

CHAPTER 18
LAND DIVISION ORDINANCE



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Prepared by the City of Muskego
Community Development Department

CHAPTER 18

SUBDIVISION AND PLATTING

INTRODUCTION

18.01 AUTHORITY.....	1
18.02 SHORT TITLE.....	1
18.03 PURPOSE AND INTENT.....	1
18.04 ABROGATION AND GREATER RESTRICTIONS.....	2
18.05 INTERPRETATION.....	2
18.06 SEVERABILITY AND DISCLAIMER OF LIABILITY.....	2
18.07 INCONSISTENCY WITH OTHER ORDINANCES.....	2
18.08 DEFINITIONS.....	3

ADMINISTRATION AND ENFORCEMENT

18.10 COMMUNITY DEVELOPMENT DIRECTOR.....	10
18.11 VIOLATIONS.....	10
18.12 PENALTIES AND REMEDIES.....	10
18.13 APPEALS.....	11
18.14 FEES.....	11

GENERAL PROVISIONS

18.20 JURISDICTION AND COMPLIANCE.....	13
18.21 DEDICATION AND RESERVATION OF LANDS.....	14
18.22 IMPROVEMENTS.....	15
18.23 EXISTING SUBSTANDARD LOTS.....	16
18.24 VARIANCES.....	16
18.25 LAND SUITABILITY.....	17
18.26 WOODED AREAS AND NATURAL TREE SETTINGS.....	18
18.27 ADEQUATE PUBLIC FACILITIES REQUIRED.....	19

LAND DIVISION PROCEDURES

18.30 PREAPPLICATION.....	20
18.31 PRELIMINARY PLAT.....	20
18.32 FINAL PLAT.....	32
18.33 MINOR LAND DIVISION.....	38
18.34 EXTRATERRITORIAL PLATS AND CERTIFIED SURVEY MAPS.....	42
18.35 REPLAT.....	43
18.36 CONDOMINIUM PLATS.....	43

DESIGN STANDARDS: CONVENTIONAL SUBDIVISIONS

18.40 STREETS.....	44
18.41 BLOCKS.....	48
18.42 LOTS.....	48
18.43 BUILDING SETBACK LINES.....	50
18.44 SPECIAL RESTRICTIONS.....	50
18.45 EASEMENTS.....	50
18.46 PUBLIC SITES AND OPEN SPACES.....	51

REQUIRED IMPROVEMENTS: CONVENTIONAL SUBDIVISIONS	
18.50 GENERAL.....	53
18.51 SURVEY MONUMENTS.....	54
18.52 GRADING.....	54
18.53 SURFACING.....	54
18.54 CURB AND GUTTER.....	54
18.55 RECREATION TRAILS AND PEDESTRIANWAYS.....	55
18.56 SEWAGE DISPOSAL FACILITIES.....	55
18.57 STORM WATER DRAINAGE FACILITIES.....	55
18.58 WATER SUPPLY FACILITIES.....	56
18.59 OTHER UTILITIES.....	56
18.60 STREET LAMPS, SIGNS AND TREES.....	57
18.61 IMPROVEMENT OF EXISTING HALF-STREETS.....	57
CONSTRUCTION STANDARDS: CONVENTIONAL SUBDIVISIONS	
18.70 COMMENCEMENT.....	58
18.71 BUILDING PERMITS.....	58
18.72 IMPROVEMENT PLAN APPROVAL PROCEDURE.....	58
18.73 REQUIRED PLANS.....	59
18.74 INSPECTION.....	60
18.75 AS-BUILT PLANS REQUIRED.....	60
18.76 EROSION CONTROL.....	60
DESIGN STANDARDS: CONSERVATION SUBDIVISIONS	
18.80 LAND SUITABILITY.....	62
18.81. DEVELOPMENT YIELD.....	62
18.82 PERFORMANCE STANDARDS.....	63
REQUIRED IMPROVEMENTS: CONSERVATION SUBDIVISIONS	
18.90 GENERAL.....	66
18.91 SURVEY MONUMENTS.....	67
18.92 GRADING.....	67
18.93 SURFACING.....	67
18.94 CURB AND GUTTER.....	67
18.95 RECREATION TRAILS AND PEDESTRIANWAYS.....	68
18.96 SEWAGE DISPOSAL FACILITIES.....	68
18.97 STORM WATER DRAINAGE FACILITIES.....	68
18.98 WATER SUPPLY FACILITIES.....	69
18.99 OTHER IMPROVEMENTS.....	69
CONSTRUCTION STANDARDS: CONSERVATION SUBDIVISIONS	
18.100 COMMENCEMENT.....	71
18.101 BUILDING PERMITS.....	71
18.102 IMPROVEMENT PLAN APPROVAL PROCEDURE.....	71
18.103 REQUIRED PLANS.....	72
18.104 INSPECTION.....	72
18.105 AS-BUILT PLANS REQUIRED.....	73
18.106 EROSION CONTROL.....	73

CITY OF MUSKEGO
CHAPTER 18 - SUBDIVISION AND PLATTING
INTRODUCTION

18.01 AUTHORITY.

These regulations are adopted under the authority granted by §236.45, Wis. Stats.

18.02 SHORT TITLE.

This chapter shall be known as, referred to or cited as the "LAND DIVISION ORDINANCE, CITY OF MUSKEGO, WAUKESHA COUNTY, WISCONSIN."

18.03 PURPOSE AND INTENT.

- (1) **PURPOSE.** The purpose of this chapter is to regulate and control the division of land within the corporate limits of the City and its extraterritorial jurisdiction as established in Sections 61.35, 66.0105, and 236.10 of Wisconsin Statutes, in order to promote public health, safety, morals, prosperity, aesthetics and general welfare of the City and its environs.
- (2) **INTENT.** It is the general intent of this chapter to regulate the division of land so as to:
 - (a) Obtain the wise use, conservation, protection and proper development of the City's soil, water, wetland, woodland and wildlife resources and attain a proper adjustment of land use and development to realize the goal of supporting and sustaining the natural resource base.
 - (b) Lessen congestion in the streets and highways.
 - (c) Further the orderly layout and appropriate use of land as identified in the adopted Comprehensive Plan and adopted Parks and Conservation Plan.
 - (d) Secure safety from fire, panic and other dangers.
 - (e) Provide adequate light and air.
 - (f) Facilitate adequate provision for housing, transportation, water supply, wastewater, schools, parks, playgrounds and other public facilities and services.
 - (g) Secure safety from flooding, water pollution, disease and other hazards.
 - (h) Prevent flood damage to persons and properties and minimize expenditures for flood relief and flood control projects.
 - (i) Prevent and control erosion, sedimentation and other pollution of surface and subsurface waters.
 - (j) Preserve natural vegetation and cover and promote the natural beauty of the City and its environs.
 - (k) Restrict building sites on floodlands, shorelands, areas covered by poor soils or in other areas poorly suited for development.
 - (l) Facilitate the further division of larger tracts into smaller parcels of land.
 - (m) Ensure adequate legal description and proper survey monumentation of subdivided land.

- (n) Provide for the administration and enforcement of this chapter.
- (o) Provide penalties for its violation.
- (p) Implement those municipal, county, watershed or regional comprehensive plans or plan components adopted by the City and in general facilitate enforcement of City development standards as set forth in the adopted regional, county and local comprehensive plans, adopted plan components, City Zoning and Building Codes.

18.04 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter 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 chapter imposes greater restrictions, the provisions of this chapter shall govern.

18.05 INTERPRETATION.

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

18.06 SEVERABILITY AND DISCLAIMER OF LIABILITY.

- (1) SEVERABILITY. If any section, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- (2) DISCLAIMER OF LIABILITY. The City does not guarantee, warrant or represent that only those areas designated as floodlands on plats and certified survey maps will be subject to periodic inundation nor does the City guarantee, warrant or represent that the soils shown to be unsuited for a given land use from tests required by the chapter are the only unsuited soils within the jurisdiction of the chapter; and thereby asserts that there is no liability on the part of the Common Council, its agencies or employees for flooding problems, sanitation problems or structural damages that may occur as a result of reliance upon and conformance with this chapter.

18.07 INCONSISTENCY WITH OTHER ORDINANCES.

This chapter shall supersede all other general and zoning ordinances or parts thereof, inconsistent or in conflict with this chapter to the extent of the inconsistency only.

18.08 DEFINITIONS.

(1) **GENERAL DEFINITIONS.** For the purposes of this chapter, 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 discretionary.

(2) **SPECIFIC WORDS AND PHRASES.**

ACREAGE, GROSS. The total area of a parcel or development including the area of perimeter street rights-of-way as measured to the center line of the street.

ACREAGE, NET. The area of a parcel or development excluding the area of perimeter streets, and excluding the area of all existing or proposed rights-of-way located within the parcel or development.

