setting forth the specific questions on which it requires research, data and input from affected persons. The listing of questions can include items which this Chapter already enables the Plan Commission to obtain, or it may include additional information which is relevant to the questions specified in the resolution. The resolution may also request data on the specific impact questions from other governmental agencies or from the developer or applicant. The resolution shall set a reasonable date for the return of the requested data and information and it may specify the format in which the data is to be presented.

- (4) Hearing on Environmental Assessment Report. Following the return to the Plan Commission of the data called for in the resolution adopted under Subsection (h)(4) above, the Plan Commission shall make such report available for scrutiny by the land divider or petitioner, by Town department(s), commission(s), and committee(s) and by other interested persons or agencies, including all contiguous landowners, who shall be given the opportunity to comment. The Plan Commission may schedule and hold a public hearing on the findings of the report. The hearing shall be preceded by a Class I notice under Ch. 985, Wis. Stats. Persons attending such hearing shall be afforded an opportunity to comment on the report.
  - (5) Review. The Plan Commission shall review, as part of its analysis of the Preliminary Plat, the Environmental Assessment Report, with supporting data, department, and committee reviews and any other data required for determining the suitability of the land for the proposed development.
- (i) Referral to Other Agencies.
- (1) The Town Clerk shall, within two (2) days after filing, transmit two (2) copies of the Preliminary Plat to the appropriate sanitary district (if any), four (4) copies to the County Planning Agency, two (2) copies to the Director of the Planning Function in the Wisconsin Department of Development, additional copies to the Director of the Planning Function for retransmission of two (2) copies each to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street and the Wisconsin Department of Industry, Labor and Human Relations if the subdivision is not served by the public sewer and provision for such service has not been made, and an adequate number of copies to the Plan Commission and the Park Commission. The County Planning Agency, the Wisconsin Department of Development, the Wisconsin Department of Transportation and the Wisconsin Department of Industry, Labor and Human Relations shall be hereinafter referred to as objecting agencies.
  - (2) Within twenty (20) days of the date of receiving the copies of the plat, any state or county agency having authority to object under Subsection (h)(1) above shall notify the land divider and all approving or objecting authorities of any objection based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover, or, if all objections have been satisfied, it shall so certify on the face of a copy of

the plat and return that copy to the approving authority from which it was received. The land division shall not be approved or deemed approved until any objections have been satisfied. If the objecting agency fails to act within the twenty (20) day limit it shall be deemed to have no objection to the plat. Sanitary districts within the Town may file objections with the Plan Commission or Town Board at any time prior to, and including, the Board's public hearing on the land division.

- (3) In lieu of the procedure under Subsection (h)(1), the land divider or his agent may submit the original plat to the Department of Local Affairs and Development which shall forward two (2) copies to each of the agencies authorized to object. The Department shall have the required number of copies made at the land divider's expense. Within twenty (20) days of the date of receiving the copies of the plat, any agency having authority to object shall notify the land divider, and all agencies having the authority to object, of any objection based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover, or if there is no objection, it shall so certify on the face of a copy of the plat and return that copy to the Department of Development. After each agency and the Department have certified that they have no objection or that their objections have been satisfied, the Department shall so certify on the face of the plat. If an agency fails to act within twenty (20) days from the date of the receipt of copies of the plat, and the Department fails to act within thirty (30) days of receipt of the original plat, it shall be deemed that there are no objections to the plat and, upon demand, it shall be so certified on the face of the plat by the Department.
- (j) **Drafting Standards.** The land divider shall submit to the Town Clerk and to those agencies having the authority to object to plats under provisions in Chapter 236 of the Wisconsin Statutes copies of a Preliminary Plat based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale of not more than one (1) inch per one hundred (100) feet having two (2) foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), easements which the land divider proposes to make and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted.

## SEC. 10-2-32 PRELIMINARY PLAT REVIEW AND APPROVAL.

- (a) **Plan Commission Recommendation.**
- (1) After review of the Preliminary Plat and negotiations with the land divider on changes and the kind and extent of public improvements which will be required, the Plan Commission shall recommend to the Town Board disapproval, approval or conditional approval of the land division within forty (40) days of the filing date. [Note: Sec. 236.11(1)(a), Wis. Stats., states that extensions of time or a decision to hold a matter in abeyance may only be made by agreement of the land divider and Town Board, not the Plan Commission.]
- (2) The Town Clerk shall give notice of the Plan Commission's review of the Preliminary Plat by listing it as an agenda item in the Commission's posted meeting notice. The notice shall include the name of the applicant, the address of the property in question and the requested action.

- (b) **Board Review; Public Hearing.** The Town Clerk shall schedule a public hearing on the Preliminary Plat before the Town Board. The Town Clerk shall give notice of the Town Board's review and public hearing on the Preliminary Plat by listing it as an agenda item in the Board's posted meeting notice. The applicant shall also be notified. The notice shall include the name of the applicant, the address of the property in question and the requested action. Abutting property owners and property owners within six hundred (600) feet of the applicant's total parcel shall receive written notice of the public hearing.
- (c) **Board Action.** After receipt of the Plan Commission's recommendation, the Town Board shall, within ninety (90) days of the date the plat was filed with the Town Clerk, approve, approve conditionally or reject such plat or survey map and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement with the land divider. Failure of the Town Board to act within ninety (90) days or extension thereof shall constitute an approval of the Preliminary Plat, unless other authorized agencies object to the plat. The Town Clerk shall communicate to the land divider the action of the Town Board. If the plat or map is approved, the Town Clerk shall endorse it for the Town Board.
- (d) **Determination of Adequacy of Public Facilities and Services.**
- (1) A Preliminary Plat or Final Plat shall not be approved unless the Plan Commission, the Sanitary District Commission (if appropriate), and the Town Board determine that adequate public facilities and public services are available to meet the needs of the proposed land division and that no public funds, other than those already provided in an adopted capital or operating budget, are required.
  - (2) The applicant shall furnish any data requested by the Town Board or its designee, who shall transmit this information to the appropriate Town commission(s) and committee(s) for review and shall act as coordinator for their reports to the Plan Commission, Sanitary District Commission and Town Board on the adequacy of water, sanitary and storm sewers, fire service, police, parks and open space and recreation facilities, transportation facilities and schools.
  - (3) Public facilities and public services for a proposed land division may be found to be adequate when the following conditions exist:
    - a. The proposed land division is located in an urban service area where mainline interceptor sewer service is presently available, under construction, or designated by the Town Board or Sanitary District Commission for extension of sewer service within the current capital budget year and funds are specifically provided for such extension either from public or private financing. The Plan Commission and the Town Board shall also consider the recommendations of the Town Board or its designee and the appropriate committee(s) on the capacity of trunk lines and of sewerage treatment facilities and any other information presented.
    - b. The proposed land division is located within an urban service area contingent to an arterial transmission water main of adequate capacity for the proposed development or if the water distribution system that is needed is under construction or scheduled for construction within the current budget year, and funds, either public or private, are available for the program. The Plan Commission and the Town Board shall consider the recommendations of the Town Board or its designee and the appropriate committee(s) on line capacities, water sources and storage facilities as well as any other information presented.



