

**SUBDIVISION ORDINANCE  
TOWN OF FARMINGTON  
WASHINGTON COUNTY, WISCONSIN**

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## **I. INTRODUCTION**

1.1 Authority. This ordinance is adopted under the authority granted by Chapter 236, WIS. STATS. Therefore, the Town Board of the Town of Farmington, Washington County, Wisconsin does ordain as follows:

1.2 Title. This ordinance shall be known as, referred to, or cited as the "Town of Farmington Subdivision Ordinance."

1.3 Purpose. This ordinance regulates the division of land within the Town of Farmington in order to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light and air; to facilitate adequate provision of public requirements; to provide for proper ingress and egress; and to promote proper monumenting of land subdivided and conveyancing by accurate legal description.

1.4 Abrogation and Greater Restrictions. This ordinance does not intend to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

1.5 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.

1.6 Severability and Non-Liability. If any part of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Town does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and that only those soils listed as being unsuited for specific uses are the only unsuitable soils within the Town, and hereby asserts that there is no liability on the part of the Town Board of Supervisors, its agencies or employees for sanitation problems or structural damages that may occur as a result of reliance upon, and conformance with, this ordinance.

## II. GENERAL PROVISIONS

### 2.1 Annual Number of <sup>1</sup>Building Permits Issued

To control the rate of residential development and implement the Vision Statements in the Town of Farmington's Future Land Use Plan, <sup>3</sup>on an annual basis, the Town of Farmington will issue a maximum of 26 new home building permits allocated as follows:

- A. <sup>4</sup>A total of 13 permits per year for separate divisions of 5 lots or more regardless of the number of divisions.
- B. <sup>5</sup>On an annual basis, the Town of Farmington will process 13 new home building permits on any other lots not covered under Section A.

On a first-come, first serve basis on January 1 of each year, the Town of Farmington will accept and process building permits, based on the above allotment. <sup>2</sup>This allotment does not apply to Building Permits issued for the replacement of a home due to a disaster. This building permit allotment will be pro-rated from the date of ordinance adoption to the remainder of the year this ordinance becomes effective.

2.2 Jurisdiction. Jurisdiction of these regulations shall include all lands and waters within the Town of Farmington, Washington County, Wisconsin. However, the provisions of this ordinance as it applies to divisions of land shall not apply to:

- A. Transfer of interest in land by will or pursuant to court order.
- B. Leases for a term not to exceed ten (10) years, mortgages or easements.
- C. 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 Town Zoning Ordinance or other applicable laws or ordinances.
- D. Cemetery plats made under Sec. 157.07, WIS. STATS.
- E. Assessors' plats made under Sec. 70.27, WIS. STATS., but such assessors' plats shall comply with Sections 236.15(1)(a) to (g) and (2)(a) to (e), WIS. STATS.

2.3 Compliance. No person, firm or corporation shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision or replat as defined herein, and no such subdivision or replat shall be entitled to be recorded; and no condominium shall be executed and recorded; and no street be laid out or improvements placed therein without compliance with all requirements of this ordinance and the following:

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<sup>1</sup> Revised 10-18-05

<sup>2</sup> Added 12-6-05

<sup>3</sup> Revised 6-13-06

<sup>4</sup> Revised 6-13-06

<sup>5</sup> Revised 6-13-06

- A. The provisions of Chapter 236 of the Wisconsin Statutes are incorporated into his ordinance by reference.
- B. The rules of the Department of Commerce regulating lot size and lot elevation of the land to be subdivided if not served by a public sewer and provisions for such service have not been made, or any other agency as designated by the State of Wisconsin to enforce the regulations.
- C. The rules of the 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 a state trunk highway or connecting street.
- D. The rules of the Department of Natural Resources, setting water quality standards, preventing and abating pollution, and regulating development within floodland, wetland and shoreland areas.
- E. Town and County Ordinances.

2.4 Restrictions for Public Benefit. Any restrictions placed on platted land by covenant, grant of easement, or in any other manner, which were required by the Commission, Town Board, or public utility, or which name the Town or public utility as grantee, promisee, or beneficiary, vest in the Town or public utility the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in land subject to the restriction. Such restrictions shall include obligations to pay maintenance assessments for commonly held open space property, shore protection works, erosion control measures, and other improvements. The restriction may be released or waived in writing by the Town or public utility having the right of enforcement.

2.5 Subdivision Definition. The division of a lot, parcel, or tract of land by the owners thereof, or their successors or agents, for the purpose of transfer of ownership or building development where the act of 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. Such divisions are regulated by this ordinance. Land divisions not meeting either of these criteria may be regulated by the Town's Minor Land Division Ordinance.

#### 2.6 Dedication of Lands.

- A. Public school, park, and recreation sites and facilities necessary to serve the additional number of people brought into the community by subdivision development. At the Town Board's discretion, the subdivider shall fulfill one of the following two options:
  - 1. Dedicate an amount of land equal to 1 acre for every 15 dwelling units being proposed. This land being dedicated and its location shall be subject to approval by the Town Board and shall be of a suitable size and location to fulfill the needs of the community.

2. Pay a fee to the Town in lieu of dedication of lands. This fee shall be paid prior to Final Plat approval. The Town shall keep a separate non-lapsing fund for money so received specifically reserved for park and recreation acquisition and development use within the Town. The minimum fee collected shall be \$400 per lot. This fee may be increased by an ordinance of the Town Board.
- B. New or extended streets and right-of-way additions along existing roads. Where the proposed subdivision abuts an existing or proposed State, County or Town road, the subdivider shall be required to dedicate any additional lands abutting the road in accordance with the width as required by any officially approved highway plans or ordinances in effect within the area.
  - C. Public access to navigable lake or stream. According to the provisions of Section 236.16(3), WIS. STATS., the subdivider shall provide access at least 60 feet wide to the low water mark at minimum intervals of one-half mile.

These features shall be made a part of the plat and dedicated by the subdivider in the location and dimensions indicated on the plat. The dedication of land for public purposes becomes effective at the time of approval and recording of the Final Plat. The acceptance of a constructed roadway or lake access corridor for maintenance purposes shall be by separate agreement adopted by the Town Board.

#### 2.7 Land Suitability.

- A. No land shall be subdivided for residential use that is deemed by the Town Plan Commission unsuitable for such use for reason of the following:
  - 1 Potential flooding. All lands to be subdivided shall be at least 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 on record.
  - 2 Unsuitable soils. No building sites shall be created which do not meet the standards as established in the Washington County Sanitary Code Ch. 25.
  - 3 Inadequate drainage or land drained by agricultural tile lines unless an alternate drainage improvement is planned to serve the area.
  - 4 Observed groundwater within 6 feet of the land surface.
  - 5 Lands made, altered, or filled with non-structural fill (e.g., an old dump site)
  - 6 Bedrock within 6 feet of the land surface.
  - 7 Slopes of 12 percent or greater.
- B. Unsuitable lands may also include any other feature likely to be harmful to the health, safety or welfare of the residents of the proposed subdivision or of the community. In applying the provisions of this section, the Town Plan Commission shall, in writing, recite the particular facts upon which it bases its conclusions that the land is not

suitable for residential use and give the subdivider an opportunity to present evidence to the contrary. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

2.8 Zoning. All lots and any other features of a proposed subdivision shall conform to the requirements of the Town Zoning Ordinance before the Preliminary Plat is approved by the Town Plan Commission.