ADVISORY AGENCY. Any agency, other than an objecting agency, to which a plat or certified survey map may be submitted for review and comment. An advisory agency may give advice to the City and may suggest that certain changes be made to the plat or certified map or it may suggest that a plat or certified survey map be approved or denied. Suggestions made by an advisory agency are not, however, binding on the Common Council or Plan Commission. Examples of advisory agencies include the Waukesha County Land Conservation Committee, the Southeastern Wisconsin Regional Planning Commission and local utility companies.

ALLEY. A public or private right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land. (§236.02 (1), Wis. Stats.)

ARTERIAL STREET (See "STREET, ARTERIAL")

BLOCK. A tract of land bounded by streets or by a combination of streets, public parks, cemeteries, railway right-of-way, bulkhead lines or shorelines of navigable waterways and municipal boundaries.

BUILDING. Any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

BUILDING LINE. A line parallel to any lot line and at a distance from the lot line to comply with terms of this chapter.

CITY PLAN COMMISSION. The Commission created by the Common Council under §62.23, Wis. Stats., and authorized to plan land use within the City.

COMMUNITY DEVELOPMENT DIRECTOR. The officer designated by the Common Council to administer this chapter, more specifically the Community Development Director or his designee.

CERTIFIED SURVEY MAP. A map prepared by a registered land surveyor in accordance with §236.34, Wis. Stats. Certified survey maps may, under the terms of this chapter, be used to create "minor land divisions" of not more than 4 parcels. **.COLLECTOR STREET** (See "STREET COLLECTOR").

COMMON OPEN SPACE. Undeveloped land within a subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the community. Common open space does not include any portion of a private residential lot, and shall be substantially free of structures, but may contain historic structures, shared recreational structures including but not limited to pool houses or stables, as indicated on the approved development plan.

COMMUNITY. A town, municipality or a group of adjacent towns or municipalities having common social, economic or physical interests.

COMPREHENSIVE PLAN. Any extensively developed plan, also called a master plan, prepared and adopted by the Southeastern Wisconsin Regional Planning Commission, County Park and Planning Commission or City Plan Commission and certified to the Common Council under §§66.0309, 59. 69 and 62.23, Wis. Stats., including proposals for future land use, transportation, urban redevelopment and public facilities. Devices for implementation of these plans, such as zoning, official map, land division and building line ordinances and capital improvement programs, shall also be considered a part of the comprehensive plan.

CONDOMINIUM. A community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirements of the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes. A condominium is a legal form of ownership of real estate and not a specific building type or style.

CONSERVATION EASEMENT. The grant of a property right or interest from the property owner to a unit of government or nonprofit organization stipulating that the described land shall remain in its natural, scenic, open or wooded, or agricultural state, precluding future or additional development.

COPY. A true and accurate copy of all sheets of the original subdivision plat. Such copy shall be on durable white matte finished paper with legible dark lines and lettering.

CUL-DE-SAC STREET (See "STREET, CUL-DE-SAC")

DEPARTMENT. The Department of Agriculture, Trade and Consumer Protection.

DEVELOPMENT PAD. Also referred to as Development Envelope. That portion of a lot which is intended to be graded, paved, or built upon.

DWELLING UNIT. A building or part of a building used for a place of abode and occupied by one family.

ENVIRONMENTAL FEATURE. Those lands containing concentrations of scenic, recreational and other natural resources as identified and delineated in the comprehensive planning program of the Southeastern Wisconsin Region by the Southeastern Wisconsin Regional Planning Commission. These natural resource and resource-related elements include the following:

- (a) Lakes, rivers and streams, together with their natural floodplain.
- (b) Wetlands.
- (c) Forest and woodlands.
- (d) Wildlife habitat areas.
- (e) Rough topography.
- (f) Significant geological formations.
- (g) Wet or poorly drained soils.
- (h) Existing outdoor recreation sites.
- (i) Potential outdoor recreation and related open-space sites.
- (j) Historic sites and structures.
- (k) Significant scenic areas of vistas.

EXTRATERRITORIAL PLAT AND CERTIFIED SURVEY MAP APPROVAL JURISDICTION. The unincorporated area within one and one half miles of a fourth-class city or a village and within 3 miles of the City. Wherever such statutory extraterritorial powers overlap with those of another city or village, the jurisdiction over the overlapping area shall be divided

on a line all points of which are equidistant from each community so that not more than one community exercises extraterritorial powers over any area.

FINANCIAL GUARANTEE. A letter of credit, cash or certified check guaranteeing performance of a contract or obligation through possible forfeiture of the letter of credit, cash or certified check if such contract or obligation is unfulfilled by the Subdivider.

FILL. Sand, gravel, earth or other materials of any composition whatever placed or deposited by human beings.

FINAL PLAT. A map prepared in accordance with the requirements of Ch. 236, Wis. Stats., and this chapter for the purpose of dividing larger parcels into lots and conveying those lots. The lines showing where lots and other improvements are located are precise.

FLOODLANDS. Those lands, including the floodplains, floodways, floodfringe and channels, subject to inundation by the 100-year recurrence interval flood.

FRONTAGE (LOT). The smallest dimension of a lot abutting a public street measured along the street line.

FRONTAGE STREET. (See "STREET, FRONTAGE")

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

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

IMPROVEMENT, PUBLIC. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the City may ultimately assume the responsibility for maintenance and operation.

IRREVOCABLE LETTER OF CREDIT. An agreement guaranteeing payment for subdivision improvements, entered into by a bank, savings and loan or other financial institution which is authorized to do business in this State and which has a financial standing acceptable to the City and which is approved as to form by the City Attorney.

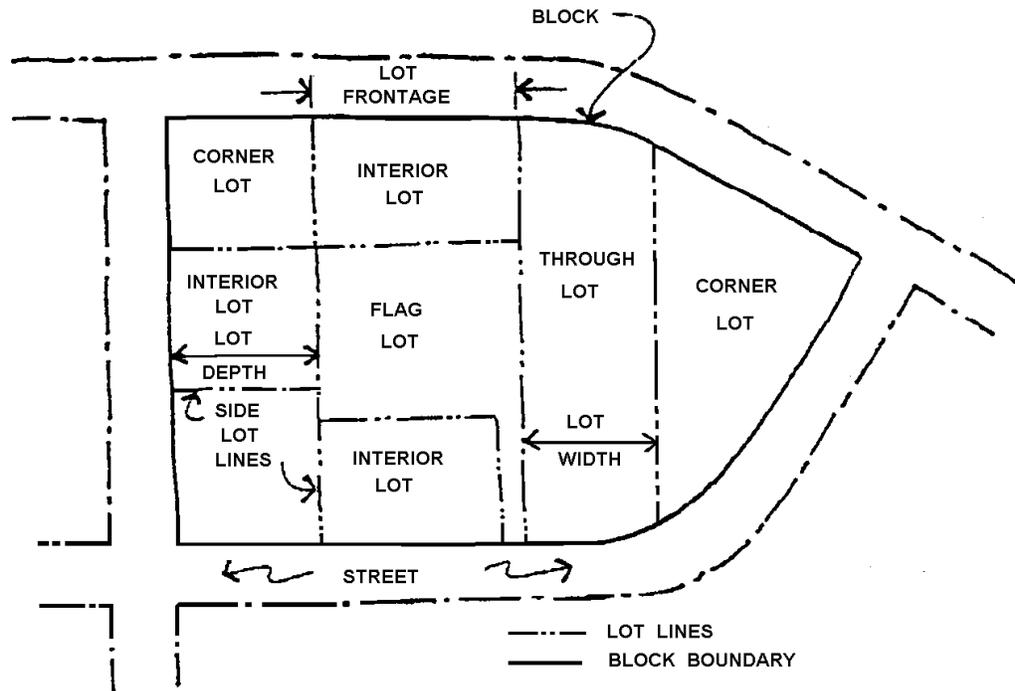
LOT. A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of the City Zoning Code.

LOT, CORNER. A lot abutting 2 or more streets at their intersection provided that the corner of such intersection shall have an angle of 135° or less, measured on the lot side.

LOT, DOUBLE FRONTAGE. A lot, other than a corner lot, with frontage on more than one street. Double frontage lots shall normally be deemed to have 2 front yards and 2 side yards and no rear yard. Double frontage lots shall not generally be permitted unless the lot abuts an arterial highway. Double frontage lots abutting arterial highways should restrict direct access to the arterial highway by means of a planting buffer or some other acceptable access buffering measure. (See Illustration No. 1)

LOT, FLAG. A lot not fronting on or abutting a public street and where access to the public street system is by a narrow strip of land and where the area of the lot, for zoning purposes, shall not include the narrow strip.

LOT, INTERIOR. A lot other than a corner lot, with frontage on one street. (See below)



MEAN SEA LEVEL DATUM. Mean Sea Level Datum, 1929 Adjustment, as established by the U.S. Coast and Geodetic Survey.

MINOR LAND DIVISION. Any division of land not defined as a subdivision. Such minor land divisions shall be made by certified survey map.