- c. The Town Board or its designee and the appropriate committee(s) certify to the Plan Commission and the Town Board that adequate funds, either public or private, are available to insure the installation of all necessary storm water management facilities.
  - d. The future residents of the proposed land division can be assured park, recreation and open space facilities and services which meet the standards of the "Outdoor Recreation Plan -- Town of Burke, Adopted 1988, Revised 1990."
  - e. The appropriate Police Department and Fire District verify that timely and adequate service can be provided to the residents.
  - f. The School District be given the opportunity to review and comment.
  - g. The proposed land division is accessible by existing publicly maintained, all weather roads, adequate to accommodate both existing traffic and that traffic to be generated by the proposed land division, or necessary additional roads and road improvements are budgeted in the current adopted budget for construction with public or private financing.
  - h. Where the Plan Commission and the Town Board determine that one (1) or more public facilities or services are not adequate for the proposed development, but that a portion of the area could be served adequately, or that careful phasing of the development could result in all public facilities and public services being adequate, conditional approval may include only such portions or may specify phasing of the development.
- (e) **Effect of Preliminary Plat Approval.** Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within six (6) months of Preliminary Plat approval and conforms substantially to the Preliminary Plat layout, the Final Plat shall be entitled to approval with respect to such layout. The Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat, which will be subject to further consideration by the Plan Commission and Town Board at the time of its submission.
- (f) **Preliminary Plat Amendment.** Should the land divider desire to amend the Preliminary Plat as approved, he may resubmit the amended plat which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Town Board, of such scope as to constitute a new plat, in which such case it shall be refiled.

## SEC. 10-2-33 FINAL PLAT REVIEW AND APPROVAL.

- (a) **Filing Requirements.**
- (1) The land divider shall prepare a Final Plat and a letter of application in accordance with this Chapter and shall file twenty (20) copies of the Plat and the application with the Town Clerk between seven (7) and fifteen (15) days prior to the meeting of the Plan Commission at which action is desired. The Town Clerk shall give notice of the Plan Commission's meeting in the manner prescribed in Section 10-2-32(a)(2). The land divider shall file eight (8) copies of the Final Plat not later than six (6) months after the date of approval of the Preliminary Plat; otherwise, the Preliminary Plat and Final Plat will be considered void unless an extension is requested in writing by the land divider and for good cause granted by the Town. The land divider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the Town Attorney may require showing title or control in the applicant.

- (2) The Town Clerk shall, within two (2) days after filing, transmit two (2) copies to the appropriate sanitary district, four (4) copies to the County Planning Agency, two (2) copies to the Director of the Planning Function in the Wisconsin Department of Development, additional copies to the Director of the Planning Function for retransmission of two (2) copies each to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street and the Wisconsin Department of Industry, Labor and Human Relations if the subdivision is not served by a public sewer and provision for service has not been made, and the original Final Plat and adequate copies to the Plan Commission. The County Planning Agency, the Wisconsin Department of Development, the Wisconsin Department of Transportation, and the Wisconsin Department of Industry, Labor and Human Relations shall be hereinafter referred to as objecting agencies.
  - (3) The Final Plat shall conform to the Preliminary Plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Sec. 236.12(2).
  - (4) Simultaneously with the filing of the Final Plat or map, the owner shall file with the Town Clerk twelve (12) copies of the final plans and specifications of public improvements required by this Chapter.
  - (5) The Town Clerk shall refer two (2) copies of the Final Plat to the Plan Commission, one (1) copy to the Town Engineer, and a copy each to the telephone and power and other utility companies. The abstract of title or registered property report may be referred to the Town Attorney for his examination and report. The Town Clerk shall also refer the final plans and specifications of public improvements to the Town Engineer for review. The recommendations of the Plan Commission and Town Engineer shall be made within thirty (30) days of the filing of the Final Plat. The Town Engineer shall examine the plat or map and final plans and specifications of public improvements for technical details and, if he finds them satisfactory, shall so certify in writing to the Plan Commission. If the plat or map or the plans and specifications are not satisfactory, the Town Engineer shall return them to the owner and so advise the Plan Commission.
- (b) **Plan Commission Review.**
- (1) The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this Chapter and all applicable ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and shall recommend approval, conditional approval or rejection of the Plat to the Town Board.
  - (2) The objecting state and county agencies shall, within twenty (20) days of the date of receiving their copies of the Final Plat, notify the land divider and all other approving and objecting agencies of any objections, except that the Wisconsin Department of Development has thirty (30) days in which to make objections. If there are no objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the Town. If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objection to the Plat.
  - (3) If the Final Plat is not submitted within six (6) months of the last-required approval of the Preliminary Plat, the Town Board may refuse to approve the Final Plat.

- (4) The Plan Commission shall, within thirty (30) days of the date of filing of the Final Plat with the Town Clerk, recommend approval, conditional approval or rejection of the Plat and shall transmit the Final Plat and application along with its recommendations to the Town Board. The Plan Commission may hold the matter in abeyance if there is incomplete or inadequate information.
- (c) **Board Review and Approval.**
- (1) The Town Board shall, within sixty (60) days of the date of filing the original Final Plat with the Town Clerk, approve or reject such Plat unless the time is extended by agreement with the land divider. 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 land divider. The Town Board may not inscribe its approval on the Final Plat unless the Town Clerk certifies on the face of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within twenty (20) days or, if filed, have been met.
- (2) The Town Board shall, when it determines to approve a Final Plat, give at least ten (10) days' prior written notice of its intention to the Municipal Clerk of any municipality within one thousand (1,000) feet of the Final Plat.
- (3) Failure of the Town Board to act within sixty (60) days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.
- (4) After the Final Plat has been approved by the Town Board and required improvements either installed or a contract and sureties insuring their installation is filed, the Town Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the land divider for recording with the county register of deeds. The register of deeds cannot record the Plat unless it is offered within six (6) months from the date of last approval.
- (5) The land divider shall file eight (8) copies of the Final Plat with the Town Clerk for distribution to the approving agencies, affected sanitary districts, and other affected agencies for their files.
- (d) **Partial Platting.** The Final Plat may, if permitted by the Town Board, constitute only that portion of the approved Preliminary Plat which the land divider proposes to record at the time.

NOTE: For Review Procedures for Certified Survey, see Section 10-2-42.

#### SEC. 10-2-34 ADMINISTRATIVE FEES.

- (a) **General.** The land divider shall pay the Town all fees as hereinafter required and at the times specified before being entitled to recording of a plat or certified survey map.
- (b) **Engineering Fees.** The land divider shall pay a fee equal to the actual cost to the Town for all engineering and technical assistance work incurred by the Town in connection with the plat or certified survey map, including inspections required by the Town. The land divider shall pay a fee equal to the actual cost to the Town for such inspection as the Town Board deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Town or any other governmental authority.

- (c) **Administrative Fees.** The land divider shall pay a fee equal to the cost of any legal, administrative, or fiscal work and publication and special meeting costs which may be undertaken by the Town in connection with the plat or certified survey map.
- (d) **Preliminary Plat and Certified Survey Review and Final Plat Review Fees.** Fees for Town review of Preliminary Plats, Final Plats, replats, special meetings and certified surveys shall be as established by resolution of the Town Board.
- (e) **Escrow Account.** At the time of filing with the Town Clerk a proposed major subdivision or certified survey, the land divider shall deposit with the Town Clerk an escrow fund amount of Five Thousand Dollars (\$5,000.00) for major subdivisions and Two Hundred Fifty Dollars (\$250.00) for certified surveys. As required at the sole discretion of the Town Board, funds may be drawn from said escrow accounts for payment of engineering, legal and other administrative and review costs under this Chapter incurred by the Town in reviewing the proposed land division. Monies not required for such administrative costs shall be returned to the applicant. If Town costs exceed the initial escrow account amount, the Town reserves the right to require additional escrow account deposits from the land divider.