2.9 Issuance of Building Permits. No building or occupancy permits shall be issued for erection of a structure on any lot not of record until all the requirements of this Ordinance or any other ordinance have been met.

2.10 Public Road Frontage Requirement. No lots shall be approved by the Plan Commission until the Town Clerk (hereafter in this Ordinance to also include the Town Board's designated agent as necessary) provides verbal or written testimony that the proposed development has a minimum of 66 feet of approved access frontage to a public roadway.

2.11 Improvements. Before approval of any Final Plat, but based on an approved Preliminary Plat and under Town inspection, the subdivider may install street, utility and other public improvements as are hereinafter required pursuant to Section 236.13 (2)(b) and (c) of the WIS. STATS. and of Section VIII of this ordinance. However, changes in installed improvements resulting from changes in the Final Plat by subdivider from the Preliminary Plat are responsibilities of the subdivider. If such improvements are not installed as required at the time that the Final Plat is submitted for approval, the subdivider shall, before recording the Final Plat, enter into a contract with the Town, agreeing to install the required improvements and shall file with said contract a financial surety satisfactory to the Town as a guarantee that such improvements will be completed by the subdivider or his subcontractors within a reasonable time as agreed in the contract.

2.12 Stormwater Management Facilities. The ownership and maintenance of drainageways, stormwater detention and retention basins, and other stormwater or permanent erosion control facilities shall be the responsibility of the developer. The developer may transfer this maintenance responsibility to a homeowner's association, a specific landowner, or other entity responsible for long-term maintenance only after at least 90 percent of the lots have been sold. Any detention/retention basins, however, will be located on outlots and will be owned in common by residents of the subdivision.

2.13 Right to Farm Clause. If any subdivision or certified survey map (csm) creates buildable lots adjacent to property used for agricultural purposes (i.e. a farm operation), or nonmetallic mining (i.e. A quarry operation), the subdivider shall place on the face of the subdivision a statement clearly disclosing said operation. The disclosure language shall be subject to review and approval of the Town Plan Commission and Town Board.

### III. PRE-APPLICATION & FEES

3.1 Pre-Application Conference. Prior to the filing of an application for the approval of a preliminary plat, the subdivider shall be required to consult with all affected utilities and the Town Zoning Administrator, Town Engineer and/or Plan Commission in order to obtain advice and assistance. This consultation is not formal, but is intended to familiarize the subdivider with the purpose and objectives of local regulations and plans, and to otherwise assist the subdivider in the planning phase before significant time and money is expended that may be inappropriate. In so doing, both the subdivider and the Town may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and Town, and the subdivider will gain a better understanding of the subsequent required procedures.

3.2 Concept Plan Review. Prior to the submission of a Preliminary Plat to the Town, a Concept Plan shall be prepared in accordance with Section 3.3 of this Ordinance, and the Subdivider shall file 10 copies of the Concept Plan and the Concept Plan Review application with the Town Clerk, who shall forward the Plan to the Town Engineer, Town Zoning Administrator, and Plan Commission within 3 working days.

If the Concept Plan Review application is received by the Town Clerk prior to 2 weeks before the next regular Plan Commission meeting, the Plan shall be reviewed at said meeting, unless the Clerk provides notice of extraordinary circumstances to the applicant at least 3 days in advance of the meeting. Any such postponement shall not extend beyond the following month's Plan Commission meeting. If the Concept Plan Review application is received less than 2 weeks prior to the next regular Plan Commission meeting, the Town shall have the right to schedule the review for the following month's meeting.

The Plan Commission shall review the Concept Plan and conduct the Pre-Application Conference with the applicant. The Plan shall be reviewed for general conformance with this Ordinance and all other ordinances, rules, regulations, adopted regional, County, or Town plans that may affect it. A motion by the Commission to approve the Concept Plan may not necessarily imply approval of any subsequent Preliminary Plat or associated plans.

3.3 Concept Plan. A Concept Plan shall be based upon Washington County geographic information system (GIS) mapping or a survey of a registered land surveyor, and shall be prepared on paper of good quality at a map scale of not more than 100 feet to the inch. It shall show correctly on its face the following information:

- A. Legal description of the proposed subdivision by: government lot, quarter-section, township, range, county.
- B. The Concept Plan shall be clearly noted and labeled on its face "Concept Plan."
- C. General location of the proposed project within the Town. This may be satisfied by highlighting the project boundaries on a plat map of the Town.
- D. Date of Concept Plan, graphic scale, and north arrow.
- E. Names and addresses of the owner, subdivider, and individual who prepared the Concept Plan.

- F. Entire area contiguous to the proposed plat owner or controlled by the subdivider shall be included on the Concept Plan.
- G. A statement of the proposed use of the lots stating the use type of buildings and/or use proposed to occupy the lots, number of proposed lots, and number of dwelling units per lot.
- H. Proposed Zoning Changes. If any zoning changes are contemplated, the proposed zoning plan for the property, including dimensions. The indication of such information, however, shall not constitute an application for a zoning amendment. All applications for zoning amendments shall meet the applicable requirements of the Town Zoning Ordinance.

3.4 Concept Plan Data. All Concept Plans shall show the following with, at a minimum, the accuracy of the Washington County GIS. Additional information may be indicated on the Concept Plan by the subdivider if so desired.

- A. The exterior boundaries of the proposed subdivision and the approximate total acreage encompassed thereby.
- B. Any corporate limit lines within or adjacent to the exterior boundaries of the plat.
- C. Location, right-of-way width, and names of all existing streets, or other public ways, easements, and utility right-of-ways within the exterior boundaries of the proposed plat or immediately adjacent thereto.
- D. Approximate location, size and invert elevation of any existing culverts and drain pipes and the location and size of any existing gas mains within the exterior boundaries of the plat or immediately adjacent to the lands being platted. The nearest such sewers or water mains which might be extended to serve such lands shall be indicated by their direction and approximate distance from the nearest exterior boundary of the plat and their size.
- E. General locations of all existing property boundary lines, structures, driveways, streams and watercourses, rock outcrops, woodlands, and other similar significant natural, cultural or historical features within the tract being subdivided and adjacent to it.
- F. Location and width of all proposed streets and public right-of-ways, such as trails and easements.
- G. Approximate size (in acres) of all lots.
- H. Location and approximate dimensions and size (in acres) 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 private uses not requiring formation of lots.

- I. Any proposed lake and stream access points.
- J. Any proposed lake and stream improvements or relocation including explanation of the proposed improvement and/or relocation.
- K. Location and delineated extent of wetlands, floodplains, and shoreland zone.

3.5 Fees To Be Paid. The subdivider shall pay the Town all fees as required by this ordinance and at the times specified.

