

CHAPTER 18

LAND DIVISION AND PLATTING

(Recreated by Ordinance 2010-05, In Effect on 10-1-10)
(Amended by Ordinance 2015-03, effective 8-1-2015)

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18.01 INTRODUCTION. (1) **AUTHORITY.** These regulations are adopted under the authority granted by §236.45, Wis. Stats. This Ordinance was adopted under the statutory authority granted pursuant to the Village Powers of the Town of Kewaskum, to §60.10(2)(c), 60.22(3), 61.34(1), 236.03, and 236.45, Wis. Stats. This Ordinance was adopted by the Town Board after its receipt of a formal written recommendation of this Ordinance dated April 23, 2007 from the Town Planning Agency under §61.35, 62.23, and 236.45(2), Wis. Stats, which for the Town of Kewaskum is the Town of Kewaskum Plan Commission.

(2) **ADOPTION OF ORDINANCE.** The Town Board, by this Ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town Board to regulate and approve certain land divisions and certified surveys in the Town of Kewaskum. Pursuant to §236.45(4), Wis. Stats., a public hearing was held before the adoption of this Ordinance and notice of the hearing was given by publication of a Class II notice, under ch. 985, Wis. Stats.

(3) **TITLE.** This chapter shall be known as the Land Division and Platting Chapter, Town of Kewaskum, Washington County, Wisconsin.

(4) **PURPOSE.** The purpose of this chapter is to regulate and control the division of land within the civil boundaries of the Town in order to promote the public health, safety, morals, prosperity, aesthetics and general welfare of the community.

(5) **INTENT.** It is the intent of this chapter to regulate the division of land so as to lessen congestion in the roads and highways; to further the orderly layout and appropriate use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds, and other public requirements, to facilitate the further division of larger tracts into smaller parcels of land; to ensure adequate legal description and proper survey monumentation of subdivided land; to provide for the administration and enforcement of this chapter; to provide penalties for its violation and in general to facilitate enforcement of community development standards as set forth in the applicable comprehensive plan, comprehensive plan components, zoning codes, building codes and official maps. It is also the intent of this chapter to:

- (a) Encourage conservation design for all major land divisions created through a subdivision plat.
- (b) Encourage conservation design for all minor land division created through a Certified Survey Map (CSM).

(6) **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.

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

(8) **SEVERABILITY.** If any section, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court jurisdiction, the remainder of this chapter shall not be affected thereby.

(9) REPEAL. All other chapters or parts of chapters of the Town inconsistent or conflicting with this chapter, to the extent of the inconsistency only, are hereby repealed.

(10) DISCLAIMER OR LIABILITY. The Town does not guarantee, warrant, or represent that only those areas delineated as floodlands on plats and certified survey maps will be subject to periodic inundation, nor does the Town guarantee, warrant, or represent that the soils shown to be unsuited for a given land use from tests required by the chapter are the only unsuited soils within the jurisdiction of this chapter; and thereby asserts that there is no liability on the part of the Town Board, its agencies or agents, or employees for flooding problems, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with this chapter.

(11) VARIANCE OF REGULATIONS. (a) When the Plan Commission finds that injustice or hardship will result from strict compliance with this Chapter, and the hardship is deemed unavoidable by the applicant, it may allow divergence from the terms hereof to the extent deemed necessary and proper to grant relief, provided that the variance meets all the following standards:

1. The variance is due to the unique physical features of the site.
 2. The variance is the minimum deviation from the terms of this chapter necessary to mitigate the injustice or hardship.
 3. The variance is not detrimental to the public interest and is in keeping with the general spirit and intent of this chapter.
- (a) Application for any variance shall be made in writing by the Subdivider at the time the application is filed for consideration, stating specifically the circumstances upon which the Subdivider is relying, the variance requested, and how the request meets the standards set forth above. The request shall be supplemented with maps, plans and other additional data that may aid the Plan Commission in the analysis of the request.
 - (b) The Plan Commission at its discretion, if it determines it necessary for the public good, may conduct a public hearing to permit parties of interest to comment on the variance request.
 - (c) If a hearing is determined necessary, the applicant shall be responsible for payment of a hearing fee as established by the Town of Kewaskum Fees and Licenses Schedule. The Plan Commission shall then fix a reasonable time and place for the hearing. Notice of the time and place of such hearing shall be given by publication in the Class 1 notice, under Ch. 985. A copy of such notice shall be mailed by first class mail with an Affidavit of Mailing at least 10 days prior to the date of such hearing to all property owners within three hundred (300) feet if located within a Sanitary District of five hundred (500) feet if located outside of a Sanitary District.
 - (d) A majority vote of the entire membership of the Plan Commission shall be required to grant any variance to these regulations and any variance thus granted shall be entered in the minutes of the Plan Commission setting forth the reasons which, in the opinion of the Plan Commission, justified the variance.

(12) EFFECTIVE DATE. This ordinance shall be effective after a public hearing, adoption by the Town Board of Kewaskum, and publication. The effective date for this ordinance is October 1, 2010.

18.02 DEFINITIONS. For the purposes of the chapter, the following definitions shall apply. Words used in the present tense include the future; the singular number includes the plural number, and the plural number includes the singular. The word “shall” is mandatory.

(1) *Adjusted Tract Area.* The Gross Tract Area minus any primary conservation areas.

(2) *Advisory Agency.* Any agency, other than an objecting agency, to which a plat or certified survey map may be submitted for review and comment. An advisory agency may give advice to the Town and suggest that certain changes be made to the plat or certified map, or it may suggest that a plat or certified survey map be approved or denied. Suggestions made by an advisory agency are not, however, binding on the Town Board or on the Plan Commission. Examples of advisory agencies include the Washington County Land Use and Park Department, the Southeastern Wisconsin Regional Planning Commission, and local utility companies.

(3) *Agricultural Use* (as provided in s. 91.01 (2), Wis. Stats). Means beekeeping; commercial feed lots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least thirty five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk conservation reserve program under 7 USC 1446(d); and vegetable raising.

(4) *Applicant.* The Subdivider or Subdivider’s agent.

(5) *Back Lot Development.* The practice whereby a lot, outlot, or common open space is used for waterfront access by a large number of lots located away from the water body; also known as “lot pyramiding,” “keyhole development,” and “development funneling.”

(6) *Basement.* That portion of any structure that is located below lot grade or a room with a ceiling that is less than 4 feet above lot grade.

(7) *Block.* A tract of land bounded by roads, or a combination of roads, public parks, cemeteries, railroad rights-of-way, bulkhead lines, shorelines of waterways, and city, village or town boundaries.

(8) *Bufferyard.* An area of land within the boundaries of a parcel or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences and/or berms, designed to limit continuously the view and/or sound from the parcel or site to adjacent parcels or sites. Bufferyards are typically defined by a delineated easement graphically indicated on the fact of the Certified Survey Map or Subdivision Plat.

(9) *Building.* Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property, except a mobile home unit when located in a mobile home park.

(10) *Building Line/Building Setback Line.* A line parallel to a lot line and at a distance from the lot line to comply with the building setback requirements of the Zoning Code.

(11) *Certified Survey Map.* (Amd. Ord. 2011-07) Minor land divisions within the Town shall be made by a Certified Survey Map (CSM). The CSM shall be completed by a registered land surveyor by the order and direction of the land owner in full compliance with the provisions of §236.34, Wis. Stats., and the land division chapter regulations of the Town.

(12) *Common Facilities.* All the real property and improvements set aside for the common use and enjoyment of the residents of a conservation subdivision, including, but not limited to, buildings, open space, private streets, parking areas, walkways, recreation area, drainage easements, and any utilities that service more than one unit, such as sewerage and well facilities.

(13) *Common Open Space.* Undeveloped land within a conservation design subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common Open Space shall not be part of individual residential parcels, and shall be substantially free of structures, but may contain such recreational facilities for residents as are shown on the approved development plan.

(14) *Comprehensive Plan.* The extensively developed plan, also called a master plan, adopted by the Plan Commission and certified to the Town Board pursuant to §§61.35 and 62.23, Wis. Stats. Comprehensive plans may include a master plan prepared and adopted by the Southeastern Wisconsin Regional Planning Commission and the Washington County Land Use and Park Department. The master plan may include detailed neighborhood plans, and proposals for future land use, transportation, and public facilities.

(15) *Conceptual Plan.* A scaled site plan layout on a topographic map provided, that shows proposed lots, outlots and roadways.

(16) *Conditional Approval.* Approval of a land division, subject to the land division meeting certain requirements as determined by the Plan Commission.

(17) *Condominium.* A form of ownership combining individual unit ownership with shared use and ownership of common property or facilities, established in accordance with the requirement of Chapter 703 of the Wisconsin Statutes. Common areas and facilities are owned by all members of the condominium association on a proportional, undivided basis. A condominium is a legal form of ownership and not a specific building type or style.

(18) *Condominium Agreement.* A legal agreement outlining the management of the common open space.

(19) *Condominium Association.* An association, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.

(20) *Conservation Areas, primary.* The primary conservation areas are those areas that are automatically set aside when determining open space for conservation development subdivisions. The following are areas of primary conservation: all lands located within existing street Right-of-Ways, all lands located within existing Utility and Railway Right-of-Ways, all lands located within floodplain, all lands located within wetlands, all slopes of 12% or greater.

(21) *Conservation Areas, secondary.* Those areas identified in, but not limited to, 18.06(2) of this ordinance.

(22) *Conservation Easement.* The grant of a property right or interest from the property owner to another person, agency, unit of government, or organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.

(23) *Conservation Subdivision.* A subdivision where open space is the central organizing element of the subdivision design and that identifies and permanently protects all primary conservation areas and all or some of the secondary conservation areas within the boundaries of the subdivision and retains a minimum of forty percent (40%) of the gross tract area as protected open space.

(24) *County Planning Agency.* The Washington County Land Use and Park Department authorized by statute to plan land use within Washington County.

(25) *Dead end Street.* A street having only one outlet for vehicular traffic and no vehicular turn around.

(26) *Deed Restriction (Restrictive Covenant).* A restriction on the use of a property set forth in a deed or other instrument of conveyance, including, but not limited to: a restrictive covenant, conservation easement, transfer of development rights, or any restriction placed on undeveloped land as a condition for the division or development of the undeveloped land. A deed restriction shall run with the land and is binding upon subsequent owners of the property.

(27) *Developer.* Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land, resulting in a subdivision, minor subdivision, replat, or certified survey map.

(28) *Developer's Agreement.* An agreement by which the local municipality and/or County and the subdivider agree in reasonable detail to all of those matters which the provisions of these regulations permit to be covered by the developers agreement. The developers agreement shall not take effect unless and until an irrevocable Letter of Credit or other appropriate surety has been issued to the local municipality and/or the County.

(29) *Drainageway.* The land on either side of and within fifty (50) feet of the centerline of any intermittent or perennial stream graphically shown on : a topographic survey prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet or the U.S. Geological Survey (USGS) 7.5-minute quadrangle topographic map of the area.

(30) *Easement.* Authorization by a property owner for another to use the owner's property for a specified purpose.

(31) *Existing Parcel.* A parcel, lot, or tract of land which the enclosing boundaries are separately described and recorded with the Office of register of Deeds, Washington County Planning and Zoning Department, Town of Kewaskum Plan Commission, or defined by an existing tax parcel.

(32) *Final Plat*. A map prepared in accordance with requirements of Chapter 236 of the Wisconsin State Statutes and this Ordinance for the purpose of precisely dividing larger parcels into smaller parcels and used in conveying these new parcels.

(33) *Floodlands*. Those lands, including the floodplains, floodways, and channels, subject to inundation by the 100-year recurrence interval flood or, where such data is not available, the maximum flood of record.

(34) *Floodplain*. The land adjacent to a body of water which has been or may be hereafter covered by floodwater including, but not limited to, the regional flood.

(35) *Floor Area, First*. The square foot area of a dwelling unit on its lowest floor completely above grade, excluding the basement or cellar, measured from the exterior faces of the walls, including fully enclosed porches, but excluding open porches, breezeways, terraces, exterior stairways, and garages.

(36) *Floor Area, Total*. The sum of the areas of the several floors of a dwelling unit, as measured from the exterior faces of the walls, including fully enclosed porches, but excluding open process, breezeways, terraces, exterior stairways, garages, basements, cellars, and attics.

(37) *Frontage*. The length of the front property line of the parcel, or tract of land abutting the right-of-way of a public street road or highway.

(38) *Grade or Gradient*. The slope of land, a road, street or other public way, specified in percent.

(40) *Grading Plan*. A drawing of a proposed area with plans and specifications for grading.

(41) *Gross Tract Area*. The entirety of the parcel proposed for subdivision, including all primary and secondary conservation areas.

(42) *High Water Elevation (Surface Water)*. The average annual high water level of a pond, stream, lake, flowage, or wetland referred to an established datum plane or, where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic, or vegetative characteristic.

(43) *High Ground Water Elevation*. The highest elevation to which subsurface water rises. This may be evidenced by the actual presence of water during wet periods of the year, or by soil mottling during drier periods. "Mottling" is a mixture or variation of soil colors. In soils with restricted internal drainage, gray, yellow, red, and brown colors are intermingled giving a multi-colored effect.

(44) *Homeowners' Association*. A Wisconsin membership corporation which serves as an association of homeowners within a Subdivision or Certified Survey Map having shared common interests, responsibilities with respect to costs and upkeep of common private property of a Subdivision or Certified Survey Map. Such common property includes private recreation and open space areas within the Subdivision or Certified Survey Map.