#### SEC. 10-2-35 REPLAT.

- (a) Except as provided in Section 70.27(1), Wis. Stats., a replat of all or any part of a recorded subdivision, if it alters areas dedicated to the public, may not be made or recorded except after proper court action in Dane County has been taken to vacate the original plat or specific part thereof as provided in Sections 236.40 through 236.44, Wis. Stats. After the original plat or specific part thereof has been vacated, the applicant or land divider wishing to replat shall then proceed, using the procedures for Preliminary and Final Plats contained in this Chapter.  
If a replat of all or any part of a recorded subdivision does not alter areas dedicated to the public, the applicant or land divider wishing to replat shall proceed, using the procedures for Preliminary and Final Plats contained in this Chapter. (AMENDED 1.20.2010)
- (b) The Town Clerk shall schedule a public hearing before the Plan Commission when a Preliminary Plat of a replat of lands within the Town is filed, and shall cause notices of the proposed Replat and public hearing to be mailed to the applicant and to the owners of all properties within the limits of the exterior boundaries of the proposed Replat, to all abutting property owners, and to the owners of all properties within six hundred (600) feet of the exterior boundaries of the proposed Replat.
- (c) Where lots are more than double the minimum size required for the applicable zoning district, the Plan Commission may require that such lots be arranged so as to allow re-subdivision of such parcels into normal lots in accordance With the provisions of the Chapter.

#### SEC. 10-2-36 THROUGH SEC. 10-2-39 RESERVED FOR FUTURE USE.

APPENDIX A

Preliminary Checklist for Environmental Assessment  
of Land Divisions and Community Development Plans

		<u>Yes</u>	<u>No</u>
<b>(a) Land Resources.</b>			
Does the project site involve:			
(1)	Changes in relief and drainage patterns	_____	_____
(2)	A landform or topographical feature of local or regional interest	_____	_____
(3)	An area having importance for wild plants and animals of community interest	_____	_____
(4)	An area of soil instability -- greater than 12% slope or organic soils, peats or mucks at or near the surface	_____	_____
(5)	An area of bedrock within 6 feet of the soil surface	_____	_____
(6)	An area with the groundwater table within 10 feet of the soil surface	_____	_____
(7)	An area with fractured bedrock within 10 feet of the soil surface	_____	_____
(8)	A drainage way for 5 or more acres of land	_____	_____
(9)	More than 50% impermeable surface	_____	_____
(10)	Prime agricultural land	_____	_____
(11)	Wetlands and marshes	_____	_____
(12)	Removal of over 25% of the present trees	_____	_____
<b>(b) Water Resources.</b>			
Does the proposed project involve:			
(1)	Location within an area traversed by a navigable stream or dry run	_____	_____
(2)	Greater than 10% change in the capacity of a water storage facility or flow of a waterway within one mile	_____	_____
(3)	The use of septic tank-soil absorption fields for on-site waste disposal	_____	_____
(4)	Lowering of water table by pumping or drainage	_____	_____
(5)	Raising of water table by altered drainage patterns	_____	_____
(6)	Lake frontage	_____	_____
<b>(c) Biological Resources.</b>			
Does the site involve:			
(1)	Critical habitat for plants and animals of community interest	_____	_____
(2)	Endangered, unusual or rare species of:	_____	_____
	a. Land animals	_____	_____
	b. Birds	_____	_____
	c. Plants	_____	_____
<b>(d) Human and Scientific Interest.</b>			
Does the project site involve:			
(1)	An area of archaeological interest	_____	_____
(2)	An area of geological interest	_____	_____
(3)	An area of hydrological interest	_____	_____

- (4) An area of historical interest
  - a. Historic buildings or monuments \_\_\_\_\_
  - b. Buildings or monuments of unique architecture \_\_\_\_\_
- (5) An area of identified community recreational use \_\_\_\_\_
- (e) **Energy, Transportation and Communications.**
  - (1) Does the development increase the traffic flow in any collector system by more than 10%? \_\_\_\_\_
  - (2) Is the development traversed by an existing or planned utility corridor (gas, electricity, water, sewer interceptor, communications, storm sewer)? \_\_\_\_\_
  - (3) Is safe exit and access provided for? \_\_\_\_\_
- (f) **Population.**
  - (1) Does the development increase by more than 10% the school population of any school serving the development? \_\_\_\_\_
- (g) **Comments.** Comments on any of the above which may have a significant environmental impact: \_\_\_\_\_
  
- (h) **Appendices and Supporting Material.**

## ARTICLE E

## Technical Requirements for Plats and Certified Surveys

## SEC. 10-2-40 TECHNICAL REQUIREMENTS FOR PRELIMINARY PLATS.

- (a) **General.** A Preliminary Plat shall be required for all major subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on mylar or paper of good quality at a scale of not more than one hundred (100) feet to the inch for plats involving forty (40) acres or less and a scale of not more than two hundred (200) feet to the inch for plats over forty (40) acres, and shall show correctly on its face the following information:
- (1) Title under which the proposed subdivision is to be recorded.
  - (2) Location of the proposed subdivision by government lot, quarter section, township, range, county and state.
  - (3) Date, Scale and North Point.
  - (4) Names and Addresses of the owner, land divider and land surveyor preparing the plat.
  - (5) Entire Area contiguous to the proposed plat owned or controlled by the land divider shall be included on the Preliminary Plat even though only a portion of said area is proposed for immediate development. The Town Board, upon the Plan Commission's recommendation, may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Chapter and undue hardship would result from strict application thereof.
- (b) **Plat Data.** All Preliminary Plats shall show the following:
- (1) Exact Length and Bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
  - (2) Locations of all Existing Property Boundary Lines, structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.
  - (3) Location, Right-of-Way Width and Names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
  - (4) Location and Names of any Adjacent Subdivisions, parks and cemeteries and owners of record of abutting unplatted lands.
  - (5) Type, Width and Elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations.
  - (6) Location, Size and Invert Elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catchbasins, hydrants, electric and communication facilities, whether overhead or underground and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.
  - (7) Corporate Limit Lines within the exterior boundaries of the plat or immediately adjacent thereto.

- (8) Existing Zoning on and adjacent to the proposed subdivision.
- (9) Contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum at vertical intervals of not more than two (2) feet. At least two (2) permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the bench marks clearly and completely described. Where, in the judgment of the Town Engineer, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.
- (10) High-Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom.
- (11) Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom at the date of the survey.
- (12) Floodland and Shoreland Boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, two (2) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within one hundred (100) feet therefrom.
- (13) Soil Types and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.
- (14) Location and Results of Soil Boring Tests within the exterior boundaries of the plat conducted in accordance with Sec. H 85.06 of the Wisconsin Administrative Code and delineation of areas with three (3) foot and six (6) foot groundwater and bedrock levels where the subdivision will not be served by public sanitary sewer service.
- (15) Location and Results of Percolation Tests within the exterior boundaries of the plat conducted in accordance with Sec. H 85.06 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service.
- (16) Location, Width and Names of all proposed streets and public rights-of-way such as alleys and easements.
- (17) Approximate Dimensions of All Lots together with proposed lot and block numbers. The area in square feet of each lot shall be provided.
- (18) Location and Approximate Dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting.
- (19) Approximate Radii of all Curves.
- (20) Any Proposed Lake and Stream Access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.
- (21) Any Proposed Lake and Stream improvement or relocation, and notice of application for approval by the Division of Environmental Protection, Department of Natural Resources, when applicable.
- (22) Where the Plan Commission, Town Board or Town Engineer finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the Preliminary Plat, it shall have the authority to request in writing such information from the land divider.



- (c) **Additional Information.** The Plan Commission and/or Town Board may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not planned at the time.

