

CHAPTER 6  
LAND DIVISION ORDINANCE

DISCLAIMER

- I. All persons reviewing the provisions of this ordinance should be aware that the Town of Black Earth is only one of a number of governmental bodies which may have jurisdiction over proposed land divisions or development. The Town of Black Earth cannot make any representations on behalf of any other governmental body. No land division may be made unless all required approvals have been given.
- II. No statement or actions by any official, employee or agent of the Town of Black Earth should be construed or taken as a binding act of the Town except a resolution, motion or ordinance which has been adopted by the Town of Black Earth Town Board at a lawfully conducted Town Board meeting, or by the Town electorate at a duly constituted Annual or Special Town Meeting. This includes, but is not limited to, interpretation of this ordinance.
- III. The Town of Black Earth expressly states that it has no responsibility whatsoever for assuring that land and/or buildings sold in the Town are in compliance with any ordinances, regulations or rules. The Town also assumes no responsibility for the suitability of any property whose subdivision has been approved by the Town Board.

6.1 INTRODUCTION

- (1) TITLE. This Chapter shall be known as the “Land Division Ordinance of the Town of Black Earth” and will be referred to in this Chapter as “this Chapter” or “this Ordinance.”
- (2) AUTHORITY. These regulations are adopted under the authority granted by sec. 236.45, Wis. Stats., and by the adoption of village powers under sec. 60.10, Wis. Stats.
- (3) PURPOSE. The purpose of this ordinance is to regulate and control the division of land within the corporate limits of the Town of Black Earth in order to promote the public health, safety and general welfare of the community.
- (4) INTENT. It is the general intent of this chapter to regulate the division of land so as to: further the orderly layout and use of land; to prevent the overcrowding of land; to lesson congestion in the streets and highways; to provide for adequate light and air; to facilitate adequate provision for water sewerage and other public requirements; to provide for proper ingress and egress; and to promote proper monuments of land subdivided and conveyance by accurate legal description. The approvals to be obtained as required in this chapter shall be based on requirements designed to accomplish the aforesaid purposes.
- (5) ABROGATION AND GREATER RESTRICTIONS. This ordinance shall not be construed to repeal, abrogate, annul, impair, or interfere with any existing easements,

covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to laws. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

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

(7) SEVERABILITY. In the event that a court should determine that a portion of this ordinance is invalid, the remaining portions of the ordinance shall stand and be valid, and shall be construed as a complete enactment.

6.2 DEFINITIONS. In this Chapter the following words and phrases shall have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning:

(1) Board. The Town Board of the Town of Black Earth

(2) Certified Survey Map. A map of land division, not a subdivision, prepared in accordance with sec. 236.34, Wis. Stats. and in full compliance with the applicable provision of this chapter. A certified survey map has the same legal force and effect as a subdivision map.

(3) Clerk. The Town of Black Earth Clerk.

(4) Comprehensive Development Plan. A map of land division, not a subdivision, prepared in accordance with sec 236.34, Wis. Stats. and in full compliance with the applicable provision of this chapter. A total site plan of an area of land 80 acres or more in size all under the control of a developer(s) at the time of submission for review. Such a plan shall specify and clearly illustrate the location, relationship and nature of all primary and secondary uses, public and private easements, public and private roads, pedestrian paths and common open space.

(5) Comprehensive Plan. The adopted plan of the Town of Black Earth, also referred to as a “Land Use Plan,” that contains goals, objectives, policies, and recommendations regarding land use, transportation, utilities and community facilities, housing, economic development, agricultural, natural, and cultural resources, intergovernmental agreement, and implementation, as adopted under sec. 66.1001, Wis. Stats., and from time-to-time amended.

(6) Copy. A true and accurate copy of all sheets of the original subdivision plat.

- (7) Divide. To convey, record, survey, parcel, split or in any other manner alter an interest in real property so as to cause a parcel of land to be allotted, allocated, severed, split or rendered into smaller parcels of land.
- (8) Engineer. A firm or individual designated by the Town Board to advise the Town Board on a particular project; if the Town Board does not designate an engineer, the term shall be defined to mean the Town Board.
- (9) Greenway. An open area of land, the primary purpose of which is to carry stormwater on the ground surface in lieu of an enclosed storm sewer. Greenways may serve multiple purposes in addition to their principal use including but not limited to, vehicular, bicycle, and pedestrian traffic, sanitary sewers, water mains, storm sewers, storm water retention basin, park development and other related uses.
- (10) Land Division. A division of a parcel of land which is not a subdivision and which creates less than five lots, parcels or building sites of 35 acres each or less in area, regardless of whether the act of division also creates one or more lots, parcels or building sites on 35 acres or more.
- (11) Land(s). Any real estate or interest in real estate.
- (12) Lot. A land area of 35 acres or less defined by metes and bounds, certified survey map, recorded subdivision plat or other means and separated from other lots or parcels.
- (13) Official Map. If adopted by the Town Board, a map indicating the location, width, extent of the existing and proposed street, highway, parkways, parks and playgrounds adopted and amended by the Town Board pursuant to sec. 62.23(6), Wis. Stats.
- (14) Outlot. A parcel of land, other than a lot, building site, or block, so designated on the plat or certified survey map.
- (15) Parcel. Contiguous lands under the control of a subdivider or subdividers not separated by streets, highway or railroad rights-of-way.
- (16) Plat. A map of a subdivision prepared in conformity to the requirements of Ch. 236, Wis. Stats.
- (17) Plan Commission. The Town of Black Earth Plan Commission.
- (18) Preliminary Plat. A map showing the salient features of a proposed subdivision or land division, as described in Section 6.04, submitted to the Town for purposes of preliminary consideration, prior to all final plats and, when required, prior to all land divisions.

(19) Public Way. Any public road, street, highway, walkway, drainageway, or part thereof.

(20) Replat. Process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or a part thereof. The division of a block, lot or outlot within a recorded subdivision plat without changing the exterior boundaries of said block, lot or outlot is not a replat but a land division.

(21) Residential Dwelling Unit. A single family dwelling or the part of a duplex, apartment, or other multiple family dwelling occupied by one family or one distinct set of inhabitants.

(22) Shoreland. Any land lying within 75 feet of the ordinary high water mark of a navigable waterway.

(23) Street, Road, Highway. A public way for pedestrian and vehicular traffic whether designated as a street, highway, road, land, way, avenue or however otherwise designated.

(a) Arterial Streets and Highways Those streets which provide rapid movement of concentrated volumes of traffic over relatively long distances. They provide principally for movement of persons and goods between high activity area.

i. Principal Arterials Those streets serving the major interstate corridors and corridors which connect major cities and regions. These routes provide the highest level of mobility and form a continuous system with constant operating conditions under a high degree of access control.

ii. Primary Arterials Those streets serving long trips between important cities and the major intra-community corridors within the metropolitan area. These routes provide for a high degree of mobility under a high degree of access control.

iii. Standard Arterials Streets which more commonly provide for intermediate length trips, thus serving through traffic movement in trade areas, or feeding traffic to the primary and principal arterials from lower activity area not served by such routes.