MINOR STREET (See STREET, MINOR)

MITIGATION AREA: The portion of a lot which could be included in a Development Pad, but which is restricted for use as undeveloped open space in order to alleviate or lessen the impact of development.

MUNICIPALITY. An incorporated village or city.

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. These standards have been fully reproduced in Appendix D of SEWRPC Technical Report No. 7, Horizontal and Vertical Survey Control in Southeastern Wisconsin.

NAVIGABLE WATER. Lake Michigan, Lake Superior, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other water within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. 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. [Muench v. Public Service Commission, 261 Wis. 2d 492 (1952) and DeGaynor and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)].

NONPROFIT CONSERVATION ORGANIZATION. Any charitable corporation, charitable association, or charitable trust, the purpose or powers of which include retaining or protecting the natural, scenic, or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, or cultural aspects of this ordinance.

OBJECTING AGENCY. An agency empowered to object to a subdivision plat under Ch. 236, Wis. Stats. The City may not approve any plat upon which an objection has been certified until the objection has been satisfied. On any plat, the objecting agencies may include the Wisconsin Departments of Agriculture, Trade and Consumer Protection, Transportation (WDOT), Department of Commerce, Department of Natural Resources (WDNR) and the Waukesha County Park and Planning Commission.

OUTLOT. A parcel of land, other than a lot or block so designated on the plat, but not of standard lot size, the intention of which is to either redivide into lots or combine it with one or more other adjacent outlots or lots in adjacent subdivisions or minor subdivisions in the future for the purpose of creating buildable lots.

OWNER. A individual firm, association, syndicate, partnership or corporation having a proprietary interest in a parcel of land.

OWNERS ASSOCIATION. A community organization incorporated or unincorporated, which combines individual parcel ownership with shared use or ownership of common property or facilities.

PARENT PARCEL. An existing parcel (or parcels) of record, as identified by individual tax identification numbers, as of the effective date of this ordinance, from which land divisions are proposed.

PLAT. A map of a subdivision.

PRELIMINARY PLAT. A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration. A preliminary plat precisely describes the location and exterior boundaries of the parcel proposed to be divided and shows the approximate location of lots and other improvements.

PUBLIC WAY. Any public road, street, highway, walkway, drainageway or part thereof.

RECORDING A PLAT. The filing of the final plat with the County Register of Deeds.

REPLAT. The process of changing or 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 or certified survey map without changing exterior boundaries of such block, lot or outlot is not a replat,

SANITARY SEWER SERVICE AREA. The area within and surrounding a city, village or other community that is planned to be served with public sanitary sewerage facilities by the year 2006.

SHORELANDS. Those lands lying within the following distances; 1,000' from the high water elevation of navigable lakes, ponds and flowages or 300' from the high water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.

SOIL MAPPING UNIT. Soil types, slopes and erosion factors delineated on detailed operational soil survey maps prepared by the U.S. Soil Conservation Service.

SOLAR ACCESS. Access to solar rays so there is no shading to the south wall or rooftop of any proposed structure.

SOUTH WALL. Any wall facing within 45° of due south.

STEEP SLOPE: Land areas where the gradient exceeds twelve (12) percent.

STREET, ARTERIAL. A street used or intended to be used, primarily for fast or heavy through traffic. Arterial street shall include freeways and expressways as well as standard arterial streets, highway and parkways.

STREET COLLECTOR. A street used or intended to be used, to carry traffic from minor streets to the major system of arterial streets including the principal entrance streets to residential developments.

STREET, CUL-DE-SAC. A minor street with only one outlet and having an appropriate turnaround for the safe and convenient reversal or traffic movement.

STREET, FRONTAGE. A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

STREET, MINOR (Local). A street used, or intended to be used, primarily for access to abutting properties.

SUBDIVIDER. Any person, firm, corporation, partnership, association, trust, or any agent thereof, dividing or proposing to divide land resulting in a subdivision or replat.

SUBDIVIDER'S AGREEMENT. An agreement by which the City and the Subdivider agree in reasonable detail as to all of those matters which the provisions of these regulations permit to be covered by the Subdivider's agreement and which shall not come into effect unless and until an irrevocable letter of credit or other appropriate surety has been issued to the City.

SUBDIVISION, CONSERVATION. A housing development constructed under the auspices of the CPD Conservation Planned Development Zoning District, in a rural setting comprised of at least five residential parcels, that is characterized by compact lots, at least 50% open space, and where the natural features of the land are maintained to the greatest extent possible.

SUBDIVISION, CONVENTIONAL. The division of a lot, parcel or tract of land by the owners thereof or the owner's agent, for the purpose of transfer of ownership or building development where the act of division creates 5 or more parcels or building sites of one and one-half acres each or less in area; or where the act of division creates 5 or more parcels or building sites of one and one-half acres each or less in area by successive division within a period of 5 years. Other divisions of land shall be termed "minor land divisions". The definition of a subdivision shall not apply to commercial or industrial land divisions except to the extent regulated by State law. Other divisions of commercial or industrial land shall be minor land divisions.

WETLANDS. An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

WISCONSIN ADMINISTRATIVE CODE. The rules of administrative agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system as directed by §35.93 and Ch. 227, Wis. Stats., including subsequent amendments to those rules.

ADMINISTRATION AND ENFORCEMENT

18.10 COMMUNITY DEVELOPMENT DIRECTOR.

This chapter shall be administered by the Community Development Director or his designee. The Community Development Director, in the administration of this chapter, shall:

- (1) Receive plats and certified survey maps from the Subdivider. The Community Development Director shall distribute copies of plats and certified survey maps as provided for in this chapter and shall receive review comments from review agencies, boards and committees required to comment on such land division.
- (2) Advise the Subdivider of all recommendations made by the City Plan Commission and actions taken by the Common Council.
- (3) Maintain records of plat and certified survey map filings, approvals, fees paid and other sureties.
- (4) Determine that all land divisions within the jurisdiction of this chapter requiring review by this chapter have secured the necessary review and approvals.
- (5) Assist the City Attorney in the prosecution of violations.

18.11 VIOLATIONS.

- (1) **COMPLIANCE REQUIRED.** No person shall build upon, divide, convey, record or place monuments on any land in violation of this chapter or the Wisconsin Statutes; and no person shall be issued a City zoning, building or plumbing permit authorizing the building on or improvement of any lot, block, parcel, certified survey map or any part of any subdivision or replat within the jurisdiction of this chapter not of record as of the effective date of this chapter until the provisions and requirements of this chapter have been fully met.
- (2) **FLOODLANDS.** Every structure, fill or development placed or maintained on floodlands in violation of this chapter is hereby declared a public nuisance and the creation thereof may be enjoined and maintenance thereof abated by action at suit of the State, the City or any citizen thereof.
- (3) **DRAINAGE TO BE MAINTAINED.** No person shall obstruct the flow of surface water contrary to an approved stormwater and drainage plan so as to prevent surface water from reaching a storm sewer or drainage channel without interim ponding, except as provided in an approved stormwater and drainage plan.

18.12 PENALTIES AND REMEDIES.

- (1) **PENALTIES.** Any person who violates or fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit not less than \$100 nor more than \$1,000, plus the costs of prosecution for each offense and the penalty for default of payment of such forfeiture and costs shall be imprisonment in the County Jail until payment thereof, but not exceeding 6 months. However, the maximum forfeiture where a violation of any provision of this chapter which is also a violation of a State statute, shall not exceed the maximum fine imposed by the statute. Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant penalties shall include:
 - (a) Recordation improperly made carries penalties as provided in §236.30, Wis. Stats.

- (b) Conveyance of lots in unrecorded plats carries penalties as provided for in §236.31, Wis. Stats.
 - (c) Monuments disturbed or not placed carries penalties as provided for in §236.32, Wis. Stats.
- (2) **REMEDIES.** The City may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes. In addition to any forfeiture imposed, the City may order an assessor's plat to be made under §70.27, Wis. Stats., at the expense of the Subdivider or his agent, when a subdivision is created by successive divisions of land.

18.13 APPEALS.

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

18.14 FEES.

- (1) **GENERALLY.** The Subdivider shall pay all fees required by this section to the City Treasurer, at the times specified, before being entitled to recording of a plat or certified survey map.
- (2) **PRELIMINARY PLAT REVIEW.** (a) At the time of application for approval or review of any of the following, the Subdivider shall pay a fee, as from time to time established by resolution of the Common Council, to defray the cost of giving notice, investigation and other administrative processing:
 - 1. Preliminary plat.
 - 2. Reapplication for approval of any preliminary plat which has been previously reviewed.
 - 3. Sketch preliminary plat.
 (b) In addition to the application fee, the Subdivider shall pay the administrative fee in sub. (4a) of this section.
- (3) **CERTIFIED SURVEY MAP REVIEW.** The Subdivider at the time of application shall pay a fee as from time to time established by resolution of the Common Council to defray the cost of giving notice, investigation or other administrative processing for approval of a certified survey map. In addition to the application fee, the Subdivider shall pay the administrative fee in sub. (4a) of this section.
- (4) **IMPROVEMENT REVIEW FEE.**
 - (a) **Developer's Deposit.** The Subdivider shall pay a fee known as a "Developer's Deposit" and an administration fee as established from time to time by resolution of the Common Council based on either the number of residential units or square footage potential for commercial and industrial subdivisions or based on the estimated engineering review and at the time of the submission of improvement plans and specifications to partially cover the cost to the City of checking and reviewing such plans and specifications. If at any time the "Developer's Deposit" lapses beyond 30 days of nonpayment, no further inspections or reviews will be conducted until the

account is paid in full and additional funds are deposited as determined by the City. The fee shall also be used for any costs incurred by the City for legal, administrative or fiscal work which may be undertaken in connection with the plat or plan.