#### SEC. 10-2-41 TECHNICAL REQUIREMENTS FOR FINAL PLATS.

- (a) **General.** A Final Plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Section 236.20, Wis. Stats., and this Chapter.
- (b) **Additional Information.** The Final Plat shall show correctly on its face, in addition to the information required by Section 236.20, Wis. Stats., the following:
- (1) Exact Length and Bearing of the center line of all streets.
  - (2) Exact Street Width along the line of any obliquely intersecting street.
  - (3) Exact Location and Description of street lighting and lighting utility 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.
  - (6) Special Restrictions required by the Town Board relating to access control along public ways or to the provision of planting strips.
- (c) **Deed Restrictions.** Restrictive covenants and deed registrations for the proposed subdivision shall be filed with the Final Plat.
- (d) **Property Owners Association.** The legal instruments creating a property owners association for the ownership and/or maintenance of common lands in the subdivision shall be filed with the Final Plat.
- (e) **Survey Accuracy.**
- (1) Examination. The Town Board shall examine all Final Plats within the Town of Burke and may check for the accuracy and closure of the survey, the proper kind and location of monuments, and legibility and completeness of the drawing.
  - (2) Maximum Error of Closure. Maximum error of closure before adjustment of the survey of the exterior boundaries of the subdivision shall not exceed, in horizontal distance or position, the ratio of one part in ten thousand (1:10,000), nor in azimuth, four (4) seconds of arc per interior angle. If field measurements exceed this maximum, new field measurements shall be made until a satisfactory closure of the field measurements has been obtained; the survey of the exterior boundary shall be adjusted to form a closed geometric figure.
  - (3) Street, Block and Lot Dimensions. All street, block and lot dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary survey. If checks disclose an error for any interior line of the plat greater than the ratio of one part in five thousand (1:5,000), or an error in measured angle greater than one (1) minute of arc for any angle where the shorter side forming the angle is three hundred (300) feet or longer, necessary corrections shall be made. Where the shorter side of a measured angle is less than three hundred (300) feet in length, the error shall not exceed the value of one (1) minute multiplied by the quotient of three hundred (300) divided by the length of the shorter side; however, such error shall not in any case exceed five (5) minutes of arc.

- (4) **Plat Location.** Where the plat is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the Town, the tie required by Section 236.20(3)(b), Wis. Stats., shall be expressed in terms of grid bearing and distance; and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error of closure herein specified for the survey of the exterior boundaries of the subdivision.
- (f) **Surveying and Monumenting.** All Final Plats shall meet all the surveying and monumenting requirements of Section 236.15, Wis. Stats.
- (g) **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 one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the Town's control survey.
- (h) **Certificates.** All Final Plats shall provide all the certificates required by Section 236.21, Wis. Stats.; and in addition, the surveyor shall certify that he has fully complied with all the provisions of this Chapter.

#### SEC. 10-2-42 TECHNICAL REQUIREMENTS FOR CERTIFIED SURVEY LAND DIVISIONS; REVIEW AND APPROVAL.

- (a) **Certified Survey Requirements.** When it is proposed to create a minor subdivision, the land divider shall subdivide by use of a certified survey map, prepared in accordance with Section 236.34, Wis. Stats., and this Chapter.
- (b) **Submission and Review.**
- (1) The land divider is encouraged to first consult with the Plan Commission regarding the requirements for certified surveys before submission of the final map. Following consultation, twenty (20) copies of the final map in the form of a certified survey map shall be submitted to the Town. The certified survey shall be reviewed, approved or disapproved by the Plan Commission and Town Board pursuant to the procedures in this Section. Town review and action shall be completed within thirty (30) days of proper filing with the Town Clerk.
  - (2) The Town Clerk shall give notice of the Plan Commission's review of the certified survey by listing it as an agenda item in the Commission's posted meeting notice. The notice shall include the name of the applicant, the address of the property in question and the requested action.
  - (3) The Town Clerk shall schedule review of the certified survey before the Town Board at its upcoming meeting. The Town Clerk shall give notice of the Town Board's review and public hearing on the certified survey by listing it as an agenda item in the Board's posted meeting notice. The applicant shall also be notified. The notice shall include the name of the applicant, the address of the property in question and the requested action. Abutting property owners and property owners within six hundred (600) feet of the applicant's total parcel shall receive written notice of the public hearing.

- (c) **Additional Map Information.** The Certified Survey Map shall show correctly on its face, in addition to the information required by Section 236.34, Wis. Stats., the following:
- (1) All Existing Buildings, watercourses, drainage ditches and other features pertinent to proper division.
  - (2) Setbacks or Building Lines required by the Town ordinances and the Dane County Zoning Code.
  - (3) All Lands Reserved for future public acquisition.
  - (4) Date of the Map.
  - (5) Graphic Scale.
  - (6) Name and Address of the owner, land divider and surveyor.
  - (7) Square Footage of each parcel.
  - (8) Present Zoning for the parcels.
- (d) **Supplementary Data.**
- (1) Property Owners Association; Restrictive Covenants. Three (3) copies of a draft of the legal instruments and rules for proposed property owners associations, when the land divider proposes that common property within a certified survey land division would be either owned or maintained by such an organization of property owners or a subunit of the Town pursuant to Sec. 236.293, Wis. Stats., and proposed deed restrictions or restrictive covenants, shall be submitted at the time of filing the certified survey with the Town Clerk. (Note: Deed restrictions and restrictive covenants in subdivisions are private contractual agreements and are not enforceable by the Town.)
  - (2) Supplementary Data. The following shall also be filed with the certified survey:
    - a. Use Statement. A statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population; and
    - b. Zoning Changes. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and
    - c. Area Plan. Where the land divider owns property adjacent to that which is being proposed for the land division, the Plan Commission and/or Town Board may require that the land divider submit a concept plan of the remainder of the property so as to show the possible relationships between the proposed land division and future land divisions. In any event, all land divisions must be shown to relate well with existing or potential adjacent land divisions; and
    - d. Record. A record of any adjacent land divisions made within the last five (5) years.
  - (3) Street Plans and Profiles. When made necessary by the certified survey land division, the land divider shall provide street plans and profiles showing existing ground surface, and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed land division when requested.
  - (4) Soil Testing. Pursuant to the public policy concerns prescribed in Section 10-2-21, the Town Board may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table.

(e) **Environmental Assessment Checklist.**

- (1) **Submission.** The Environmental Assessment Checklist, found in "Appendix A," shall be given to the applicant for a certified survey, preferably before the pre-application conference, to be completed for submission with the certified survey.
- (2) **Purpose.** The purpose of this Environmental Assessment Checklist is to provide the basis for an orderly, systematic review of the effects of a new land division upon the community environment in accordance with the principles and procedures of Sec. 236.45(1), Wis. Stats. The goals of the community are to eliminate pollution and siltation or reduce them to acceptable standards, assure ample living space per capita, preserve open space and parks for recreation, and provide adequately for storm water control, maintain scenic beauty and aesthetic surroundings, administer to the economic and cultural needs of the citizens, and provide for the effective and efficient flow of goods and services.
- (3) **Determination of Need for Expanded Environmental Assessment.** The Environmental Assessment Checklist shall be reviewed by the Plan Commission following submittal. The Plan Commission may, for reasons stated in a written determination, decide that the preliminary environmental assessment raises unusually significant questions on the effects on the environment and that review by other Town Committee(s) and commission(s) is required and/or that an unusually high level of citizen interest has resulted from questions raised in a preliminary assessment. Such a decision shall be followed by adoption by the Plan Commission of a resolution setting forth the specific questions on which it requires research, data and input from affected persons. The listing of questions can include items which this Chapter already enables the Plan Commission to obtain, or it may include additional information which is relevant to the questions specified in the resolution. The resolution may also request data on the specific impact questions from other governmental agencies or from the developer or applicant. The resolution shall set a reasonable date for the return of the requested data and information and it may specify the format in which the data is to be presented.
- (4) **Review of Environmental Assessment Report.** Following the return to the Plan Commission of the data called for in the resolution adopted under Subsection (e)(4) above, the Plan Commission shall make such report available for scrutiny by the land divider or petitioner, by Town department(s), commission(s), and committee(s) and by other interested persons or agencies, including all contiguous landowners, who shall be given the opportunity to comment. The Plan Commission shall review the findings of the report at its meetings reviewing the proposed certified survey. Persons attending such meeting shall be afforded an opportunity to comment on the report.
- (5) **Review.** The Plan Commission shall review, as part of its analysis of the certified survey, the Environmental Assessment Report, with supporting data, department, and committee reviews and any other data required for determining the suitability of the land for the proposed development.

