

# TITLE 14

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## **Land Divisions, Subdivisions and Planning**

**Chapter 1**      Land Division and Subdivision Code

# Title 14 – Chapter 1

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## Land Division and Subdivision Code

### **Article A            Adoption; Introduction**

14-1-1	Introduction and Purpose
14-1-2	Abrogation and Greater Restrictions
14-1-3	Interpretation
14-1-4	Severability
14-1-5	Repeal
14-1-6	Title
14-1-7 through 14-1-9	Reserved for Future Use

### **Article B            Definitions**

14-1-10	Definitions
14-1-11 through 14-1-19	Reserved for Future Use

### **Article C            General Provisions**

14-1-20	General Provisions
14-1-21	Land Suitability
14-1-22	Condominium Developments
14-1-23 through 14-1-29	Reserved for Future Use

### **Article D            Plat Review and Approval**

14-1-30	Preliminary Consultation
14-1-31	Submission of Preliminary Plat
14-1-32	Preliminary Plat Review and Approval
14-1-33	Final Plat Review and Approval
14-1-34	Administrative Fees
14-1-35	Replat
14-1-36 through 14-1-39	Reserved for Future Use

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

- 14-1-40                    Technical Requirements for Preliminary Plats
- 14-1-41                    Technical Requirements for Final Plats
- 14-1-42                    Technical Requirements for Certified Survey Land Divisions;  
Review and Approval
- 14-1-43 through  
14-1-49                    Reserved for Future Use

**Article F                    Required Improvements**

- 14-1-50                    Improvements Required
- 14-1-51                    Required Agreement Providing for Proper Installation for  
Improvements
- 14-1-52                    Required Construction Plans; Town Review; Inspections
- 14-1-53                    Street Improvements
- 14-1-54                    Sidewalks
- 14-1-55                    Sanitary Sewerage Systems
- 14-1-56                    Water Supply Facilities (Urban Service Areas)
- 14-1-57                    Storm Water Drainage Facilities
- 14-1-58                    Other Utilities
- 14-1-59                    Street Signs
- 14-1-60                    Street Trees
- 14-1-61                    Erosion Control
- 14-1-62                    Partition Fences
- 14-1-63                    Easements
- 14-1-64 through  
14-1-69                    Reserved for Future Use

**Article G                    Design Standards**

- 14-1-70                    General Street Design Standards
- 14-1-71                    Specifications for Preparation, Construction and Dedication  
of Streets and Roads
- 14-1-72                    Block Design Standards
- 14-1-73                    Lot Design Standards
- 14-1-74                    Drainage System
- 14-1-75                    Non-Residential Subdivisions
- 14-1-76 through  
14-1-79                    Reserved for Future Use

**Article H                      Park and Public Land Dedication**

- 14-1-80                      General Park and Public Land Dedication Requirements
- 14-1-81                      Land Dedication
- 14-1-82                      Reservation of Additional Land
- 14-1-83                      Development of Park Area
- 14-1-84                      Fees in Lieu of Land
- 14-1-85 through
- 14-1-89                      Reserved for Future Use

**Article I                      Variances; Penalties and Violations**

- 14-1-90                      Variances and Exceptions
- 14-1-91                      Enforcement, Penalties and Remedies

**Sec. 14-1-1 Introduction and Purpose.**

- (a) **Introduction.** In accordance with the authority granted by §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 Oshkosh, Winnebago 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 Oshkosh.
  - (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 Oshkosh.

**State Law Reference:** Chapter 236, Wis. Stats.

**Sec. 14-1-2 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, where this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

**Sec. 14-1-3 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 Oshkosh and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**Sec. 14-1-4 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. 14-1-5 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. 14-1-6 Title.**

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

**Sec. 14-1-7 through Sec. 14-1-9 Reserved for Future Use.**

**Sec. 14-1-10 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) **Block.** An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or water bodies.
  - (4) **Collector Street.** A street which collects and distributes internal traffic within an urban area such as a residential neighborhood, between arterial and local streets. It provides access to abutting property.
  - (5) **Commission.** The Plan Commission created by the Town Board pursuant to §62.23 of the Wisconsin Statutes.
  - (6) **Comprehensive Development Plan.** A comprehensive plan prepared by the Town indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the Town and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.
  - (7) **Cul-de-sac.** A short street having but one (1) end open to traffic and the other end being permanently terminated in a vehicular turnaround.
  - (8) **Division of Land.** Where the title or any part thereof is transferred by the execution of a land contract, an option to purchase, an offer to purchase and acceptance, a deed, or a certified survey.
  - (9) **Easement.** The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.
  - (10) **Extraterritorial Plat Approval Jurisdiction.** The unincorporated area within one and one-half (1-1/2) miles of a fourth-class city or a village and within three (3) miles of all other cities.
  - (11) **Final Plat.** The final map, drawing or chart on which the subdivider's plan of subdivision is presented for approval and which, if approved, will be submitted to the County of Register of Deeds.
  - (12) **Frontage Street.** A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