- (b) **May be Recomputed.** The fee may be recomputed, upon demand of the Subdivider or City Engineer, after completion of improvement construction in accordance with the actual cost of such improvements and the difference, if any, shall be paid by or remitted to the Subdivider. Evidence of cost shall be in such detail and form as required by the City Engineer.
- (5) **INSPECTION FEE.** The Subdivider shall pay a fee which shall be added to the "Developer's Deposit" or to the letter of credit equal to the actual or projected cost of the City Engineers' or other approving authorities having jurisdiction for such inspection deem necessary, to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the approving authorities having jurisdiction or any other governmental authority.

GENERAL PROVISIONS

18.20 JURISDICTION AND COMPLIANCE.

- (1) JURISDICTION. Jurisdiction of these regulations shall include all lands and waters within the corporate limits of the City and those lands within the extraterritorial jurisdiction of the City as established in §§61.35, 62.23(2) and 236. 10, Wis. Stats. The provisions of this chapter which apply to divisions of tracts of land into less than 5 parcels shall not apply to:
 - (a) Transfers of interest in land by will or pursuant to court order.
 - (b) Leases for a term not to exceed 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 zoning ordinance or other applicable laws or ordinances.
 - (d) Cemetery plats made under §157.07, Wis. Stats.
 - (e) Assessors' plats made under §70.27, Wis. Stats., but such assessors' plats shall comply with §§236.15(1)(a) to (g) and 236.20(1) and (2)(a) to (e), Wis. Stats.
 - (f) 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 size required by these regulations, the Zoning Ordinance, or other applicable laws or ordinances when accomplished by a Certified Survey Map when not prohibited by other laws or ordinances including, but not limited to, Section 236.34(1)(e) Wisconsin Statutes. The Certified Survey Map pursuant to this subsection may be executed by the Community Development Director without the necessity of Plan Commission or Common Council review. (Ord. #1093 - 03-07-2002)
- (2) COMPLIANCE. No person shall divide any land located within the jurisdictional limits of these regulations so that such division results in a subdivision, minor land division or replat as defined herein; no such subdivision, minor land division or replat shall be entitled to recording; and no street shall be laid out or improvements made to land without compliance with all requirements of this chapter and the following documents:
 - (a) Provisions of Ch. 236, Wis. Stats.
 - (b) Rules of the Wisconsin Department of Commerce, as contained in COMM 83 of the Wisconsin Administrative Code, 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.
 - (c) Rules of the Wisconsin Department of Transportation, as contained in TRANS 233 of the Wisconsin Administrative Code, relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the Subdivider abuts on a state trunk highway or connecting street.
 - (d) Rules of the Wisconsin Department of Natural Resources, as contained in NR 116, NR 117, and NR 118 of the Wisconsin Administrative Code, setting water quality standards preventing and abating pollution and regulating development within floodland, wetland and shoreland areas.
 - (e) Approved Comprehensive Plan or Comprehensive Plan components of the City.
 - (f) The City zoning ordinance and all other applicable local and county ordinances.

18.21 DEDICATION AND RESERVATION OF LANDS.

- (1) **STREETS, HIGHWAYS, AND DRAINAGEWAYS.** Whenever a tract of land to be subdivided within the jurisdiction of this chapter encompasses all or any part of an arterial or collector street, drainageway, other public way or public access to navigable lakes or streams which has been designated in the adopted regional, County or City Comprehensive Plan or adopted Comprehensive Plan components or on the Official Street System Map, such public way shall be made a part of the plat or certified survey map and dedicated or reserved by the Subdivider in the locations and dimensions indicated on such plan, comprehensive plan component or map and as set forth in Sections 18.40 through 18.46 of this chapter.
- (2) **SCHOOLS, PARKS, ENVIRONMENTAL CORRIDORS AND OTHER OPEN SPACES.** Whenever a tract of land to be divided within the City encompasses all or part of a school site, park site, environmental corridor or other open space, other than streets, highways, drainageways, other public ways or public access to navigable lakes or streams which has been designated on an adopted regional, County or City comprehensive plan or adopted comprehensive plan component of the City, such school site, park site, environmental corridor or other open space shall be made a part of the plat or certified survey map and dedicated by the Subdivider in the locations and dimensions indicated on such plan and in accordance with the procedures in 18.46 of this chapter. (Ord. #1303 – 09/17/2009)
- (3) **FLOODLANDS AND SHORELANDS.** Whenever floodlands and shorelands are contained in a tract of land proposed to be divided into lots, building sites or parcels of less than 5 acres in area, all floodlands and those shorelands designated for park, recreation, environmental corridor or other open space land use in a comprehensive plan or a component of such a comprehensive plan prepared by State, regional, county or municipal agencies and adopted or acknowledged by the City and lying within the below specified distances from the high water elevation shall, at the discretion of the Common Council following recommendation by the Plan Commission, be dedicated to the public by the Subdivider. The lot area should generally not include such shorelands and floodlands. (Ord. #1303 – 09/17/2009)
- (4) **PROPORTIONATE PAYMENT IN LIEU OF DEDICATION.** (Ord. #1276 – 05/22/2008)
 - (a) **Payment in Lieu of Park Dedication (active and passive)**
 - (1) If the Common Council has determined that such dedication is not feasible or compatible with development of the community, the developer shall in lieu thereof pay to the City a fee, as from time to time established by resolution of Common Council, to defray the impact the additional development and residences will have on City parks, and the preserving of the City's agricultural, natural and cultural resources within the City's park system.
 - (2) Such fees shall be placed in two nonlapsing funds (One for active recreational park system uses and one for passive recreational uses) and shall be used exclusively for funding the acquisition or initial improvement of land for public parks as per 2007 Wisconsin Act 44. The improvement of land for public parks means grading, landscaping, installation of utilities, construction of sidewalks, installation of playground equipment, and construction or installation of restroom facilities on land intended for public park purposes. The City of

Muskego Parks and Conservation Plan distinguishes land for public park purposes as active (parks) and passive (conservation). Such fees shall be applied to residential development on the basis of total number of newly created residential dwelling units, newly created lots, and per acre of developable land. Such fees shall apply to units/lots/acres of developable land created by subdivision platting, condominium platting, certified survey map or planned unit development.

- (b) Where the development results in the creation of not more than one additional unit or parcel of land, payment shall be required only for the additional unit.
- (c) If the parent parcel on a Certified Survey Map, with an existing dwelling upon it, remains unchanged (meaning no construction or grading), the parent parcel will not be assessed the per acre dedication fee until the time of further division (Note: Parent parcel would be one of the new parcels created by a land division that has an original residence upon it).
- (d) Payment shall be in a lump sum and shall be paid prior to City execution of the final plat, final condominium plat, certified survey map, or planned development and before the City allows the recording of the documents stated.
- (e) Where a lot or parcel for which payment has once been made is further divided, payment shall be required for the additional lots or parcels created.
- (f) For the purpose of this ordinance, the definition of non-developable land for the per acre dedication fee shall constitute wetlands and/or preservation/conservation easement areas and shall not be charged the per acre dedication fee.
- (g) The Park Board and Conservation Commission will be the governing bodies for determinations of dedication fee “in lieu of” situations, where a developer may make land dedications in return for not having to pay dedication fees.

18.22 IMPROVEMENTS. (Ord. #1261 – 8/23/2007)

Before final approval of any plat or certified survey map located within the jurisdictional limits of this chapter, the Subdivider shall install street, utility and other public improvements as provided below. If such improvements are not installed as required at the time the final plat or certified survey map is submitted for approval, the Subdivider shall, before recording of the final plat or certified survey map, enter into a contract with the City agreeing to install the required improvements and file with such contract a letter of credit, cash or certified check meeting the approval of the City Attorney in an amount 120% of the estimated cost of the improvements, such estimate to be made by the Finance Committee and the Common Council upon the recommendation of the City Engineer, as a guarantee that such improvements will be completed by the Subdivider or his subcontractors not later than one year from the date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied. In addition:

- (1) **CONTRACT APPROVALS.** Contracts and contract specifications for the construction of street and utility improvements on dedicated street rights-of-way, as well as the contractors and subcontractors who are to be engaged in the construction of street and

utility improvements on dedicated street rights-of-way, shall be subject to review and approval of the City Engineer and approval of the City.