(45) *Landscaping*. Living material, such as grass, groundcover, flowers, shrubs, vines, hedges and trees and nonliving durable material, such as rocks, pebbles, sand, mulch, wood chips or bark, walls and fences, but not including paving.

(46) *Land Divider*. Any person, partnership, corporation, or other legal entity that has an ownership or other legal interest in the subject land that the land is being divided or is proposed to be divided, resulting in a land division.

(47) *Land Division*. The division of a lot, outlot, parcel, or tract of land by the owner of the land, or the owner's agent, for the purpose of sale or for development when the act of division creates two or more parcels or building sites, inclusive of the original remnant parcel, any of which is 10 acres or less in area, by a division or by successive divisions of any part of the original property within a period of 5 years, including any land division by or for a Conversation Subdivision, a Cluster Development, a Statutory Subdivision, a Minor Land Division, a Condominium, Condominium Plat, Replat, and Certified Survey Map, and any other land division. Any residual parcel resulting from any division of land shall be included in the land division if said parcel is less than 1 acre in size.

(48) *Land Use Plan*. The Town of Kewaskum Comprehensive Plan, concerning issues of land use in the Town, adopted by the Town of Kewaskum, including any subsequent amendment, but does not include any town Comprehensive Plan adopted under §66.1001, Wis. Stats.

(49) *Letter of Credit (Irrevocable)*. An agreement guaranteeing payment for subdivision improvements, entered into by a bank, savings and loan, or other financial institution which is authorized to do business in the State of Wisconsin and which has a financial standing acceptable to the Town, and which is approved, as to form, by the Town Attorney.

(50) *Lot*. A parcel of land having frontage on a public road or other officially approved means of access, occupied or intended to be occupied by a principal structure or use sufficient in size to meet lot width, lot frontage, lot area, yard, parking area, and other open space provisions of the Zoning Code

(51) *Lot, Corner*. A lot abutting two or more roads at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side. (See Illustration No. 1 below)

(52) *Lot, Double Frontage*. A lot, other than a corner lot, with frontage on more than one road. Double frontage lots shall normally be deemed to have two front yards and two side yards and no rear yard. Double frontage lots shall not generally be permitted unless the lot abuts an arterial highway. Double frontage lots abutting arterial highways should restrict direct access to the arterial highway by means of a planting buffer or some other acceptable access buffering measure. (See Illustration No. 1 below)

(53) *Lot, Flag*. A lot not fronting on or abutting a public road and where access to the public road is by a narrow strip of land, easement, or private right-of-way. Flag lots are not generally considered to conform to sound urban design principles. (See Illustration No. 1 below)

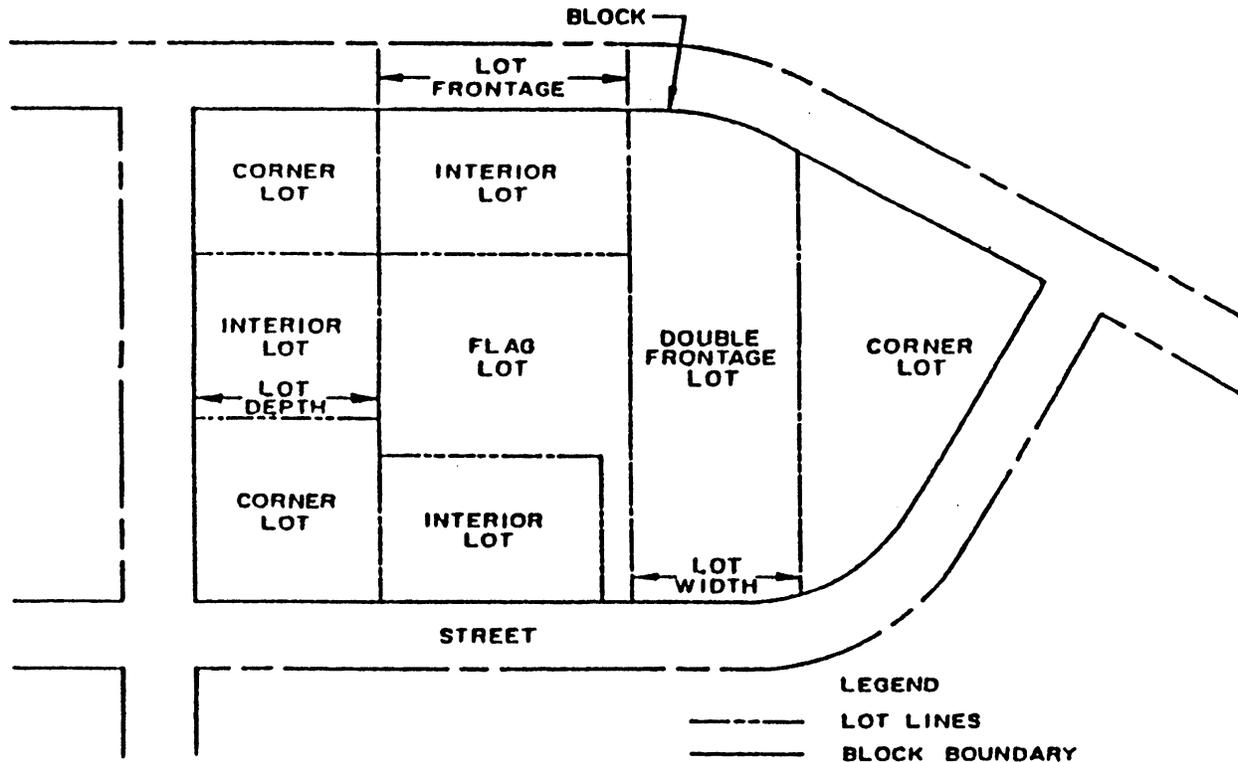
(54) *Lot, Frontage*. The smallest dimension of a lot abutting a public road measured at the road right-of-way line. (See Illustration No. 1 below)

(55) *Lot, Interior.* A lot other than a corner lot, with frontage on one road See Illustration No. 1 below.

(56) *Lot, Reverse Frontage.* A double frontage lot which is not accessible from one of the roads on which it fronts.

ILLUSTRATION NO. 1

TYPICAL CORNER, DOUBLE FRONTAGE, FLAG, AND INTERIOR LOTS



(57) *Mean Sea Level Datum.* Mean Sea Level Datum, 1929 Adjustment, as established by the U.S. Coast and Geodetic Survey.

(58) *Minor Land Division.* (Amd. Ord. 2011-07) The division of land by the owner or subdivider resulting in the creation of not more than four parcels or building sites, or the division of a block, lot, or outlot within a recorded subdivision plat into not more than four parcels or building sites without changing the exterior boundaries of said block, lot or outlot. Such minor subdivisions shall be made by a certified survey map.

(59) *Navigable Waters.* Any body of water, which is navigable under the laws of the State.

(60) *Net Developable Area.* The area of the tract in a conservation design subdivision that can be divided into parcels.

(61) *Nonprofit Conservation Organization.* A nonprofit corporation, charitable trust, or other nonprofit organization described in Section 501 (c)(3) of the Internal Revenue Code, which includes the “acquisition of property or rights in property for conservation purposes” as part of its mission, as reflected in the bylaws, charter, or incorporation papers of the organization.

(62) *Objecting Agency.* An agency empowered to object to a subdivision plat pursuant to Ch. 236, Wis. Stats. The Town may not approve any plat upon which an objection has been certified until the objection has been satisfied. The objecting agencies may include the Wisconsin Department of Administration, the Wisconsin Department of Commerce, the Wisconsin Department of Transportation (Wis. DOT), the Wisconsin Department of Natural Resources (DNR), and the Washington County Land Use and Park Department.

(63) *Open Space.* The area of lands within a conservation design subdivision that can not be developed. This area includes 40% of the gross tract area held in common ownership. This area is for passive/active recreational use by the residents of the development and, where specified, the larger community.

(64) *Outlot.* A parcel of land, other than a buildable lot or block, so designated on the plat, but not of standard lot size, which can be either redivided into lots or combined with one or more other adjacent outlots or lots in adjacent subdivisions or minor subdivisions in the future for the purpose of creating buildable lots.

(65) *Owner.* For purposes of this Chapter the word "owner" if used herein shall be deemed to mean the person holding the fee title to the lands involved, except that where lands have been divided on a land contract the land contract vendee shall be deemed the owner.

(66) *Parcel.* Contiguous lands under the control of a sub-divider(s) not separated by streets, highways, or railroad rights-of-way.

(67) *Plan Commission.* The Town of Kewaskum Plan Commission is the Plan Commission for the purposes of this ordinance.

(68) *Planned Unit Development (PUD).* The PUD Planned Unit Development is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning, diversified location of structures, diversified building types, and/or mixing of compatible uses. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD will allow for flexibility and overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic zoning district. All provisions for PUD shall be complied with as stated in the Zoning Code.

(69) *Plat, Final.* A map prepared in accordance with the requirements of Ch. 236, Wis. Stats., the Washington County Land Use and Park Department minor land division chapter, and this chapter for the purpose of dividing larger parcels into lots and conveying those lots. The lines showing where lots and other improvements are located are precise.

(70) *Plat, Preliminary.* A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration. A preliminary plat precisely describes the location and exterior boundaries of the parcel proposed to be divided, and shows the approximate location of lots and other improvements.

(71) *Public Improvement.* 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 County or Town or Sanitary District or other district may ultimately assume the responsibility for maintenance and operation.

(72) *Public Sanitary Sewerage.* A waste water disposal system providing conveyance, treatment, and final disposal of wastes from users who all have equal rights to the benefits of the utility, which is owned and operated by a legally established governmental body—except that sanitary sewerage systems operated by a lake or sanitary district are intended to be used for remedial purposes and are not intended to be used to provide sanitary sewerage services to new land divisions.

(73) *Public Utility.* Every corporation, company, associations, sanitary district, or municipality that may own or operate any plant or equipment for the conveyance of telephone or other electronic messages, or for the production, transmission, delivery, or furnishing of heat, electricity, gas, water, cable television, sewer, or any other service deemed to be in the public interest shall be deemed a public utility.

(74) *Public Way.* Any public road, road, highway, walkway, drainageway or part thereof.

(75) *Recreation Land, Active.* Areas within the preserved open space that are altered from their natural state to accommodate organized athletic activities (e.g. soccer, football, baseball, golf). Active recreation lands may also require the installation of equipment (e.g. playground apparatus, riding stables, shooting ranges, golf ranges, etc.).

(76) *Recreation Land, Passive.* Areas within the preserved open space that are left in a natural state with minimal alteration for scenic enjoyment (e.g. walking/hiking trail) and outdoor activities with minimal impact on the landscape (e.g. birding, hunting).

(77) *Replat.* The process of changing the plat map, the boundaries of a recorded subdivision plat, certified survey map, or part thereof. The division of a large block, lot, or outlot within a recorded subdivision plat or certified survey map without changing the exterior boundaries of said block, lot, or outlot is not a replat.

(78) *Restricted or Restrictive Covenant.* A deed restriction on the use of the land usually set forth in the deed that is binding upon subsequent owners of the property.

(79) *Retention Basin.* A man-made or natural body of water of a depth of not less than three feet, designed to contain water at all times, the levels of which will be increased as a result of the flow into it from surface and subsurface water collected therein and released gradually into natural and man-made outlets.

(80) *Review Period.* The number of calendar days allotted to review a land division.

(81) *Right-of-Way*. A strip of land occupied or intended to be occupied for a special use, dedicated to the public by the owner of the land division on which such right-of-way is established.

(82) *Road, Arterial*. A road used, or intended to be used, primarily for fast or heavy through traffic. Arterial roads shall include freeways and expressways as well as standard arterial roads, highways, and parkways.

(83) *Road, Collector*. A road used, or intended to be used, to carry traffic from minor roads to the system of arterial roads, including the principal entrance roads to residential developments.

(84) *Road, Cul-de-sac*. A local road with only one outlet and having an appropriate turnaround for vehicular traffic.

(85) *Road, dead-end*. A road having only one outlet for vehicular traffic and no vehicular turn around.

(86) *Road, Frontage*. A minor road auxiliary to and located on the side of an arterial road for control of access and for service to the abutting development.

(87) *Road, Minor*. A road used, or intended to be used, primarily for access to abutting properties.

(88) *Road, Right-of-Way*. A dedication of land not less than 66 ft. (4 rods) wide that is accepted by the Town to provide primary access to abutting properties.

(89) *Sanitary Sewer Service Area*. The area within and surrounding a city, village, or other municipality that is planned to be served with public sanitary sewerage facilities by the year 2010.

(90) *Setback*. Those minimum street, front, rear, and/or side yards required between a building and a parcel line.

(91) *Shorelands*. Those lands, in the unincorporated areas of Washington County, lying within 1,000 feet from the high water elevation of navigable lakes, ponds, and flowages of 300 feet from the high water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.

(92) *Slope*. The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

(93) *Soil Mapping Unit*. Soil type, slope, and erosion factor boundaries as shown on the operational soil survey maps prepared by the U.S. Soil Conservation Service.

(94) *State Plat*. A map of a division of land prepared in accordance with Chapter 236 of the Wisconsin Statutes and the terms of this Chapter.

(95) *Stream*. A course of running water, either perennial or intermittent, flowing in a channel (e.g. water body that forms a link between two bodies of water).

(96) *Structure*. Anything constructed or erected on the ground including, but not limited to, all types of buildings and attachments to buildings.