(b) Collector Streets Those streets which provide moderate speed movement of persons and goods within large areas. They are basically local streets which usually, because of more directness of routing and higher capacity than other local streets, receive higher volumes of traffic to be distributed from or collected toward nearby arterial streets.

(c) Connector Streets Those streets which perform a semi-arterial function as well as serving as distribution and land access streets.

(d) Distributor Streets Those streets which perform the function of gathering and distributing traffic from and to the local streets and adjacent lands.

(e) Local Streets Those streets which are designed for low speeds and volumes and are to provide access from low-generation land activities to the collector and arterial systems.

(f) Marginal Access Streets Those streets which are parallel and adjacent to arterial streets and highway and which provide access to abutting properties and protection from through traffic.

(g) Alleys Streets which provide secondary means of access for vehicular services to the back or side of property otherwise abutting a street.

(h) Cul-de-sac Streets closed at one end with turnarounds.

(24) Dead-end streets Streets closed a one end without turnarounds.

(25) Subdivider. Any person, firm, corporation, partnership or other entity which divides or proposes to divide land in any manner which results in a land division or subdivision.

(26) Subdivision. A division of a parcel of land where the act of division creates either:

(a) Five or more lots, parcels or building sites of 35 acres each or less in area; or

(b) Five or more lots, parcels or building sites of 35 acres each or less in area by successive divisions within a period of five years.

(27) Structure. Anything which has the capacity to contain, used for the occupation or shelter of man or animal or for the storage, receiving, retaining or confining of personal property, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground. The term does not include the facilities and appurtenances of public utilities other than buildings.

(28) Town. The Town of Black Earth, Dane County, Wisconsin.

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

(30) Wetland. Real estate which has been delineated as a wetland by the official wetland boundary maps of Dane County or the Wisconsin Department of Natural Resources.

### 6.3 GENERAL PROVISIONS

(1) JURISDICTION. These regulations shall apply to all lands and condominium developments within the Town of Black Earth. The provisions of this ordinance as they apply to division of tracts of land into less than five (5) parcels shall not apply to:

- (a) Transfers of interests in land by will or pursuant to court order;
- (b) Leases for a term not to exceed 10 years, mortgages or easements;
- (c) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below one acre in the Agricultural Preservation District as presented in the Town Comprehensive Plan and one and one half acres in all other planning districts, with a minimum 150 foot width at the building setback line, 66-foot right-of-way for roads, applicable offsets, setback requirements or such other minimum size as is required by Comprehensive Plan, Town Ordinance, Dane County Ordinances or Chapter 236, Wis. Stats., or any other applicable laws or ordinances.

(2) COMPLIANCE. No person, firm, corporation, partnership, or legal entity of any kind shall divide any land located within the Town of Black Earth which results in a land division, subdivision, or replat as defined herein, no such land division, subdivision or replat shall be entitled to record, and no street, highway or road shall be laid out or improvements made to land without compliance with all requirements of this ordinance and with all of the following:

- (a) The provisions of Chapter 236, Wis. Stats., regarding platting lands;
- (b) The provisions of Chapter 75 of the Dane County Ordinances regarding land division and subdivisions, and the provisions of Chapter 14 of the Dane County Ordinances regarding stormwater management and erosion control.
- (c) The provisions of Chapter 79 of the Dane County Ordinances regarding county highway access.
- (d) The rules of the Wisconsin Department of Industry, Labor and Human Relations 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;
- (e) The rules of the Wisconsin Department of Transportation and the Dane County 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 or county trunk highway, respectively, or a connecting street, including, but not limited to, minimum width regulations.

(f) The Town Comprehensive Plan and all applicable zoning ordinances, official maps and any other ordinances and regulations. The subdivider is encouraged to read and follow the principles of conservation design and the development siting standards within the Comprehensive Plan.

(3) IMPROVEMENTS.

(a) Development Agreement. Before any final plat or certified survey map is approved, the subdivider shall enter into a development agreement with the Town wherein the subdivider agrees to install all required improvements with eighteen (18) months of the date that the plat or certified survey map is recorded. All required improvements in the plat shall be completed prior to occupancy of any structure in the plat. The Town Board may allow phased construction of plats.

(b) Security Required At the time the development agreement is executed, the subdivider shall file a bond, certificate of deposit, irrevocable letter of credit, or certified check, in such form as is acceptable to the Board and approved by the Town Attorney, with the Town in an amount equal to one hundred twenty five percent (125%) of the estimated cost of the required improvements as determined by the Town Engineer. Such deposit shall guarantee that such improvements will be completed according to Town specifications by the subdivider or its contractors not later than eighteen (18) months from the date that the plat is recorded or, where staging is permitted, that each stage will be completed by the date specified in the installation and completion schedule. Such security shall be held by the Town and either released or used in the manner specified in section 4.04(1). The provision of security by the subdivider shall not release the developer from its obligations under the development agreement nor prejudice the right of the Town to recover the full cost of completion of the improvements if the subdivider fails to complete the same.

(c) Governmental Units. The State of Wisconsin, Dane County and a City, Village or Town of Dane County may, in lieu of the bond or security provisions of this ordinance, may file a resolution duly adopted by such governmental unit agreeing to comply with the provisions of this section.

(d) Construction in Phases. The subdivider may elect, with the approval of the Town Board, to install the improvements in phases, provided that:

- i. The phases are specified in the agreements for land division requirements.
- ii. Improvements constructed during the first, and each subsequent, stage, of construction shall not be accepted nor shall any occupancy permits be issued within the completed area of the subdivision or development until the

security required for the next stage of construction has been posted with the Town.

iii. The developer shall record deed restrictions reviewed by the Town (or its designated representative) which specify that the lots included in future construction phases shall not be conveyed, transferred or sold unless the Town's approval is obtained.

iv. Erosion control plans and measures submitted and approved shall address the erosion problems posed by the construction of the project in phases.

(4) RESERVATION AND DEDICATION OF LAND.

(a) Public Ways. Whenever a tract of land to be divided or subdivided abuts, includes or is adjacent to all or any part of a street, drainage way or other public way which has been designated in the Comprehensive Plan or component thereof, or official map, said public way or street shall be incorporated into the plat and dedicated to the Town by the subdivider in the locations and dimensions indicated on said plan or map.

(b) Public Sites and Open Spaces.

i. In designing a land division or subdivision, due consideration shall be given by the developer to the reservation of suitable sites of adequate area for future drainageways, parks, playgrounds, and other public purposes. In the location of such facilities, consideration shall be given to the protection and preservation of scenic and historic sites, stands of fine trees, marches, lakes and ponds, water courses, watersheds, wetlands, wildlife habitat and ravines.

ii. A minimum of one-hundred (100) feet of frontage on a public street shall be provided for access to public sites and open spaces, unless the Town Board approves a narrower frontage.