- (2) **GOVERNMENTAL UNITS.** Governmental units to which these bonds and contract provisions apply may file, in lieu of such contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.
- (3) **SURVEY MONUMENTS.** Before final approval of any plat within the corporate limits of the City or its extraterritorial jurisdictional limits, the Subdivider shall install survey monuments placed in accordance with §236.15, Wis. Stats., and as may be required by the City Engineer.
- (4) **PLATS OUTSIDE THE CORPORATE LIMITS.** Before final approval by the City of any plat or certified survey map located outside the corporate limits of the City, but within the plat approval jurisdiction of the City, the Subdivider shall give evidence that he has complied with all street and utility improvements of the town in which the land being platted is located.
- (5) **WAIVER OF MONUMENTS.** The City Plan Commission may waive the placing of monuments, required under §236.15(1)(b), (c) and (d) for a reasonable time on condition that the Subdivider executes a surety bond to insure the placing of such monuments within the time required.
- (6) **ADVANCE REIMBURSEMENT.** The Subdivider shall pay the City in advance of signing the Subdivider's agreement for all fees, expenses and disbursements which are incurred by the City and reimburse the City, without limitation by reason of enumeration, for design, engineering, preparation, checking and review of designs, plans and specifications; supervision and inspection to insure that construction is in compliance with applicable plans, specifications, regulations and ordinances; and legal, administrative and fiscal work undertaken to assure and implement such compliance.

18.23 EXISTING SUBSTANDARD LOTS. (Removed by Ord. #1244 -02/01/2007)

18.24 VARIANCES.

- (1) Where in the judgment of the City Plan Commission it would be inappropriate to apply literally the provisions of §18.40 and where, in the judgment of the Common Council, it would be inappropriate to apply literally the provisions of §18.50 of this chapter because the proposed subdivision is located outside the corporate limits of the City or because exceptional or undue hardship would result the Plan Commission or Council may grant a variance from any requirement to the extent deemed just and proper.
- (2) No variance to the provisions of this chapter shall be granted unless the Plan Commission finds all the following facts and conditions exist and so indicates in the minutes of its proceedings:
 - (a) **Exceptional Circumstances.** There are exceptional, extraordinary or unusual circumstances or conditions where a literal enforcement of the requirements of this chapter would result in severe hardship. Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that this chapter should be changed.
 - (b) **Preservation of Property Rights.** Such variance is necessary for preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.

- (c) Absence of Detriment. The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
 - (d) A minimum of 5 affirmative Plan Commission member votes shall be required to grant any variance of this chapter.
 - (e) The Common Council may waive the placing of monuments required under §236.15(l)(b), (c), and (d), Wis. Stats., for a reasonable time, not to exceed one year, on condition that the Subdivider execute a surety bond to insure the placing of such monuments within the required time limits established by statute. Additional time may be granted upon show of cause.
- (3) When such relief is granted, it shall be without detriment to the public good, without impairing the intent and purpose of this chapter or the desirable general development of the City in accordance with the adopted regional, county or City comprehensive plans or adopted plan components. The reasons shall be entered in the Plan Commission minutes.

18.25 LAND SUITABILITY.

No land shall be subdivided as a plat or certified survey map which is determined to be unsuitable for such use by the Plan Commission, upon the recommendation of the City Engineer or any other agency as determined by the Plan Commission, for reason of flooding, inadequate drainage, adverse soil or rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or the City. In addition:

(1) FLOODLANDS.

- (a) No lot served by public sanitary sewerage facilities shall have less than its required lot area, as specified in the zoning district regulations, below the elevation of the 100-year recurrence interval flood or, where such data is not available, the elevation shall be determined by a registered professional engineer and the sealed documents shall be approved by the City Engineer.
- (b) For planned development projects served by public sanitary sewerage facilities, no lot shall have less than the average lot area, as specified by the Plan Commission, below the elevation of the 100-year recurrence interval flood or where such data is not available, the elevation shall be determined by a registered professional engineer and the sealed documents shall be approved by the City Engineer.
- (c) No lot of one acre or less in area served by an on-site sanitary sewage disposal (septic tank or mound) system shall include floodlands. All lots more than one acre in area served by a septic tank system or mound system shall contain not less than 40,000 square feet of land which is at an elevation above the elevation of the 100-year recurrence interval flood or, where such data is not available, the elevation shall be determined by a registered professional engineer and the sealed documents shall be approved by the City Engineer.

(2) **SHORELANDS.** Shorelands shall not be divided into building sites which are to be served by soil absorption waste disposal systems.

(3) FILL MATERIALS.

- (a) Lands made, altered or filled with non-earth materials within the last 10 years shall not be divided into building sites which are to be served by soil absorption waste disposal systems.
- (b) Lands made, altered or filled with non-earth materials within the preceding 20 years shall not be divided into building sites which are to be served by soil absorption waste disposal systems except where soil tests prepared by a professional soil scientist clearly show the soils are suited to such use. Soil reports shall include, but need not be limited to, an evaluation of soil permeability, depth to groundwater, depth to bedrock, soil bearing capacity, and soil compaction. To accomplish this purpose, a minimum of one test per acre shall be made initially. The City does not guarantee, warrant or represent that the required samples represent conditions on an entire property and thereby asserts that there is no liability on the part of the Common Council, its agencies or employees for sanitary problems or structural damages that may occur as a result of reliance upon such tests.
- (4) **STEEP SLOPES.** Each Lot proposed to be served by an on site soil absorption sewerage disposal system shall have 50% of its minimum required lot area or 20,000 square feet, whichever is less, in slopes of less than 12%.
- (5) **SHALLOW BEDROCK.** Lands having bedrock within 6' of the natural undisturbed surface shall not be divided into building sites to be served by soil absorption sewage disposal systems.
- (6) **SHALLOW GROUNDWATER TABLE.** Lands having ground water within 6' of the natural undisturbed surface shall not be divided into building sites to be served by soil absorption sewage disposal systems.
- (7) **PERCOLATION RATES.** Soils having a Percolation rate slower than 60 minutes per inch shall not be divided into building sites to be served by soil absorption sewage disposal systems.
- (8) **PLAN COMMISSION.** The Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for residential use and afford the Subdivider an opportunity to present evidence in rebuttal to such finding of unsuitability, if he so desires. Thereafter, the Commission may affirm, modify or withdraw its determination of unsuitability.

18.26 WOODED AREAS AND NATURAL TREE SETTINGS.

Heavily wooded areas should be preserved insofar as possible and by application of reservation and dedication provisions of this chapter and other applicable ordinances. The Subdivider shall not remove trees in anticipation of a land division until final subdivision approval is received. Each tree exceeding three inches diameter at 4.5 feet above the ground that is removed in preparation for development shall be replaced on a 1 to 1 ratio. Each tree of ten to twenty inches diameter at 4.5 feet above the ground that is removed in preparation for development shall be replaced on a 1 to 4 ratio. Each tree of twenty to thirty two inches diameter at 4.5 feet above the ground that is removed in preparation for development shall be replaced on a 1 to 8 ratio. Each tree of thirty plus inches diameter at 4.5 feet above the ground that is removed in preparation for development shall be replaced on a 1 to 12 ratio. A tree survey may be required to adequately make these determinations. Replacement trees shall be of species approved by the City Forester and measure between 1.5 inches and 2.5 inches in trunk diameter at one foot above ground. If complete tree mitigation is not feasible within the subject subdivision development the City may require tree plantings within parks, conservation lands, street rights-of-way, or

other publicly-owned lands or require payment to a land management fund at a rate commensurate with planting said mitigation trees. (Ord.#1244 – 02/01/2007)

18.27 ADEQUATE PUBLIC FACILITIES REQUIRED (Ord. #1244 – 02/01/2007)

All land divisions subject to this Chapter shall obtain a Certificate of Adequate Public Facilities or a Waiver of Certificate as found in the Chapter 17 Zoning Code.

LAND DIVISION PROCEDURES

18.30 PREAPPLICATION.

- (1) It is recommended that prior to the filing of an application for the approval of a preliminary plat or certified survey map, the Subdivider consult with the Community Development Department and all affected utilities in order to obtain 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 adopted regional, county or City comprehensive plans or adopted plan components and plan implementation ordinances of the City and to otherwise assist the Subdivider in planning his development. In so doing, both the Subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and City and the Subdivider will gain a better understanding of subsequent required procedures.
- (2) Prior to formal submittal of a preliminary plat as outlined below, the Subdivider shall submit a preliminary sketch or concept plan for review by the Plan Commission and/or Common Council. The purpose of such a sketch is to gain tentative approval from the Plan Commission prior to expending time and resources on a preliminary plat. This review by the Plan Commission is not binding on either the City or the Subdivider.