- (13) **Improvement, Public.** Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.
- (14) **Local Street.** A street of little or not continuity designed to provide access to abutting property and leading into collector streets.
- (15) **Lot.** A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard parking area and other open space provisions of this Chapter and any applicable zoning ordinance.
- (16) **Lot, Area.** The area contained within the exterior boundaries of a lot excluding streets, and land under navigable bodies of water.
- (17) **Lot, Corner.** A lot abutting intersecting streets at their intersection.
- (18) **Lot, Reversed Corner.** A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.
- (19) **Lot, Through.** A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a "through lot," both street lines shall be deemed front lot lines.
- (20) **Lot Lines.** The peripheral boundaries of a lot as defined herein.
- (21) **Lot Width.** The width of a parcel of land measured along the front building line.
- (22) **Major Thoroughfare.** A street used or intended to be used primarily for fast or heavy through traffic. Major thoroughfares shall include freeways, expressways and other highways and parkways, as well as arterial streets.
- (23) **Minor Street.** A street used, or intended to be used, primarily for access to abutting properties; also referred to as a "local street."
- (24) **Minor Subdivision.** The division of land by the owner or subdivider resulting in the creation of not more than four (4) parcels or building sites.
- (25) **Owner.** Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these.
- (26) **Pedestrian Pathway.** A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.
- (27) **Plat.** The map, drawing or chart on which the subdivider's plat of subdivision is presented to the Town for approval.
- (28) **Preliminary Plat.** The Preliminary Plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Plan Commission/Town Board for their consideration as to



compliance with the Comprehensive Development Plan and these regulations along with required supporting data.

- (29) **Protective Covenants.** Contracts entered into between private parties or between private parties and public bodies pursuant to §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.
- (30) **Replat.** The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.
- (31) **Shorelands.** Those lands within the following distances: one thousand (1,000) feet from the high-water elevation of navigable lakes, ponds and flowages or three hundred (300) feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
- (32) **Subdivider.** Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision or replat.
- (33) **Subdivision.** The division of a lot, outlot, parcel, or tract of land by the owner thereof or his agent for the purpose of transfer of ownership or building development where the act of division creates five (5) or more parcels or building sites of one and one-half (1-1/2) acres or less in area, or 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 a successor owner.
- (34) **Town.** The Town of Oshkosh, Winnebago County, Wisconsin.
- (35) **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 Winnebago County Regional Planning Commission.
- (36) **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. (§23.32(1), Wis. Stats.)
- (37) **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 §35.93 and Chapter 227 of the Wisconsin Statutes, including subsequent amendments to those rules.

**Sec. 14-1-11 through Sec. 14-1-19**

**Reserved for Future Use.**

**Sec. 14-1-20 General Provisions.**

- (a) **Compliance.** No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, land division or a replat as defined herein; no such subdivision, land division, or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this Chapter and the following:
- (1) The provisions of Ch. 236 and §80.08, Wis. Stats.
  - (2) The rules of the Division of Health, Wisconsin Department of Commerce, contained in Wis. Adm. Code Chapter H85 for subdivisions 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 Oshkosh Master Plan, or components thereof, and applicable ordinances of any city or village whose extraterritorial jurisdiction extends into the Town.
  - (8) Applicable provisions of the Winnebago 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 Oshkosh. The provisions of this Chapter, as they apply to divisions of tracts of land into less than five (5) parcels, 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 or 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) **Certified Survey.** Any division of land other than a subdivision as defined in §236.02(8), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in §236.34, Wis. Stats.
- (d) **Building Permits.** The Town of Oshkosh shall not issue any building permit relating to any parcel of land forming all or any part of lands included in a subdivision, land division, replat or certified survey originally submitted to the Town of Oshkosh 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 §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 subdivision.

### **Sec. 14-1-21 Land Suitability.**

- (a) **Suitability.** No land shall be subdivided for residential, commercial or industrial use which is held unsuitable for such use by the Town Board, upon the recommendation of 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 proposed subdivision or of the community. The Town Board, 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 subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter the Town Board may affirm, modify, or withdraw its determination of unsuitability.
- (b) **Existing Flora.** The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the subdivider.
- (c) **Additional Considerations.**
  - (1) Areas of archaeological and/or historical interest shall be designated by the State Historical Society.
  - (2) Areas of geological interest shall be designated by the State Geological and Natural History Survey.
  - (3) Suitability of land for private sewerage systems shall be determined in accordance with Chapter COMM 83, Wisconsin Administrative Code.

## **Sec. 14-1-22 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 subdivision 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 14-1-21, relating to land suitability and construction practices;
- (2) Sections 14-1-30 through 14-1-32, relating to preliminary plat approval. This stage of approval shall be the only approval required for a condominium development. The technical requirements for preliminary plats set forth in Section 14-1-40 shall not apply, since condominiums have separate technical standards set forth in Chapter 703, Wis. Stats;
- (3) Section 14-1-34, 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.

**Sec. 14-1-23 through Sec. 14-1-29      Reserved for Future Use.**

**Sec. 14-1-30 Preliminary Consultation.**

Before filing a Preliminary Plat or certified survey, the subdivider 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-Treasurer. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components and duly adopted plan implementation devices of the Town and to otherwise assist the subdivider in planning his development. In so doing, both the subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.