- (f) **Drafting Standards.** The land divider shall submit to the Town Clerk copies of a certified survey which shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), easements which the land divider proposes to make and shall indicate by accompanying letter when the improvements will be provided.

- (g) **State Plane Coordinate System.** Where the map is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the Town, the map shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinate of the monument marking the relocated section or quarter corner to which the map is tied shall be indicated on the map. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the Town's control survey.
- (h) **Certificates.** The surveyor shall certify on the face of the certified survey map that he has fully complied with all the provisions of this Chapter. The Town Board, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map.
- (i) **Street Dedication.** Dedication of streets and other public areas shall require, in addition, the owner's certificate and the mortgagee's certificate in substantially the same form as required by Section 236.21(2)(a) of the Wisconsin Statutes.
- (j) **Recordation.** The land divider shall record the map with the Dane County Register of Deeds within thirty (30) days of its approval by the Town Board and any other approving agencies. Failure to do so shall necessitate a new review and reapproval of the map by the Town Board.
- (k) **Requirements.** To the extent reasonably practicable, the land divider with a certified survey shall comply with the provisions of this Chapter relating to general requirements and design standards, and required improvements prescribed in Articles F, G and H. Conveyance by metes and bounds shall be prohibited where the lot(s) involved is less than fifteen (15) acres.

**SEC. 10-2-43 THROUGH SEC. 10-2-49 RESERVED FOR FUTURE USE.**

**ARTICLE F**

**Required Improvements**

**SEC. 10-2-50 IMPROVEMENTS REQUIRED.**

- (a) **Payment for Improvements.** The improvements prescribed in this Chapter are required as a condition of approval of a land division. The required improvements described in this Chapter shall be installed, furnished and financed at the sole expense of the land divider. However, in the case of required improvements in a commercial or industrial area, the cost of such improvements may, at the sole discretion of the Town Board, be financed through special assessments.
- (b) **General Standards.** The following required improvements in this Chapter shall be installed in accordance with the engineering standards and specifications which have been adopted by the Town Board. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices, approved prior to the start of construction by the Town Engineer.

**SEC. 10-2-51 REQUIRED AGREEMENT PROVIDING FOR PROPER  
INSTALLATION OF IMPROVEMENTS.**

- (a) **Contract.** Prior to installation of any required improvements and prior to the meeting at which the Final Plat is approved, the land divider shall enter into a written contract with the Town requiring the land divider to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for inspection of construction details by the Town Engineer.
- (b) **Financial Guarantees.**
  - (1) The agreement shall require the land divider to make an escrow deposit or in lieu thereof to furnish a performance bond or irrevocable letter of credit, the amount of the deposit and the penal amount of the bond to be equal to one and one quarter (1-1/4) times the Town Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection.
  - (2) On request of the land divider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the land division, and in such event the amount of the deposit, letter of credit or bond shall be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. If the required improvements are not complete within the specified period, all amounts held under performance bond, deposit or letter of credit, shall be turned over and delivered to the Town and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or land divider. The Town Board, at its option, may require extension of the bond, deposit or letter of credit, period for additional periods not to exceed two (2) years each period.
  - (3) The time for completion of the work and the several parts thereof shall be determined by the Town Board upon recommendation of the Town Engineer after consultation with the land divider. The completion date shall be a component of the contract.

- (4) The land divider shall pay the Town for all costs incurred by the Town for review and inspection of the subdivision. This would include review, and preparation at the Town Board's discretion, of plans and specifications by the Town Engineer, Planner, and Attorney, as well as other costs of a similar nature.

**SEC. 10-2-52 REQUIRED CONSTRUCTION PLANS; TOWN REVIEW;  
INSPECTIONS.**

- (a) **Engineering Reports, Construction Plans and Specifications.** As required by Section 10-2-31, engineering reports, plans and proposed specifications shall be submitted simultaneously with the filing of the Preliminary Plat. At the Final Plat stage, or when necessary for a minor subdivision, construction plans for the required improvements conforming in all respects with the standards of the Town Engineer and the ordinances of the Town shall be prepared at the land divider's expense by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain his seal. Such plans, together with the quantities of construction items, shall be submitted to the Town Engineer for his approval and for his estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Simultaneously with the filing of the Final Plat with the Town Clerk, or as soon thereafter as practicable, copies of the construction plans and specifications, where applicable, shall be furnished for the following public improvements, with a copy sent to the appropriate sanitary district:
  - (1) Street Plans and Profiles showing existing and proposed grades, elevations and cross sections of required improvements.
  - (2) Sanitary Sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
  - (3) Storm Sewer and Open Channel plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
  - (4) Water Main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
  - (5) Erosion and Sedimentation Control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation. Such plans shall comply with the Town's Erosion Control Ordinance (Building Code).
  - (6) Planting Plans showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.
  - (7) Additional special plans or information as required by Town officials.
- (b) **Action by the Town Engineer.** The Town Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Chapter and other pertinent Town ordinances and design standards recommended by the Town Engineer and approved by the Town Board. If the Town Engineer rejects the plans and specifications, he shall notify the owner, who shall modify the plans or specifications or both accordingly. When the plans and specifications are corrected, the Town Engineer shall approve the plans and specifications for transmittal to the Town Board. The Town Board shall approve the plans and specifications before the improvements are installed and construction commenced.
- (c) **Construction and Inspection.**
  - (1) Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the Town Engineer upon receipt of all necessary permits and in accordance with the

- construction methods of this Chapter. Building permits shall not be issued until all improvements required by this Chapter are satisfactorily completed.
- (2) Construction of all improvements required by this Chapter shall be completed within two (2) years from the date of approval of the Preliminary Plat by the Town Board, unless good cause can be shown for the Town Board to grant an extension.
  - (3) During the course of construction, the Town Engineer shall make such inspections as the Town Board deems necessary to insure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the Town for such inspections. This fee shall be the actual cost to the Town of inspectors, engineers and other parties necessary to insure satisfactory work.
- (d) **Record Plans.** After completion of all public improvements and prior to final acceptance of said improvements, the land divider shall make or cause to be made two (2) copies and one (1) reproducible mylar of record plans showing the actual location of all valves, manholes, stubs, sewers and water mains and such other facilities as the Town Engineer shall require. These plans shall be prepared on the original mylars of the construction plans and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the record plans shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion. Two (2) copies shall be retained by the Town and one (1) copy of such record plans shall be forwarded to the appropriate sanitary district.

#### SEC. 10-2-53 STREET IMPROVEMENTS.

The land divider shall construct streets, roads and alleys as outlined on the approved plans based on the requirements of this Chapter:

- (a) **Street Construction Standards.** The design and construction of all roads, streets and alleys in the Town shall fully comply with the requirements and specifications of Sections 4-2-12 and 4-2-13. After applicable sanitary sewer, storm sewer, water and other necessary utilities have been installed, where required by the Town, the land divider shall construct and dedicate, as part of the subdivision, streets.
- (b) **Completion of Street and Sidewalk Construction.**
  - (1) Prior to any building permits being issued on lands adjacent to streets, required street construction in conformance with the Town-Developer agreement shall be completed by the land divider, approved by the Town Engineer and accepted by the Town Board.
  - (2) The Town Board may issue a waiver of these requirements in unusual or special circumstances such as excessively severe weather conditions, heavy construction temporarily in area or construction material shortages (i.e., cement, asphalt). The issuance of a waiver shall be at the discretion of the Town Board.
  - (3) The land divider requesting a waiver shall do so in writing, presenting such information and documentation as required by the Town Board. The waiver shall be in written form and shall detail which improvement requirements are temporarily waived and for what period of time.