18.31 PRELIMINARY PLAT.

- (1) REVIEW. Before submitting a final plat for approval, the Subdivider shall prepare a preliminary plat, which shall be clearly marked "preliminary plat", and a letter of application. The preliminary plat shall be prepared in accordance with this chapter and the Subdivider shall file 40 folded copies of the plat with the City Clerk or designee (Community Development Department) at least 45 days prior to the meeting of the Plan Commission at which action is desired. In addition:
 - (a) The City Clerk or designee (Community Development Department) shall, within 2 normal work days after filing, transmit 2 copies to the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP); additional copies to the Department of Agriculture, Trade and Consumer Protection (DATCP) for retransmission of 2 copies each to the Wisconsin Department of Transportation (WDOT), if the subdivision abuts or adjoins a State trunk highway or connecting highway, Department of Commerce, if the subdivision is not served by a public sewer and provision for such service has not been made, and Department of Natural Resources, if navigable waters, shoreland/ wetlands or floodlands are contained within the proposed subdivision. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP), Department of Transportation, Department of Natural Resources and Department of Commerce shall hereafter be referred to as objecting agencies.
 - (b) The Community Development Department shall transmit 4 copies to the Waukesha County Park and Planning Commission, 7 copies to the City Plan Commission, 7 copies to the Common Council and one copy each to the following City departments/boards; Utility, Public Works, Parks and Recreation (to be reviewed by the City Park Board, if applicable), Conservation Commission (if applicable), Police, City Assessor, City Engineer and Fire Department for their review and recommendations concerning matters within their jurisdiction. The recommendations, if any, of City boards, commissions and departments shall be

transmitted to the City Plan Commission within 30 days from the date the plat is filed. The preliminary plat shall then be reviewed by the City Plan Commission for conformance with this chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components.

- (c) The Community Development Department shall transmit 2 copies to the Wisconsin Natural Gas Company and one copy each to the Wisconsin Electric Power Company, Wisconsin Bell Telephone Company, the cable television franchisee and the Muskego-Norway School District for their review and information concerning matters within their jurisdiction. Their comments, if any, shall be transmitted to the City Plan Commission within 30 days from the date the plat is filed.
 - (d) The City Plan Commission is designated as the recommending agency with respect to design and layout of the preliminary plat under Sections 18.40 and 18.50 of this chapter.
 - (e) The Wisconsin Departments of Agriculture, Trade and Consumer Protection (DATCP), Transportation (WDOT), Natural Resources and the Department of Commerce shall hereafter be referred to as objecting agencies. The County Park and Planning Commission is designated an approving agency when the plat is located in the extraterritorial plat approval jurisdiction of the City and is hereafter referred to as an objecting agency when the plat is located within the corporate limits of the City. The Southeastern Wisconsin Regional Planning Commission is an advisory planning agency created under §66.945, Wis. Stats., in part for the purpose of serving the City and its commissions; the county and its commissions, town board or commissions and State agencies having jurisdiction under the provisions of this chapter.
- (2) **PRELIMINARY PLAT APPROVAL.** The objecting agencies shall, within 20 days of the date of receiving their copies of the preliminary plat, notify the Subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the City Plan Commission. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the plat.
- (a) The City Plan Commission shall, within 60 days of the date of filing of a preliminary plat with the City Clerk, examine the preliminary plat as to its conformance with this chapter; consider review comments from objecting agencies, City staff and other agencies required to review and comment on the preliminary plat; and shall recommend approval, approval with conditions or rejection of the preliminary plat to the Common Council.
 - (b) The Common Council shall, within 90 days of the date of filing a preliminary plat with the City Clerk or designee, approve, approve conditionally or reject such plat. If the preliminary plat is approved conditionally or rejected, the City shall state, in writing, any conditions of approval or the reasons for rejection. One copy each of the plat and letter shall be placed in the Plan Commission permanent files.
 - (c) Failure of the Common Council to act within 90 days of the date of filing, or within the times as extended by agreement with the Subdivider, shall constitute an approval.
 - (d) Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat, except that if the final plat is submitted within 36 months of preliminary plat approval and conforms substantially to the preliminary plat layout as provided under §236.11(l)(b), Wis. Stats., the final plat shall be entitled to approval with respect to such layout. If the final plat is not submitted within 36 months of the

last required approval of the preliminary plat, any approving authority may refuse to approve the final plat. An approved preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted and used as a guide in the preparation of the final plat, which will be subject to further consideration by the City Plan Commission and Common Council at the time of its submission. (Ord.#1327 08-19-2010)

- (e) Upon approval or conditional approval of a preliminary plat from the Plan Commission or the Common Council, the Subdivider may proceed with installation of subdivision improvements after approval of the engineering plans by the City Engineer, Public Works Committee and Public Utility Committee, approval of all other applicable agencies and submittal to the City of copies of all permits and letters of approval and/or may submit a final plat for review. The Subdivider shall enter into a contract with the City agreeing to install the required improvements and shall file with the contract a letter of credit, cash or certified check meeting the approval of the City Attorney in an amount 120% of the estimated cost of the improvements, such estimate to be made by the Finance Committee and Common Council upon the recommendation of the City Engineer, as a guarantee that such improvements will be completed by the Subdivider or his subcontractors not later than one year from the date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied.

If after the approval or conditional approval of the Preliminary Plat by either the Plan Commission or the Common Council, the Subdivider creates a substantial change to the subdivision layout, the City shall require the resubmittal of a preliminary plat in conformance with sub. (1) above. A substantial change to the subdivision layout will have presumed to occur if the external boundaries of the subdivision plat are changed in any manner, there is an increase in the number of lots by more than 5%, there is a change in street configuration or a permitting agency denies a permit on which the plat depends. If the change is made at the request of the City, a substantial change shall not be presumed to occur and the Subdivider may proceed with submittal of a final plat. (Ord. #1261 – 8-23-2007)

(3) SUBMITTAL REQUIREMENTS.

- (a) General. A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor (RLS) and the plat prepared on tracing cloth, reproducible drafting film or paper of good quality at a preferred sheet size of 22" x 30" and a map scale of not more than 100' to the inch and shall show correctly on its face the following information:
 1. Title or name under which the proposed subdivision is to be recorded. Such title shall not be the same as or similar to a previously approved and recorded plat, unless it is an addition to a previously recorded plat and so stated on the plat.
 2. Property location of the proposed subdivision by: government lot, quarter section, section, township, range, county and state.
 3. General location sketch showing the location of the subdivision within the U.S. Public Lands Survey section.
 4. Date, graphic scale and north arrow.
 5. Names and addresses of the owner, Subdivider and land surveyor preparing the plat.

6. Entire area contiguous to the proposed plat owned or controlled by the Subdivider shall be included on the preliminary plat even though only a portion of the area is proposed for immediate development. The Plan Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this chapter and severe hardship would result from strict application thereof.

(b) Plat Data. All preliminary plats shall show the following:

1. Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and total acreage encompassed thereby.
2. Locations of all existing property boundary lines, structures and the first floor elevations thereof, drives, visible and known wells, streams and watercourses, all wetlands, rock outcrops, wooded areas, railroad tracks and other similar significant natural and man-made features within the tract being subdivided or immediately adjacent thereto, within a distance of 200'.
3. Location, right-of-way width and names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto, within a distance of 200'.
4. Location and names of any adjacent subdivisions, parks and cemeteries and owners of record of abutting unplatted lands.
5. Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations, based on the National Geodetic Vertical Datum of 1929.
6. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes, location of manholes, catch basins, hydrants, electric and communication facilities, whether overhead or underground, and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto, based on the National Geodetic Vertical Datum of 1929. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest 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.
7. Corporate limits lines.
8. Existing zoning on and adjacent to the proposed subdivision.
9. Existing contours to National Map Accuracy Standards at vertical intervals of not more than 2'. Elevations shall be marked on such contours based on the National Geodetic Vertical Datum of 1929 and be so noted on the face of the document. At least 2 permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to the National Geodetic Vertical Datum of 1929 and be so noted on the face of the document, and the monumentation of the bench marks clearly and completely described.
10. High-water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within 100' therefrom referenced to the

National Geodetic Vertical Datum of 1929 and so be noted on the face of the document.