- A. Preliminary Plat Review Fee. To assist in defraying the costs of review, the subdivider shall (at the time of first application for approval of any preliminary plats) pay a fee of \$75.00 plus \$2 for each acre shown on the plat. A reapplication fee shall be paid at the time of reapplication for approval of any preliminary plat that has previously been reviewed.
- B. Improvement Review Fee. The subdivider shall pay a fee equal to the actual cost to the Town for checking and reviewing all improvement plans and specifications at the time they are submitted.
- C. Inspection Fee. The subdivider shall pay a fee equal to the actual cost to the Town for any inspection deemed necessary to assure that the construction of the required improvements is in compliance with plans, specifications, and the ordinances of the Town.
- D. Final Plat Review Fee. To assist in defraying the costs of review the subdivider shall (at the time of first application for approval of said plat) pay a fee of \$50.00.
- E. Surveying Fee. The subdivider shall pay a fee equal to the actual cost to the Town for any surveying work incurred by the Town in connection with the plat.
- F. Engineering Fee. The subdivider shall pay a fee equal to the actual cost to the Town for any engineering work or review incurred by the Town in connection with the plat.
- G. Administrative Fee. The subdivider shall pay a fee equal to the cost of any legal, administrative, or fiscal work that may be undertaken by the Town.

#### IV. PRELIMINARY PLAT

4.1 Required. Prior to the filing of a final subdivision plat a Preliminary Plat shall be filed and approved. The Preliminary Plat shall be prepared in accordance with this Ordinance.

4.2 Filing and Transmittal. The subdivider shall file at least 16 copies of the Plat (plus, if necessary, 2 copies for DOT; 2 copies for DNR; 7 copies for a city or village with extraterritorial plat approval jurisdiction) together with all necessary review fees at least 45 days prior to the meeting of the Plan Commission at which first consideration is desired.

The Town Clerk shall within 2 normal working days after filing, transmit:

- A. 7 copies to the Town Plan Commission
- B. 3 copies to the Town Board
- C. 2 copies to Department of Administration (DOA) Division of Land Division Plat Review
- D. 2 copies to Department of Transportation (DOT), if the proposed subdivision abuts or adjoins a State Trunk Highway or a connecting street
- E. 2 copies to the Department of Natural Resources (DNR), if shorelands or floodlands are contained within the proposed subdivision
- F. 7 copies to the clerk of a city or village having extraterritorial plat approval jurisdiction over the proposed subdivision
- G. 5 copies to the Washington County Planning and Parks Department
- H. 1 copy to the Town Engineer

Any plat review fees paid by the subdivider for the required State and County reviews shall be forwarded by the Town Clerk to the appropriate agency.

The subdivider shall also submit to the Town Clerk, in addition to the specified number of copies of the plat, 2 copies of all on-site soil test data, 2 copies of street plans and profiles, and 2 copies of the erosion control and stormwater management plan.

4.3 Approving and Objecting Authorities. An approving authority is a government entity that has the power to approve or reject a plat within its jurisdiction. In order for a plat to move forward, all of the approving authorities must approve it. An objecting authority is a government entity that, while lacking the power to approve or reject, can register certain specific objections to a plat. Preliminary plats must be submitted to the County and Town for approval or rejection. If a plat is within a city or village's extraterritorial platting jurisdiction, the city or village must also receive a copy of the plat for approval or rejection. Preliminary Plats, including "non-state" subdivisions must also be submitted to the following objecting authorities:

- A. The DOA for conformity with state statutory surveying and layout requirements.

- B. If private sewage disposal systems are involved, a copy of the plat must also be submitted to the Washington County Planning and Parks Department.
- C. If state highway or connector street access is involved, a copy of the plat must be submitted to the DOT.
- D. If the plat is within 500 feet of the ordinary high water mark of a navigable water body, a copy of the plat must be submitted to the DNR, though the DNR is not technically an objecting authority.

These state agencies can either certify that they have no objections or they can register whatever objections they may have. If a state agency objects to a plat, a subdivision cannot be approved by the Town until the objections have been satisfied. If an objecting agency fails to act within 20 days of receiving its copy, it shall be deemed to have no objection to the plat.

4.4 The Most Restrictive Conditions Apply. If approving authorities approve a Preliminary Plat subject to certain conditions and such conditions are not identical to the conditions under the regulations of other approving authorities, the most restrictive conditions shall apply.

4.5 Plan Commission Review. The Plan Commission shall have principal responsibility for review of the plat for its conformance to this ordinance and to all related ordinances and rules. The Commission shall forward its recommendation to the Town Board within a time period that will allow the Board sufficient time to act.

4.6 Basis of Review. In harmony with Section 236.13(3), WIS. STATS., neither the Town Plan Commission nor Board shall base an approval, conditional approval, or rejection of a Preliminary Plat on any requirement other than those specified in this Ordinance and those ordinances and statutes it references.

4.7 Town Board Review Time Limit and Action. Assuming all objections have been formally removed and the Preliminary Plat is so certified by the objecting agencies, the Town Board shall approve, approve conditionally, or reject a Preliminary Plat within 90 days of the date of the initial filing of the Preliminary Plat with the Town Clerk, unless the time is extended by agreement with the subdivider. 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 detailed reasons for rejection. Failure of the Town Board to Act within 90 days of the date of filing or within the time extended by agreement with the subdivider shall constitute an approval.

4.8 Conditional Approval. Where a plat is approved conditionally, and the conditions call for layout changes, the subdivider shall provide the Town with at least 3 corrected copies of the Preliminary Plat.

4.9 Status of Subsequent Final Plat. Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, unless the Final Plat is submitted within <sup>1</sup>36 months of the Preliminary Plat approval and conforms substantially to the Preliminary Plat layout; as

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<sup>1</sup> Revised 12-30-10

provided under Section 236.11 (1)(b), WIS. STATS., the Final Plat shall be entitled to approval with respect to such layout.

4.10 Preliminary Plat Data. A Preliminary Plat 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. The title under which the proposed subdivision is to be recorded.
- B. The location of the proposed subdivision by government lot, quarter section, section, township, range, county, and state.
- C. The date, graphic scale, and north point.
- D. The names, addresses, telephone numbers, and email addresses of the owner, subdivider and land surveyor preparing the plat.
- E. Reference to the last instrument conveying title to each parcel of property involved in the proposed subdivision, listing grantor, grantee, date, and deed number.
- F. The entire area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the
- G. Preliminary Plat even though only a portion of said area is proposed for immediate development.
- H. Length and bearing of the exterior boundaries of the proposed subdivision, tied to a U.S. Public Land Survey corner relocated or monumented by the Southeastern Wisconsin Regional Planning Commission, a county, or municipality. The grid bearing and distance of tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner, to which the plat is tied, shall be indicated on the plat. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and be adjusted to Washington County's control survey.
- I. Locations of all existing property boundary lines, structures, drives, streams and watercourses, wetlands, rock outcrops, wooded areas, bridges and other similar significant features within the tract being subdivided or immediately adjacent to it.
- J. Locations of any known or suspected historical or cultural features.
- K. Location, right-of-way width and names of all existing and platted streets, trails, easements, utility rights-of-way, and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent to it.
- L. Location and name of any adjacent subdivisions, parks, and cemeteries and owners of record of abutting unplatted lands. Abutting lot lines and connecting streets shall also be shown.