**SEC. 10-2-54 CURB AND GUTTER.**

After the installation of all required utility and storm water drainage improvements, the land divider, when required by the Town Board where determined to be necessary by the Town Engineer, shall construct concrete curbs and gutters in accordance with plans and standard specifications approved by the Town Board or its designee. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts.

**SEC. 10-2-55 SIDEWALKS; WALKWAYS; BIKEWAYS.**

Sidewalks may be required by the Town Board in high traffic areas and areas in the vicinity of schools, commercial areas and other places of public assemblage. The Town Board may require the construction of sidewalks if such walks are necessary, in their opinion, for safe and adequate pedestrian circulation. In the design of a major subdivision, the land divider shall make provisions for walkways and bikeways for transport and recreation, as required by the Town Board. Where it is deemed necessary by the Plan Commission, walks and paths away from streets in common areas should be lighted for safety and to permit visual surveillance.

**SEC. 10-2-56 SANITARY SEWERAGE SYSTEM.**

- (a) Land divisions in a designated Urban Service Area shall be served by public sewer facilities. The size, type, and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and specifications approved by the appropriate sanitary district.
- (b) Land divisions created by certified survey outside the Urban Service Area may be served by private sewage disposal systems, if public sewer facilities are not available. Private sewage disposal systems shall comply with the Wisconsin Administrative Code Section H 82.20 and with the Dane County Sanitation Ordinance. Service laterals shall be provided to all lots served by public sewer.
- (c) The land divider shall pay all the costs of all public sanitary sewer work including the bringing of the sanitary sewer from where it exists to the subdivision in question as well as providing all sanitary sewer work within the subdivision. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and standard specifications approved by the appropriate sanitary district serving the area.

**SEC. 10-2-57 STORM WATER DRAINAGE FACILITIES.**

- (a) Pursuant to Section 10-2-74, the land divider shall provide storm water drainage facilities which may include curb and gutter, catch basins and inlets, storm sewers, road ditches and open channels, as may be required. Storm sewers are to be of adequate size and grade to hydraulically accommodate the ten (10) year storm; culverts shall be designed to accommodate the ten (10) year storm and shall be sized so that the twenty-five (25) year frequency storms do not cause flooding of adjacent arterial or collector roadways. Upon the approval of the Town Engineer, storm water swales and ditches may be sized for the twenty-five

(25) year storm, with one hundred (100) year storm safe passage. Storm drainage facilities shall be so designed as to minimize hazards to life or property, and the size, type and installation of all storm water drains and sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the Town Board, upon the recommendation of the Town Engineer. Storm sewers oversized to handle runoff from offsite properties will be installed by the land divider; however, the cost of oversizing above a twenty-four (24) inch diameter storm sewer shall be paid by other users connecting to the system.

**SEC. 10-2-58 OTHER UTILITIES.**

- (a) The land divider of a major subdivision shall cause gas, electrical power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision.
- (b) All new electrical distribution television cables and telephone lines from which lots are individually served shall be underground unless the Town Board specifically allows overhead poles for the following reasons:
  - (1) Topography, soil, water table, solid rock, boulders, or other physical conditions would make underground installation unreasonable or impractical;  
or
  - (2) The lots to be served by said facilities can be served directly from existing overhead facilities.
- (c) Plans indicating the proposed location of all gas, electrical power and telephone distribution and transmission lines required to service the plat shall be approved by the Town Board and such map shall be filed with the Town Clerk.

**SEC. 10-2-59 STREET SIGNS AND LIGHTING.**

- (a) The land divider shall install at the intersections of all streets proposed to be dedicated a street name sign of a design and installation specified by the Town Engineer.
- (b) The land divider shall install street lights at the direction of the Town Board.

**SEC. 10-2-60 EROSION CONTROL.**

Pursuant to the Town's Construction Site Erosion Control Ordinance (Building Code), the land divider shall cause all gradings, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded or otherwise protected so that erosion, siltation, sedimentation and washing are prevented. The land divider shall submit an erosion control plan that specifies measures that will be taken to assure the minimization of erosion problems.

**SEC. 10-2-61 PARTITION FENCES.**

When the land included in a subdivision plat or certified map abuts upon or is adjacent to land used for farming or grazing purposes, the land divider shall erect, keep, and maintain partition fences, satisfying the requirements of the Wisconsin Statutes for a legal and sufficient fence, between such land and the adjacent land. A

covenant binding the developer, its grantees, heirs, successors, and assigns to erect and maintain such fences, without cost to the adjoining property owners, so long as the land is used for farming or grazing purposes, shall be included upon the face of the Final Plat or certified survey map.

#### SEC. 10-2-62 EASEMENTS.

- (a) **Utility Easements.** The Town Board, on the recommendation of appropriate agencies serving the Town, shall require utility easements for poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines. It is the intent of this Chapter to protect all established easements so as to assure proper grade, assure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prevent the planting of trees in the easement area.
- (b) **Drainage Easements.** Where a subdivision is traversed by a watercourse, drainage way, channel or stream:
  - (1) There shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or
  - (2) The watercourse, drainage way, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a storm water easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this Section.
  - (3) Wherever possible, it is desirable that drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such water course shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than thirty (30) feet. If, in the opinion of the Town Engineer, the easement will be for a major drainage swale, the easement shall be of sufficient width to contain a one hundred (100) year frequency storm. If the drainage easement is located in an established floodway or flood fringe district, the entire floodplain area shall be included within the drainage easement.
- (c) **Easement Locations.** Telephone, electric and cable television easements shall be at least twelve (12) feet wide and sewer easements shall be at least twenty (20) feet wide. Combined use easements shall be at least thirty (30) feet wide. Easements may be wider where recommended by the Town Engineer, and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Plan Commission and Town Board that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

#### SEC. 10-2-63 BUFFER STRIPS.

Where a plat or land division contains a buffer strip required by this Chapter or other applicable regulation, the land divider shall, prior to recording of a Final Plat or certified survey or prior to the issuance of a certificate of occupancy for a development project, install plantings in conformance with the Town standards or shall

file with the Town Clerk a contract, guaranteed by bond in an amount determined by the Town Board or its designee, in which the land divider agrees to provide such plantings. The plantings are to be trees and shrubs of the varieties required by the Town standard and shall average one (1) tree per thirty-five (35) linear feet of rear lot line.