11. Water elevations of all streams, ponds, lakes, flowages and wetlands within the exterior boundaries of the plat and located within 100' therefrom at the date of the survey, referenced to the National Geodetic Vertical Datum of 1929 and so be noted on the face of the document.
12. Floodplain limits of the 100-year recurrence interval flood, as determined by the federal flood insurance study or other technical document, or where such data is not available, the elevation shall be determined by a registered professional engineer and the sealed documents shall be approved by the City Engineer. The contour line lying a vertical distance of 2' above the elevation of the 100-year recurrence interval flood or, where such data is not available, the elevation shall be determined by a registered professional engineer and the sealed documents shall be approved by the City Engineer, within the exterior boundaries of the plat or located within 100' therefrom.
13. Location and results of soil boring tests within the exterior boundaries of the plat made to a depth of 6', unless bedrock is at a lesser depth. The number of such tests shall be adequate to portray the character of the soil and the depth of bedrock and groundwater from the natural undisturbed surface. To accomplish this purpose, a minimum of one test per 3 acres shall be made initially. The City Engineer may require that additional tests be provided. The results of such tests shall be submitted along with the preliminary plat.
14. Location of soil percolation tests where required by §COMM 85.06, Wis. Adm. Code, taken at the location and depth in which the soil absorption waste disposal systems are to be installed. The number of such tests initially made shall not be less than one test per 3 acres or one test per lot, whichever is greater. The results of such tests shall be submitted along with the preliminary plat.
15. Location, width and names of all proposed streets and public rights-of-way such as alleys and easements.
16. Approximate dimensions of all lots together with proposed lot and block numbers.
17. Location and approximate dimensions of any sites to be reserved or dedicated for schools, parks, environmental corridors, drainageways or other public use or open space or which are to be used for group housing, shopping centers, church sites or other private uses not requiring lotting.
18. Approximate radii of all curves.
19. Any proposed riparian lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to the access.
20. Any proposed lake and stream improvement or relocation and notice of application for approval by the Department of Natural Resources, when applicable.
21. Any additional information required by the Common Council, Engineer or Plan Commission, including the location of the area on the lot where a structure may be built to afford solar access to the rooftop and south wall.
22. Delineation of all wetlands and shoreland/wetlands based on a field staking by the U.S. Army Corps of Engineers, the Wisconsin Department of Natural Resources, the Southeastern Wisconsin Regional Planning Commission or other agency or firm certified to make such delineation by the Federal Government or Wisconsin Department of Natural Resources. (Ord. #1274 – 04-22-08)

23. Show the City of Muskego's Wetland Protection Offsets, as identified in the Zoning Code. (Ord. #1290 04-23-2009)
24. Show any applicable DNR wetland/setbacks/offsets as required. (Ord. #1290 04-23-2009)
- (c) Street Plans and Profiles. The Plan Commission, upon the recommendation of the City Engineer, may require that the Subdivider provide street plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested. All elevations shall be based upon mean sea level (1929) datum, and plans and profiles shall meet the approval of the City Engineer.
- (d) Testing. The Plan Commission, upon the recommendation of the City Engineer, may require borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table. The City does not guarantee, warrant or represent that those soils tested and shown to be unsuited for specific uses are the only unsuited soils within the City and thereby asserts that there is no liability on the part of the Common Council, its agencies or employees for sanitation problems or structural damage that may occur as a result of reliance upon and conformance with this chapter. Where the subdivision will not be served by public sanitary sewer service, Ch. IHLR 85, Wis. Adm. Code, shall be complied with and the appropriate data submitted with the preliminary plat.
- (e) Soil and Water Conservation. The Common Council shall require the Subdivider to provide soil erosion and sedimentation control plans and specifications prepared by a registered professional engineer. Such plans shall follow the guidelines and standards in the U.S. Conservation Service Technical Guide adopted by the Waukesha County Land Conservation Committee and shall be in accordance with standards in §18.76 of this chapter and Ch. 29 of the Municipal Code. In addition:
1. Tree cutting and shrubbery clearing shall be so conducted as to prevent erosion and sedimentation and preserve and improve scenic qualities.
 2. Paths and trails shall not exceed 10' in width and shall be so designed and constructed as to result in the least removal and disruption of trees and shrubs and the minimum impairment of natural beauty.
 3. Earth movements such as grading, topsoil removal, mineral extraction, water course changing, road cutting, waterway construction or enlargement, removal of streams or lake bed materials, excavation, channel clearing, ditching, drain tile laying, dredging and lagooning shall be so conducted as to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen and topography.
 4. Review of cutting, clearing and earth movement may be requested through the Waukesha County Land Conservation Committee, State District Fish and Game Managers and Forester by the Plan Commission as they deem appropriate.
 5. The Plan Commission, upon determining from a review of the preliminary plat that certain measures are required to protect solar access, requires protection of the south wall and rooftop from shading. Consideration shall be given to orientation of streets and topography. Where the Plan Commission determines necessary, a detailed site plan shall be submitted showing that there would be no solar access conflicts with structures and landscaping.
- (f) Covenants.

1. The Plan Commission shall require submission of a draft of protective covenants, where a covenant is proposed, whereby the Subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development. Covenants shall be subject to review and approval of the City Attorney as to legality and form. The City shall not be responsible for enforcing private covenants.
 2. The Plan Commission may require a submission of a draft of protective covenants whereby the Subdivider intends to regulate building sites to protect solar access by the use of offsets, setback and height restrictions which are more restrictive than the regulations of the zoning district where located.
- (g) Easements. Easements shall be shown on the preliminary plat and shall be limited to utility easements, drainage easements, conservation easements, access easements, scenic easements, mineral easements or air rights easements. Easements shall not be used for the conveyance of street rights-of-way, pedestrian rights-of-way, park or school lands or other public lands requiring dedication.
- (h) Affidavit. The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this chapter.
- (i) A Detailed Site Analysis per the following:
- 1) Purpose: The detailed site analysis required by this Section is designed to provide the clear identification of permanently protected green space areas on a site, which is proposed for development. The detailed survey work required to identify these areas accurately on a map is not required prior to the initiation of development concept plans for an area.
 - 2) When required: A detailed site analysis shall be performed in conjunction with required Preliminary Plat documents for any and all properties containing
 - (a) Permanently protected natural resource areas defined as required protected areas under State or Federal regulations,
 - (b) All environmental corridor components and areas identified by the adopted Comprehensive Plan and / or by the Southeast Wisconsin Regional Planning Commission.
 - (c) Any other quality environmental lands as determined by the Community Development Director or by the Comprehensive Plan. (Ord. #1244 – 02/01/2007)
 - 3) Description: The detailed site analysis shall be shown on a map of the subject property which depicts the location of all protected natural resource areas and environmental corridor components, as defined by the provisions of this Section, and as located by an on-site property survey. The detailed site analysis shall meet the following requirements:
 - (a) Scale: A minimum scale of one-inch equals 200 feet shall be used unless otherwise approved by the Community Development Director or his designee prior to submittal;
 - (b) Topography: Topographic information is not required for any property that does not contain steep slopes (12% or greater). For such properties, topographic information with a minimum contour interval of two feet is required.
 - (c) Specific Natural Resources Areas: All areas subject to the provisions of Section 31.3(i)(2) above, shall be accurately outlined and clearly labeled. Particular care as to clarity shall be taken in areas where different resource types overlap with one-another.

- (d) Development Pads: All site disruption (including selective cutting) proposed to occur within permanently protected natural resource areas shall be limited to development pads except as required to remove non-native or undesirable species as identified in an approved Management Plan for the site. Development pads shall be depicted on the detailed site analysis map, and Preliminary Plat of Subdivision. Where site disruption occurs in forested areas, a tree survey may be required so that the Conservation Commission and Planning Commission may adequately make recommendations to what forest areas must be permanently protected by easement or dedication (Tree survey should show the species and size of all trees affected that are 6 inch caliper or larger). (Ord. #1244 – 02-01-2007)
- 4) Site disruption activities shall not compact soil covering tree roots, or otherwise damage trees beyond the area from which trees are to be removed. The use of snow fences and other barriers to outline development pads during disruption activity is strongly recommended to limit the extent of inadvertent compaction or other disturbance of earth, and collision damage to vegetation intended for protection. Such barriers should be placed no closer to protected trees than a point on the ground directly under their outer canopy edge. The use of on site temporary construction signage is also highly recommended.
- 5) Mitigation Areas: All mitigation areas, and they areas they offset, related to the provisions of this Ordinance shall be depicted on the detailed site analysis map with notations provided which describe the mitigation techniques employed.
- 6) Required Procedure for Submission and Review of Detailed Site Analysis
 - (a) Required Timing of Submission: The detailed site analysis map shall be submitted to the Community Development Director or his designee for review concurrent with the submission of the Preliminary Plat of Subdivision. A concept plan of the proposed development may be submitted prior to the submission of the detailed site analysis map, however, in no way does the acceptance and/or general approval of the concept plan indicate the approval of natural resource feature locations. A developer may submit the Detailed Site Analysis with a concept plan.
 - (b) Review by City: The Community Development Director or his designees shall review the submitted detailed site analysis map for general compliance with this Ordinance. Such review may include data sources including but not limited to the following examples:
 - 1) The Official Zoning Map;
 - 2) Applicable USGS 7.5 minute topographic maps for the City of Muskego and its environs or other USGS Quads and sources of topographic information
 - 3) Air photos of the subject property;
 - 4) Applicable FEMA and related floodplain maps;
 - 5) Applicable Federal and State Wetland Inventory Maps;
 - 6) The City of Muskego Comprehensive Plan and associated plans to the City Comprehensive Plan; and
 - 7) Official Street System Map
 - 8) Site visits.
- 7) Modification of Detailed Site Analysis Map: If necessary, as determined by Plan Commission, revised detailed site analysis maps shall be prepared and submitted for review until a version is deemed acceptable.
- 8) Integration of Detailed Site Analysis Information with Required Development and/or Land Division Documents: Information contained on the detailed site analysis map

relating to the boundaries of permanently protected green space areas (including natural resource protection areas, other permanently protected green space areas, and required mitigation areas) shall be recorded as a deed restriction which permanently runs with the land. Said areas shall be clearly depicted on any and all site plans required as a precondition for application for any development permit which occurs subsequent to any proposed Final Plat of Subdivision.