- M. Proposed streets, including centerlines, widths, and names; proposed lots, including dimensions and acreage, together with proposed lot and block numbers, shall be shown. Meander lines in accordance with Section 236.20(2)(g), WIS. STATS. shall be shown. The total acreage included within the plat's exterior boundaries shall also be shown.
- N. Location of any existing sanitary or storm sewers, culverts and drain pipes; the locations of 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 to it. 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 tract, size and invert elevations.
- O. Corporate limit lines within the exterior boundaries of the plat or immediately adjacent thereto.
- P. Existing zoning on and adjacent to the proposed subdivision.
- Q. Existing contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets at vertical intervals of not more than 5 feet. Elevations should be based on mean sea level datum.
- R. High water elevations of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom, referenced to mean sea level datum.
- S. Floodland and shoreland boundaries and the contour lines 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 within the exterior boundaries of the plat or located within 100 feet therefrom.
- T. Location and results of soil boring or percolation tests shall be submitted on all plats to be served by onsite soil absorption sanitary systems, and tests shall be made to a depth of 6 feet or 3 feet below the bottom of the proposed soil absorption system, 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 natural undisturbed surface. The results shall be submitted in an accompanying document.
- U. Location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing shopping centers, church sites or other non-public uses not requiring platting.
- V. Approximate radii of all curves and length of tangents on all streets.
- W. Any proposed navigable lake and stream access required by Section 236.16(3)(a), WIS. STATS., improvement, or relocation and notice of application for approval by the DNR, when applicable.

- X. Any additional information required by the Town.
- Y. The Town Plan Commission may waive certain requirements under this section where it is unnecessary to fulfill the purpose and intent of this ordinance and undue hardship would result from strict application thereof.

4.11 Deed Restrictions and Protective Covenants. The Town may receive and keep on file for reference a draft of restrictions and covenants whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development, including solar access covenants.

4.12 Survey Accuracy. Accuracy and monumenting shall comply with Section 236.15, WIS. STATS.

4.13 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 ordinance.

4.14 Construction Site Erosion Control and Stormwater Management Plans and Profiles. The subdivider shall submit soil conservation and erosion control plans and profiles in accordance with the Town of Farmington Erosion Control and Stormwater Management Ordinance, in addition to the following:

- A. Written documentation that information was requested from adjacent property owners and the County Land Conservation Department on any field tile potentially impacting the property. This documentation may be presented as early as the Concept Plan discussion but no later than the submittal of the preliminary plat.
- B. Location of all field tile existing on the property and provision made to insure their integrity, either via the original routes or satisfactory alternative routes.

4.15 Street Plans and Profiles. The subdivider shall submit street plans and profiles showing existing ground surface, proposed, and, when requested by the Town, established street grades, including extensions, for a reasonable distance beyond the limits of the proposed subdivision. All elevations shall be based on mean sea level datum, and plans shall meet the standards of the Town of Farmington Roadway Design and Construction Standards Ordinance.

## V. FINAL PLAT

The approval and recording of a Final Plat shall take place before the subdivision of any land, and shall be in conformance with a Preliminary Plat, and be preceded by an Agreement on necessary improvements.

5.1 Final Plat Submittal. The Final Plat shall be prepared in accordance with this Ordinance and Section 236.20, WIS. STATS., and the subdivider shall submit to the Town at least 16 copies of the plat, and 1 final copy of all deed restrictions and protective covenants to the Town Clerk, who shall within 2 normal working days transmit the materials to the Town Plan Commission, other appropriate Town staff, and any city or village having extraterritorial plat jurisdiction for review and recommendation.

The subdivider is responsible for submitting copies of the Final Plat, along with the required fees, to the appropriate State clearinghouse.

5.2 Approving and Objecting Authorities. These authorities, their requirements, and their timeframes are the same as for the Preliminary Plat.

5.3 Time to File Final Plat. If the final plat is not submitted within <sup>1</sup>36 months of the date of approval of the Preliminary Plat, the approving authorities may refuse to approve the plat for cause. Extensions may be granted upon mutual agreement of all approving authorities. The Final Plat may, if permitted by the Town Board, constitute only a portion of the approved Preliminary Plat which the subdivider proposes to record at that time. Approval of a Final Plat for only a portion of the Preliminary Plat shall extend approval for the remaining portion of the Preliminary Plat for 2 years from the date of such final approval.

5.4 Action By Town Board. <sup>2</sup>The Town Engineer, Town Planner, or other person designated with the responsibility to review plats shall provide the Town Board with his or her conclusions as to whether the Final Plat conforms substantially to the Preliminary Plat and with his or her recommendation on approval of the Final Plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the Final Plat is being considered. If the Final Plat conforms substantially to the Preliminary Plat as approved, including any conditions of that approval, and all related ordinances, rules, or regulations, it is entitled to approval.

5.5 Time of Action. The Town Plan Commission and all other departments and agencies shall, within 60 days of the date of filing of the Final Plat with the Town, recommend approval or rejection of the plat and shall transmit the Final Plat, along with their recommendations, to the Town Board. The Board shall, within 60 days of the date of filing the original plat, approve or reject such plat, unless the time is extended by agreement with the subdivider. If the plat is rejected, the reasons shall be clearly stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider and the surveyor. Such statement shall specify what corrections would result in approval.

5.6 Failure of the Town Board to Act. If the Town Board does not vote to approve or reject the Final Plat within 60 days of the date of its filing, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.

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<sup>1</sup> Revised 12-30-10

<sup>2</sup> Revised 12-30-10

5.7 Final Plat Data. A Final Plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Section 236.20, WIS. STATS, the requirements for Preliminary Plats described in Section 4.10 of this Ordinance (except D, E, F, H, K, M, O, P), and the following:

- A. Exact street width along the line of any obliquely intersecting street shall be shown on the plat.
- B. Additional setback lines or yards required by the subdivider that are more restrictive than the zoning district in which the plat is located are to be shown on the plat and included in recorded covenants.
- C. 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.
- D. References to any deed restrictions and/or protective covenants to be enforced within the proposed subdivision shall be listed on the plat.
- E. Special restrictions required by the Town Board and any other approving or objecting agency relating to access control along public ways, the provision of planting strips, or the treatment of shoreland and floodlands shall be listed on the plat.

5.8 Survey Accuracy. Accuracy and monumenting shall comply with Section 236.15, WIS. STATS.

5.9 Certificates. All final plats shall provide all the certificates required by Section 236.21, WIS. STATS., and, in addition, the surveyor shall certify that he has fully complied with all provisions of this Ordinance.

5.10 Recordation. After the final plat has been approved by the Town Board and improvements, as required by the Town, have been installed or a contract agreed and sureties insuring their installation are filed, the Town Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the Washington County Register of Deeds.

5.11 Filing of Copy of Plat. The subdivider shall file a true copy of the Final Plat as a public record with the Town Clerk.