(c) The Town Board shall require the dedication of land or monies in lieu of land, and shall determine whether the dedication of land for parks or monies in lieu thereof will better serve the public interest. Where the Town determines that money in lieu of land is to be paid, the amount of money shall be one thousand dollars (\$1,000) per residential unit permitted by right under the proposed subdivision or land division and the then existing zoning for parks or greenspace.

(d) Where private open space for park and recreational purposes is provided in a proposed land division or subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, such areas shall be credited against the requirement of public land dedication for park and recreation purposes, as set forth above, or the payment of fees in lieu thereof, provided that the Town Board finds it is in the public interest to do so.



(e) The Town shall place any fee collected pursuant to the provisions of this section in a fund which may be used for any park purpose, including land acquisition and development of adequate park, playground, recreation and open space to meet the needs created by the land division or subdivision.

(5) SURVEY MONUMENTS.

(a) Before final approval of any plat or certified survey map within the corporate limits of the Town, the subdivider shall install survey monuments placed in accordance with the requirements of sec. 236.15, Wis. Stats., and as may be required by the Town Engineer.

(b) The Town Board may allow deferral of installation of monuments otherwise required under sec. 236.15(2), (3) and (4), Wis. Stats., for a period not to exceed three (3) years on condition that the subdivider execute a surety bond to insure the placing of such monuments within the time required.

(6) LAND SUITABILITY.

(a) No land shall be subdivided which is deemed by the Town Board, with the advice of the Plan Commission, to be not readily developable. The Town may determine, subject to the provisions of Ch. 236, Wis. Stats., that lands should not be platted for the reason that the land is zoned improperly, is located in a flood plain, shoreland, or wetland, or planned in the Conservancy District within the Comprehensive Plan of the Town.

(b) It is the intent of the Town that paramount consideration be given to the need to preserve land zoned A-1 Exclusive in the Town Comprehensive Plan, and shown as containing agricultural soils within Group I or II as also depicted in the Comprehensive Plan. Consideration should also be given to adjacent land uses which will be affected by the proposed plat.

(7) VIOLATIONS. It shall be unlawful to build upon, divide, convey, record or monument or extract minerals from any land in violation of this ordinance or of the Wisconsin Statutes; and no person, partnership, firm, corporation, or entity of any sort shall be issued a building permit by the Town of Black Earth, authorizing the building on, or improvement of, any land division, subdivision or replat within the jurisdiction of this ordinance not of record as of the effective date of this ordinance until the provisions and requirements of this ordinance have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this ordinance or the applicable Wisconsin Statutes. The Town may issue citations for violations of the provisions of this ordinance.

(8) PENALTIES. Any person, firm, or corporation who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit an amount as prescribed in the Fee Schedule.

(9) APPEALS

(a) If the Town Plan Commission was acting at the request of the Town Board, the following decisions of the Plan Commission may be appealed to the Town Board:

- i. Rejection of a preliminary plat;
- ii. Rejection of a final plat;
- iii. Rejection of a certified survey map;
- iv. Requirement of a preliminary plat in connection with a land division;
- v. Determination that land is unsuitable for subdivision;

(b) A written Notice of Appeal must be filed with the Clerk within 14 calendar days of the date when notice of the action of the Plan Commission appealed from is mailed to the subdivider.

(c) The Notice of Appeal shall state the action of the Plan Commission appealed from, shall specify the reasons stated by the Plan Commission for taking such actions, shall specify the reasons why the subdivider believes said action was inappropriate, and shall state the names and addresses of the owners of all properties adjacent to the proposed land division or subdivision.

(d) The Clerk shall file the Notice of Appeal with the Board and shall schedule the appeal for consideration by the Board at a meeting, open to the public, within forty-five (45) days of the filing of the Notice of Appeal. The Clerk shall send notice of the time scheduled for the consideration of the appeal to the subdivider and to all property owners adjacent to the proposed land division or subdivision at least ten (10) days prior to the hearing of the appeal.

(e) Within thirty (30) days of the appeal hearing, the Board shall affirm, modify, or reverse the action of the Plan Commission or shall refer the matter back to the Plan Commission for further consideration. Notice of the decision of the Board shall be sent the subdivider and the Plan Commission.

(f) The provisions of Ch. 68, Wis. Stats., shall not be applicable to any determination made pursuant to the provisions of this ordinance.

(g) Any person aggrieved by an objection to a plat or a failure to approve a plat may, after review by the Board, appeal therefrom, as provided in sec. 236.13(5) and 62.23(7)(5) 10 to 15, Wis. Stats.

## 6.4 PROCEDURE

(1) **PRE-APPLICATION.** It is recommended that, prior to the filing of an application for the approval of a certified survey map or a preliminary plat, the subdivider consult with the Town Board Plan Commission to obtain its advice and assistance. This consultation is neither formal nor mandatory, but is intended to inform the subdivider of the purpose and objectives of these regulations, the goals, objectives, policies, and recommendations of the Comprehensive Plan, and any applicable land use plans and plan implementation devices and to otherwise assist the subdivider in planning his/her development. Consultation with the Dane County Department of Planning and Development is also recommended. No such consultants shall in any manner bind the Plan Commission or the Town Board to approve a plat, a subdivision or any other land use control. Further, no subdivider may rely upon or cite any advice or information provided by the Plan Commission or Town Board as evidence of the official actions of the Town.

### (2) PRELIMINARY PLAT REVIEW

(a) Before submitting a final plat for approval, the subdivider shall prepare a preliminary plat and a written application for approval.

(b) The preliminary plat shall include the entire area owned or controlled by the subdivider even though only a portion thereof is proposed for development at the time.

(c) The plat shall be prepared in accordance with this ordinance and Ch. 236, Wis. Stats. The subdivider shall file five (5) copies of the plat and the application with the Clerk at least twenty-one (21) days prior to the meeting of the Plan Commission at which action is desired.

(d) The Plan Commission may waive the requirement that the preliminary plat include the entire area owned by the developer where it is unnecessary to fulfill the purpose of the ordinance and undue hardship would result from strict enforcement of this provision.

(e) Where a subdivider has control of lands which are equal to or in excess of eighty (80) acres in area, or there are smaller parcels separated only by existing public roads or railroads, in lieu of a preliminary plat on the entire area, the developer may elect to submit a comprehensive development plan.

(f) The Clerk shall forward two copies of the preliminary plat to the Town Board Plan Commission which shall examine it for conformity with all ordinances, administrative rule and regulations and for compliance with any applicable Town land use plan.

(g) The Town Board Plan Commission shall recommend approval, conditional approval or rejection of the proposed plat to the Town Board. If approval or conditional approval is recommended, the preliminary plat shall be referred to the Board for consideration. The Town Board shall then approve, conditionally approve, or reject the preliminary plat. One copy of the plat shall be returned to the subdivider, the developer's surveyor, or engineer with the date and action endorsed thereon. If the plat is approved conditionally or rejected, the conditions of approval or reasons for rejection shall be endorsed thereon or attached thereto. Unless the time is extended by written agreement between the subdivider and the Board, failure to complete the action therein required within ninety (90) days of filing of the preliminary plat constitutes an approval of the preliminary plat.