(97) *Subdivision*. The division of a lot, parcel or tract of land by the owners thereof, or their agents, or a subdivider, for the purpose of transfer of ownership or building development where the division creates 5 or more parcels or building sites of 10 acres each or less in area; or where the act of division creates 5 or more parcels or building sites of 10 acres each or less in area by successive division within a period of 5 years.

(98) *Surety Bond*. A bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider.

(99) *Surface Ditch Invert*. a structure, typically made of concrete, which allows for the conveyance of storm water while minimizing erosion and storm water runoff.

(100) *Surveyor*. A person who surveys land and is duly registered in the State of Wisconsin.

(101) *Town*. References to town shall mean the Town of Kewaskum including the Town Board, Town Clerk, or any other designated Town Commission or person.

(102) *Town Board*. The Board of Supervisors for the Town of Kewaskum, Washington County, Wisconsin and includes designees of the board authorized to act for the board.

(103) *Town Clerk*. The clerk of the Town of Kewaskum, Washington County, Wisconsin.

(104) *Town Engineer*. A professional engineer, registered in the State, hired by the Town, to represent the Town's interests in matters relating to engineering and surveying activities of persons, companies, or corporations developing or dividing land within the Town.

(105) *Tract*. A contiguous area of land that exists or has existed in single ownership.

(106) *Utility Easement*. An easement to place, replace, maintain or move utility facilities.

(107) *Variance*. A departure from the terms of this Chapter as applied to a specific building, structure, or parcel of land, which the Plan Commission may permit, pursuant to this Ordinance.

(108) *Wetland*. 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.

(109) *Wisconsin Administrative Code*. The rules of administrative agencies having rule-making authority in Wisconsin, including subsequent amendments to those rules.

(110) *Wisconsin Statutes*. Shall refer to the 1997-1998 Wisconsin Statutes and all future modifications thereof, which shall be automatically deemed adopted and incorporated by

reference. All definitions contained in the Wisconsin Statutes or in the Wisconsin Administrative Code, which are not inconsistent with the provisions of this chapter, are adopted by reference.

18.03 GENERAL PROVISIONS. (1) JURISDICTION. (a) Jurisdiction of these regulations shall include all lands within the civil boundaries of the Town. The provisions of this chapter as it applies to divisions of tracts of land into less than 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 10 years, mortgages, or easements.
3. Sale or exchange of parcels of land between owners of adjoining property, if additional lots are not thereby created, and the lots resulting are not reduced below the minimum sizes required by these regulations, the Zoning Code, or other applicable laws or chapters.
4. Cemetery plats made under §157.07, Wis. Stats.
5. Assessors' Plats made under §70.27, Wis. Stats., but such assessors plat shall comply with the §§236.15(1)(a) to (g) and 236.20(1) and (2)(a) to (e), Wis. Stats.

(b) (Amd. Ord. 2011-07) All land divisions

(2) GENERAL COMPLIANCE. No person shall divide any land located within the jurisdictional limits of the Town which result in a subdivision, minor subdivision, planned unit development, or a replat as defined herein; no such subdivision, minor subdivision or replat shall be entitled to be recorded; and no road shall be laid out or improvements made to land without compliance with all requirements of this chapter and the following:

- (a) All requirements of this Ordinance; when provisions of this Ordinance impose greater restrictions than are listed below, it is intended that the provisions of this Ordinance shall apply.
- (b) Provisions of Ch. 236, Wis. Stats.
- (c) Rules of the Wisconsin Department of Commerce regulating lot size and lot elevation if the land to be subdivided is not served by a public sewer and provisions for such service have not been made.
- (d) Rules of the Wisconsin Department of Transportation relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivider abuts on a state trunk highway or connecting road.
- (e) Rules of the Wisconsin Department of Natural Resources setting water quality standards preventing and abating pollution, and regulating development within floodland, wetland, and shoreland areas.

- (f) Comprehensive plans or components of such plans prepared by state, regional, county, or municipal agencies, adopted by the Town Board.
 - (g) The Zoning Code, this chapter, and all other applicable local and County chapters.
 - (h) Permit fees shall be established annually in January or thereafter by resolution of the Town Board. Permit fees for new land division plats and Certified Survey Map shall be paid prior to any person commencing any form of construction or on site improvements.
 - (i) Any parcel in the Town of Kewaskum, which shall be divided by a land division regardless of the lot size or number of lots created, which is located wholly or partially within a Shoreland Zoning District or a Floodplain District, shall require, at minimum, a Certified Survey Map to be recorded in the Washington County Register of Deeds Office with approval by the Town Board or its designee under this Ordinance prior to recording.
- (3) SPECIFIC COMPLIANCE.
- (a) All parcels, lots, or outlots that will be proposed to be divided for land division purposes under this Ordinance that are bisected or divided by a public road, public trail, or a navigable water shall be divided along these natural or constructed features unless such division will create land locked parcels with no public road access.
 - (b) No land shall be issued a land division approval if the Town Board of the Town of Kewaskum determines that any proposed land division plat, or Certified Survey Map will materially interfere with existing agricultural uses or will conflict with other goals, objectives, and policies as set forth in the Town Comprehensive Plan, master plan, or other land use plan. In addition, and if any other land division plat approval or Certified Survey Map approval to the land applies, the most restrictive requirements to the land apply. The land division minimum lot size requirements in the applicable municipal zoning regulations related to minimum lot sizes shall apply.
 - (c) No land shall be issued a land division approval for a purpose that poses a significant threat to the quality or quantity of groundwater in the Town of Kewaskum.
 - (d) No land shall be divided which is determined by the Plan Commission or Town Board to be unsuitable for reason of flooding, inadequate drainage, dangerous or hazardous land conditions, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal or maintenance capabilities, impairment of wildlife habitat and scenic vistas, improper utilization of prime farm soils, undue costs and inefficiencies to town governmental services, public nuisance, or is deemed to be harmful to the health, safety, or welfare of current or future residents of the town. The Plan Commission may require any

proposed land divider to furnish maps, data, and other information as may be necessary to determine land suitability.

- (e) No land division shall be considered by the Plan Commission or Town Board until the appropriate application fee(s) have been paid to the Town Clerk.
- (f) No person shall be issued any land division approval by the town who has failed to properly and fully complete and submit to the Town Board the application form developed and provided by the town.
- (g) No person shall sell any parcel of land, lot, or outlot of any size unless it abuts on a road which has been accepted as a public road.
- (h) No person shall be issued a final land division approval by the Town Board until the land divider submits and obtains approval of the proposed land division plat or proposed certified survey map from all reviewing or approving authorities:
- (i) No person shall be issued a final land division approval by the Town Board until the land divider makes or installs all public improvements deemed necessary by the Town Board or until the land divider executes a surety bond or other security acceptable to the Town Board to insure that the land divider will make the public improvements as recommended by the Town Engineer within a time established by the Town Board
- (j) The applicant shall finish all shoulders and road ditches, if any, install all necessary culverts at intersections and, if required by the Town Board, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the Plan Commission, as recommended by the Town Engineer.
- (k) The Town shall not be responsible to maintain any constructed roads or other public improvements until the Town Board accepts same by Resolution.
- (l) No person shall be issued a final land division approval by the Town Board until all easements for natural gas, water, sewer, electrical power, cable and telephone facilities are shown on the plat or CSM. No such electricity, cable, or telephone service shall be located on overhead poles.

(4) IMPROVEMENTS. Before final approval of any plat located within the Town, the subdivider shall install road and other improvements as hereinafter provided. If such improvements are not installed as required at the time the final plat is submitted for approval, the subdivider shall, before the recording of the plat, enter into a contract with the Town agreeing to install the required improvements and shall file with said contract a bond with good and sufficient surety meeting the approval of the Town Attorney or a certified check in the amount equal to the estimated cost of the improvements, said estimate to be made by the Town Engineer, as a guarantee that such improvements will be completed by the subdivider or his subcontractors not later than one year from the date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied.

- (a) Contracts and contract specifications for the construction of road and utility improvements on dedicated road rights-of-way, as well as contractors and subcontractors providing such work, shall be subject to approval of the Town Board.
- (b) Governmental units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.
- (c) Survey Monuments. Before final approval of any plat within the civil boundaries of the Town, the subdivider shall install survey monuments placed in accordance with the requirements of §236.15, Wis. Stats.
- (d) Plats Outside the Municipal Boundaries. Before final approval by the Town of any plat located partially outside the civil boundaries of the Town and partially within the plat approval jurisdiction of the Town, the subdivider shall give evidence that he has complied with all road and utility improvement requirements of the municipality in which that portion of the land being platted is located.

(5) WAIVERS/MODIFICATIONS. Where, in the judgment of the Plan Commission, it would be inappropriate to apply literally the provisions of this chapter because exceptional or undue hardship would result, the Plan Commission will recommend that the Town Board may waive or modify any requirement to the extent deemed just and proper. 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 community in accordance with an adopted comprehensive plan or comprehensive plan component. No waiver or modification shall be granted unless the Plan Commission finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

- (a) Exceptional Circumstances. There are exceptional, extraordinary, or unusual circumstances or conditions where a literal enforcement of the requirements of this chapter would result in severe hardship. Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that this chapter should be changed.
- (b) Preservation of Property Rights. That such waiver or modification is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.
- (c) Absence of Detriment. That the waiver or modification will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (d) Absence of Conflict with Town. That the waiver or modification is not in conflict with Town requirements.
- (e) A simple majority vote of the Town Board shall not grant any waiver or modification of this chapter, unless pars. (a), (b), (c) and (d) above are met and the reasons shall be entered into the minutes of the Board.

- (f) The Town Board may waive the placing of monuments, required under §236.15(b), (c) and (d), Wis. Stats., for a reasonable time, not to exceed one year, on condition that the subdivider execute a surety bond equal to the estimated cost of installing the monuments to insure the placing of such monuments within the time required by statute. Additional time may be granted upon show of cause.

(6) LAND SUITABILITY. No land shall be subdivided for residential use which is held unsuitable for such use by the Plan Commission, upon recommendation of the Town Engineer or other agency as determined by the Plan Commission, for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision, or the Town, or poses an undue threat to the environment, including surface or ground water. In addition:

- (a) Floodlands. No lot served by public sanitary sewerage facilities shall have more than 20% of its required lot area below the elevation of the 100-year recurrence interval flood, or where such data is not available, five feet above the maximum flood of record, No lot one acre or less in area served by an onsite sanitary sewage disposal systems shall include woodlands. All lots more than one acre in area served by an onsite sanitary sewage disposal system shall contain not less than 40,000 square feet of land which is above the elevation of the 100-year recurrence interval flood, or where such data is not available, 5 feet above the maximum flood of record.
- (b) Lands made, altered, or filled with non-earth materials within the preceding 20 years shall not be divided into building sites which are to be served by onsite sanitary sewage disposal systems except where, in the opinion of the Washington County Land Use and Park Department, soil tests clearly show that the soils are suited to such use. Soil reports shall include, but need not be limited to, an evaluation of soil permeability, depth to ground water, depth to bedrock, soil bearing capacity, and soil compaction. To accomplish this purpose, a minimum of one test per acre shall be made initially. The Town does not guarantee, warrant, or represent that the required samples represent conditions on an entire property and thereby asserts that there is no liability on the part of the Town Board, its agencies, agents, or employees for sanitary problems or structural damages that may occur as a result of reliance upon such tests.
- (c) Lands made, altered, or filled with earth within the preceding 7 years shall not be divided into building sites which are to be served by onsite sanitary sewage disposal systems except where, in the opinion of the Washington County Land Use and Park Department, soil tests clearly show that the soils are suited to such use. Soil reports shall include, but need not be limited to, an evaluation of soil permeability, depth to groundwater, depth to bedrock, soil bearing capacity, and soil compaction. To accomplish this purpose, a minimum of one test per acre shall be made initially. The Town does not guarantee, warrant, or represent that the required samples represent conditions on an entire property and thereby asserts that there is no liability on the part of the Town Board, its agencies, agents, or employees for sanitary problems or structural damages that may occur as a result of reliance upon such tests.

- (d) Lands within 100 ft. of an existing or proposed road centerline shall be presumed unsuitable for development if 80% of the area has a slope of 12% or more, or the proposed lot frontage along the road right-of-way line has a vertical change of 6 ft. or more in a horizontal distance of 18 feet. Any lands having a slope of 12% or more may be required by the Town Board to be maintained in unbuilt open space use regardless of road location.
- (e) Lands having bedrock within 6 feet of the natural undisturbed surface shall not be divided into building sites to be served by onsite sanitary sewage disposal systems, unless in compliance with current standards promulgated by the Wisconsin Department of Commerce.
- (f) Lands having ground water within 6 feet of the natural undisturbed surface shall not be divided into building sites to be served by onsite sanitary sewage disposal systems, unless in compliance with current standards promulgated by the Wisconsin Department of Commerce.
- (g) Lands covered by soils having, a percolation rate slower than 60 minutes per inch or faster than 10 minutes per inch shall not be divided into building sites to be served by onsite sanitary sewage disposal systems, unless in compliance with current standards promulgated by the Wisconsin Department of Commerce.
- (h) Land drained by farm drainage tile or farm ditch systems shall not be divided into building sites to be served by onsite sanitary sewage disposal systems, unless in compliance with current standards promulgated by the Wisconsin Department of Commerce.
- (i) All land divisions comprised of fifteen (15) or more lots and located in areas not served by municipal wastewater treatment systems may be served by clustered wastewater treatment systems approved by the Town, County, Wisconsin Department of Commerce, and Wisconsin Department of Natural Resources.
- (j) All land divisions comprised of fifteen (15) or more lots and located in areas not served by municipal water systems may be served by a community well approved by the Town, County, Wisconsin Department of Commerce, and Wisconsin Department of Natural Resources.
- (k) The Plan Commission, in applying the provisions of this section, shall, in writing, recite the particular facts upon which it based 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. The Plan Commission may thereafter affirm, modify, or withdraw its determination of unsuitability.