5.12 Correction Instruments. Correction instruments may be recorded in accordance with Section 236.295, WIS. STATS.

5.13 Changing Boundaries with Certified Survey Map. A certified survey map (CSM) may be used to change the boundaries of lots and outlots within a recorded plat if the re-division does not result in a subdivision or violate Town subdivision or land division regulations. Such CSM shall conform to Section 236.34, WIS. STATS., and the Town of Farmington Minor Land Division Ordinance.

5.14 Replat. 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 Sections 236.40 through 236.44, WIS. STATS. The subdivider or person wishing to replat shall then proceed as specified in sections IV through V of this ordinance.

## **VI. DESIGN STANDARDS**

6.1 Streets. In any new subdivision, the street layouts shall take into account the arrangement, width, and standards indicated in the Town of Farmington Roadway Design and Construction Standards Ordinance. The subdivision shall be designed so as to provide each lot with satisfactory access to a public street. Streets shall further the public convenience and safety, and shall be developed and located in proper relationship to:

- A. Existing and proposed streets
- B. Topography
- C. Natural features as streams and tree growth
- D. Existing or planned utilities
- E. The most advantageous development of adjoining areas

6.2 Reserve Strip. Reserve strips (spite strips) shall not be permitted on any plat to prohibit access to streets or waterways or other public property.

6.3 Street Name. Proposed streets which are in alignment with or join an existing named street shall normally bear the name of the existing street. Names of new streets shall not duplicate or be similar to existing street names. The use of the suffix "street", "avenue", "boulevard", "drive", "place", "court" or similar description shall not be sufficient distinction to constitute compliance with this subsection. All proposed street names shall be approved by the Plan Commission.

6.4 Cul-de-Sac Streets. Cul-de-sacs must conform to the standards in the Town of Farmington Roadway Design and Construction Standards Ordinance.

6.5 Temporary Termination of Streets. Temporary termination of streets at the boundary of a subdivision intended to be extended at a later date and where five (5) or more dwelling units have driveway access to such streets, or when the distance from the nearest intersection to the boundary of the subdivision is greater than 140 feet, shall be accomplished with a temporary cul-de-sac in accordance with the standards set forth in the Town of Farmington Roadway Design and Construction Standards Ordinance.

6.6 Roadway Elevations in Floodplains. Local streets shall be designed so they will not be overtopped by the 10-year recurrence interval flood.

6.7 Bicycle Routes. On-road bicycle routes or paved and marked bicycle lanes along arterial and collector streets may be required by the Town Board.

6.8 Lots. All lots shall conform to the Town of Farmington Zoning Ordinance and other applicable regulations, as well as the following:

- A. Side lot lines, where practicable, shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
- B. Every lot shall front or abut on a public street and must use said street for its access, unless granted a waiver by the Town Board.
- C. Whenever a tract is subdivided into parcels that are more than twice the minimum lot area required for the zoning district in which such parcel is located, the Town Board may 1) require such parcels to be arranged and dimensioned so as to allow future re-subdivision of any such parcels in accordance with the provisions of this ordinance and in conformance with the Town Zoning Ordinance, and/or 2) cause language to be placed on the Preliminary and Final Plats that forbid any further subdivision without Town Board approval.

6.9 Building and Setback Lines. Building setback lines appropriate to the location and type of development contemplated that are more restrictive than the regulation of the zoning district in which the plat is located may be required by the Town Plan Commission and shall be shown on the Final Plat. 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.

6.10 Land Remnants. No land remnants left over after the subdividing of the original tract are allowed, unless the Plan Commission agrees that the characteristics of the remnant make it unusable as a building or infrastructure site. In such a case, the remnant shall be designated an outlot and ownership shall be assigned in common to all lot owners within the subdivision, who shall be responsible for its upkeep.

6.11 Utility, Drainage, and Public Access Easements. All easements shall be noted on the Final Plat, followed by reference to the use or uses for which they are intended.

- A. The Town Board may require easements of widths deemed adequate for the intended purpose on the property side of front lot lines, on each side of all rear lot lines, on each side of all side lot lines (or across lots where absolutely necessary) for electric power and communication facilities, gas, cable, and other utility lines. All such easements shall be at least 12 feet in width.
- B. Where a subdivision is traversed by a drainageway or stream, or contains a detention/retention facility, an adequate easement shall be provided to meet the standards of the Town of Farmington Erosion Control and Stormwater Management Ordinance. The location, width, alignment and improvement of such drainage or easement shall be subject to the approval of the Town Engineer.

- C. Where a subdivision abuts on a navigable lake or stream, an easement shall provide public access at least 60 feet wide providing access to the low watermark so that there will be public access, which is connected to existing public roads, at not more than one-half mile intervals as measured along the lake or stream shore except where greater intervals and wider access is agreed upon by the DNR and the Town Plan Commission, and excluding shore areas where public parks or open-space streets on either side of a stream are provided.

6.12 Erosion Control and Stormwater Management Facilities. The design of Erosion Control and Stormwater Management Facilities shall conform to the Town of Farmington Erosion Control and Stormwater Management Ordinance.

## VII. REQUIRED IMPROVEMENTS

7.1 Plans and Written Agreement Required. The developer shall install the improvements outlined in this section, and any other reasonable improvements that may be deemed necessary by the Town due to unique circumstances associated with the proposed subdivision. All improvements shall be set forth in plans and specifications approved by the Town Plan Commission and in a standard written agreement between the Town and the developer to be known as the "Developer's Agreement."

7.2 Inspection. The developer shall follow the approved plans and specifications, including a performance time schedule, and permit Town inspection of the work as it proceeds, with payment for said inspection by the developer.

7.3 Financial Surety. Prior to the commencement of construction, the developer shall provide acceptable sureties that all required work shall be completed. The amount of surety shall be 125 percent of the Town Engineer's estimated full amount of the obligation being ensured (including the costs of inspection), nor for less a period than the work is scheduled to be completed; however, the Town Board shall allow reductions in the amount of the surety in proportion to the amounts of the obligations as they are fulfilled. In a dispute over the amount of surety, the estimate prepared by the Town Engineer shall be given the greater weight.

7.4 Warranty. The developer shall warranty work and materials for 1 year after adoption of a resolution of acceptance by the Town Board. To assure such improvement warranty, the developer shall provide an amount of financial surety (performance bond or letter of credit) not to exceed 15 percent of the construction value of the improvements. If necessary, the Town Board shall utilize said surety to have repairs or other work completed.

7.5 Developer's Rights of Recovery. Said agreement shall also establish that the Town shall perform its inspections in a timely manner, may allow reduction in sureties in proportion to work inspected and tentatively accepted, shall upon negotiation and mutual agreement with the developer contribute toward over-size, on-site improvements, or in lieu thereof, shall assure the developer's rights of recovery of his expenditures for over-size, on-site improvements or for necessary off-site improvements, as shall be negotiated. A specific repayment schedule by the Town shall be included. Where data cannot be established, events related to repayment shall be identified, such as the levying and collecting of special assessments from other owners, issuance of revenue or general obligation bonds, or the receipt of certain taxes or user fees.