(h) Approval or conditional approval of a preliminary plat entitles the final plat to approval provided the final plat conforms substantially to the preliminary plat, including any conditions of that approval, and conforms to any applicable Town plans and applicable ordinances. If the final plat is not submitted within six (6) months of the last required approval of the preliminary plat, any approving authority may refuse to approve the final plat regardless of prior action taken on the preliminary plat.

(3) FINAL PLAT REVIEW.

(a) The subdivider shall prepare and file six (6) copies of the final plat together with a written application for approval with the Clerk within six months of the approval of the preliminary plat and at least fourteen (14) days prior to the meeting of the Town Board at which action is desired.

(b) The Clerk shall forward two (2) copies of the plat to the Town Board. The Town Board shall examine it for conformity with the preliminary plat and any conditions for approval, with the requirements of this ordinance, and with the requirements of any other ordinances, statutes, administrative rules and regulations, or local plans which may be applicable to it.

(c) The Town Board shall approve, conditionally approve, or shall reject the plat. The Town Board shall indicate the reasons for any rejection of the plat. One copy of the plat shall then be returned to the subdivider, his surveyor, or engineer with the date and action endorsed thereon, and if approved or rejected, the conditions or requirements of approval or reasons for rejection shall be endorsed thereon or attached thereto. Unless the time is extended by written agreement between the subdivider and the Board, failure to complete the action required herein within sixty (60) days of filing the final plat shall constitute an approval of the final plat.

(d) The final plat may, if permitted by the Town Board, include only that portion of the approved preliminary plat which the subdivider proposes to record at this time.

(e) The final plat shall be approved if it conforms substantially to the preliminary plat as approved, including any conditions of that approval, and to any applicable Town plans and ordinances. If the final plat is not submitted within six (6) months of the last required approval of the preliminary plat, the Plan Commission may reject the final plat regardless of any prior action on the preliminary plat.

(f) After the final plat has been approved by the Board and the contract and security filed in accordance with Section 4.04(1) hereof, the subdivider shall submit the final plat to the Clerk. The Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed. The plat shall be returned to the subdivider for recording. Every plat shall be recorded in the office of the Dane County Register of Deeds no later than eighteen (18) months from the date on which the Town Board has approved the Plat, unless an extension of this deadline is agreed to in writing by the Town and the subdivider.

(g) The subdivider shall file a certified copy of the final plat with the Clerk within ten days after it has been recorded.

#### (4) LAND DIVISION BY CERTIFIED SURVEY

(a) A certified surveyed map which has been recommended by the Town Plan Commission and approved by the Town Board, and meets all of the requirements of Ch. 236, Wis. Stats., and of this ordinance, may be utilized to create a land division as defined in Section 6.02. The Town Board may require a preliminary plat, comprehensive development plan, or sketch plan to be filed by a subdivider who is seeking approval of a certified survey map including a larger land area up to all lands under the control of the applicant. The Board resolution approving the certified survey map shall be reproduced legibly on the face of the certified survey map. All unpaid or outstanding taxes, assessments and special assessments shall be paid prior to the approval unless determined otherwise by the Town Board.

(b) An applicant for a land division shall file five (5) copies of the certified survey map and a written application for approval with the Clerk. The certified survey map must be prepared in conformance with the requirements of this ordinance and the Dane County Subdivision Ordinance. The applicant is responsible for submitting the certified survey map to Dane County for its approval, and to any city or village with extraterritorial land division review authority over the area for its approval.

(c) The Town Board shall within sixty (60) days approve, approve conditionally, or reject the certified survey map based on a determination of conformance with the provisions of this ordinance. One copy of the certified survey map shall be returned to the subdivider with the date and action endorsed thereon or attached thereto. Unless the time is extended by written agreement between the subdivider and the

Board, failure to complete the action required herein within sixty (60) days of the filing of the map shall constitute an approval of the certified survey map.

(d) After the certified survey map has been approved by the Town Board, the development agreement has been executed and any required deed notice or restrictions has been recorded, the security filed in accordance with Section 4.04(1) and any fee imposed pursuant to Section 4.04(1) has been paid, the subdivider shall submit the certified survey map to the Clerk. The Clerk shall cause the certificate inscribed upon the map attesting to such approval to be duly executed. The certified survey map shall be returned to the subdivider for recording. Every map shall be recorded in the office of the Dane County Register of Deeds no later than eighteen (18) months from the date on which the Town Board has approved the Plat, unless an extension of this deadline is agreed to in writing by the Town and the subdivider.

(e) The subdivider shall record the certified survey map with the Register of Deeds for Dane County after it has been approved, and shall file a certified copy of the recorded map with the Clerk within ten (10) days after the certified survey map is recorded.

## 6.5 PRELIMINARY PLAT

(1) GENERAL. A preliminary plat shall be required for all subdivisions and shall be based on a survey by a land surveyor registered in this state. The plat map shall be prepared in conformance with the requirements of Ch. 236, Wis. Stats., the Dane County Subdivision Ordinance, applicable surveying standards and other applicable legal requirements.

(2) PLAT DATA. The preliminary plat shall show all plat data as required by Dane County Subdivision Ordinance plus the following data must be submitted on or with the preliminary plat:

(a) Setbacks, easements, buildable areas, or other building lines required by zoning, the Town Board, or other agency with authority.

(b) For land located in the Agricultural Transition District, as denoted in the Town Comprehensive Plan, the Plan Commission or Town Board may require the submittal of one or more studies to determine whether the proposed plat and associated rezoning is in the best interest of the Town at the time of submittal.

(c) Subsurface soil, rock and water conditions, including depth of bedrock and average depth to ground water table, based on the Dane County Soil Survey, or more detailed sources where available. The Plan Commission or Town Board may also require submittal of a groundwater impact analysis.

(d) Locations of all streams and watercourses, rock outcrops, hilltops and ridge lines, wooded areas and tree lines, stone and fence rows, wetlands, flood plains,

shoreland areas and setbacks, soils with building limitations and soils with limitations for on-site waste disposal systems as defined and mapped in the Comprehensive plan or through more detailed analysis, and other similar significant features.

(e) Locations and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, greenways, or other public uses, or to be reserved for the private use of subdivision residents and the conditions and terms of all applicable covenants (as required under subsection (4) applying to these sites.

(f) Proposed type, locations, and size of proposed street trees along internal streets and/or landscape plantings within landscaped buffer strips along major highways. The Town may require a detailed landscape plan of one or both of these areas with the preliminary or final plat.

(g) A stormwater management and erosion control plan(s) and calculations, showing that the proposed land division meets the specifications of the Dane County Erosion Control and Stormwater Ordinance.