(7) VIOLATIONS. No person shall build upon, divide, convey, record or place monuments on any land in violation of this chapter or the Wisconsin Statutes. No person shall be issued a building permit by the Town authorizing the building on, or improvement of, any subdivision, minor subdivision or replat within the jurisdiction of this chapter not of record as of December 20, 1999, 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.

(8) **PENALTIES AND REMEDIES.** Any person who fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit not less than **\$200** plus any additional applicable costs incurred by the Town for each offense, and the penalty for default of payment of such forfeiture and costs shall be imprisonment in the County Jail until payment thereof, but not exceeding 6 months. Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant penalties shall include the following:

- (a) Recordation improperly made carries penalties as provided in §236.30, Wis. Stats.
- (b) Conveyance of lots in unrecorded plats carries penalties as provided for in §236.31, Wis. Stats.
- (c) Monuments disturbed or not placed carries penalties as provided for in §236.32, Wis. Stats.

An assessor's plat made under §70.27, Wis. Stats., may be ordered as a remedy by the Town, at the expense of the subdivider, when a subdivision is created by successive divisions.

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

(10) **PAYMENT OF TAXES.** (Cr. Ord #2012-12) Prior to the review of any preliminary plat or certified survey map under Chapter 18 of the Town Code the owner must demonstrate to the satisfaction of the Town Board that any property taxes, special assessments, special charges, or other claims owed to the Town of Kewaskum and, if applicable, Washington County have been paid in full

(11) **SUPENSION OR REVOCATION OF PRELIMINARY PLAT APPROVAL.** (Cr. Ord #2012-12) Except as otherwise specifically provided, any preliminary plat approval granted under Chapter 18 of the Town Code may be suspended or revoked by the Town Board for cause after giving the licensee or permittee an opportunity to be heard, as provided by law, if the licensee or permittee is determined to be delinquent in payment of any property taxes, special assessments, special charges, or other claims owned to the Town and, if applicable, Washington County prior to submittal of a final plat.

18.04 LAND DIVISION PROCEDURES. (1) **PRE-APPLICATION CONFERENCE**
It is recommended that, prior to the filing of an application for the approval of a preliminary plat or certified survey map, the subdivider consult with the Plan Commission or its staff in order to obtain their advice and assistance. It is recommended that a conceptual plan of the proposed subdivision or certified survey map be brought by the applicant to the meeting, but such conceptual plat is not required. This consultation is neither formal nor mandatory, but is intended to inform

the subdivider of the purpose and objectives of these regulations, any applicable 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 Plan Commission 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. Further, it is recommended that the subdivider, prior to submitting the Preliminary Plat, consult with the Washington County Land Use and Park Department for a pre-preliminary subdivision plat review with a written response from Washington County to the Plan Commission and Town Board.

(2) CONCEPT PLAT REVIEW. Prior to the filing of an application for the approval of a preliminary plat, the Subdivider shall consult with the Plan Commission in order to obtain their review, advice and assistance in the preparation of a preliminary plat. The Subdivider shall file an adequate number of copies of the Concept Plat to the Town Clerk prior to consultation with the Plan Commission. Such consultation shall be termed the

‘concept plat’ stage of the land division procedure and shall include the following steps and information:

- (a) The Subdivider shall prepare a concept plat at a scale of one inch equals 100 feet of all the contiguous lands in which the subdivider has legal or equitable interest and present fourteen copies and the fee required to the Town Clerk.
- (b) Such concept plat shall include enough information to set forth the proposed development potential of the parcel to the satisfaction of the Plan Commission, and include at least the following:
 1. Topographic mapping at not less than two-foot contour interval;
 2. Soil characteristics or interpretations secured from detailed soil maps prepared by the USDA, Soil Conservation Service (SCS) and/or monitoring borings data;
 3. The limits of woodland cover and wetlands on the entire parcel;
 4. Location of lakes, ponds, streams, standing water and designated floodplains on the parcel;
 5. Areas of steep or severe slope conditions, high water table conditions, potential drainage and erosion problems;
 6. Existing and proposed access from the parcel to adjacent streets, roads, or properties;
 7. Proposed street location and width;
 8. Proposed parcels including size to the nearest one-tenth acre;
 9. Existing land use of properties within $\frac{1}{4}$ mile of the property proposed to be divided;
 10. Environmental corridors which shall be delineated on the sketch plan; and,
 11. Any other pertinent information useful to the Subdivider and plan commission in their determination of developability of the parcel.
- (c) If the concept plat is intended for a conservation design subdivision, the Subdivider shall also identify all secondary conservation areas including, but not necessarily limited to:
 1. Stream corridor within 100 feet of the high water mark.
 2. Environmental corridors.
 3. Critical wildlife habitat.
 4. Mature and/or diverse woodlands, wherein twenty (20) percent or more of the trees have a diameter-at-breast-height (DBH) of eighteen (18) inches or more.
 5. Large trees, defined as those with a DBH of thirty-six (36) inches or greater, when deemed to be healthy and structurally sound.
 6. Unique natural features.
 7. Prime agricultural lands, if the type of farming on those lands is deemed compatible with adjoining residential uses.
 8. Glacial features, including moraines, kettles, drumlins, eskers, etc.
 9. Other unique features, as may be identified by the Plan Commission.

(3) CONCEPT PLAT APPROVAL. The Plan Commission shall either reject the concept plat giving reasons for such rejection or approve the concept plat and make recommendations. Such review and approval of the concept plat shall constitute approval of the concept plat only and shall not be deemed an approval of the layout and design of the proposed subdivision plat.

- (a) Through the concept plat procedure it is expected that the Subdivider and Plan Commission will reach mutual conclusions regarding the general design and objectives of the proposed development and its possible effects on the Town and County. The Subdivider will also gain a better understanding of the subsequent procedures so as to expedite the Preliminary Plat review and approval process.

(4) PRELIMINARY PLAT REVIEW. Before submitting a final plat for approval, the subdivider shall prepare a preliminary plat and a letter of application. The preliminary plat shall be prepared in accordance with this chapter and the subdivider shall file an adequate number of copies of the plat and the application with the Town Clerk at least 45 days prior to the meeting of the Plan Commission at which action is desired.

- (a) The Town Clerk shall, within 2 normal working days after filing, transmit the following:
 - 1. Three copies to the Washington County Land Use and Park Department.
 - 2. Two copies to the Director of Plat Review, Wisconsin Department of Administration.
 - 3. Additional copies to the Director of Plat Review, Wisconsin Department of Administration for retransmission as follows:
 - a. Two copies to the Wisconsin Department of Transportation (WISDOT) if the subdivision abuts or adjoins a state trunk highway or a connecting road.
 - b. One copy to the Wisconsin Department of Commerce if the subdivision is not served by a public sewer and provision for such service has not been made.
 - c. One copy to the Wisconsin Department of Natural Resources (WDNR) if shoreland areas are contained within the proposed subdivision.
- (b) The Town Clerk shall also transmit copies of the preliminary plat to the Plan Commission and additional copies of all affected Town committees for their review and recommendations concerning matters within their jurisdiction. The recommendations of Town committees and commissions shall be transmitted to the Plan Commission within 45 days from the date the plat is filed. The preliminary plat shall then be reviewed by the Plan Commission for conformance with this chapter, the Zoning Code and all other Town chapters, rules, regulations, comprehensive plans, and comprehensive plan components.

- (c) The Town Clerk shall send 2 copies to the Village or the City of West Bend if the subdivision lies within the extraterritorial plat approval jurisdiction of the Village or City.
- (d) The Town Clerk shall also transmit one copy of the preliminary plat for review and recommendation within 30 days from the date of plat filing to the following:
 - 1. The Southeastern Wisconsin Regional Planning Commission
 - 2. Applicable public or private utility companies
 - 3. The applicable school district
- (e) Status of Reviewing Agencies.
 - 1. Approving Agencies. The Town Board, Washington County Land Use and Park Department, and, when the subdivision lies within the extraterritorial plat review jurisdiction of the Village of Kewaskum or the City of West Bend, the Village of Kewaskum or the City of West Bend.
 - 2. Objecting Agencies. The Wisconsin Department of Administration, the Wisconsin Department of Transportation, the Wisconsin Department of Commerce, and the Wisconsin Department of Natural Resources.
 - 3. Advisory Agencies. The Washington County Land Conservation Committee, the Southeastern Wisconsin Regional Planning Commission, the utility companies, and the school board.

(5) PRELIMINARY PLAT APPROVAL. (a) The objecting agencies shall, within 30 days of the date of receiving their copies of the preliminary plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Plan Commission. If an objecting agency fails to act within 30 days, it shall be deemed to have no objection to the plat.

- (b) The Plan Commission shall, within 90 days of the date of filing of the preliminary plat with the Town Clerk, approve, approve conditionally, or reject such plat. One copy of the plat shall thereupon be returned to the subdivider with the date and action endorsed thereon; and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. One copy each of the plat and letter shall be placed in the Plan Commission's permanent file.
- (c) Failure of the Plan Commission to act within 90 days shall constitute an approval of the plat as filed, unless the review period is extended by mutual consent.
- (d) 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 months of preliminary plat approval and conforms substantially to the preliminary plat provided in §236.11(1)(b), the final plat shall be entitled to approval. Final plats must be submitted within 36 months following preliminary plat approval. (Amd. Ord. 2011-03)

(6) **FINAL PLAT REVIEW.** The subdivider shall prepare a final plat and a letter of application in accordance with this chapter and shall file an adequate number of copies of the plat and the application with the Town Clerk at least 45 days prior to the meeting of the Plan Commission at which action is desired.

- (a) The Town Clerk shall, within 2 days after filing, transmit:
 - 1. Three copies to the Washington County Land Use and Park Department.
 - 2. One copy to the Director of Plat Review, Wisconsin Department of Administration.
 - 3. One copy to each affected utility company.
 - 4. Additional copies to the Director of Plat Review, Wisconsin Department of Administration, for retransmission as follows:
 - a. Two copies to the Wisconsin Department of Transportation (WISDOT) if the subdivision abuts or adjoins a state trunk highway or a connecting road.
 - b. Two copies to the Wisconsin Department of Commerce if the subdivision is not served by a public sewer and provision for such service has not been made.
 - c. Two copies to the Wisconsin Department of Natural Resources (WDNR) if shoreland or woodlands are contained within the proposed subdivision.
 - d. One copy to each of the affected public or private utilities.
 - 5. Twelve copies of the original final plat to the Plan Commission.
- (b) The Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat; and conditions of approval of the preliminary plat; this chapter and all chapters, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and shall recommend approval or rejection of the plat to the Town Board.
- (c) **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 that time; however, it is required that each phase be final platted and designated as a phase of the approved preliminary plat.

(7) **FINAL PLAT APPROVAL.** The objecting agencies, shall, within 20 days of the date of receiving their copies of the final plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Plan Commission. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the plat.

- (a) **Submission.** If the final plat is not submitted within 36 months of the last required approval of the preliminary plat, the Town Board may refuse to approve the final plat. (Amd Ord 2011-03)

- (b) The Plan Commission shall, within 30 days of the date of filing of the final plat with the Town Clerk, recommend approval or rejection of the plat and shall transmit the final plat and application along with its recommendation to the Town Board.
- (c) Notification. The Plan Commission shall, when it determines to recommend approval or rejection of a plat to the Town Board, give at least 10 days prior written notice of its recommendation to the clerk of any municipality within 1,000 feet of the plat.
- (d) The Town Board shall, in accordance with §236.12, Wis. Stats., within 60 days of the date of filing the original final plat with the Town Clerk, approve or reject such plat. The Town Board may act on the plat at the same meeting at which the Plan Commission makes its recommendation. One copy of the plat shall thereupon be returned to the subdivider with the date and action endorsed thereon. 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. One copy each of the plat and letter shall be placed in the Board's permanent file. The Board shall 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, with the date they were forwarded, and that no objections have been filed within 20 days or, if filed, that they have been met.
- (e) Failure of the Town Board to act within 60 days, the time having not been extended by written agreement with the subdivider and no unsatisfied objections having been filed, and all fees payable by the subdivider having been paid, shall constitute approval of the final plat.
- (f) Recordation. 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 Washington County Land Use and Park Department for recording with the Washington County Register of Deeds. Plats must be recorded within 12 months after the last approval and 36 months from the first approval, as required in §236.25(2)(b), Wis. Stats. (Amd Ord 2011-03)
- (g) Copies. The subdivider shall file 5 copies of the recorded final plat with the Town Clerk for distribution to the Town Engineer, Town Attorney, Building Inspector, Assessor and other affected departments for their files. A copy of the approved Statutory Subdivision Final Plat as recorded in the Register of Deeds Office shall be filed with the Town Clerk within five (5) days of the recording.

(8) PLATS WITHIN EXTRATERRITORIAL PLAT APPROVAL JURISDICTION.

- (a) When the Land to be subdivided lies within one and one-half miles of the corporate limits of the Village of Kewaskum or 3 miles of the City of West Bend, the subdivider shall proceed as specified in subs. (1) through (5) above, except the Town Clerk shall forward one copy of the

preliminary and final plats or certified survey maps to the Village or City Clerk, who shall forward the plats to the Village or City Plan Commission for review.

- (b) Approval Agencies, in addition to the Town Board, include the Village of Kewaskum Plan Commission or City of West Bend Common Council.