**Sec. 14-1-31 Submission of Preliminary Plat.**

- (a) **Submission.** Before submitting a Final Plat for approval, the subdivider shall prepare a Preliminary Plat and a letter of application. The subdivider shall submit six (6) copies of the Preliminary Plat. The Preliminary Plat shall be prepared in accordance with this Chapter, and the subdivider shall file copies of the Plat and the application as required by this Section with the Town Clerk at least fifteen (15) days prior to the meeting of the Plan Commission at which action is desired. The Town Clerk shall submit a copy of the Preliminary Plat to the Plan Commission for review and written report of his recommendations and reactions to the proposed plat.
- (b) **Public Improvements, Plans and Specifications.** Simultaneously with the filing of the Preliminary Plat of map, the owner shall file with the Town Clerk six (6) 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 subdivision.
- (c) **Property Owners Association; Restrictive Covenants.** A draft of the legal instruments and rules for proposed property owners associations, when the subdivider proposes that common property within a subdivision would be either owned or maintained by such an organization of property owners or a subunit of the Town pursuant to §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 subdivider owns property adjacent to that which is being proposed for the subdivision, the Plan Commission and/or Town Board may require that the subdivider submit a Preliminary Plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.
- (f) **Street Plans and Profiles.** The subdivider shall provide street plans and profiles showing existing ground surface, and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested.
- (g) **Soil Testing.** The subdivider shall provide a preliminary soils report, listing the types of soil in the proposed subdivision, their effect on the subdivision and a proposed soil testing and investigation program. Pursuant to the public policy concerns prescribed in Section 14-1-21, 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) **Referral to Other Agencies.**
  - (1) 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 the public sewer and provision for such service has not

been made, and an adequate number of copies to the Plan Commission. The County Planning Agency, the Wisconsin Department of Development, the Wisconsin Department of Transportation and the Wisconsin Department of Commerce shall be hereinafter referred to as objecting agencies.

(2) Within twenty (2) 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 subdivider 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 plat 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 or utility districts within the Town may file objections with 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 subdivider or the subdivider's 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 subdivider'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 subdivider, 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 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.

(i) **Drafting Standards.** The subdivider 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 Preliminary Plat (or certified survey) 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 subdivider 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. 14-1-32 Preliminary Plat Review and Approval.**

### **(a) Plan Commission Recommendation.**

- (1) After review of the Preliminary Plat or certified survey map and negotiations with the subdivider on changes and the kind and extent of public improvements which will be required, the Plan Commission shall recommend to the Town Board disapproval, approval or conditional approval of the Preliminary Plat or certified survey within forty (40) days of the filing date. [Note: §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 subdivider and Town Board, not the Plan Commission.]
- (2) The Town Clerk shall give notice of the Plan Commission's review of the Preliminary Plat or certified survey by listing it as an agenda item in the Commission's meeting notice published in the official Town newspaper. 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 or certified survey by listing it as an agenda item in the Board's meeting notice published in the official Town newspaper. The notice shall include the name of the applicant, the address of the property in question and the requested action. Property owners within three hundred (300) feet of the proposed land division 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 subdivider. Failure of the Town Board to act within ninety (90) days or extension thereof shall constitute an approval of the Preliminary Plat, unless other authorized agencies object to the plat. The Town Clerk shall

- communicate to the subdivider the action of the Town Board. If the plat or map is approved, the Town Clerk shall endorse it for the Town Board.
- (d) **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.
  - (e) **Preliminary Plat Amendment.** Should the subdivider desire to amend the Preliminary Plat as approved, he may resubmit the amended plat which 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. 14-1-33 Final Plat Review and Approval.**

- (a) **Filing Requirements.**
  - (1) The subdivider shall prepare a Final Plat and a letter of application in accordance with this Chapter and shall file six (6) copies of the Plat and the application with the Town Clerk at least 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 14-1-32(a)(2). The owner or subdivider 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 subdivider and for good cause granted by the Town. The owner or subdivider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the Town Attorney may require showing title or control in the applicant.
  - (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 Commerce 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 Commerce 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 §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, 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 shall be made within thirty (30) days of the filing of the Final Plat. The Town Engineer may be asked to 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 subdivider 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 subdivider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Town Board may not inscribe its approval on the Final Plat unless the Town Clerk certifies on the face of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within twenty (20) days or, if filed, have been met.
- (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 subdivider 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 subdivider shall file six (6) 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 subdivider proposes to record at the time.

#### **Sec. 14-1-34 Administrative Fees.**

- (a) **General.** The subdivider 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 Fee.** The subdivider shall pay a fee equal to the actual cost to the Town for all engineering work incurred by the Town in connection

- with the plat or certified survey map, including inspections required by the Town. The subdivider shall pay a fee equal to the actual cost to the Town for such inspection as the Town Board deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Town or any other governmental authority.
- (c) **Administrative Fee.** The subdivider shall pay a fee equal to the cost of any legal, administrative or fiscal work which may be undertaken by the Town in connection with the plat or certified survey map.
  - (d) **Preliminary Plat Review Fee.**
    - (1) The subdivider shall pay a fee of One Hundred Dollars (\$100.00) plus Twenty Dollars (\$20.00) for each dwelling unit within the Preliminary Plat or certified survey map to the Town Clerk at the time of first application for approval of any Preliminary Plats or certified survey maps to assist in defraying the cost of review.
    - (2) A reapplication fee of Fifty Dollars (\$50.00) shall be paid to the Town Clerk at the time of reapplication for approval of any Preliminary Plat which has previously been reviewed.
  - (e) **Final Plat Review Fee.**
    - (1) The subdivider shall pay a fee of Fifty Dollars (\$50.00) plus Ten Dollars (\$10.00) for each dwelling unit within the Final Plat to the Town Clerk at the time of first application for Final Plat approval of said plat to assist in defraying the cost of review.
    - (2) A reapplication fee of Twenty-five Dollars (\$25.00) shall be paid to the Town Clerk at the time of a reapplication for approval of any Final Plat which has previously been reviewed.