(h) Affidavit by the preparing surveyor certifying that the plat complies with all provisions of this ordinance.

(3) STREET PLANS AND PROFILES.

(a) The subdivider shall provide road and street plans and profiles showing existing ground surfaces, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested.

(b) All elevations shall be based upon USGS data, and plans and profiles shall be approved by the Town Board, with the advice of the Town Engineer.

(c) Streets plans shall conform in all respects to applicable zoning ordinances, the Town Plan, and the road standards of the Wisconsin Department of Transportation.

(4) COVENANTS.

(a) The Town Board shall require submission of a draft of all prospective covenants which the subdivider intends to regulate land use in the proposed subdivision and otherwise protect proposed development.

(b) No covenant may be recorded without the prior approval of the Town Board.

(c) All covenants which inure to the benefit of the public shall be drafted so as to be enforceable by the Town.

(d) Commercial plats shall contain standard drainage, public utility, street maintenance and construction erosion control covenants in a form prescribed by the Town.

(5) AFFIDAVIT. The surveyor preparing the preliminary plat shall certify on the face of the plat that he/she has fully complied with the provisions of this ordinance.

## 6.6 FINAL PLAT

(1) GENERAL. A final plat prepared by a land surveyor registered in this state shall be required for all subdivisions. It shall comply in all respects with the requirements of this Chapter, sec. 236.20, Wis. Stats., and the Dane County Subdivision Ordinance.

(2) INFORMATION REQUIRED. The final plat shall show, correctly and on its face, in addition to the information required by sec. 236.20, Wis. Stats., and Section 4.12 hereof, the following:

(a) Exact length and bearing of the centerline of all streets.

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

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

(d) All land reserved for future public acquisition or reserved for the common use of property owners within the plat.

(e) Special restrictions required by the Town Board relating to access control along public ways or to the provisions of planting strips.

(3) PROCEDURE.

(a) If the preliminary plat has been approved or been approved conditionally, the subdivider may submit two (2) copies of the final plat. All improvements required by this ordinance shall be made or guaranteed in the manner described in this Chapter.

(b) If the final plat meets the requirements of this ordinance, and has been submitted within six (6) months from the approval date of the preliminary plat and the conditions have been met in the case of preliminary plat given conditional approval, the Town shall approve the final plat of the subdivision within sixty (60) days from the date a complete application is officially submitted to the Town Clerk.



(4) DEED RESTRICTION. The Town Board shall require that restrictive covenants or deed restrictions be filed with the final plat. Any easements for the benefit of parties other than the lot owners shall be noted on the face of the plat and recorded against the property by means of a written easement deed.

(5) SURVEYING AND MONUMENTS. All final plats shall meet all surveying and monuments requirements of Section 236.15 of the Wisconsin Statutes.

(6) CERTIFICATES. All final plats shall provide all the certificates required by sec. 236.21, Wis. Stats.; and, in addition, the surveyor shall certify that he has fully complied with all the provisions of this ordinance.

## 6.7 CERTIFIED SURVEY MAP

(1) GENERAL. A certified survey map prepared by a surveyor registered in this state shall be required for all land division. It shall comply in all respects with the requirements of sec. 236.34, Wis. Stats., and conform to the requirements of the Dane County Subdivision Ordinance.

(2) INFORMATION REQUIRED. The certified survey map shall show in its face, in addition to the information required by sec. 236.34, Wis. Stats., and the Dane County Subdivision Ordinance, the following:

- (a) Graphic scale and north arrow.
- (b) Existing zoning on and adjacent to the proposed land division.
- (c) Location map showing the relationship between the proposed certified survey map development and surrounding area.
- (d) Setbacks, easements, bailable areas, or other building lines required by zoning, the Town Board or other agency with authority.
- (e) Locations, dimensions, and labels for all lands dedicated to the public for park, road or other public purposes or reserved for future acquisition.
- (f) Wetland delineations; water elevations of adjoining lakes, streams, or drainage way at the date of the survey, and known or determined high and low water elevations and boundaries of the 100-year flood fringe, flood way, and/or general flood plain.
- (g) Stormwater management facilities as may be required under the Dane County Erosion Control and Stormwater Ordinance.

(h) Affidavit by the preparing surveyor certifying that the certified survey map complies with all provisions of this ordinance, and an approval certificate for the Town Board.

(i) Unless waived by the Plan Commission, the subdivider shall also submit the following additional information with the certified survey map:

- i. A preliminary plat, comprehensive development plan, sketch plan, or statement of intention for the entire area contiguous to the certified survey map area that is owned or controlled by the same owner or subdivider.
- ii. Within the certified survey map area, contours at vertical intervals of not more than two feet where the slope of the ground surface is 12 percent or less, and of not more than five feet (5) where the slope of the ground surface is greater than twelve (12) percent. Elevations shall be marked on such contours based on USGS datum.
- iii. Locations of all streams and watercourses, rock outcrops, hilltops and ridge lines, wooded areas and tree lines, stone and fence rows, wetlands, flood plains, shoreland areas and setbacks, soils with building limitations and soils with limitations for on-site waste disposal systems as defined and mapped in the Comprehensive plan or through more detailed analysis and other similar significant features.
- iv. Location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, greenways, or other public uses, or to be reserved for the private use of subdivision residents, and the conditions and terms of all applicable covenants applying to these sites.
- v. A stormwater management and erosion control plan(s) and calculations, if required under the Dane County Erosion Control and Stormwater Ordinance.
- vi. All proposed restrictive covenants and deed restrictions, including conditions and terms of all applicable deed restrictions applying to any sites reserved for the private use of subdivision residents.
- vii. Locations and approximate dimensions of all proposed driveways. Lots and buildings shall be arranged so as to ensure driveway alignment that complies with the Town of Black Earth Driveway Ordinance (Section 4.18).
- viii. Road and street plans and profiles showing existing ground surfaces, proposed and established street grades. All elevations shall be based upon USGS data, and plans and profiles shall be approved by the Town Board, with the advice of the Town Engineer.
- ix. Proposed type, location, and size of proposed street trees along any internal streets and/or for plantings within landscaped buffer strips as required along major highways. A detailed landscape plan for street trees, or for landscaped buffer strips may be required by the Plan Commission or Town Board.

x. If applicable to the proposed certified survey map area under the Town Comprehensive Plan, evidence that the subdivider has acquired or will acquire sufficient development rights from lands elsewhere in the Town that are mapped within the Agricultural Preservation District in the Comprehensive Plan, in order to be divided into the number of lots proposed. Such evidence may include a conservation easement, deed restriction, or similar instrument, which shall run with said land in the Agricultural Preservation District in perpetuity. If applicable, such conservation easement, deed restriction, or similar instrument shall be recorded with the Register of Deeds, and a recorded copy provided to the Town Clerk, before the Town will provide required signatures on the certified survey map.