(9) LAND DIVISION (Certified Survey Map Review and Approval). (Amd. Ord. 2011-07) When it is proposed to divide land into not more than 4 parcels or building sites or when it is proposed to create by land division not more than 4 parcels or building sites within a recorded subdivision plat without changing the exterior boundaries of a block, lot or outlot, the subdivider shall subdivide by use of a certified survey map. The certified survey map shall include all parcels of land. The subdivider shall prepare the certified survey map in accordance with this chapter and shall file 12 copies of the map and the letter of application with the Town Clerk at least 10 days prior to the meeting of the Plan Commission at which action is desired.

- (a) Pre-Application conference similar to the consultation suggested in sec. 18.04(1) of this chapter is recommended. A preliminary certified survey map may be required when the division provides for land to be dedicated to the public.
- (b) The Town Clerk shall, within 10 work days after filing, transmit the copies of the map and letter of application to the Plan Commission.
- (c) The Plan Commission shall, within 90 days from the date of filing of the map, recommend approval, conditional approval or rejection of the Map, and shall transmit the map along with its recommendations to the Town Board.
- (d) The Town Board shall approve, approve conditionally and thereby require resubmission of a corrected map, or reject such map within 120 days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider. If the map is approved, the Board shall cause the Town Chairperson and Town Clerk to so certify on the face of the original map.
- (e) Recordation. After the certified survey map has been approved by the Town Board, the Town Chairperson shall cause the certificate to be inscribed upon the map attesting to such approval, and the Town Clerk shall record the certified survey map with the Washington County Register of Deeds. The Register of Deeds shall not record the map unless it is offered for record within 30 days from the date of the last approval and within 6 months of the date of first approval, in accordance with §236.25(2)(b), Wis. Stats.
- (f) Copies. The subdivider shall file 3 copies of the recorded certified survey map with the Town Clerk for distribution to the Building Inspector, Assessor, and other affected officials for their files.

(10)REPLAT. (a) When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in §§236.40 through 236.44, Wis. Stats. The subdivider, or person wishing to replat, shall then proceed as specified in subs. (1) through (5) above.

- (b) The Town Clerk shall schedule a public hearing before the Town Board 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 published and mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within 500 feet of the exterior boundaries of the proposed replat.

18.05 PRELIMINARY PLAT. (1) 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 tracing cloth or paper of good quality at a scale of not more than 100 feet to the inch and shall show correctly on its face the following information:

- (a) Title or name under which the proposed subdivision is to be recorded. Such title shall not be the same or similar to a previously approved and recorded plat, unless it is an addition to a previously recorded plat and is so stated on the plat.
 - (b) Location of proposed subdivision by government lot, quarter section, township, range, county, and state.
 - (c) Date, graphic scale, and north arrow.
 - (d) Name, address, and business phone number of the owner, subdivider and land surveyor preparing the plat.
 - (e) 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 Plan Commission 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.
- (2) PLAT DATA. All preliminary plats shall show the following:
- (a) Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to 2 corners established in the U.S. Public Land Survey and the total acreage encompassed thereby.
 - (b) Existing and proposed contours at vertical intervals of not more than 2 feet where the slope of the ground surface is less than 10%, and of not more than 5 feet where the slope of the ground surface is 10% or more. Elevations shall be marked on such contours referenced to mean sea level (1929) datum.

- (c) Water elevations of all streams, ponds, takes, flowage, and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom at the date of the survey and approximate high and low water elevations, referenced to mean sea level (1929) datum.
- (d) Floodland and shoreland boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, five (5) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within 100 feet therefrom.
- (e) Location, right-of-way width and names of all existing roads, 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.
- (f) Location and names of any adjacent subdivisions, parks and cemeteries, and owners of record of abutting unplatted lands.
- (g) Type, width and elevation of any existing road pavements within the exterior boundaries of the plat or immediately adjacent thereto together with any legally established centerline elevations, referenced to mean sea level datum.
- (h) 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 no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by their direction and distance from the plat, and by their size, and invert elevations.
- (i) Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks, and other similar significant natural or manmade features within the tract being subdivided or immediately adjacent thereto.
- (j) Location, width and names of all proposed roads and public rights-of-way such as alleys and easements.
- (k) Approximate dimensions of all lots together with proposed lot and block numbers.
- (l) Location, approximate dimensions, and size of any sites to be reserved or dedicated for parks, playgrounds, drainageways, or other public use or which are to be used for group housing, shopping centers, church sites, or other non-public uses not requiring lotting.
- (m) Approximate radii of all curves.

- (n) Existing zoning on and adjacent to the proposed subdivision.
- (o) Civil boundary lines within the exterior boundary of the tract or immediately adjacent thereto.
- (p) Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to the access.
- (q) Any proposed lake and stream improvement or relocation, and notice of application for approval by the Director of Environmental Protection, Wisconsin Department of Natural Resources, when applicable.
- (r) Soil type, slope and boundaries as shown on the "Washington County Soil Survey," 1971, prepared by the U.S. Soil Conservation Service.
- (s) Location and results of soil boring tests, where required by Wis. Adm. Code COMM 85.06 made to a depth of 6 feet, unless bedrock is at a lesser depth. The number of such tests shall be adequate to portray the character of the soil and the depths of bedrock and groundwater from the natural undisturbed surface. To accomplish this purpose, a minimum of one test per 3 acres shall be made initially.
- (t) Location and results of soil percolation tests, where required by Wis. Adm. Code Comm. 85.06, taken at the location and depth in which soil absorption waste disposal systems are to be installed. The number of such test initially made shall not be less than one test per 3 acres or one test per lot, whichever is greater.
- (u) Location of the boundaries of primary and secondary environmental corridors (Cr. Ord 2011-03)

(3) ROAD PLANS AND PROFILES. The Plan Commission may require that the subdivider provide road plans and profiles showing existing ground surface, proposed and established road grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested. All elevations shall be based upon mean sea level (1929) datum, and plans and profiles shall meet the approval of the Town Engineer.

(4) TESTING. (a) The Plan Commission, upon recommendation of the Town Engineer or Washington County Land Use and Park Department, 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. The Town does not guarantee, warrant, or represent that only those soils tested and shown to be unsuited for specific uses are the only unsuited soils within the Town and thereby asserts that there is no liability on the part of the Town Board, its agencies, or employees for sanitation problems or structural damages that may occur as a result of reliance upon, and conformance with, this chapter.

- (b) Where the subdivision will not be served by public sanitary sewer service, the provisions of Wis. Adm. Code COMM 85 and the Washington County Sanitary Code shall apply, and the location and results of such tests shall be shown on the preliminary plat. The results may be shown in a separate document, if necessary.

(5) **SOIL AND WATER CONSERVATION.** The Town Board, upon the recommendation of the Town Engineer, after determining from a review of the preliminary plat that the soil, slope, vegetation, and drainage characteristics of the site are such as to require substantial cutting, clearing, grading, and other earthmoving operations in the development of the subdivision or otherwise entail a severe erosion hazard, may require the subdivider to provide soil erosion and sedimentation control plans and specifications. Such plans shall generally follow the requirements set forth in the Erosion Control and Storm Water Management chapter, and shall be in accordance with standards set forth in sec. 18.09(14) of this chapter and 19.08(L).

(6) **COVENANTS.** The Town Board may require submission of a draft of protective covenants, where a covenant is proposed, whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development. The covenants shall be subject to review and approval of the Town Attorney as to form.

(7) **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.

18.06 PRELIMINARY PLAT FOR CONSERVATION DESIGN SUBDIVISION.

(1) **GENERAL.** A conservation design preliminary plat shall be consistent with all requirements of Article 18.05 of this Chapter.

(2) **ADDITIONAL INFORMATION.** The conservation design preliminary plat shall include secondary conservation areas, defined as those natural, agricultural, cultural, and or historical resources within the Town that are not otherwise protected by federal, state, or county laws, regulations, or ordinances. Secondary conservation areas are resources that should be preserved when possible and/or economically feasible. The final determination of secondary conservation areas within a given development will be made by the Plan Commission and Town Board. Secondary conservation areas in the Town of Kewaskum may include, but are not limited to:

- (a) Stream corridors within one-hundred (100) feet of the ordinary high-water mark.
- (b) Environmental corridors, as defined in the Comprehensive Plan.
- (c) Critical wildlife habitat, as defined in the Comprehensive Plan.
- (d) Mature and/or diverse woodlands, wherein twenty (20) percent or more of the trees have a diameter-at-breast-height (DBH) of eighteen (18) inches or more.
- (e) Large trees, defined as those with a DBH of thirty-six (36) inches or greater, when deemed to be healthy and structurally sound.
- (f) Unique natural areas, as defined in the Comprehensive Plan.
- (g) Productive agricultural lands, if the type of farming on those lands is deemed compatible with adjoining residential uses.
- (h) Glacial features, including moraines, kettles, drumlins, eskers, etc.
- (i) Other unique features, as may be identified by the Plan Commission.

(3) OPEN SPACE STANDARDS. A Conservation Design Subdivision shall meet the following open space standards:

- (a) Minimum Open Space. Minimum open space shall be forty (40) percent of the gross tract area (GTA) and include all primary and secondary conservation areas.
- (b) Location. The required open space should be situated, when practicable, to take advantage of the site's natural, historic, and cultural features, to create buffer areas between residential and agricultural uses, to preserve scenic views, and to be contiguous with existing or proposed open spaces outside of the proposed subdivision. Environmentally sensitive areas must be included within the preserved open space. The size and shape of the areas established as open space shall be sufficient and suitable for agricultural, natural resource protection, recreation, or other intended use and should remain as large and contiguous as the property will allow.
- (c) Active Recreation Area. Not more than 30% of the required open space may consist of active recreation area unless prior approval has been received from the Plan Commission and Town Board.
- (d) Trails. The Plan Commission encourages that each conservation subdivision include an internal trail system providing access to homeowners with a section of the trail system identified for potential future public use as part of an integrated trail network. The section identified for potential public use may vary by development and circumstance.
- (e) Access. The Plan Commission may require easements or walkways to access open space that does not abut public right-of-way.

(4) Ownership and Maintenance of Common Facilities and Open Space. To ensure adequate planning for ownership, operation, and maintenance of common open space, recreation facilities, storm water management facilities, wastewater treatment facilities, shared or community wells, common parking areas and driveways, private streets, and other common community facilities, the following methods may be used, either alone or in combination, in ownership of common open space. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this subsection, and then only when there is no change in the common open space. Unless otherwise specified by the Plan Commission and Town Board, a Homeowners Association will be deemed the preferred method of ownership of common facilities.

- (a) Homeowners Association. Common facilities shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein. The applicant shall provide to the Town a description of the association, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities. The association shall be established by the owner or applicant and shall be operating, with financial

subsidy by the applicant, if necessary, prior to the sale of any dwelling units in the development. Membership in the association shall be mandatory for all purchasers of dwelling units therein and their successors and assigns. The association shall be responsible for maintenance and insurance of common facilities. The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities. The organization shall have adequate means of maintaining common open space. The applicant for any conservation design subdivision proposed to contain common open space shall arrange with the Town Assessor a method of assessment of the common facilities that will allocate to each tax parcel in the development a share of the total assessment for such common facilities. Written notice of any proposed transfer of common facilities by the homeowners association or the assumption of maintenance of common facilities which will allocate to each tax parcel in the development a share of the total assessment for such common facilities must be given to all members of the organization and to the Town at least 30 days prior to such event.

- (b) Condominium Developments and Agreements. Common open space shall be controlled through the use of a condominium agreement. Such agreements shall be approved by the Town and shall comply with the requirements of Chapter 703 of the Wisconsin Statutes. All common open space and other common facilities shall be held as “common elements” by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. A condominium association shall be formed to govern the affairs of the condominium and membership shall be mandatory.
- (c) Dedication of Conservation Easements to a Public Agency. The Town, or other public agency acceptable to the Town may, but shall not be required to, accept easements for public use of any portion of the common open space, title of which is to remain in private ownership, provided that:
 - (1) There is no cost of easement acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
 - (2) A satisfactory maintenance agreement shall be reached between the owner and the Town.
 - (3) Lands under a Town easement may or may not be accessible to residents of the Town.
- (d) Dedication to a Nonprofit Conservation Organization. With the approval of the Town Board, an owner may dedicate any portion of the common facilities to a nonprofit conservation organization, provided that:
 - (1) The organization is acceptable to the Town.

- (2) The conveyance contains appropriate provisions for proper reverting or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
 - (3) A maintenance agreement acceptable to the Town is established between the owner and the organization.
- (e) Ownership retained by the original landowner. Ownership of common open space and facilities may be retained by the original landowner provided that:
- (1) The Town and residents of the development shall hold conservation easements on the land protecting it from further development.
 - (2) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.
- (f) Other methods acceptable to the Town Board for maintenance and operation of common facilities. A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the Town Board prior to preliminary plat approval. Such plans shall:
- (1) Define Ownership.
 - (2) Establish necessary regular and periodic operation and maintenance responsibilities.
 - (3) Estimate staffing needs, insurance requirements, and other associated costs, and define the means for funding the same on an on-going basis.
 - (4) Include a Land Stewardship Plan specifically focusing on the long-term management of open space lands. A draft land stewardship plan shall be submitted with a preliminary plat, and a final plan shall be submitted with the final plat.

(5) Leasing of Common Open Space Lands. Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:

- (a) The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
- (b) The common open space lands to be leased shall be maintained for the purposes set forth in this section.
- (c) The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.
- (d) The lease, and any transfer or assignment thereof, shall be subject to the approval of the Town Board.