#### **SEC. 10-2-64 GREENWAYS.**

Greenways included within land divisions shall receive the following prescribed treatment:

- (a) The land divider shall be responsible for an acceptable continuous drainageway through the proposed land division as determined by the Town Board. The land divider shall furnish the Town with a plan outlining the greenway boundaries and the location of existing drainageways. In addition, the land divider shall furnish to the Town Board or its designee a set of cross sections, on fifty (50) foot stations, of the greenway, based on Town datum oriented upon a base line as prescribed by the Town Board or its designee. Where a natural drainageway exists which has acceptable hydraulic capacities, including alignment and grade, as determined by the Town Board or its designee, construction will not be required and the existing natural growth shall be preserved. Where such natural growth is destroyed or damaged by action of the land divider or his agents, he shall be responsible for repairing the disturbed areas by sodding. When it is determined by the Town Board or its designee that the hydraulic capacities, including alignment and grade, are not acceptable, then such alignment, grade and slopes shall be improved by the land divider to the cross section specified by the Town Board or its designee.
- (b) The land divider shall install permanent pipes or culverts at a grade designated by the Town Board or its designee under all streets crossing a greenway or drainageway. Said installation shall be in accordance with the State of Wisconsin Specifications for Road and Bridge Construction. Culverts required across intersections for temporary street drainage shall be furnished and installed by the land divider. All temporary culverts installed by the land divider shall be completely removed when the streets are constructed to Town standards, and the area restored to as nearly original condition as possible, as determined by the Town Board or its designee.
- (c) In order to assure proper drainage, the ground elevation along any lot line common with the boundary of a greenway shall be to an elevation established by the Town Board or its designee. All lot grading and building elevations shall provide for positive drainage. Grading or filling within the greenway limits is prohibited except as authorized by the Town Board or its designee.
- (d) Greenways shall be limited to public uses.

#### **SEC. 10-2-65 THROUGH SEC. 10-2-69 RESERVED FOR FUTURE USE.**

**ARTICLE G****Design Standards****SEC. 10-2-70 GENERAL STREET DESIGN STANDARDS.**

Street design standards to be followed shall be those prescribed in Sections 4-2-12 and 4-2-13.

**SEC. 10-2-71 PEDESTRIAN PATHWAYS.**

Pedestrian pathways, not less than twelve (12) feet wide, may be required by the Town Board, upon the recommendation of the Plan Commission, through the center of a block more than nine hundred (900) feet long, where deemed essential to provide circulation or access to schools, playgrounds, public recreation areas, shopping centers, transportation and other community facilities.

**SEC. 10-2-72 LOT DESIGN STANDARDS.****(a) Size.**

- (1) Size, shape and orientation of lots shall be appropriate for the location of topography of the land division, the type of sewerage or septic system to be utilized, and for the type of development contemplated, provided that no lot shall be smaller in area than the minimum lot size for the appropriate zone as established by the Dane County Zoning Code or this Chapter, whichever is more restrictive. Lot sizes shall conform to the requirements of the Dane County Zoning Code, except that minimum lot sizes shall be twelve thousand (12,000) square feet, with an additional two thousand (2,000) square feet required for each additional dwelling unit, for sewered parcels and sixty-five thousand (65,000) square feet for unsewered parcels.
- (2) Residential lots within each block shall have a minimum average depth of one hundred (100) feet. Excessive depth in relation to width shall be avoided and a proportion of two to one (2:1) shall be considered a desirable ratio under normal conditions.
- (3) Every lot shall front or abut for a distance of at least sixty-six (66) feet on a public street, and thirty (30) feet for a cul-de-sac.
- (4) Width of lots shall conform to the requirements of the Dane County Zoning Code, but in no case shall a lot be less than ninety (90) feet in width at the building setback line. Each lot shall be located only within one (1) zoning district.

**(b) Commercial Lots.** Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as required by the Dane County Zoning Code.**(c) Lots Where Abutting Major Highway.**

- (1) Major Streets. Residential lots fronting on major streets and highways shall be platted with extra depth or design or alleviate the effect of major street traffic on residential occupancy.

- (2) Treatment of Railroad Rights-of-Way and Limited Access Highways. Whenever the proposed land division contains or is adjacent to a railroad right-of-way or limited access highway, the land divider shall proceed as follows:
- a. In residential districts, a buffer strip at least thirty (30) feet in depth, in addition to the normal lot depth required, shall be provided adjacent to the right-of-way or limited access highway. This strip shall be a part of the lots, but the following restriction shall be written on the plat: "This strip reserved for the planting of trees or shrubs by the owner. The building of structures hereon is prohibited and this strip shall not be counted as any required yard. Maintenance of this strip is a responsibility of the lot owner."
  - b. The Plan Commission may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land.
  - c. Location of local streets immediately adjacent and parallel to railroad rights-of-way shall be avoided.
- (d) **Corner Lots.** Corner lots for residential use shall have extra width of ten (10) feet to permit building setback from both streets, as required by the Dane County Zoning Code.
  - (e) **Side Lots.** Side lot lines shall be substantially at right angles to or radial to abutting street lines. Lot lines shall follow Town boundary lines.
  - (f) **Double and Reversed Frontage Lots.** Double frontage and reversed frontage lots shall be avoided for residential lots, except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
  - (g) **Natural Features.** In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
  - (h) **Land Remnants.** All remnants of lots below minimum lot and/or dimension size left over after land division of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels.

#### SEC. 10-2-73 DRAINAGE SYSTEM.

- (a) **Drainage System Required.** As required by Section 10-2-57 and Title 10, Chapter 4 of this Code of Ordinances, and/or where recommended by the Town Engineer, a drainage system shall be designed and constructed by the land divider to provide for the proper drainage of the surface water of the major subdivision and the drainage area of which it is a part. A Final Plat shall not be approved until the land divider shall submit plans, profiles and specifications as specified in this Section, which have been prepared by a registered professional engineer and approved by the Town Board, upon the recommendations of the Plan Commission and Town Engineer.
- (b) **Drainage System Plans.**
  - (1) The land divider shall submit to the Town at the time of filing a Preliminary Plat a preliminary drainage plan or engineering report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the land division to handle the additional runoff which would be generated by the development of the land within the land division. Additional information

shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed land division. The report shall also include:

- a. Estimates of the quantity of storm water entering the land division naturally from areas outside the subdivision.
  - b. Quantities of flow at each inlet or culvert.
  - c. Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.
- (2) A grading plan for the streets, blocks and lots shall be submitted by the land divider for the area within the land division.
  - (3) The design criteria for storm drainage systems shall be based upon information provided by the Town Engineer.
  - (4) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, sod, etc.) shall be in compliance with specifications provided by the Town Board, upon the recommendation of the Town Engineer.
- (c) **Grading.** The land divider shall grade each subdivision in order to establish street, block and lot grades in proper relation to each other and to topography. The land divider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans.
- (d) **Drainage System Requirements.** The land divider shall install all the storm drainage facilities indicated on the plans required in Subsection (a) of this Section.
- (1) **Street Drainage.** All streets shall be provided with an adequate storm drainage system. The street storm system shall serve as the primary drainage system and shall be designed to carry street, adjacent land and building storm water drainage. No storm water shall be permitted to be run into a sanitary sewer system within the proposed subdivision.
  - (2) **Off-Street Drainage.** The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the land divider shall make provisions for dedicating an easement of the Town to provide for the future maintenance of said system. Easements shall be a minimum of twenty (20) feet, but the Town may require larger easements if more area is needed due to topography, size of watercourse, etc.
- (e) **Protection of Drainage Systems.** The land divider shall adequately protect all ditches to the satisfaction of the Town Board and Town Engineer. Ditches and open channels shall be seeded, sodded or paved depending upon grades and soil types.

## SEC. 10-2-74 NON-RESIDENTIAL LAND DIVISIONS.

- (a) **General.**
- (1) If a proposed land division includes land that is zoned for commercial or industrial purposes, the layout of the land division with respect to such land shall make such provisions as the Town may require.
  - (2) A non-residential land division shall also be subject to all the requirements of site plan approval set forth in the Town Building Code. A non-residential land division shall be subject to all the requirements of this Chapter, as well as such additional standards required by the Town and shall conform to the proposed land use standards established by any Town Comprehensive Plan or the Dane County Zoning Code.