### **Sec. 14-1-35 Replat.**

- (a) Except as provided in Section 70.27(1), Wis. Stats., when it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded Plat as provided in §236.40 and 236.44 of the Wisconsin Statutes. The subdivider or person wishing to replat shall then proceed, using the procedures for Preliminary and Final Plats.
- (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 owners of all properties within the limits of the exterior boundaries of the proposed Replat and to the owners of all properties within three hundred (300) 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 resubdivision of such parcels into normal lots in accordance with the provisions of the Chapter.

**Sec. 14-1-36 through Sec. 14-1-39      Reserved for Future Use.**

Article E: Technical Requirements for  
Plats and Certified Surveys

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**Sec. 14-1-40 Technical Requirements for Preliminary Plats.**

- (a) **General.** A Preliminary Plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on mylar or paper of good quality at a scale of not more than one hundred (100) feet to the inch and shall show correctly on its face the following information:
- (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, subdivider and land surveyor preparing the plat.
  - (5) **Entire Area** contiguous to the proposed plat owned or controlled by the subdivider shall be included on the Preliminary Plat even though only a portion of said area is proposed for immediate development. The Town 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.
  - (6) **Plat Data.** All Preliminary Plat shall show the following:
    - (a) **Exact Length and Bearing** of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
    - (b) **Locations of all Existing Property Boundary Lines,** structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.
    - (c) **Location, Right-of-Way Width and Names** of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
    - (d) **Location and Names of any Adjacent Subdivisions,** parks and cemeteries and owners of record of abutting unplatted lands.
    - (e) **Type, Width and Elevation** of any existing street pavements within the exterior boundaries of the plat or

- immediately adjacent thereto, together with any legally established centerline elevations.
- (f) **Location, Size and Invert Elevation** of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catch basins, 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 not sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.
  - (g) **Corporate Limit Lines** within the exterior boundaries of the plat or immediately adjacent thereto.
  - (h) **Existing Zoning** on and adjacent to the proposed subdivision.
  - (i) **Contours** within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum at vertical intervals of not more than two (2) feet. At least two (2) permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the bench marks clearly and completely described. Where, in the judgment of the Town Engineer, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.
  - (j) **High-Water Elevation** of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom at the date of the survey.
  - (k) **Water Elevation** of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom at the date of the survey.
  - (l) **Floodland and Shoreland Boundaries** and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, two (2) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within one hundred (100) feet therefrom.



- (m) **Soil Types** and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.
  - (n) **Location and Results of Soil Boring Tests** within the exterior boundaries of the plat conducted in accordance with 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.
  - (o) **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.
  - (p) **Location, Width and Names** of all proposed streets and public rights-of-way such as alleys and easements.
  - (q) **Approximate Dimensions of All Lots** together with proposed lot and block numbers. The area in square feet of each lot shall be provided.
  - (r) **Location and Approximate Dimensions** of any sites to be reserved or dedicated for parks, playgrounds, 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.
  - (s) **Approximate Radii of all Curves.**
  - (t) **Any Proposed Lake and Stream Access** with a small drawing clearly indicating the location of the proposed subdivision in relationship to access.
  - (u) **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.
  - (v) **Where the Plan Commission, Town Board or Town Engineer** finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the Preliminary Plat, it shall have the authority to request in writing such information from the subdivider.
- (b) **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. 14-1-41 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 §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 §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 Oshkosh 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 §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 surveying and monumenting requirements of §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 §236.21, Wis. Stats.; and in addition, the surveyor shall certify that he has fully complied with all the provisions of this Chapter.

## **Sec. 14-1-42 Technical Requirements for Certified Survey Land Divisions; Review and Approval.**

- (a) **Certified Survey Requirements.** When it is proposed to divide land into two (2) or no more than four (4) building sites, any one (1) of which is less than forty (40) acres, or when it is proposed to divide a block, lot or outlot into not more than four (4) parcels or building sites within a recorded subdivision plat without changing the exterior boundaries of the block, lot or outlot, the subdivider shall subdivide by use of a certified survey map, prepared in accordance with §236.34, Wis. Stats., and this Chapter.
- (b) **Submission and Review.** The subdivider is encouraged to first consult with the Plan Commission regarding the requirements for certified surveys before submission of the final map. Following consultation, two (2) signed copies of the final version 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 used for Preliminary Plats in Sections 14-1-30 through 14-1-32, including notice and hearing requirements.
- (c) **Additional Information.** The Certified Survey Map shall show correctly on its face, in addition to the information required by §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 Winnebago County Zoning Code.
  - (3) **All Lands Reserved** for future acquisition.
  - (4) **Date of the Map.**
  - (5) **Graphic Scale.**
  - (6) **Name and Address** of the owner, subdivider and surveyor.
  - (7) **Square Footage** of each parcel.
  - (8) **Present Zoning** for the parcels.
- (d) **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.
- (e) **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.
- (f) **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 §236.21(2)(a) of the Wisconsin Statutes.
- (g) **Recordation.** The subdivider shall record the map with the Winnebago 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.
- (h) **Requirements.** To the extent reasonably practicable, the certified survey shall comply with the provisions of this Chapter relating to general requirements, design standards and required improvements. Conveyance by metes and bounds shall be prohibited where the lot(s) involved is less than one and one-half (1-1/2) acres or three hundred (300) feet in width.