- (e) Lease agreements shall be recorded in the office of the County Register of Deeds within 30 days of their execution, and a copy of the recorded lease shall be filed with the Town.

(6) Conservation. Common Open Space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Town Board and duly recorded in the office of the County Register of Deeds. The legal instruments detailing the ownership of the open space shall be submitted with the preliminary plat and shall be recorded with the Register of Deeds upon final plat approval.

(7) In the event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the Town may serve written notice upon such association setting forth the manner in which the association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time specified, the association, or any successor organization, shall be considered in violation of this ordinance, in which case the Town shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the Town shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.

(8) Sewerage Facilities. Sewerage facilities for Conservation Design Subdivision development may consist of any system meeting the requirements of the Town of Kewaskum, Washington County, the Wisconsin Department of Commerce, and the Wisconsin Department of Natural Resources. Sewerage facilities for conservation subdivisions with fifteen (15) or more parcels shall require clustered wastewater treatment systems.

(9) Water Supply Facilities. Water facilities for Conservation Design Subdivisions may consist of any system meeting the requirements of the Town of Kewaskum, Washington County, the Wisconsin Department of Commerce, and the Wisconsin Department of Natural Resources. Water supply facilities for conservation subdivisions with twenty (20) or more parcels shall require community wells and a community water system.

(10) DEVELOPMENT YIELD STANDARDS. Conservation Design Subdivisions shall utilize the following steps in determining the maximum permitted parcel density. This calculation information must be submitted with any application for a conservation design plat.

- (a) Calculate Gross Tract Area (GTA). This shall be the total acreage of the property.

GTA: _____ acres

- (b) Calculate Primary Conservation Areas (PCA). This acreage shall be determined using the following criteria. The data supplied within this calculation shall be substantiated with sufficient plans and data.

- (1) All lands located within existing street, road, or railway rights-of-way.

- _____ acres
- (2) All lands located within existing utility rights-of-way.
_____ acres
- (3) All lands located within a floodplain.
_____ acres
- (4) All lands within environmentally sensitive areas.
_____ acres
- (5) All lands located within wetlands.
_____ acres
- (6) All lands having a slope of 12% or greater.
_____ acres

PCA (sum of 1-6): _____ acres

- (b) Calculate Adjusted Tract Area (ATA). The ATA shall equal the GTA minus the PCA.

ATA: _____ acres

- (c) Calculate Secondary Conservation Areas (SCA). The SCA shall be a minimum of forty percent (40%) of the GTA and shall include, but is not necessarily limited to

- (1) Stream corridors within one-hundred (100) feet of the ordinary high-water mark.
_____ acres
- (2) Environmental corridors, as defined in the Comprehensive Plan.
_____ acres
- (3) Critical wildlife habitat, as defined in the Comprehensive Plan.
_____ acres
- (4) Mature and/or diverse woodlands, wherein twenty (20) percent or more of the trees have a diameter-at-breast-height (DBH) of eighteen (18) inches or more.
_____ acres

(5) Large trees, defined as those with a DBH of thirty-six (36) inches or greater, when deemed to be healthy and structurally sound (identified on plat).

(6) Unique natural areas, as defined in the Comprehensive Plan.

_____acres

(7) Productive agricultural lands, if the type of farming on those lands is deemed compatible with adjoining residential uses

_____acres

(8) Glacial features, including moraines, kettles, drumlins, eskers, etc.

_____acres

(9) Other unique features, as may be identified by the Plan Commission.

SCA (sum of 1-9): _____acres

(d) Calculate Net Development Area (NDA). The NDA shall be a maximum of sixty percent (60%) of the GTA. If the NDA is less than sixty percent of the site, the Plan Commission and Town Board may allow the NDA to be increased to sixty percent.

NDA: _____acres

(e) Calculate Permitted Dwelling Units (PDU). The maximum number of permitted dwelling units in a conservation subdivision shall equal the ATA multiplied by 1.1 (110%), provided that no lot is smaller than ½-acre (21,780 sq ft) unless otherwise approved by the Plan Commission. If the calculation of PDU results in a figure ending in .5 or greater, it shall be rounded up to the next whole number. If the calculation of PDU results in a figure ending in .4 or lower, it shall be rounded down to the next whole number.

PDU: _____

18.07 FINAL PLAT. (1) 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 §236.11, §236.12, §236.20, §236.21 and §236.25 Wis. Stats.

(2) ADDITIONAL INFORMATION. The plat shall show correctly on its face, in addition to the information required by §236.20, Wis. Stats., the following:

(a) Exact length and bearing of the center line of all roads.

(b) Exact road width along the line of any obliquely intersecting road.

(c) Railroad rights-of-way within and abutting the plat.

- (d) Setbacks or building lines required by the Plan Commission in accordance with sec. 18.08(7) of this chapter.
- (e) Additional building setback lines required by the Town Board or by Washington County Land Use and Park Department, which are more restrictive than the zoning district in which the plat is located or which are proposed by the subdivider and which are to be included in recorded protective covenants.
- (f) Utility and drainage easements.
- (g) All lands reserved for future public acquisition or reserved for the common use of property owners within the plat. If property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the plat.
- (h) Floodland and shoreland boundaries and the contour line lying a vertical distance of two feet above the elevation of the 100 recurrence interval flood or, where such data is not available, a vertical distance of 5 feet above the elevation of the maximum flood of record.
- (i) Special restrictions required by the Town Board relating to access control along public ways or to the provision of planting strips, or shorelands or floodlands.
- (j) The Town of Kewaskum requires a policy of title insurance or a certificate of title from an abstract company for examination in order for the Town Board or its designees to ascertain that all parties in interest have signed the owner's certificate on any plat.
- (k) Location of the boundaries of primary and secondary environmental corridors (Cr Ord 2011-03)

(3) **DEED RESTRICTIONS.** The Town Board shall require that deed restrictions be filed with the final plat and shall be recorded with the approved plat.

(4) **SURVEY ACCURACY.** The Town Engineer shall examine all final plats within the Town and may make, or cause to be made by a registered land surveyor under the supervision or direction of the Town Engineer, field checks for the accuracy and closure of survey, proper kind and location of monuments and liability and completeness of the drawing. In addition:

- (a) 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 10,000, nor in azimuth, of 4 seconds of arc per interior angle. If field measurements exceed this maximum, new field measurements shall be made until a satisfactory closure is obtained. When 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.
- (b) All road, block and lot dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary

survey. If field checks disclose an error for any interior line of the plat greater than the ratio of one part in 5,000, or an error in measured angle greater than one minute of arc for any angle where the shorter side forming the angle is 300 feet or longer, necessary corrections shall be made. Where the shorter side of a measured angle is less than 300 feet in length, the error shall not exceed the value of one minute multiplied by the quotient of 300 divided by the length of the shorter side; however, such error shall not in any case exceed 5 minutes of arc.

- (c) The Town Board shall receive the results of the Town Engineer's examination prior to approving the final plat.

(5) SURVEYING AND MONUMENTING. All final plats shall meet all surveying and monumenting requirements of §236.15, Wis. Stats.

(6) 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 or the Southeastern Wisconsin Regional Planning Commission, the plat shall be tied directly to 2 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 State Plane Coordinate System, South Zone, and adjusted to the Town's control survey. 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.

(7) 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 and all other applicable Town zoning regulations.

(8) RECORDATION. The final plat shall be recorded with the Washington County Register of Deeds only after the certificates required above are placed on the face of the plat. Such recordation shall take place in accordance with §236.25(2)(b), Wis. Stats.

18.08 FINAL PLAT FOR CONSERVATION DESIGN SUBDIVISION. (1) GENERAL. A conservation design final plat shall be consistent with all requirements of Article 18.07 of this Chapter.

(2) ADDITIONAL INFORMATION. The conservation design final plat shall include secondary conservation areas, defined as those natural, agricultural, cultural, and or historical resources within the Town that are not otherwise protected by federal, state, or county laws, regulations, or ordinances. Secondary conservation areas are resources that should be preserved when possible and/or economically feasible. The final determination of secondary conservation areas within a given development will be made by the Plan Commission and Town Board. Secondary conservation areas in the Town of Kewaskum may include, but are not limited to:

- (a) Stream corridors within one-hundred (100) feet of the ordinary high-water mark.
- (b) Environmental corridors, as defined in the Comprehensive Plan.
- (c) Critical wildlife habitat, as defined in the Comprehensive Plan.
- (d) Mature and/or diverse woodlands, wherein twenty (20) percent or more of the trees have a diameter-at-breast-height (DBH) of eighteen (18) inches or more.
- (e) Large trees, defined as those with a DBH of thirty-six (36) inches or greater, when deemed to be healthy and structurally sound.
- (f) Unique natural areas, as defined in the Comprehensive Plan.
- (g) Productive agricultural lands, if the type of farming on those lands is deemed compatible with adjoining residential uses.
- (h) Glacial features, including moraines, kettles, drumlins, eskers, etc.
- (i) Other unique features, as may be identified by the Plan Commission.

(3) DEVELOPMENT YIELD STANDARDS. Conservation Design Subdivisions shall utilize the following steps in determining the maximum permitted parcel density. This calculation information must be submitted with any application for a conservation design plat.

- (a) Calculate Gross Tract Area (GTA). This shall be the total acreage of the property.

GTA: _____ acres

- (b) Calculate Primary Conservation Areas (PCA). This acreage shall be determined using the following criteria. The data supplied within this calculation shall be substantiated with sufficient plans and data.

- (1) All lands located within existing street, road, or railway rights-of-way.

_____ acres

- (2) All lands located within existing utility rights-of-way.

- _____ acres
- (3) All lands located within a floodplain.
_____ acres
- (4) All lands within environmentally sensitive areas.
_____ acres
- (5) All lands located within wetlands.
_____ acres
- (6) All lands having a slope of 12% or greater.
_____ acres

PCA (sum of 1-6): _____ acres

- (b) Calculate Adjusted Tract Area (ATA). The ATA shall equal the GTA minus the PCA.

ATA: _____ acres

- (c) Calculate Secondary Conservation Areas (SCA). The SCA shall be a minimum of forty percent (40%) of the GTA and shall include, but is not necessarily limited to

- (1) Stream corridors within one-hundred (100) feet of the ordinary high-water mark.
_____ acres
- (2) Environmental corridors, as defined in the Comprehensive Plan.
_____ acres
- (3) Critical wildlife habitat, as defined in the Comprehensive Plan.
_____ acres
- (4) Mature and/or diverse woodlands, wherein twenty (20) percent or more of the trees have a diameter-at-breast-height (DBH) of eighteen (18) inches or more.
_____ acres
- (5) Large trees, defined as those with a DBH of thirty-six (36) inches or greater, when deemed to be healthy and structurally sound (identified on plat).

(6) Unique natural areas, as defined in the Comprehensive Plan.

_____acres

(7) Productive agricultural lands, if the type of farming on those lands is deemed compatible with adjoining residential uses

_____acres

(8) Glacial features, including moraines, kettles, drumlins, eskers, etc.

_____acres

(9) Other unique features, as may be identified by the Plan Commission.

SCA (sum of 1-9): _____acres

(d) Calculate Net Development Area (NDA). The NDA shall be a maximum of sixty percent (60%) of the GTA. If the NDA is less than sixty percent of the site, the Plan Commission and Town Board may allow the NDA to be increased to sixty percent.

NDA: _____acres

(e) Calculate Permitted Dwelling Units (PDU). The maximum number of permitted dwelling units in a conservation subdivision shall equal the NDA multiplied by 1.1 (110%), provided that no lot is smaller than ½-acre (21,780 sq ft) unless otherwise approved by the Plan Commission. If the calculation of PDU results in a figure ending in .5 or greater, it shall be rounded up to the next whole number. If the calculation of PDU results in a figure ending in .4 or lower, it shall be rounded down to the next whole number.

PDU: _____

18.09 CERTIFIED SURVEY MAP (LAND DIVISION). (Amd. Ord. 2011-07)

(1) **GENERAL.** A certified survey map prepared by a registered land surveyor shall be required for all land divisions plus recorded easements to said land division. It shall comply in all respects with the requirements of §236.34, Wis. Stats. The land division shall comply with the design standards and improvement requirements set forth in secs. 18.10 and 18.11 of this chapter.