**(3) CERTIFICATES**

(a) The surveyor shall certify on the face of the map that he/she has fully complied with all the provisions of this ordinance.

(b) The Board shall certify its approval on the face of the map.

(c) The following certificate of approval shall be provided legibly on the face of the map:

“This certified survey, including any dedications shown thereon, has been duly approved by the Town Board of the Town of Black Earth, Dane County, Wisconsin, on (date).”

(4) **CRITICAL BUILDING LOCATIONS.** Any building or structure and its location on the lot shall be dimensioned to the nearest 0.1 foot where the building or structure is to be located within five (5) feet of the proposed property boundaries or the zoning yard requirements, or such other requirement as is consistent with the subdivision regulations of Dane County.

(5) **DEDICATIONS AND IMPROVEMENTS REQUIRED.** Any land division effectuated by a certified survey shall be subject to the provisions of Section 4.06 concerning the reservation and dedication of land; and, unless a waiver is granted, the provisions of Sections 4.12 concerning required improvements.

**6.8 DESIGN STANDARDS**

**(1) STREET ARRANGEMENT AND DESIGN STANDARDS.**

(a) Streets shall conform to Chapter 4, Section 4.7 of these Ordinances.

(b) Each lot of the subdivision or land division shall have access to a public street which meets the standards of this Chapter.

(2) LIMITED ACCESS HIGHWAYS AND RAILROAD RIGHTS-OF-WAY. Whenever the proposed subdivision or land division contains or is adjacent to a limited access highway or railroad right-of-way, the design shall provide the following treatment:

(a) In Residential Districts a buffer strip at least 30 feet of depth, in addition to the normal lot depth required, shall be provided adjacent to a railroad right-of-way or a limited access arterial highway. As used in this section, the term “buffer strip” means an area of hedges, trees, tall grasses or other foliage which creates a visual screen between two areas. The lot depth required, including such buffer strip, shall not be less than 150 feet. The 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 or shrubs by the owner; the building of structures hereon is prohibited, and the rear 30 feet of the strip shall not be counted as any required yard. Maintenance of this strip is a responsibility of the lot owner.”

(b) Commercial and Industrial Districts shall have on each side of the limited access highway or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such highway or railroad, but not less than one hundred and fifty (150) feet.

(c) Streets Parallel to a Limited Access Highway or railroad right of way shall, when intersecting a major street or highway which crosses said railroad or highway, be located at a minimum distance of two hundred and fifty (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) Location of Local Streets immediately adjacent and parallel to railroad rights of way, and in residential areas immediately adjacent to arterial streets and highways and to railroad rights of way shall be avoided.

(3) BLOCKS

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

(b) Blocks in residential areas shall not be less than six hundred (600) feet nor more than fifteen hundred (1500) feet in length unless otherwise dictated by exceptional topography or other limiting design factors.

(c) Width. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.

(4) LOTS

(a) 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.

(b) No lot may have frontage on streets on two parallel sides, nor may a lot be plotted so that the building will face the reverse side of the lot. The Town Board may grant a variance from this requirement where necessary the physical characteristics of the land so require in order to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.

(c) The minimum residential lot size shall be ~~43,560 square feet in area (1 acre)~~. **two (2) acres.**

(d) Residential lots to be served by private sewage disposal facilities shall comply with the rules of the Wisconsin Department of Industry, Labor and Human Relations.

(e) Access to public street or road. Every lot shall front or abut on a public street or road for a distance of at least sixty-six (66) feet, except that lots abutting the bulb of a cul-de-sac may front on that bulb for a distance of as little as thirty-three (33) feet, provided that other provisions of Section 6.07(4)(b) are met. **Exceptions by the Town may be granted to a second or third lot if one lot has at least sixty-six (66) feet of public road frontage and has deeded access and a joint driveway agreement with any additional lots.**

(f) Side lot lines shall be substantially at right angles or radial to street lines.

(g) Lots shall follow municipal boundary lines rather than cross them whenever possible.

(h) Corner lots shall have sufficient width to permit required building setbacks from side streets.

(i) Residential lots fronting or backing on arterial highways shall be platted with no less than 125 percent of the depth of other lots in the plat to provide for buffering of buildings from such traffic-ways.

(j) The depth and width of properties reserved or laid out for commercial or industrial use shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated. The parking area shall be sufficient to provide one (1) parking space per employee anticipated to be employed in the enterprise constructed, and such parking for patrons as is anticipated. An appropriate number of spaces for the disabled shall be included in the plan.

(k) Whenever a tract is subdivided into parcels of more than an acre in area, such parcels shall be arranged and dimensioned as to allow re-subdivision or any such parcels into normal lots in accordance with the provisions of this ordinance.

## (5) EASEMENTS

### (a) Lines to be Underground in Newly Developed Areas

i. All new electric distribution lines (excluding lines of 12,000 volts or more), all new telephone lines from which lots are individually served, all cable television and all other common carrier services installed within a newly platted area shall be underground unless the Town Board shall specifically find after study that:

A. The placing of such facilities underground would not be compatible with the planned development;

B. Location, topography, soil, water table, solid rock, boulders, stands of trees, hedges or other physical conditions would make underground installation unreasonable or impracticable; or

C. The lots to be served by said facilities can be served directly from existing overhead facilities.

ii. Associated equipment and facilities which are appurtenant to underground electric and communications systems, such as but not limited to, substations, pad-mounted transformers, pad-mounted sectionalizing switches and above-grade pedestal-mounted terminal boxes may be located above ground.

(b) Easement Conditions The subdivider shall include appropriate easements in the plat, shall prepare appropriate easement deeds and record the same with the final plat. Easements shall for the installation of gas, electric and communication lines. Such easements as shall be noted as “Utility Easements” on the final plat or certified survey map. Prior to approval of the final plat or certified survey map, the concurrence of the electric and communications companies serving the area as to the location and width of the utility easements shall be noted on the final plat or certified survey map.

(c) **Drainage Easements** Where a subdivision is traversed by a water course, drainageway, channel or stream, an adequate drainageway or easement shall be provided as required by the Town Board. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the Town Board. Parallel streets or parkways may be required in connection therewith. Wherever possible, the storm water drainage shall be maintained by landscaped open channels or adequate size and grade to hydraulically accommodate maximum potential volumes of flow, these sizes and design details to be subject to review and approval by the Town Engineer and Town Board. Drainage easements shall substantially maintain existing water flow patterns onto neighboring lands. The Town may require the subdivider to dedicate easements for future storm sewer systems.

## 6.9 REQUIRED IMPROVEMENTS.

(1) **STREETS AND STREET LIGHTS.** Standard street improvements and lights shall be installed in all subdivisions, unless waived pursuant by the Town Board for hardship shown. “Hardship” shall mean a unique condition of the land which makes installation of street lights difficult, but shall not include economic factors.

(2) **SANITARY SEWERS AND WATER MAINS.** Where public sewage treatment, stormwater or water services are available, such services shall be planned in the plat and installed in the subdivision. No person shall install a private well or septic system in any subdivision served by water or sewer services.