7.6 Commencement and Completion. Construction or installation of improvements shall not commence until the Preliminary Plat has been approved by all agencies having authority to review the plat and written authorization has been provided by the Town Engineer. All work or improvements to the subdivision shall also be subject to inspection by the Town to determine conformance with any applicable requirements. The construction of all improvements required by this Ordinance shall be completed within two years from the date of the Town Board approval of the Preliminary Plat.

7.7 Roads Dedicated to the Public. Such roads will not be accepted by the Town until all outstanding bills related to the construction of the improvements in the subdivision have been paid in full.

7.8 Survey Monuments. The developer shall install survey monuments placed in accordance with the requirements of section 236.15, WIS. STATS., and as may be required by the Town.

7.9 Road and Lot Grading. Grading shall conform to the standards described in the Town of Farmington Roadway Design and Construction Standards Ordinance.

7.10 Paving for Streets and for Bicycle or Pedestrian Paths.

- A. In compliance with the Town of Farmington Roadway Design and Construction Standards Ordinance, the developer shall install base course material over the approved subgrade, and then install finish surface paving in one or more courses in accordance with the approved plans and specifications. The developer shall assume the entire cost for such pavings within the subdivision.
- B. The Town Board may require the developer to construct bicycle or pedestrian paths on one side of a street within the subdivision. The location, type of material and construction of all pedestrian paths shall be in accordance with plans and standard specifications approved by the Town Board. The developer shall assume the entire cost of such installations within the subdivision unless additional agreements are reached between the developer and the Town Board.

7.11 Road Shoulder, Ditches, Roll-Over Curbing, Culverts, Endwalls.

- A. In compliance with the Town of Farmington Roadway Design and Construction Standards Ordinance, the developer shall install road shoulder material and the adjacent ditch or swale, both to finished grades in accordance with the approved plans and specifications. The developer shall be responsible for installing all necessary culverts and endwalls and, if required, mulch, sod or surface ditch inverts to prevent erosion and sedimentation.
- B. The developer shall assume the entire cost of the road ditch within the subdivision.
- C. Curbing is not required by the Town, but where proposed by the developer it shall be of a roll-over design and subject to the approval of the Town Plan Commission.

7.12 Stormwater Drainage Facilities. The developer shall construct stormwater drainage facilities adequate to serve the subdivision without negatively impacting surrounding landowners. All such facilities shall conform to the Town of Farmington Erosion Control and Stormwater Management Ordinance. Drainage facilities in shoreland-floodplain areas also fall under the jurisdiction of the County and shall be in accordance with the plans and standard specifications approved by the County.

7.13 Water Supply. Public water supply is not available in the Town of Farmington. Any private water supply facilities are the responsibility of the developer and/or lot owners. The Town may require the subdivider to provide evidence of an adequate, safe water supply from on-site wells.

7.14 Sewage Disposal Facilities. Public sewage disposal facilities are not available in the Town of Farmington. Any private disposal facilities are the responsibility of the developer and/or lot owners and must meet the requirements of the Washington County Sanitary Code.

7.15 Other Utilities.

- A. The developer shall cause electrical power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision, and gas for heating if it is available. All new electric or communication lines from which lots are individually served shall be installed underground, unless the approving authorities shall find, after study, that the location, topography, soil, stands of trees or other physical barriers would make underground installation unreasonable or impracticable or that the lots to be served by said facilities can be served directly from existing overhead facilities. Associated equipment and facilities which are appurtenant to underground electric and communications systems including, but not limited to, substations, pad-mounted transformers, pad-mounted sectionalizing switches and pedestal-mounted terminal boxes may be located above ground.
- B. A plan indicating the proposed location of all gas, electrical power and communication distribution and transmission facilities required to service the plat shall be approved by the Town Plan Commission for coordination with the location of Town utilities.

7.16 Street Lamps. The Town Plan Commission may require the developer to install ornamental yard lamps.

7.17 Street Name Signs. The developer shall install at the intersection of all streets a street name sign of a design specified by the Town.

7.18 Dry Hydrants. In areas where there is no public water supply, fire ponds are encouraged and subject to review and approval by the Fire Chief. Upon a recommendation by the Fire Chief, the Town Board may require an independent engineering feasibility study. Hydrants or other provisions for drafting water shall be provided to the specifications of the Fire Department. Minimum pipe size connecting dry hydrants to ponds shall be 6 inches. Where the dry hydrant or other water source is not within the right-of-way of a proposed or existing street, an easement to the Town shall be provided to allow access, and a suitable accessway to the hydrant or other water source shall be constructed. Though the facility will be owned in common by the residents of the subdivision, the maintenance of the hydrant shall be the responsibility of the Fire Department.

7.19 Improvements Extended to Limit of Parcel. Any improvements or utility services required by this Ordinance, or a municipality's ordinance concerning areas within that municipality's extraterritorial plat jurisdiction shall be extended to the farthest limit of the parcel or lot upon which a building permit is requested, unless the developer is excused from this requirement by the Plan Commission.

## VIII. CONSTRUCTION

8.1 Commencement. See Section 7.6 of this Ordinance.

8.2 Plans and Specifications. Plans and accompanying construction specifications and engineering data shall be provided by the developer at his own expense. The Town Engineer shall review these plans and specifications for conformance with the requirements of this Ordinance and other pertinent Town ordinances. If the Town Engineer rejects the plans and specifications, he shall notify the developer, who shall cause the modification of the plans and/or specifications. When corrections have been completed to the satisfaction of the Town Engineer, he shall approve said plans and specifications.

8.3 Inspection, Financial Sureties. See Sections 7.2 and 7.3 of this Ordinance.

8.4 Permits. No building, zoning or sanitary permits shall be issued for erection of a structure on any lot of record at the time of adoption of this Ordinance until all the requirements of this Ordinance have been met.

8.5 Construction Area. Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.

8.6 Erosion and Sedimentation Control. The developer shall follow the procedures and standards in the Town of Farmington Erosion Control and Stormwater Management Ordinance.

8.7 Field Tiles. The developer shall reconstruct, replace or re-route all farm drainage tiles encountered or damaged during subdivision construction to provide equal or better farm drainage. The subdivider shall provide a permanent record to the Town of such reconstruction, replacement, or rerouting.

8.8 Existing Trees. The developer shall make every effort to protect and retain all existing trees not actually growing in public right-of-ways, drainageways, building foundation sites, private driveways, and soil absorption waste disposal areas. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, which includes awareness of drip lines.

In the event that trees designated on the approved Preliminary Plat for preservation are destroyed during construction, the developer shall replace such trees with a species approved by the Plan Commission and having a diameter at least as large as the tree so destroyed. No one replacement, however, shall exceed 6 inches in diameter as measured at 12 inches above the ground level. In cases where the diameter of the destroyed tree was larger than 6 inches, two trees having diameters between 3 and 6 inches shall be planted. Said replacement trees shall be placed in the approximate location of the tree(s) destroyed.

8.9 Maintenance of Improvements During Construction. The developer shall make every effort to protect and maintain all improvements during construction.