(2) **REQUIRED INFORMATION.** The map shall show correctly on its face, in addition to the information required by §236.34, Wis. Stats., the following:

- (a) All existing structures, watercourses, drainage ditches and other features pertinent to proper division.
- (b) Setbacks or building lines if required by the Town Board in accordance with the guidelines set forth in sec. 18.08(7) of this chapter.
- (c) All lands reserved for future acquisition.
- (d) Date of the map.
- (e) Graphic scale.
- (f) Name, address, and business phone number of the owner, subdivider and surveyor.
- (g) Floodplain limits and the contour line lying a vertical distance of 2 feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, 5 feet above the elevation of the maximum flood of record.
- (h) Utility and drainage easements.
- (i) All proposed roads, roads or highways within or adjacent to the boundaries of the parcels created by the land division and the location of access to such roads, roads or highways as approved by the State, County or Town.
- (j) Wetlands as delineated on the official Washington County wetlands mapping.
- (k) Location of the boundaries of primary and secondary environmental corridors (Cr Ord 2011-03)

(3) **ADDITIONAL INFORMATION.** The Town Board may require that the following additional information be provided when necessary for the proper review and consideration of the map

- (a) Existing contours at vertical intervals of not more than 2 feet where the slope of the ground surface is less 10%, and of not more than 5 feet where the slopes of the ground surface is 10% or more. Elevations shall be marked on such contours based on National Geodetic Vertical Datum (NGVD) of 1929 (mean sea level). The requirement to provide topographic data may be waived if the parcel created is fully developed.
- (b) Soil type, slope, and boundaries as shown on the detailed operational soft survey maps prepared by the U.S. Soil Conservation Service. 1-12

- (c) Location of soil boring tests, where required by Wis. Adm. Code Comm 85.06, made to a minimum depth of 6 feet or to bedrock, whichever is greater. The number of such tests shall be adequate to portray the character of the soil and the depths of bedrock and groundwater from the natural undisturbed surface. To accomplish this purpose, a minimum of one test per 3 acres shall be made initially. The results of such tests shall be submitted along with the certified survey map.
- (d) Location of soil analysis tests where required by Wis. Adm. Code Comm 85.06, taken at the location and depth in which soil absorption waste disposal systems are to be installed. The number of such tests initially made shall not be less than one test per 3 acres or one test per lot, whichever is greater. The results of such tests shall be submitted along with the certified survey map.
- (e) The Town Board may require that the entire area contiguous to the land outlined in the proposed certified survey owned or controlled by the subdivider be included on the certified survey map even though only a portion of said area is proposed for immediate development. If the Town determines that such a survey is not required, a sketch drawn to scale shall be submitted showing the developers entire contiguous holdings.

(4) STATE PLANE COORDINATE SYSTEM. Where the map is located within a U.S. Public Land Survey quarter section the corners of which have been relocated, monumented and coordinated by the Town or the Southeastern Wisconsin Regional Planning Commission, the map shall be tied directly to 2 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 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 State Plane Coordinate System, South Zone, and adjusted to the Town's control survey.

(5) CERTIFICATES. All certified survey maps shall provide all of the certificates required for final plats by §236.21, Wis. Stats., The Town Board shall certify its approval on the face of the map. In addition, the surveyor shall certify that s/he has fully complied with all of the provisions of this chapter.

(6) RECORDATION. The certified survey map shall be recorded with the County Register of Deeds only after the certificates of the Town Board, Plan Commission Chairperson and Zoning Secretary, and the surveyor are placed on the face of the map.

18.10 DESIGN STANDARDS. (1) ROAD ARRANGEMENT. In any new subdivision the road layout shall conform to the arrangement, width and location indicated on any applicable official map, Washington County jurisdictional highway system plan, comprehensive plan or plan component, or neighborhood unit development plan of the Town. In areas for which such plans have not been completed, the road layout shall recognize the functional classification of the various types of roads and shall be developed and located in proper relation to existing and proposed roads, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such roads, and to the most advantageous development of adjoining areas. The subdivision shall be designed so as to provide each lot with at least 50 feet of frontage on a public road.

- (a) Arterial roads shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation, and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major roads and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned roads with which they are to connect.
- (b) Collector roads shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major road and highway system and shall be properly related to the arterial roads to which they connect.
- (c) Minor roads 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 road area necessary to provide safe and convenient access to abutting property.
- (d) Proposed roads 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 for the advantageous development of the adjacent tracts. Examples of where the Town would not require a road to extend to the property boundary would be when the subdivision abuts a wetland or other unsuitable lands, or where a sewerer subdivision abuts lands not included in a sanitary sewer service area.
- (e) Arterial Road and Highway Protection. Whenever the proposed subdivision contains or is adjacent to an arterial road or highway, adequate protection of residential properties, limitation of access, and separation of through and local traffic shall be provided by reversed frontage, with screen planting contained in a 30-foot nonaccess reservation along the rear property line, or by the use of frontage roads.
- (f) Stream or lake shores shall have 60 feet of public access platted to the low water mark at intervals of not more than 1/2 mile as required by §236.16(3), Wis. Stats.

- (g) Reserve strips shall not be provided on any plat to control access to roads or alleys, except where control of such strips is placed with the Town under conditions approved by the Town Board.
- (h) Access shall be provided in commercial and industrial districts for off-road loading and service unless otherwise required by the Town Board.
- (i) Road names shall not duplicate or be similar to existing road names elsewhere in the Town, and existing road names shall be projected wherever possible.

(2) **LIMITED ACCESS HIGHWAY TREATMENT.** Whenever the proposed subdivision contains or is adjacent to a limited access highway the design shall provide the following treatment:

- (a) When lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited access highway, a planting strip at least 30 feet in depth shall be provided adjacent to the highway in addition to the normal lot depth. This strip shall be a part of the platted lots but shall have the following restriction lettered on the face of the plat- "This strip reserved for the planting of trees and shrubs, the building of structures, except public or private utility structures, hereon is prohibited."
- (b) Commercial and Industrial Districts shall have provided, on each side of a limited access highway or railroad, roads approximately parallel to and at a suitable distance from such highway for the appropriate use of the land between such roads and highway or railroad, but not less than 150 feet.
- (c) Roads parallel to a limited access highway or railroad right-of-way, when intersecting a major road and highway or collector road which crosses said highway shall be located at a minimum distance of 250 feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.
- (d) Minors roads immediately adjacent to and parallel to railroad rights-of-way shall be avoided, and location of minor roads adjacent to arterial roads and highways and to railroad rights-of-way shall be avoided in residential areas.

(3) **ROAD DESIGN STANDARDS.** The minimum right-of-way and roadway width of all proposed roads and alleys shall be as specified by the comprehensive plan, comprehensive plan component, official map, neighborhood unit development, or County jurisdictional highway system plan. In order to reduce the percentage of impervious surface within proposed subdivisions so as to reduce the negative impact of run-off to surface waters, minimum road width for new residential construction in the Town of Kewaskum shall be based upon the Average Daily Traffic volume consistent with State standards. The State standard for trip generation is 9.57 per day from a single-family, detached home. If no width is specified therein, the minimum width for arterial, collector, and minor roads shall be as shown on Table 1 below. Cross-sections for freeways, expressways, and parkways should be based on detailed engineering studies.

**TABLE 1
REQUIRED ROAD CROSS-SECTIONS IN THE TOWN OF KEWASKUM**

Average Daily Traffic Volume	Minimum Right-of-Way Width to be Dedicated	Minimum Roadway Width	Minimum Surface Width	Minimum Shoulder Width
Up to 400	66 feet	28 feet	22 feet	3 feet
401-1,000	66 feet	34 feet	22 feet	6 feet
1,001-2,400	66 feet	44 feet	24 feet	10 feet
Cul-de-sac Road Cul-de-sac Bulb	66 feet 66 foot radius	28 feet	22 feet 45 foot radius	3 feet 3 feet

(a) The subdivision developer shall maintain responsibility for the development of all roads in new subdivisions until seventy-five percent (75%) of the homes are completed. The roads shall be in good condition when the Town assumes responsibility for maintenance and upkeep. In addition, the developer shall complete a density test, consistent with WisDOT standards, for all roads within the subdivision and submit such test to the Plan Commission for review prior to the Town assuming authority over such roads.

(4) LOTS. The size, shape, and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site, and a proper architectural setting for the buildings contemplated. In addition:

- (a) Side lot lines shall be at right angles to straight road lines or radial to curved road lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
- (b) Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation. Such permitted double frontage and reverse frontage lots shall provide an extra lot depth of 20 feet for landscaped buffering.
- (c) Access. Every lot shall front or abut for a distance of at least 50 feet on a public road.
- (d) Area and dimensions of lots shall conform to the requirements of the Zoning Code. Wherever a tract is subdivided into parcels that are more than twice the minimum lot area required for the zoning district in which the parcel is located, the Town Board may require such parcels shall be arranged and dimensioned as to allow re-subdivision of any such parcels into normal lots in accordance with the provisions of this chapter.
- (e) Depth. Excessive depth in relation to width shall be avoided and a proportion of 2:1 shall be considered a desirable ratio under normal conditions. Depth of lots or parcels reserved or laid out for commercial or industrial

use shall be adequate to provide for off-road service and parking required by the use contemplated.

- (f) The width of lots shall conform to the requirements of the Zoning Code.
- (g) Corner lots shall have an extra width of 15 feet to permit adequate building setbacks from side roads.
- (h) Lands lying between the meander line 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.
- (i) Back lot development or lake lot pyramiding is prohibited. Lots abutting a lake which are zoned for single-family residential development shall be used on a continuing basis for only one family. The purchase of a single lot or outlot abutting a lake shall not be used as access for lots, subdivisions or other developments located away from the lake.
- (j) Flag lot is a lot not fronting on or abutting a public road and where access to the public road system is by a narrow strip of land, easement, or private right-of-way. Flag lots are not generally considered to conform to sound urban design principles, and it is the Town Board's policy not to create a flag.
- (k) Plan Commission may allow flag lots in a rural setting if it is decided that it's the best use of the property. (Created by Ord. No 2015-03)

(5) **BUILDING AND SETBACK LINES.** Building setback lines appropriate to the location and type of development contemplated, which are more restrictive than the regulation of the zoning district in which the plat is located, may be required by the Town Board and shall be shown on the final plat or certified survey map. Examples of the application of this provision would include requiring greater setbacks on cul-de-sac lots to achieve the necessary lot width at the setback line, requiring greater setbacks to conform to setbacks of existing adjacent development, or setting special yard requirements to protect natural resource elements.

(6) **EASEMENTS.** (a) **Utility Easements.** The Town Board may require utility easements of widths deemed adequate for the intended purpose of each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for electric power and communication poles, wires, conduits, storm and sanitary sewers; and gas, water and other utility lines. All easements shall be noted on the final plat followed by reference to the use or uses for which they are intended.

- 1) Utility easements – 10 ft. minimum
- 2) Drainage easements – 30 ft. minimum
- 3) Pedestrian easements – 10 ft. minimum
- 4) Access/maintenance easement – 10 ft. minimum

(b) **Drainage Easements.** Where a subdivision is traversed by a drainage way or stream, an adequate easement shall be provided as may be required by the Town Board. The location, width, alignment, and improvement of such drainageway or easement shall be subject to the approval of the Town

Engineer; and parallel roads or parkways may be required in connection therewith. Where necessary, storm water drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically accommodate maximum potential volumes of flow. These design details are subject to review and approval by the Engineer.

(7) PUBLIC SITES AND OPEN SPACES. (a) In the design of the plat or certified survey map, due consideration shall be given to the reservation of suitable sites of adequate area for future schools, parks, playgrounds, drainageways, and other public purposes. If designated on the comprehensive plan, comprehensive plan component, official map, or neighborhood unit development plan, such areas shall be made a part of the plat or certified survey map as stipulated in sec. 18.03(3) of this chapter. If not so designated, consideration shall be given to preserving open space sites such as primary environmental corridors, scenic and historic sites, woodlands, wetlands, lakes, ponds, watercourses, and ravines within the proposed plat or certified survey map.

(b) (Rep. Ord. #4-06)

(c) (Rep. Ord. #4-06)

(8) PRIVATE ACCESS POINTS TO LAKES AND STREAMS. All points of access to any Town lake or stream shall conform to the applicable provisions of the Zoning Code and the Washington County Shoreland Zoning chapter. The purpose of this section is to promote the comfort, health and safety of the Town and its citizens and to preserve and protect the environmental and water quality of all Town lakes and streams.

(a) All points providing access whether by easement, deed or plat reservation to any Town lake or stream from more than one dwelling unit on lots, which do not front directly on the water, shall have a minimum width of 75 feet at the normal high water line.

(b) In order to carry out the intent and purpose of these regulations, the Town Board may require the subdivider to install such improvements in the access area as may be necessary to further the maintenance of safe and healthful conditions and prevent and control water pollution. When appropriate, the Board may require the subdivider to record restrictions pursuant to §236.293, Wis. Stats., to provide for the continued maintenance of the required improvements and/or to prohibit the subsequent grant of access to lakes and streams following an approval of a plat of subdivision which has not incorporated access as part of its final plat.

(c) The Town Board shall specify additional conditions, such as landscaping architectural design, type of construction, construction commencement and completion dates, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, flood-proofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational control, hours of operation, or increased yards, upon a finding that these are necessary to fulfill the purpose and intent of this section.

- (d) The Town Board, when applying the provisions of this section, shall afford the subdivider and any other interested party an opportunity to present evidence and be heard at a public hearing.

18.11 REQUIRED IMPROVEMENTS.(1) **SURVEY MONUMENTS.** The subdivider shall install survey monuments placed in accordance with the requirements of §236.15, Wis. Stats., and as may be required by the Town Engineer.

(2) **GRADING.** (a) After the installation of temporary block corner monuments by the subdivider and establishment of road grades by the Town Board, the subdivider shall grade the full width of the right-of-way of all roads proposed to be dedicated in accordance with plans and standard specifications approved by the Board, upon recommendation of the Town Engineer. The subdivider shall grade the roadbeds in the road rights-of-way to sub-grade.

- (b) Cut and filled land shall be graded to a maximum slope of one on 4 or the soil's angle of repose, whichever is the lesser, and covered with permanent vegetation.

(3) **SURFACING.** After the installation of all utility and storm water drainage improvements, the subdivider shall surface all roadways in roads proposed to be dedicated to the widths prescribed by these regulations, the Town comprehensive plan or comprehensive plan components, and any other applicable regulations. Said surfacing shall be done in accordance with plans and standard specifications approved by the Town Engineer.

(4) **CURB AND GUTTER.** The Town Board may require the subdivider to construct concrete curb and gutters in accordance with plans and standard specifications approved by the Board, upon recommendation of the Town Engineer.