**Sec. 14-1-43 through Sec. 14-1-49      Reserved for Future Use.**

**Sec. 14-1-50 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 subdivider. 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. 14-1-51 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 subdivider shall enter into a written contract with the Town requiring the subdivider to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for inspection of construction details by the Town Engineer.
- (b) **Financial Guarantees.**
  - (1) The agreement shall require the subdivider to make an escrow deposit or in lieu thereof to furnish a performance bond or irrevocable letter of credit, the amount of the deposit and the penal amount of the bond to be equal to one 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 subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event the amount of the deposit, letter of credit or bond shall be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. If the required improvements are not complete within the specified period, all amounts held under performance bond, deposit or letter of credit, shall be turned over and delivered to the Town and applied to the cost of the required

improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Town Board, at its option, may extend the bond, deposit or letter of credit, period for additional periods not to exceed two (2) years each period.

- (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 subdivider. The completion date shall be a component of the contract.
- (4) The subdivider 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. 14-1-52 Required Construction Plans; Town Review; Inspections.**

- (a) **Engineering Reports, Construction Plans and Specifications.** As required by Section 14-1-31, engineering reports, plans and proposed specifications shall be submitted simultaneously with the filing of the Preliminary Plat. At the Final state, 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 subdivider'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 subdivider shall make or cause to be made three (3) copies of record plans showing the actual location of all valves, manholes, stubs, sewers and water mains and such other facilities as the Town Engineer shall require. These plans shall be prepared on the original 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. 14-1-53 Street Improvements.**

The Subdivider 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 15-1-70 and 14-1-71.
- (b) **Grading.**
  - (1) Prior to any building permits being issued on lands adjacent to streets, all street construction shall be completed by the subdivider, approved by the Town Engineer and accepted by the Town Board.
  - (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 subdivider 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. 14-1-54 Sidewalks.**

Sidewalks may be required by the Town Board in high traffic areas and areas in the vicinity of schools, commercial areas and other places of public assemblage. The Town Board may require the construction of sidewalks if such walks are necessary, in their opinion, for safe and adequate pedestrian circulation.

### **Sec. 14-1-55 Sanitary Sewerage System.**

- (a) There shall be provided a sanitary sewerage system in conformity with the master plan of sewers as approved by the Town Board and/or sanitary district.
- (b) The subdivider shall make adequate sewage disposal systems available to each lot within the subdivision, certified survey parcel or land division.
- (c) Subdivisions and certified survey parcels 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.



- (d) 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 Winnebago County Sanitation Ordinance. Service laterals shall be provided to all lots served by public sewer.
- (e) The subdivider shall pay all the costs of all sanitary sewer work including the bringing of the sanitary sewer from where it exists to the subdivision in question as well as providing all sanitary sewer work within the subdivision. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and standard specifications approved by the appropriate sanitary district serving the area.

**Sec. 14-1-56 Water Supply Facilities (Urban Service Areas).**

- (a) The subdivider shall make adequate domestic water supplies available, and pay for such improvements, for each lot within the subdivision in a designated Urban Service Area.
- (b) The subdivider shall construct water mains in such a manner as to make adequate water service available to each lot within the subdivision or land division. The size, type, and installation of all public water mains proposed to be constructed shall be in accordance with plans and specifications approved by the appropriate sanitary district. Water service laterals shall be provided to all lots served by public sewer.

**Sec. 14-1-57 Storm Water Drainage Facilities.**

- (a) Pursuant to Section 14-1-74, the subdivider shall provide storm water drainage facilities which may include curb and gutter, catch basins and inlets, storm sewers, road ditches and open channels, as may be required. 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 the adjacent roadway. Upon the approval of the Town Engineer, storm water swales and ditches may be sized for from twenty-five (25) to one hundred (100) year frequency storms, depending upon the estimated amount of damage that would be incurred by adjacent properties if flooding did occur. 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 subdivider; 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. 14-1-58 Other Utilities.**

- (a) The subdivider 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) The subdivider shall cause gas, electric power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision, certified survey or land division. All new electrical distribution television cables and telephone lines from which lots are individually served shall be underground unless the Town Board specifically allows overhead poles for the following reasons:
  - (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. 14-1-59 Street Signs.**

The subdivider 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 Board.

**Sec. 14-1-60 Street Trees.**

- (a) The subdivider shall plant in the terrace area at least one (1) tree of a species acceptable to the Town Board and of at least six (6) feet in height for each fifty (50) feet of frontage on all streets proposed to be dedicated. The required trees shall be planted in accordance with plans and specifications approved by the Town Board.
- (b) No person shall plant or maintain in the terrace area any tree of the species *Populus Deltoides*, commonly called the "Cottonwood", Black Locust, the seed-bearing "Box Elder" or *Acer Negundo*, which may now or hereafter become infested with Box Elder bugs, White Poplar, Lombardy Poplar, any evergreen or fir tree, any fruit or nut tree, or any other species, which in the opinion of the Town Board, will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public.