(3) **WATER SUPPLY SYSTEM.** Where no public water supply system is available, either a well for each parcel or a water supply system shall be installed.

### (4) **STORM SEWER AND STORM WATER DRAINAGE FACILITIES**

(a) Storm sewers may be required by the Town Board. The Town Board may require storm sewers if the Board concludes, in its sole discretion, that the natural drainage pattern of the land being subdivided will be inadequate to handle the water flow from the subdivision, or the water flow would be injurious to the property of others.

(b) At the time the preliminary plat, or plans for any planned development are submitted to the Town Board for review, the Town Engineer shall prepare the studies which the Town Plan Commission has determined are necessary to assure that a proposed development does not pose a danger to surface or ground water resources.

(c) All subdivisions and land divisions must comply with applicable requirements of the Dane County Erosion Control and Stormwater Ordinance, and must submit evidence, in the form of engineering plans and calculations, to the Town to demonstrate such compliance where necessary. The Town encourages the use of stormwater Best Management Practices, including natural means of detention and conveyance.

(5) PARTITION FENCES.

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

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

(6) DRIVEWAYS. Driveways must adhere to requirements/specifications in Chapter 4 of these Ordinances.

(7) STREET/ROAD SIGN COSTS. The developer shall be responsible for the initial cost of the street/road name signs for new roads. The Town will order and install the signs after construction of the subdivision roads. The developer will be billed for the cost and installation. Payment will be required prior to issuing any building permits.

6.10 REQUIRED IMPROVEMENTS PROCEDURE

(1) PLANS AND CONSTRUCTION SPECIFICATIONS. Prior to commencing construction of any required improvement, the subdivider shall prepare construction plans and specifications and submit them to the Town Engineer or designee for review and approval. The Town Engineer may require the submission of the following plans and accompanying construction specifications before authorizing construction or installation of the improvements:

(a) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.

(b) Stormwater and surface water drainage plans.

(c) Such additional plans or information as may be required by the Town Engineer.

(d) Plans and specification for all utilities and underground facilities.



(2) PRIVATE CONTRACTS. The developer shall engage one general contractor whose qualifications have been approved by the Board for each major phase of construction (grading, utilities, streets) or one general contractor for a contract which includes more than one phase of construction.

(3) SCHEDULING. All scheduling of the contemplated improvements shall be approved by the Town Engineer. Construction may not be commenced on any phase of construction until all approvals and conditional requirements are satisfied and a copy of the private contract has been filed with and approved by the Board. Construction shall not proceed until all State of Wisconsin approvals are granted.

(4) STREET GRADING

(a) The developer shall furnish standard drawings which indicate the existing and proposed grades of streets shown on the plat, and after review of design engineering work on the streets by the Town Engineer and approval of street grades by the Board, the subdivider shall grade or cause to be graded the full width of the right of way of the streets proposed to be dedicated, including the vision clearance triangle on corner lots. In those cases where existing street right of way is made a part of the subdivider(s) plat or abuts the plat, he shall grade or cause to be graded that portion of the right of way between the existing pavement and the property line. The bed for the roadways in the street right of way shall be graded to sub-grade elevation.

(b) The Town Engineer shall inspect the proposed street before grading and approve all grading within right of way. The street grading shall extend for a sufficient distance beyond the right of way to insure that the established grade will be preserved. The grading of rights of way for principal and primary arterials shall only be required where necessary to provide access to the streets or lots in the plat. Lots which abut principal and primary arterials shall be graded to proposed street grade or to a grade approved by the Town Engineer prior to the sale of affected properties.

(c) The developer shall engage a licensed professional engineer to set sub-base grade in accordance with approved centerline grade and cross section; and to set grades necessary to comply with other grading requirements, including vision clearance on corner lots, centerline and lot line grades for greenways, terrace grading for abutting streets and other required grades. The grading program shall consist of the following elements:

- i. The stripping and removal of all topsoil, debris and vegetation within the street right of way.

- ii. Grading of full street right of way to a tolerance of 0 to 0.2 feet below proposed centerline grade. Fill sections shall be constructed of approved materials, which do not include topsoil, debris, vegetation, etc.
- iii. Grading beyond right of way to insure that the established grade will be preserved.
- iv. Grading of vision clearance triangle on corner lots (Maximum embankment of three (3) feet above curb elevation within a triangle formed by two intersection street line or their projections and a line joining points on such street lines located 25 feet from the street intersection.).
- v. Where the public greenway is included in the plat, the developer is responsible for an acceptable continuous drainageway in the greenway as determined by the Town Engineer.
- vi. All additional plat grading, where applicable, lots abutting greenways, terraces of streets abutting plat, public easements for sanitary sewer and sidewalk, and other requirements of ordinances and special conditions of plat approval. There shall be a plan for disposal of any surplus soil or earth.

(5) UTILITIES

- (a) If the developer elects to install underground utilities and the standard street improvement in the same year, provision must be made for mechanical compaction of all ditches for underground utilities that fall within the street right-of-way.
- (b) Prior to commencing construction of any required utilities, the developer shall submit his proposed construction schedule, plans, specifications and contract to the Town Engineer.

(6) GREENWAYS. Greenways included within platted or re-platted area shall receive the following prescribed treatment by the owner of the subdivision.

- (a) The subdivider shall be responsible for an acceptable continuous drainageway through the proposed plat as determined by the Town Engineer. The subdivider shall furnish the Town Engineer a plan outlining the greenway boundaries and location of existing drainageways, if any. In addition, the subdivider shall furnish to the Town Engineer a set of cross-sections (on 50' stations) of the greenway oriented upon a base line as prescribed by the Town Engineer. Where a natural drainageway exists which has acceptable hydraulic capacities including alignment and grade as determined by the Town Engineer, construction will not be required and the existing natural growth shall be preserved. When such natural growth is not preserved by action of the subdivider or his/her agent, he/she shall be responsible for repairing the disturbed areas by sodding. However, in certain locations, as determined by the Town Engineer, where the hydraulic capacities including alignment and grade are not acceptable, then such alignment, grade and slopes shall be improved by the subdivider to the interim minimum requirements of a ten-foot wide ditch bottom with four to one side slopes, all to be seeded.

(b) The subdivider shall install permanent pipes or culverts at a grade designated by the Town Engineer under all streets crossing a greenway or drainageway. Said installation shall be in accordance with the Standard Specifications for Road and Bridge Construction of the Department of Transportation of the State of Wisconsin. All costs of the installation shall be the responsibility of the subdivider. The permanent pipe or culvert shall not be installed prior to the installation of a street crossing a greenway unless done pursuant to written agreement between the Engineer and the subdivider. Culverts required across intersections for temporary street drainage, shall be furnished and installed by the developer at his expense. All temporary culvert installed by the developer shall be completely removed when the streets are constructed to standards and the area restored to as near to original condition as possible as determined by the Town Engineer.