(5) **RURAL ROAD SECTIONS.** When permanent rural road sections have been approved by the Town Board, the subdivider shall finish grade all shoulders and road ditches, install all necessary culverts at intersections and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the Plan Commission, upon recommendation by the Town Engineer, and as set forth in secs. 18.09(8)(a) of this chapter and sub. (15) below.

(6) **REMOVAL OF TEMPORARY CUL-DE-SACS.** Where a subdivision or minor land division abuts an existing temporary cul-de-sac, and the approved plans include extending the road ended by said temporary cul-de-sac, the Subdivider shall be responsible for the removal of the temporary cul-de-sac, reconstruction of the drainage and roadside ditches or curb and gutter, as applicable, reinstallation of culverts, reconstruction of driveways and restoration of all disturbed areas. The Town Board, upon review and recommendation of the Town Engineer, will determine if the existing culvert(s) may be salvaged and reused.

(7) **SIDEWALKS.** In all subdivisions, the Town may require the subdivider to construct a concrete sidewalk on both sides of all roads within the subdivision. The construction of all sidewalks shall be in accordance with plans and standard specifications approved by the Town Board upon recommendation of the Town Engineer.

(8) **PUBLIC SANITARY SEWERAGE.** When public sewer facilities are available, or when it is proposed to establish a private sanitary sewerage system to serve one lot, the subdivi-

vider shall construct sanitary sewers in such a manner as to make adequate sanitary sewerage service available to each lot within the subdivision. In addition:

- (a) The Town Board shall, for residential lots, require the installation of sewer laterals to the road lot line.
- (b) The size, type, and installation of all sanitary sewers and sanitary laterals proposed to be constructed shall be in accordance with plans and standard specifications approved by the Town Board, upon recommendation of the Town Engineer. The latest revision of the "Standard Specifications for Sewer and Water Construction in Wisconsin" shall govern all work. All sanitary sewer and sanitary sewer lateral trenches within proposed roads shall be backfilled with granular material meeting the requirements of the "Standard Specifications"; however, upon written approval of the Engineer, the trenches may be backfilled with excavated material meeting the requirements of the "Standard Specifications." If excavated material is allowed for backfill, it shall be compacted by mechanical methods, meeting the approval of the Board, upon the recommendation of the Engineer.
- (c) Where a Town Sanitary District has been created pursuant to §60.71 or §60.72, Wis. Stats., for the purpose of providing and constructing sanitary sewers, such plans and standard specifications shall further be subject to review and approval by the Sanitary District Commission.
- (d) Where an Inland Lake Protection and Rehabilitation District has been formed and authorized to exercise sanitary district powers pursuant to §33.22, Wis. Stats., for the purpose of providing and constructing sanitary sewers, such plans and standard specifications shall further be subject to review and approval by the Lake District Commission.
- (e) The subdivider shall assume the cost of installing all sanitary sewers, sewer laterals, and sewer appurtenances within the proposed subdivision, except for the added cost of installing sewers greater than 8 inches in diameter which are necessary to serve tributary drainage areas lying outside the proposed subdivision. In addition, the subdivider shall pay to the Town or Town Sanitary District a sanitary sewer trunk line connection fee based on the added cost of installing larger sewers in the total tributary drainage area which shall be prorated in proportion to the same ratio as exists between the total area of the proposed plat and the total drainage area to be served by the larger sewers.

(9) **STORM WATER DRAINAGE FACILITIES.** The subdivider shall construct storm water drainage facilities in accordance to the Zoning Code, which may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, and open channels, water retention structures, and settling basins adequate to serve the proposed subdivision. All such facilities shall be of adequate size and grade to hydraulically accommodate the maximum potential volumes of flow and shall be designed so as to prevent and control soil erosion and sedimentation and all storm water drainage facilities must meet the requirements of the Erosion Control and Storm Water Management chapter. In addition:

- (a) Unpaved road ditches and road gutters shall be shaped and seeded and/or sodded as grassed waterways. Where the velocity of flow exceeds four feet

per second on soils having a severe or very severe erosion hazard, or exceeds 6 feet per second on soils having moderate, slight, or very slight erosion hazard, the subdivider shall install a paved invert or check dams, flumes, or other energy dissipating devices approved by the Town Board, upon the recommendation of the Town Engineer.

- (b) Shoreland drainage facilities shall, if required, include water retention structures and settling basins so as to prevent erosion and sedimentation where such facilities discharge into streams or lakes. The design criteria, and the size, type, grades and installation of all storm water drains and sewers and other cross-section, invert and erosion control paving check dams, flumes or other energy dissipating structures and seeding and/or sodding of open channels and unpaved road ditches proposed to be constructed shall be in accordance with the plans and standard specifications of all applicable Washington County chapters and approved by the Town Board, upon the recommendation of the Town Engineer.
- (c) Where a Town Sanitary District has been created pursuant to §60.71 or §60.72, Wis. Stats., for the purpose of providing and constructing surface drainage facilities, storm sewers or other drainage improvements, such plans and standard specifications shall further be subject to review and approval by the Sanitary District Commission.
- (d) Where an Inland Lake Protection and Rehabilitation District has been formed and authorized to exercise sanitary district powers pursuant to §33.22, Wis. Stats., for the purpose of providing and constructing surface drainage facilities, storm sewers or other drainage improvements, such plans and standard specifications shall further be subject to review and approval by the Lake District Commission.
- (e) The subdivider shall assume the cost of installing all storm sewers within the proposed subdivision, except for the added cost of installing storm sewers greater than 24 inches in diameter, which are necessary to serve tributary drainage areas lying outside of the proposed subdivision. In addition, the subdivider shall pay to the Town or Town Sanitary District a storm sewer trunk line connection fee based on the added cost of installing larger sewers in the total tributary drainage area which shall be prorated in proportion to the same ratio as exists between the total area of the proposed plat and the total drainage area to be served by the larger sewers.

(10) **WATER SUPPLY FACILITIES.** When public water supply and distribution facilities are available to the subdivision plat, or when it is proposed to establish a private water supply and distribution system to serve one lot, the subdivider shall cause water supply and distribution facilities to be installed in such a manner as to make adequate water service available to each lot within the subdivision. Private water systems, when required by the Town, shall be provided by the subdivider in accordance with the standards of the Wisconsin Department of Health and Social Services. In addition:

- (a) The Town Board shall require the installation of water laterals to the road lot line.

- (b) The size, type, and installation of all public water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the Town Board. The latest revision of the "Standard Specifications for Sewer and Water Construction in Wisconsin" shall govern all work.
- (c) Where a Town Sanitary District has been created pursuant to §60.71 or §60.72, Wis. Stats., for the purpose of providing a system, or systems, of water works, such plans and standard specifications shall also be subject to review and approval by the Sanitary District Commission.
- (d) Where an Inland Lake Protection and Rehabilitation District has been formed and authorized to exercise sanitary district powers pursuant to §33.22, Wis. Stats., for the purpose of providing a system, or systems, of water works, such plans and standard specifications shall further be subject to review and approval by the Lake District Commission.
- (e) The subdivider shall assume the cost of installing all water mains, water laterals, and water system appurtenances within the proposed subdivision except for the added cost of installing water mains greater than 8 inches in diameter.

(11) OTHER UTILITIES. (a) The subdivider shall cause gas, electric power, telephone, and cable television facilities to be installed, where available, in such a manner as to make adequate service available to each lot in the subdivision. All electrical, or telephone, or cable television service shall be located underground conducts. Where such services are not available at the time the land division is approved, a restrictive covenant shall be recorded with the plat requiring the underground installation of utilities when they become available.

- (b) Plans indicating the proposed locations of all gas, electrical power, telephone distribution, cable television and transmission lines required to service the plat shall be approved by the Town Board.

(12) ROAD LAMPS. The Town Board may require the subdivider to install road lamps along all roads to be dedicated, of a design approved by the Town Engineer. Such lamps shall be placed at each road intersection and at such mid-block intervals as may be required by the Town .

(13) ROAD NAME SIGNS. The subdivider shall install at the intersection of all public and private roads to be dedicated a road sign of a design specified by the Town Board.

(14) ROAD TREES. The Town Board may require the subdivider to plant at least one tree of a species acceptable to the Board and at least 2-1/2 inches in diameter at breast height (dbh) for each 50 feet of frontage on both sides of all roads to be dedicated. The required trees may be planted in the lawn area of the right-of-way in accordance with plans and standard specifications if approved by the Board. In lieu of planting road trees, the subdivider may, at the time of final plat approval or certified survey map approval, pay a tree fee to the Town Clerk for each tree to be planted, in accordance with the Town Fee Schedule. Monies collected for tree planting shall be kept in a special tree planting fund for that purpose,

(15) SEDIMENT CONTROL. In accordance with the Town Erosion Control and Storm Water Management chapter, the subdivider shall plant those grasses, trees, and vines, of

species and size specified by the Town Board, necessary to prevent soil erosion and sedimentation. Planting shall be consistent with said Erosion Control and Storm Water Management chapter standards. In addition:

- (a) The Town Board may require the subdivider to provide or install certain protection and rehabilitation measures, such as fencing, sloping, seeding, riprap, revetments, jetties, clearing, dredging, snagging, drop structures, brush mats, willow poles, and grade stabilization structures.
- (b) Tree cutting and shrubbery clearing shall not exceed 50% of the lot or tract and shall be so conducted as to prevent erosion and sedimentation, and to preserve and improve scenic qualities. (See sec. 18.10(4) and (5) of this chapter.)
- (c) Paths and trails in wooded and wetland areas shall not exceed 10 feet in width unless otherwise approved by the Town Board, and shall be so designed and constructed as to result in the least removal and disruption of trees and shrubs, and the minimum impairment of natural beauty.
- (d) Earth moving, such as grading, topsoil removal, mineral extraction, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channeling, clearing, ditching, drain tile laying, dredging, and lagooning, shall be so conducted as to prevent erosion and sedimentation and to minimize disturbance of the natural fauna, flora, watercourse, water regimen, and topography. (See sec. 18.10(4) of this chapter.)
- (e) The Town Engineer or Town Board may request that the Washington County Land Use and Park Department, the State District Fish and Game Manager, or the State District Forester, as appropriate, review any vegetation cutting, clearing, or earth moving associated with the subdivision.

18.12 CONSTRUCTION. (1) **COMMENCEMENT.** No construction or installation of improvements shall commence in a proposed land division until the final plat or certified survey map has been approved by the Town Board and the Town Engineer has given written authorization and the developer has entered a subdivider agreement with the Board. The developer must also provide a letter of credit or bond of 125% or sufficient to insure his performance of work, per Town Engineer's recommendation. (Cr. Ord 2011-03) If the proposed land division is to occur in phases, the developer must provide a letter of credit or bond of 125% or sufficient to insure his performance of work in each phase as approved by the Town Board.

(2) **BUILDING PERMITS.** No building permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this chapter until all the requirements of this chapter have been met.

(3) **PLANS.** The following plans and accompanying construction specifications shall be required by the Town Board and reviewed by the Town Engineer before installation of improvements is authorized:

- (a) Road plans and profiles showing existing and proposed grades, elevations, and cross-sections of required improvements.
- (b) Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations, and materials of required facilities.
- (c) Storm sewer and open channel plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
- (d) Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
- (e) Erosion and sedimentation control plans showing those structures necessary to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation. The erosion and sedimentation control plan shall include information on the length of time that soil will be exposed, and plans and structures, such as fences and tree wells, intended to protect existing vegetation. Such plans shall meet the requirements set forth in the Erosion Control and Storm Water Management chapter.
- (f) Planting plans showing the locations, diameter at breast height (dbh), and species of any required road trees.
- (g) Additional special plans or information as required.

(4) **EROSION AND SEDIMENTATION CONTROL.** The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected that erosion, siltation, sedimentation, and washing are prevented, in accordance with the plans and specifications approved by the Town Board, upon recommendation of the Town Engineer. In addition:

- (a) All erosion and sedimentation control plans shall incorporate best management practices to reduce soil loss during construction to 10% of the gross soil loss as estimated by the universal soil loss equation.
- (b) Sod shall be laid in strips at those intervals necessary to prevent erosion and at right angles to the direction of drainage.
- (c) Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.
- (d) Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.
- (e) Sediment Basins shall be installed and maintained at all drainage ways to trap, remove, and prevent sediment and debris from being washed outside the area being developed.

(5) **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, drainage ways, building foundation sites, private driveways, soil absorption waste disposal areas, paths,

and trails. Trees shall be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by well islands or retaining walls, whenever abutting grades are altered.

(6) **INSPECTION.** The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Town Engineer to provide for inspection. The Engineer shall inspect and approve all completed work prior to approval of the final plat or release of the sureties.

18.13 FEES. (1) No application filed pursuant to this chapter shall be considered complete until all fees due pursuant to this chapter shall have been paid. Every approval granted and every permit issued pursuant to this chapter, whether or not expressly so conditioned, shall be deemed to be conditioned upon payment of the required fees. The failure to fully pay such fee when due shall be grounds for the Town to refuse to process, or to continue to process, an application and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid fee relates.

(2) In no event shall such unpaid fees remain unpaid at the time any approval granted by the Town is recorded, as and in such case, the Town shall charge a fee double to that which remains unpaid at the time of recording. In addition, the violation of this section regarding prompt payment of fees shall also entitle the Town to recover actual attorney's fees and other costs of prosecution.

(3) Before being entitled to record a plat or certified survey map, the subdivider shall pay all fees to the Town Clerk in accordance with the Town Fee Schedule on file in the office of the Clerk.