8.10 "As-Built" Surveys. Final grades for roadway centerlines, roadside ditches, drainageways, detention/retention ponds, culverts, tops of building foundations, and lot corners shall be verified by submittal to the Town of an as-built survey(s) completed by a registered Wisconsin land

surveyor. Appropriate tolerances shall be established by the Town Engineer on a site-by-site basis and shall be communicated to the developer as part of the Developer's Agreement. The Plan Commission, in agreement with the Town Engineer, shall also have the right to waive the as-built survey requirement or portions of it.

- A. Said survey(s) for road centerlines and ditches shall be submitted to the Town before acceptance of any public dedication.
- B. Said survey(s) for drainageways and culverts shall be submitted to the Town before adjoining building permits will be issued.
- C. Said survey(s) for individual lot corners shall be submitted to the Town before the respective building permits will be issued.
- D. Said survey(s) for the elevation of the top of the building foundation shall be submitted to the Town before the foundation is backfilled.
- E. The contractor shall assume the risk of loss for any construction that fails to comply with the elevations specified in the approved stormwater management plan and street profile plan. However, the Town Board may waive this penalty upon determination of unnecessary hardship and substitute instead the forfeiture described in Section 9.2 of this Ordinance.

<sup>1</sup> 8.11

Subdividers may construct projects in phases, as approved by the Town Board. Surety bonds and any other security required for improvements shall be provided for the proposed phase prior to its construction, but not more than 30 days prior, unless agreed to by the subdivider.

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<sup>1</sup> Added 12-30-10

## **IX. VIOLATIONS, PENALTIES AND REMEDIES**

9.1 Violations. It shall be unlawful to divide, convey or record any land in violation of this Ordinance or Section 236 of the Wisconsin Statutes. Nor shall any person, firm or corporation be issued a zoning permit, building permit or sanitary permit authorizing the building on, or improvement of, any lot or any part of any 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.

### 9.2 Penalties.

- A. Any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit not less than \$100 nor more than \$10,000 and the costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding 6 months. Each day a violation exists or continues shall constitute a separate offense. The Town may institute appropriate action or proceedings to enjoin violations of this ordinance.
- B. In addition to the above-described penalties, the Town Board, or its agent, shall have the power to institute appropriate action for injunctive relief to prevent persons, firms or corporations from acting violation of the provisions of this ordinance.

9.3 Remedies. An Assessor's Plat made under Section 70.27 of the Wisconsin Statutes may be ordered as a remedy by the Town, at the expense of the subdivider, when a subdivision as defined herein is unlawfully created by successive divisions.

## **X. VARIANCES AND APPEALS**

### 10.1 Variances.

- A. A subdivider or developer may request a variance to requirements of this Ordinance, and if, in the judgment of the Town Board, it would be inappropriate to apply literally the provisions of this Ordinance because exceptional or undue hardship has resulted or would result, the Board may waive or modify the requirements to the extent deemed just and proper. Fee and application?

1. The Town Board does not have the authority to waive portions of this Ordinance that reference or are upheld by Wisconsin Statutes or Washington County Ordinances.

- B. When such relief is granted, it shall be without detriment to the public good and without impairing the intent and purpose of this Ordinance or of adopted Town plans. A simple majority vote of the entire membership present and voting shall be required to grant any modifications to the provisions of this Ordinance, and the reasons shall be entered into the minutes of the meeting.

10.2 Appeals. Any person aggrieved by an objection to a plat or a failure to approve a plat may first appeal the decision, if the Town is involved, to the Town Board, following Chapter 68 of the Wisconsin Statutes. If such appeal is not granted, or if the objection or failure to approve is from some other authority, the persons aggrieved may appeal as provided in Sections 236.13(5) and 62.23(7)(e) 10 to 15, WIS. STATS., to the court of record within 30 days of the above appeal decision or 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 authorities is arbitrary, unreasonable or discriminatory.

## XI. DEFINITIONS

For the purpose of this Ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number, and the plural number includes the singular number. The word "shall" is mandatory and not directory.

11.1 Adjoining. Having a common boundary or edge; touching; "abutting lots."

11.2 Approving Authorities. See Section 4.3 of this Ordinance.

11.3 Assessor's Plat. A plat ordered by a city, village or town governing body when the legal description of an area of previously platted or unplatted land cannot be made sufficiently certain and accurate for the purposes of assessment, taxation or tax title procedures without noting the correct metes and bounds of the same, or when such gross errors exist in lot measurements or locations that difficulty is encountered in locating new structures, public utilities or streets. An assessor's plat plainly defines the boundary of each parcel in question, and each street, alley, lane or roadway, or dedication to public or special use.

11.4 Block. A tract of land bounded by streets or by a combination of streets and public parks, cemeteries, shorelines or waterways, municipal boundary lines, township lines or county lines.

11.5 Building. Any structure built, used, designed or intended for the support, shelter, protection or enclosure of persons, animals, chattels or property of any kind, and which is permanently affixed to the land.

11.6 Building Setback Line. A line parallel to a lot line and at a distance from the lot line to comply with the Town or County Shoreland Zoning Ordinance yard requirements.

11.7 Minor Land Division. When it is proposed to divide land within the Town into not more than four parcels or building sites, any one of which is 10 acres or less in area, or when it is proposed to divide a block, lot or outlot within a recorded subdivision plat into not more than four parcels or building sites without changing the boundaries of said block, lot or outlot, the subdivider shall subdivide by use of a certified survey map, as set forth in the Town of Farmington Minor Land Division Ordinance. The certified survey map shall include all parcels of land 10 acres or less in area and may, at the owner's discretion, include any other parcels containing more than 10 acres.

11.8 Condominium. Property subject to a condominium declaration as defined, regulated, and established under Chapter 703 of the Wisconsin Statutes.

11.9 Cul-de-Sac Street. A local street closed at one end with a turn-around provided for vehicular traffic.

11.10 Detention Pond/Basin. A man-made or natural depression below the surrounding grade designed to collect surface and subsurface water so that it might impede its flow and to gradually release such water at a rate not greater than the rate prior to the development of the property, into natural or man-made outlets such as a stream.

11.11 Developer. The legal or beneficial owner or owners of a lot or of any land included in a proposed subdivision, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land. May also be the owner's agent, with the responsibility to oversee the layout and construction of the subdivision.

11.12 Drainage Easement. A designation on a plat marking a man-made or natural corridor of land below the surrounding grade designed to collect surface water runoff so that it might direct the flow of said runoff to a detention area or outlet. The easement generally specifies that the grade of the corridor must not be altered and the corridor must be kept free of obstructions.

11.13 Drainageway. The land on either side of and within 50 feet of the centerline of any intermittent or perennial stream shown on a topographical survey prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than 2 feet; the USGS 7.5-minute quadrangle topographic map of the area; or the 1"=200' Washington County topographic maps except areas designated as wetlands, shoreland wetlands, floodlands, floodways, or 100-year recurrence interval floodplains.