- (b) **Standards.** In addition to the principles and standards in this Chapter, which are appropriate to the planning of all land divisions, the applicant shall demonstrate to the satisfaction of the Town Board that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
- (1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
  - (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
  - (3) Special requirements may be imposed by the Town Board with respect to street, curb, gutter and sidewalk design and construction.
  - (4) Special requirements may be imposed by the Town Board with respect to the installation of public utilities, including water, sewer and storm water drainage.
  - (5) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial land division, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strips when necessary.
  - (6) Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

**SEC. 10-2-75 THROUGH SEC. 10-2-79 RESERVED FOR FUTURE USE.**



## ARTICLE H

## Park and Public Land Dedications

## SEC. 10-2-80 GENERAL PARK AND PUBLIC LAND DEDICATION REQUIREMENTS.

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

## SEC. 10-2-81 PARKLAND DEDICATION.

- (a) **Dedication Calculation.** When land within the Town of Burke is divided, a parkland dedication of twenty-nine hundred (2,900) square feet of land per dwelling unit (land parcel) will be required for parkland. Whenever a proposed playground, park, or other public area, other than streets or drainageways, designated in the Land Use Plan of the Town of Burke is embraced, all or in part, in the tract of land to be divided, these lands shall be made part of the required land dedication. The Town Board shall have joint authority to determine the suitability and adequacy of park lands proposed for dedication. Drainageways, wetlands or areas reserved for streets shall not be considered as satisfying land dedication requirements.
- (b) **Shoreland.**
  - (1) **Lake and Stream Shore Plats.** All land divisions abutting on a navigable lake or stream shall provide public access at least sixty (60) feet wide providing access to the low watermark so that there will be public access, which is connected to existing public roads, at not more than one-half (1/2) mile intervals as measured along the lake or stream shore except where greater intervals and wider access is agreed upon by the Wisconsin Department of Natural Resources and the Wisconsin Department of Development, and excluding shore areas where public parks or open-space streets or roads on either side of a stream are provided. No public access established under this Chapter may be vacated except by Circuit Court action. This Subsection does not require the Town to improve land provided for public access.
  - (2) **Lake and Stream Shore Plats.** The lands lying between the meander line, established in accordance with Section 236.20(2)(g), Wis. Stats., and the water's edge, and any otherwise unplattable lands which lie between a proposed land division and the water's edge shall be included as part of

lots, outlots or public dedications in any plat abutting a lake or stream. This Subsection applies not only to lands proposed to be divided but also to all lands under option to the land divider or in which the land divider holds any interest and which are contiguous to the lands proposed to be divided and which abut a lake or stream.

- (c) **Unknown Number of Dwelling Units.** Where the land division does not specify the number of dwelling units to be constructed, the land dedication shall be based upon the maximum number of units permitted by the Dane County Zoning Chapter and this Chapter.
- (d) **Deeded to the Town.** Land dedicated for public purposes shall be deeded to the Town at the time the Final Plat is approved.
- (e) **Access to Dedicated Land.** All dedicated land shall have frontage on a public street and shall have unrestricted public access.
- (f) **Utility Extensions.** The land divider shall install or provide for installation of water and sanitary sewer lines to the property line of all dedicated land, where such services are to be provided to the adjacent properties.
- (g) **Fee in Lieu of Land.** In areas where land is not desired by the Town, a fee equal to the fair market value of the equivalent amount of land will be required. The determination of whether land, money, or a combination thereof will be required shall be at the discretion of the Town Board. Fair market value shall be determined by a formula defining average fair market value of Town land. Said formula will be determined by the Town Assessor and provided by May 1st of each year. Such fees may only be used for park development and shall be payable at the time of Final Plat approval. Funds paid to the Town under any Fees in Lieu of Land provision or contributed from other sources for park development, acquisition and improvement are to be placed in a separate account designated for park development and improvement projects. The Town Board shall have the final right to approve or reject such projects. Said account shall be a continuing account and shall not lapse at the end of a budget period.

#### **SEC. 10-2-82 RESERVATION OF ADDITIONAL LAND.**

When public parks and sites for other public areas as shown on the Master Plan or Master Plan component lie within the proposed area for development and are greater in area than required by Section 10-2-81, the owner shall reserve for acquisition by the Town, through agreement, purchase or condemnation, the remaining greater public area for a period of one (1) year of Final Plat approval unless extended by mutual agreement.

#### **SEC. 10-2-83 DEVELOPMENT OF PARK AREA.**

- (a) When parklands are dedicated, the land divider is required to:
  - (1) Properly grade and contour for proper drainage;
  - (2) Provide surface contour suitable for anticipated use of area; and
  - (3) Cover areas to be seeded with a minimum of four (4) inches of quality topsoil, seed as specified by the Town, fertilized with 16-6-6 at a rate of seven (7) pounds per one thousand (1,000) square feet, and mulched. The topsoil furnished for the park site shall consist of the natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life, and such topsoil shall be neither excessively acid nor excessively alkaline.

- (b) The Town Board may require certification of compliance by the Town Engineer. The cost of such report shall be paid by the land divider.
- (c) Development of parklands is to be completed as soon as ten percent (10%) of the planned lots in the subdivision are sold, as determined by the Town Board.
- (d) If the land divider fails to satisfy the requirements of this Section, the Town Board may contract said completion and bill such costs to the land divider, following a public hearing and written notice to the land divider of noncompliance. Failure to pay such costs may result in the immediate withholding of all building permits until such costs are paid.

**SEC. 10-2-84 THROUGH SEC. 10-2-89 RESERVED FOR FUTURE USE.**

**ARTICLE I**

**Variances; Penalties and Violations**

**SEC. 10-2-90 VARIATIONS AND EXCEPTIONS.**

- (a) Where, in the judgment of the Town Board, on the recommendation of the Plan Commission, it would be inappropriate to apply literally the provisions of this Chapter because exceptional or undue hardship would result, the Town Board may waive or modify any requirements to the extent deemed just and proper. Application for any such variance shall be made in writing by the land divider at the time when the Preliminary Plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Plan Commission and Town Board in the analysis of the proposed project.
- (b) The Plan Commission shall not recommend nor shall the Town Board grant variations or exceptions to the regulations of this Chapter unless it shall make findings based upon the evidence presented to it in each specific case that:
  - (1) The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
  - (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property;
  - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, financial hardship or self-imposed hardship, if the strict letter of the regulations were carried out.
- (c) Any recommendations by the Plan Commission shall be transmitted to the Town Board. The Town Board, if it approves of the variance, shall do so by motion or resolution and instruct the Town Clerk to notify the Plan Commission and the land divider.
- (d) Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Chapter or the desirable general development of the Town in accordance with any Town Comprehensive Plan or component thereof, this Chapter, or Zoning Code of Dane County. A majority vote of the entire membership of the Town Board shall be required to grant any modification of this Chapter, and the reasons shall be entered in the minutes of the Board.
- (e) The Town Board may waive the placing of monuments, required under Sec. 236.15(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the land divider execute a surety bond to insure the placing of such monuments within the time required.

**SEC. 10-2-91 ENFORCEMENT, PENALTIES AND REMEDIES.**

- (a) **Violations.** It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Chapter or the Wisconsin Statutes and no person shall be issued a building permit by the Town authorizing the building on, or improvement of, any land division or replat with the jurisdiction of this

Chapter not of record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin Statutes.

(b) **Penalties.**

- (1) Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit no less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) and the costs of prosecution for each violation, and in default of payment of such forfeiture costs shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.
- (2) Recordation improperly made has penalties provided in Sec. 236.30, Wis. Stats.
- (3) Conveyance of lots in unrecorded plats has penalties provided for in Sec. 236.31, Wis. Stats.
- (4) Monuments disturbed or not placed have penalties as provided for in Sec. 236.32, Wis. Stats.
- (5) Assessor's plat made under Sec. 70.27 of the Wisconsin Statutes may be ordered by the Town at the expense of the land divider when a subdivision is created by successive divisions.

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