(c) The Town Engineer shall inspect the property prior to and after the installation of utilities.

(d) All ditching and culvert installation shall be done in strict accordance with grades approved by the Engineer. The subdivider's engineer shall be responsible for setting all required grades in the field for construction purposes.

(e) In order to assure proper drainage, the ground elevation along any lot line common with the boundary of a greenway shall not be less than four (4) feet above the flowline of the greenway, or where designated to an elevation established by the Engineer, prior to the sale of affected properties. The flowline grade shall be established by the Engineer. All lot grading and building elevations shall provide for positive drainage. Grading or filling within the greenway limit is prohibited except as authorized by the Engineer. The Town Engineer shall inspect all work before it is certified as complete.

## (7) STREET CONSTRUCTION

(a) General. After completion of the underground utilities and approval thereof, the streets shall be constructed.

(b) Standard Street Improvements.

i. Standard street improvements may include, in the sole discretion of the Town Board, concrete curb and gutter, and ornamental street lights and shall include bituminous base course and bituminous surface course.

ii. The developer shall prepare final plans and specifications for the standard street improvements and submit them, together with all soil sub-grade data obtained by its soils engineer, to the Town Engineer.

iii. Upon written approval by the Town Engineer, the developer may proceed to construct the standard street improvements. Standard street improvements shall be installed to the boundary line of the subdivision unless the street culminates in a cul-de-sac, the topography or other physical conditions make it impossible to do so, or unless this requirement is waived, in writing, by the Town Board Plan Commission.

(c) The street/road shall be constructed to Town Specifications as described in the Town Highway Development Ordinance. Construction specifications are indicated in Figure 1.

(d) Inspection of Street Improvements. The Town Engineer shall inspect all street improvements before the same are accepted by the Town.

(8) CHANGE ORDERS. When extra work not specified in the contract is required to complete the project, the Town will notify the Developer or his/her engineering representative. No extra work shall proceed until the Developer or his/her representative has entered into a written agreement for the additional work.

(9) EROSION CONTROL.

(a) The subdivider shall take all steps necessary to prevent the erosion, siltation, sedimentation, washing and blowing of dirt and debris caused by grading, excavations open cuts, side slopes, and other activities by the subdivider or his/her contractors. Such steps shall be in accordance with the submitted Erosion Control Plan and shall meet all requirements of the Dane County Erosion Control and Stormwater Ordinance.

(b) Reasonable methods of control shall include, but not be limited to, seeding and mulching, sodding, berm construction, ponding construction, and watering. In such cases where the method of control has failed, the subdivider shall clean up the materials which have been displaced prior to construction of additional improvements and shall provide other remedies as specified under the Dane County Erosion Control and Stormwater Ordinance.

(c) Plans for erosion control shall be submitted to the Town Engineer for review and approval before any land surface disturbances are made. The Engineer's decision may be appealed to the Board.

(10) FLOOD PLAIN/SHORELAND. All provisions of Dane County Ordinances relating to flood plain and shoreland zoning are incorporated herein and adopted by reference.

(11) INSPECTION. Prior to commencing any work within the subdivision, the subdivider shall make arrangements with the Town Engineer to provide for adequate inspection. The

Town Engineer shall inspect and approve all completed work prior to approval of the final plat or any release of the securities deposited pursuant to Section 4.04.

#### 6.11 ACCEPTANCE OF IMPROVEMENTS

(1) After the subdivider has installed all required improvements, he shall notify the Town Engineer in writing that the work is complete and ready for final inspection. The Town Engineer shall inspect the improvements and forward a letter to the subdivider indicating his approval or disapproval. When the improvements have been approved by the Town Engineer, the Clerk will prepare a final billing for engineering, inspection and legal fees and submit it to the subdivider for payment. In addition, the subdivider and all general contractors shall file lien waivers or affidavits, in a form acceptable to the Town and approved by the Town Attorney, evidencing that there are no claims, actions or demands for damages, based upon contract or tort arising out of or in any way related to the project and that no monies are owed to any surveyor, mechanic, sub-contractor, material man or laborer.

(2) Resolution. When the engineering, inspection, and legal fees have been paid and when the necessary lien waivers and affidavits have been filed, a resolution accepting the project will be prepared and presented to the Town Board.

(3) Security Release. The security furnished pursuant to Section 4.04(1) shall remain in full force for a period of one year after the completion of the project and acceptance by the Board unless partially released as hereinafter provided. The security shall be held to guarantee the work performed pursuant to private contracts against defects in workmanship and materials. If any defect appears during the period of the guarantee, the subdivider or its contractor shall, at its expense, install replacements or perform acceptable repairs. In the event that the subdivider fails to install the replacement or perform the repairs, the Town may do so and deduct the cost thereof from the security deposit. Unless defects have appeared and have not been repaired, the Town shall release the security to the subdivider upon expiration of the one year guarantee period.

6.12 SIGNING OF CERTIFIED SURVEY MAP OR PLAT. After executing the developer's agreement to provide all required improvements, after posting the security required by Town ordinance, after payment of any fee imposed pursuant to Town ordinance and of any area assessments, and after the subdivider has met all other requirements, the Clerk shall execute the certificate inscribed upon the face of the plat or certified survey attesting to the approval thereof and return it to the subdivider for recording.

#### 6.13 BUILDING PERMITS.

(1) No building permits shall be issued for erection of a structure on any lot created by a land division or subdivision until all the requirements of this ordinance have been met.

(2) No construction of any kind may commence until the final plat has been recorded.

6.14 FEES. The subdivider shall pay the Town all fees as provided in the Fee Schedule which is attached to these Ordinances.

#### 6.15 WAIVER

(1) Where, in the judgment of the Town Board, it would be inappropriate to apply one or more of the provisions of this ordinance to a land division or subdivision because of extraordinary or undue hardship resulting from the characteristics of the land, or because of an attempt to comply with the principles of conservation design or the development siting standards in the Comprehensive Plan, the Town Board may modify any requirement, other than requirements of state law, Dane County ordinance, or requirements for the recording of the certified survey map or plat map, and only to the extent a waiver is found to be just and proper.

(2) The Town Board shall grant such relief only where it will not be detrimental to the public good, impair the intent and purpose of this ordinance, or impair the desirable general development of the community in accordance with the Comprehensive Plan.

(3) Any subdivider who requests a waiver of a provision of one or more of the provisions of this ordinance shall make a written application for a waiver and file the application with the Town Clerk. The Town Board or Plan Commission shall hold a public hearing on the application not less than 10 days after it is filed, which may be combined with normal review of the subdivision plat or certified survey map. The Town Clerk shall mail a notice of the hearing to all adjacent landowners. The waiver application shall state the basis for the application and specific hardship which is claimed to exist.

(4) Any waiver, exception, or variance which is granted pursuant to this section shall be made in writing, shall state the reasons which justified it, and shall be filed with the Town Clerk.