11.14 Drip Line. The farthest distance, measured as a radius and the total area encompassed thereby, where the branches of a tree extend from its trunk indicating the extent of the canopy of a tree.

11.15 Dry Hydrant. Water intake structures consisting of a stand- pipe buried in the bank of a watercourse with a horizontal pipe connected to the bottom end which extends into the watercourse. Water is withdrawn from a dry hydrant on an "as needed" basis by a mobile pump carried on a fire truck.

11.16 Easement. The area of land set aside, or over, or through, which a liberty, privilege, or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.

11.17 Extraterritorial Plat Approval Jurisdictional Area. The unincorporated area within 1½ miles of a fourth class city or a village (Newburg) and within 3 miles of all other cities (West Bend).

11.18 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. (See studies by the Federal Emergency Management Agency and Southeastern Wisconsin Regional Planning Commission)

11.19 Frontage. The total dimension of a lot abutting a public street measured along the street right-of-way line.

11.20 High Water Elevation. The average annual high water level of a pond, stream, lake, flowage or wetland referred to an established datum plan, 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.

11.21 Homeowners' Association. A Wisconsin non-profit membership corporation which serves as an association of homeowners within a subdivision or condominium having shared common interests and responsibilities with respect to the costs and upkeep of common private property.

11.22 Improvement-Public. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, bicycle way, planting strip or other facility for which the local municipality may ultimately assume the responsibility for maintenance and operation.

11.23 Lot. A contiguous parcel of land having frontage on a public street, or approved access thereto, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other provisions of the Town of Farmington Zoning Ordinance.

11.24 Lot Area. The area contained within the exterior boundaries of a lot, excluding road right-of-way and land under navigable bodies of water.

11.25 Lot Width. The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front line at a minimum required building setback line.

11.26 Mean Sea Level Datum. Mean Sea Level Datum, 1929 Adjustment, as established by the U.S. Coast and Geodetic Survey.

11.27 National Map Accuracy Standards. Standards governing the horizontal and vertical accuracy of topographic maps and specifying the means for testing and determining such accuracy, endorsed by all federal agencies having surveying and mapping functions and responsibilities.

11.28 Navigable Stream. Any stream capable of floating any boat, skiff or canoe, of the shallowest draft used for recreational purposes. The final determination shall be made by the Wisconsin Department of Natural Resources.

11.29 Navigable Water. Lake Michigan, Lake Superior, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages, and other water which are navigable under the laws of Wisconsin. The Wisconsin Supreme Court has declared as navigable, bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis.

11.30 Objecting Authorities. See Section 4.3 of this Ordinance.

11.31 Ordinary High Water Mark. The point on the bank or shore of a navigable water up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

11.32 Outlot. A parcel of land, other than a lot or block, so designated on the plat. The intended use of an outlot shall be specified on the plat. An outlot may be used as a building site only if it is in compliance with the standards of this Ordinance and state regulations. Any restrictions

regarding the use of an outlot as a building site must be waived by the Wisconsin Department of Commerce. An outlot may be conveyed, however, regardless of whether it may be used as a building site.

11.33 Owner. A person, individual, firm, association, syndicate, partnership, or corporation having legal title or sufficient proprietary interest to seek development of land. For purposes of successive division of a parcel of land, "owner" shall be taken to include any related person, firm, trust, partnership, or corporation to whom conveyance has been made within 10 years of application for approval of a subdivision plat.

11.34 Public Road. A road for which the Town of Farmington receives state road aids.

11.35 Public Way. Any sidewalk, street, alley, highway, drainageway or other public thoroughfare.

11.36 Replat. The process of changing the map or plat which changes the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat. (Sec. 236.36 WIS. STATS.)

11.37 Reserve Strip. A strip of land, also called a spite strip, intended by one private land owner to prevent by another owner access to the street. Such strips are not permitted under this ordinance.

11.38 Shorelands. Those lands in the unincorporated areas of Washington County lying within the following distances: 1,000 feet from the ordinary high water mark of navigable lakes, pond, and flowages, or 300 feet from the ordinary high water mark of navigable streams or to the landward side of the floodplain, whichever is greater.

11.39 Subdivider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, certified survey map, or replat.

11.40 Subdivision. See Section 2.4 of this Ordinance.

11.41 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.

11.42 Wetlands. Those areas in which the water table is at, near or above the existing land surface and are characterized by hydric soils such as peats, mucks, other organic and mineral soils, and by the growth of hydrophytes such as sedges, cattails, red osier dogwood and tamarack. Wetlands function as nutrient and sediment traps contributing to the maintenance of good water quality and reducing the threat of flooding. Wetlands protect shoreland areas from erosion by absorbing storm impact and diminishing the scouring action of currents. Wetlands also provide essential breeding, nesting, resting, feeding grounds and predator escape cover for many species of fish and wildlife.

## XII. ADOPTION AND EFFECTIVE DATE OF SUBDIVISION ORDINANCE CHANGE

The Plan Commission recommended that the following "GENERAL PROVISIONS 2.1" be added to the Town of Farmington Subdivision Ordinance at meeting held August 30, 2005:

The Town Board adopted the following ~~strikeout~~ and underlined changes Oct. 18, 2005:

### II. GENERAL PROVISIONS

#### 2.1 Annual Number of ~~Reviewable Lots~~ of Building Permits Issued

To control the rate of residential development and implement the Vision Statements in the Town of Farmington's Future Land Use Plan, ~~limitations will be placed on the number of lots created through platting. the Town of Farmington will review and approve up to 26 subdivided lots on an annual basis, subject to the Town of Farmington's Future Land Use Plan. will accept and process no more than 26~~ **new home building permits** based on the following allocation:

- A. On an annual basis, the Town of Farmington ~~will only approve 13 lots in a State reviewed final plat. will process 13~~ **new home building permits** in any development of five (5) or more lots.
- B. On an annual basis, the Town of Farmington ~~will only approve 13 lots by certified survey map recordable at the Washington County Courthouse. will process 13~~ **new home building permits** that are part of a recorded certified survey map.

On a first-come, first serve basis on January 1 of each year, the Town of Farmington ~~will consider a limited number of lots in new subdivisions and CSM's recorded annually, will accept and process~~ **building permits**, based on the above allotment. This building permit allotment will be pro-rated from the date of ordinance adoption to the remainder of the year this ordinance becomes effective.

#### Public Hearing

The Town of Farmington Town Board held a public hearing on this proposed revision to the Subdivision Ordinance pursuant to the requirements of Section 236.45(4) of the Wisconsin Statutes on October 18, 2005.

#### Town Board Approval

The Town Board of Supervisors of the Town of Farmington, Washington County, Wisconsin did not concur with the recommendation of the Plan Commission and proceeded to adopt the above revision to the Subdivision Ordinance at a meeting held on October 18, 2005.

#### Effective Date

This revision to the Subdivision Ordinance shall take effect upon passage and adoption by the Town Board and the filing of proof of posting or publication in the Office of the Town Clerk.

Date of Posting or Publication: Oct. 19, 2005

Effective Date: Oct. 19, 2005

Town Board Chairman: Gary Schreiber

Attested: Joanne Oneska