- (c) "Terrace Areas" means the land between the normal location of the street curbing and sidewalk. Where there is no sidewalk, the area six (6) feet from the curb line shall be deemed to be a terrace for the purpose of this Chapter.

### **Sec. 14-1-61 Erosion Control.**

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

### **Sec. 14-1-62 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 subdivider 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. 14-1-63 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.** Such easements shall be at least twelve (12) feet wide, or wider where recommended by the Town Engineer, and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Plan Commission and Town Board that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

**Sec. 14-1-65 through 14-1-69      Reserved for Future Use.**

**Sec. 14-1-70 General Street Design Standards.**

- (a) **Compliance with Statutes.** In laying out a subdivision, the owner shall conform to the provisions of Chapter 236, Wis. Stats., and all applicable Town regulations. In all cases where the requirements of this Chapter are different from the requirements of Chapter 236, the more restrictive provision shall apply.
- (b) **Dedication.** The subdivider shall dedicate land and improve streets as provided in this Chapter and Section 14-1-53. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses and public convenience and safety. Streets shall conform to official maps adopted by the Town Board. The subdivision, certified survey parcel or land division shall be so designated as to provide each lot with satisfactory access to a public street or road.
- (c) **Compliance with Comprehensive Plan.** The arrangement, character, extent, width, grade and location of all streets shall conform to any Town Comprehensive Development Plan and to this Chapter and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The arrangement of streets in new subdivisions shall make provision for the appropriate continuation at the same width of the existing streets in adjoining areas.
- (d) **Areas Not Covered by Plan.** In areas not covered by a Town Comprehensive Plan, the layout of streets shall conform to the plan for the most advantageous development of adjoining areas of the neighborhood. Streets shall be designed and located in relation to existing and officially planned streets, topography and natural terrain, streams and lakes and existing tree growth, public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets.
- (e) **Street Classifications.** Streets shall be classified as indicated below.
  - (1) **Arterial Streets.** Arterial streets shall be arranged to provide through traffic for a heavy volume of vehicles.
  - (2) **Collector Streets.** Collector streets shall be arranged so as to provide ready collection of traffic from commercial and residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to special traffic generators such as schools, churches and shopping centers and other

concentrations of population and to the major streets into which they feed.

- (3) **Minor Streets.** Minor streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems and to require the minimum street area necessary to provide safe and convenient access to abutting property.
- (4) **Proposed Streets.** Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions or unless, in the opinion of the Town Board, such extension is not necessary or desirable for the coordination of the layout of the subdivision or land division or for the advantageous development of the adjacent tracts.
- (f) **Reserve Strips.** Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such trips is placed with the Town under conditions approved by the Town Board.
- (g) **Alleys.** Alleys may be provided in commercial and industrial districts for off-street loading and service access, but shall not be approved in non-multiple family residential districts.
- (h) **Continuation.** Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit. Provision shall be made so that all proposed streets shall have a direct connection with, or be continuous and in line with, existing, planned or platted streets with which they are to connect. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Town Board, upon the recommendation of the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing layout or the most advantageous future development of adjacent tracts. Dead-end streets not over five hundred (500) feet in length will be approved when necessitated by the topography.
- (i) **Minor Streets.** Minor streets shall be so laid out so as to discourage their use by through traffic.
- (j) **Number of Intersections.** The number of intersections of minor streets with major streets shall be reduced to the practical minimum consistent with circulation needs and safety requirements, preferably not more than two (2).
- (k) **Frontage Roads.** Where a subdivision abuts or contains an existing or proposed arterial highway, the Town Board may require a frontage road, nonaccess reservation along the rear of the property contiguous to such highway or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.
- (l) **Private Streets.** Private streets shall not be approved nor shall public improvements be approved for any private street; all streets shall be dedicated for public use.

- (m) **Visibility.** Streets shall afford maximum visibility and safety and shall intersect at right angles where practicable. As required by the Town Engineer, sufficient vision clearance triangles shall be provided at intersections.
- (n) **Tangents.** A tangent at least one hundred (100) feet long shall be required between reverse curves on arterial and collector streets.
- (o) **Half Streets.** Where an existing dedicated or platted half-street is adjacent to the subdivision, the other-half shall be dedicated by the subdivider. The platting of half-streets should be avoided where possible.
- (p) **Intersections.**
  - (1) Property lines at street intersections of major thoroughfares shall be rounded with a radius of fifteen (15) feet or of a greater radius where the Town Engineer considers it necessary.
  - (2) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
  - (3) Number of streets converging at one (1) intersection shall be reduced to a minimum, preferably not more than two (2).
- (q) **Street Names.** New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the names of the existing streets. Street names shall be subject to approval by the Town Board and Winnebago County.

## **Sec. 14-1-71 Specifications for Preparation, Construction and Dedication of Streets and Roads.**

- (a) **General Requirements.**
  - (1) **Construction Standards.** All roadway construction and materials used shall be performed in accordance with the construction methods as listed in the appropriate sections of the "State of Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction" and its supplements, and this Chapter, whichever is more restrictive. The design requirements of this Section and Section 10-2-70 shall be applicable to all streets and roads that are to be dedicated to the Town, regardless of whether such streets or roads are part of a new subdivision or land division.
  - (2) **Project Costs.** All roadway surveys, dedications, plans and specifications and construction will be at the expense of the applicant or applicants. This includes any expense incurred by the Town in the preparation of plans and review and inspection of plans and construction.
  - (3) **Preliminary Consultation.** Prior to the design, preparation and construction of any roadway to be dedicated to the Town of Oshkosh, the applicant shall notify the Town Clerk. An on-site meeting will then be arranged to be attended by the Town Engineer

and the applicant. Plans must be provided in order for the Town Engineer to check the design and the drainage.

- (4) **Material Slips.** Copies of material slips for all materials furnished for the road construction projects shall be delivered to the Town before the Town approves the final construction.
- (5) **Required Inspections.** Although the Town Engineer may conduct inspections as necessary at any state of construction, the Town Engineer shall be contacted for required inspections after the following phases of construction:
  - (a) Subbase grading;
  - (b) Crushed aggregate base courses;
  - (c) Bituminous surface course; and
  - (d) Shouldering.
  - (e) Placement of erosion control measures (soil stabilization and stormwater retention/detention measures).

Any deficiencies found by the Town Engineer shall be corrected before proceeding to the next phase of construction.

- (6) **Tests of Materials.** The Town reserves the right to obtain a sample of the roadway base material prior to placement on the roadway for purposes of determining whether the material meets gradation and soundness requirements.
  - (7) **Pavement Samples.** Samples of bituminous concrete may be required to be taken by the Town at the developer's expense during pavement construction operations for purposes of determining that the material meets specifications.
  - (8) **Town Board Approval.** The finished roadway shall meet with the approval of the Town Board, upon the recommendation of the Town Engineer, since the Town will include this road work in their annual request for highway aid.
- (b) **Construction Standards.** All streets and highways constructed in the Town or to be dedicated to the Town shall fully comply with the construction standards in Section 6-2-12 of this Code of Ordinances.

## **Sec. 14-1-72 Block Design Standards.**

- (a) **Length; Arrangement.** The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated, but block length in residential areas shall not exceed one thousand two hundred (1,200) feet nor have less than sufficient width to provide for two (2) tiers of lots of appropriate depth between street lines. As a general rule, blocks shall not be less than five hundred (500) feet in length. Blocks shall be so designated as to provide two (2) tiers of lots, unless it adjoins a railroad, major thoroughfare, river or park where it may have a single tier of lots.
- (b) **Pedestrian Pathways.** Pedestrian pathways, not less than ten (10) 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, shopping centers, transportation and other community facilities.

### **Sec. 14-1-73 Lot Design Standards.**

- (a) **Size.**
  - (1) Size, shape and orientation of lots shall be appropriate for the location of topography of the subdivision, 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 Winnebago County Zoning Code or this Chapter, whichever is more restrictive. Lot sizes shall conform to the requirements of the Winnebago County Zoning Code.
  - (2) Residential lots within each block shall have a minimum average depth of one hundred fifty (150) 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 thirty (30) feet on a public street.
  - (4) Width of lots shall conform to the requirements of the Winnebago 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 Winnebago County Zoning Code.
- (c) **Lots Where Abutting Major Highway.** 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.
- (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 Winnebago County Zoning Code.
- (e) **Butt Lots.** Butt lots will be permitted by the Town Board only in exceptional cases. Permitted butt lots shall be platted at least five (5) feet wider than the average width of interior lots in the block.
- (f) **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.
- (g) **Double and Reversed Frontage Lots.** Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

- (h) **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.
- (i) **Land Remnants.** All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels.

## **Sec. 14-1-74 Drainage System.**

- (a) **Drainage System Required.** As required by Sec. 14-1-56, a drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. A Final Plat shall not be approved until the subdivider shall submit plans, profiles and specifications as specified in this Section, 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 subdivider shall submit to the Town at the time of filing a Preliminary Plat a preliminary drainage plan or engineering report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the additional runoff which would be generated by the development of the land within the subdivision. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. The report shall also include:
    - (a) Estimates of the quantity of storm water entering the subdivision 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.
- (c) **Grading.** The subdivider shall grade each subdivision in order to establish street, block and lot grades in proper relation to each other and to topography as follows:
  - (1) The subdivider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans.
  - (2) Block grading shall be completed by one (1) or more of the following methods:
    - (a) A ridge may be constructed along the rear lot lines which provides for drainage onto the streets.
    - (b) Parts of all lots may be graded to provide for drainage to the street or to a ditch along the rear lot line.

- (c) Draining across rear or side lot lines may be permitted provided that drainage onto adjoining properties is skillfully controlled.
- (d) **Drainage System Requirements.** The subdivider 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 subdivider 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 subdivider shall adequately protect all ditches to the satisfaction of the Town Board and Town Engineer. Ditches and open channels shall be seeded, sodded or paved depending upon grades and soil types. (Generally ditches or channels with grades up to one percent [1%] shall be seeded; those with grades up to four percent [4%] shall be sodded and those with grades over four percent [4%] shall be paved.)

## **Sec. 14-1-75 Non-Residential Subdivisions.**

- (a) **General.**
  - (1) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provisions as the Town may require.
  - (2) A non-residential subdivision shall also be subject to all the requirements of site plan approval set forth in the Town Building Code. A non-residential subdivision 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 Winnebago County Zoning Code.
- (b) **Standards.** In addition to the principles and standards in this Chapter, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Town Board that the street, parcel, and block pattern proposed is specifically adapted to the uses

anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

- (1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
- (2) Street right-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 subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strips when necessary.
- (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. 14-1-76 through Sec. 14-1-79      Reserved for Future Use.**

**Sec. 14-1-80 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 subdivision development, each subdivider 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 subdivision, land division, planned unit development or development project, provision shall be made for suitable sites of adequate area for school, 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 Oshkosh 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. 14-1-81 Land Dedication.**

- (a) **Dedication Calculation.** All subdividers shall be required to dedicate developable land to the Town for park, school or other public uses, other than streets or drainageways, at a rate of four-hundredths (.04) acres (1,742 square feet) per dwelling unit. Whenever a proposed playground, park, or other public area, other than streets or drainageways, designated in the Master Plan or Master Plan component of the Town of Oshkosh is embraced, all or in part, in the tract of land to be subdivided, these lands shall be made part of the required land dedication. The Town Board, upon the recommendations of the Plan Commission, shall have sole 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 Plat.** All subdivisions abutting on a navigable lake or stream shall provide public access at least sixty (60) feet wide providing access to the low watermark 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 §236.20(2)(g), Wis. Stats., and the water's edge, and any otherwise unplattable lands which lie between a proposed subdivision 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 subdivided but also to all lands under option to the subdivider or in which the subdivider holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream.
- (c) **Unknown Number of Dwelling Units.** Where the plat does not specify the number of dwelling units to be constructed, the land dedication shall be based upon the maximum number of units permitted by the Winnebago 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 subdivider shall install or provide for installation of water and sanitary sewer lines to the property line of all dedicated land, where such services are to be provided to the adjacent properties.

### **Sec. 14-1-82      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 14-1-81, 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. 14-1-83      Development of Park Area.**

- (a) When parklands are dedicated, the subdivider 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 subdivider.
- (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 subdivider fails to satisfy the requirements of this Section, the Town Board may contract said completion and bill such costs to the subdivider, following a public hearing and written notice to the subdivider of noncompliance. Failure to pay such costs may result in the immediate withholding of all building permits until such costs are paid.

#### **Sec. 14-1-84 Fees In Lieu of Land.**

- (a) **Method of Calculation.** Where, in the opinion of the Town Board, there is no land suitable for parks within the proposed subdivision or the dedication of land would not be compatible with the Town's comprehensive development or park plan, or Town officials determine that a cash contribution would better serve the public interest, the Board may require the subdivider to contribute cash payment in lieu of land according to the following provisions:

- (1) **Method of Calculation.**

- (a) The fee in lieu of land shall be on the basis of the value of the required acreage of parklands as if dedication were to occur, as determined by the Town Assessor.
- (b) The fee is to be calculated and is payable as soon as ten percent (10%), and not later than fifteen percent (15%), of planned lots are sold, as determined by the Town Board, or when occupancy occurs in fifteen percent (15%) of the dwelling units when the subdivider retains ownership of some or all of the parcels. The subdivider shall post a bond irrevocable letter of credit or escrow monies to guarantee performance, in an amount as determined by the Town Board.
- (c) The total price paid for developed lots sold prior to payment of the fee, divided by the total acreage of said lots, will be used to determine the required fee per acre. The fee per acre times the acres that would have been required in a land dedication will determine the total fee in lieu of land.
- (d) In the event of nonperformance, no additional building permits will be issued until the fee is paid in full.

- (2) ***Alternate Method of Calculation.*** The subdivider may elect to calculate and pay the fee at the time of Final Plat acceptance, the calculation based on the value per acre of total acreage of the subdivision prior to development and including costs the subdivider would have otherwise incurred for access, utility extensions and development of the park area as outlined in previous Sections, if the methods and amounts used to calculate those are acceptable to the Town Board. If this method is used, no building permits shall be issued until the fee is paid in full.
- (b) **Park Fund.** Funds paid to the Town under any Fees in Lieu of Land provision or contributed from other sources for park development and improvement are to be placed in a separate account designated for park development and improvement projects. The Town Board shall have the final right to approve or reject such projects. Said account shall be a continuing account and shall not lapse at the end of a budget period.

**Sec. 14-1-85 through Sec. 14-1-89      Reserved for Future Use.**



**Sec. 14-1-90 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 subdivider at the time when the Preliminary Plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Plan Commission and Town Board in the analysis of the proposed project.
- (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 subdivider.
- (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 Winnebago 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 §236.15(b)(c) and (d), Wis. Stats., for a reasonable time on condition that

the subdivider execute a surety bond to insure the placing of such monuments within the time required.

## **Sec. 14-1-91 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 subdivision, 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 §236.30, Wis. Stats.
  - (3) Conveyance of lots in unrecorded plats has penalties provided for in §236.31, Wis. Stats.
  - (4) Monuments disturbed or not placed have penalties as provided for in §236.32, Wis. Stats.
  - (5) Assessor's plat made under §70.27 of the Wisconsin Statutes may be ordered by the Town at the expense of the subdivider 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 §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.