- (j) A Surety in a form approved by the Finance Committee. Said surety shall be provided to secure the replacement of all trees with calipers exceeding three (3) inches, whose canopies are located adjacent to disturbed areas, which die within a period of five years following site disruption, and to secure the restoration of all mitigation areas identified on the Detailed Site Analysis.

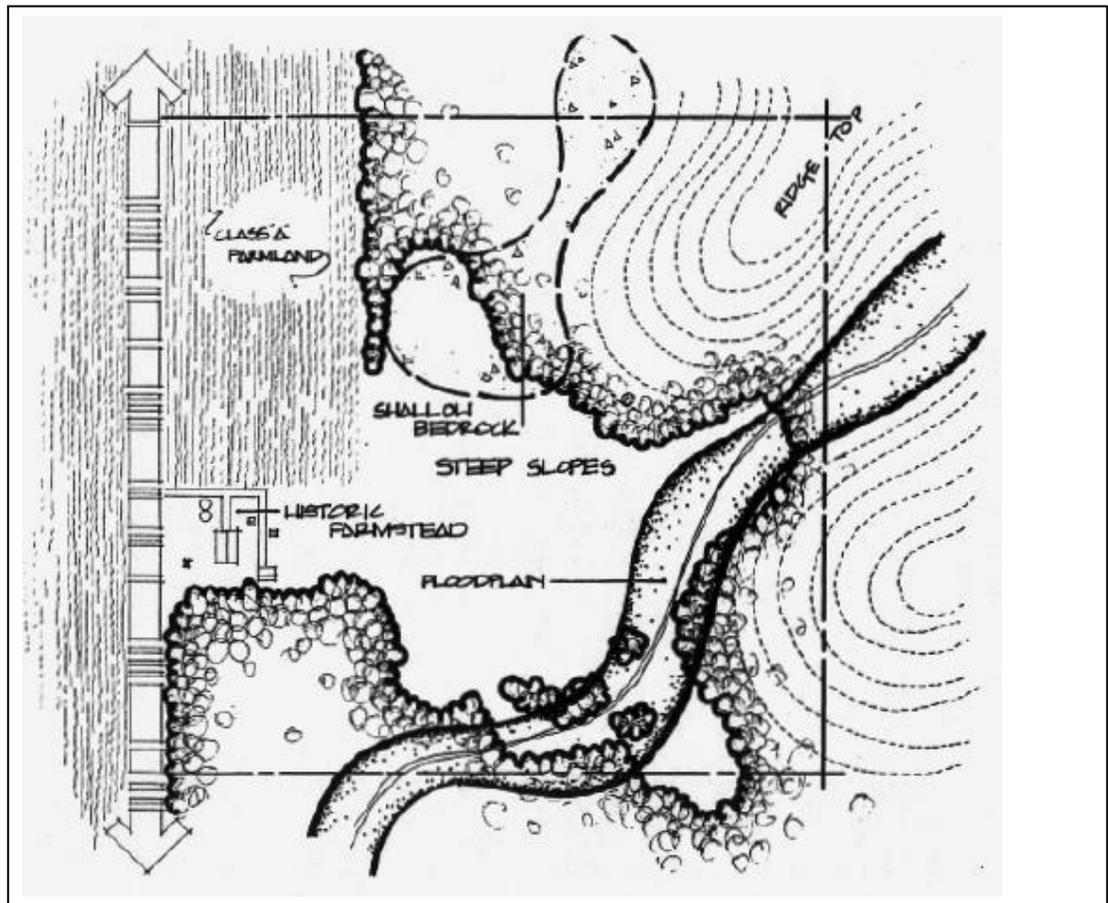
(k) Conservation Subdivisions shall include the following additional information:

1. Inventory and mapping of existing resources including the following mapped at a scale of no less than one inch equals 50 feet:

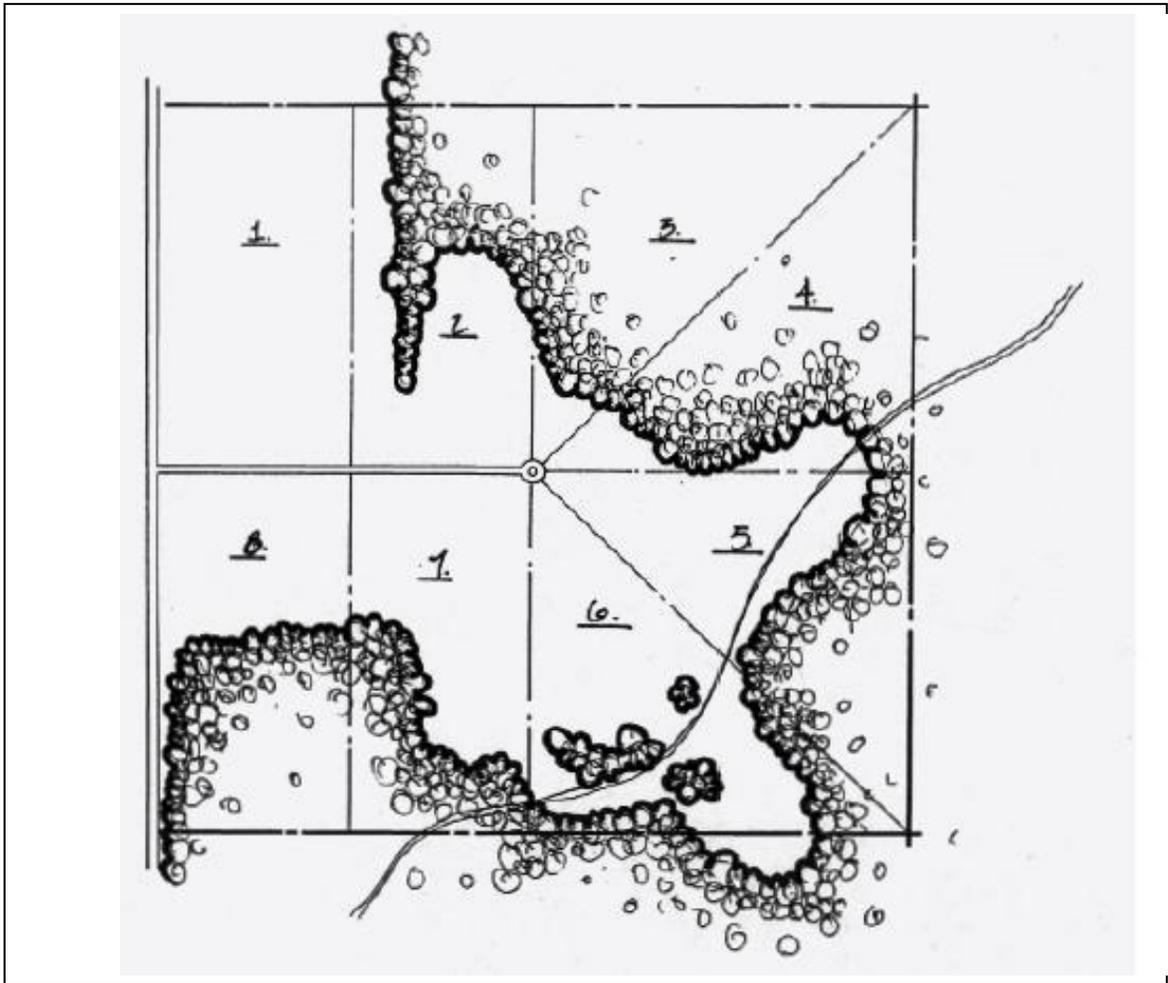
- a. *Topographic contours at 2-foot intervals.*
 - b. *United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems. Type and stability of bedrock should also be noted, particularly in karst areas and areas with high potential for groundwater contamination due to fractured bedrock or the presence of arsenic and mercury.*
 - c. *Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas, wetlands, natural swales, drainage ways, and steep slopes.*
 - d. *Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a caliper of more than six (6) inches measured four feet off the ground. The inventory shall include comments on the health and condition of the vegetation.*
 - e. *Current and past land use, all buildings and structures on the land, cultivated areas, brownfields, waste sites, and history of waste disposal practices, paved areas, and all encumbrances, such as easements or covenants.*
 - f. *Known critical habitat areas for rare, threatened or endangered species*
 - g. *Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.*
 - h. *Unique geological resources, such as rock outcrops and glacial features.*
 - i. Cultural resources: brief description of historic character of buildings and structures, historically important landscapes, and archeological features. This includes a review of existing inventories, including those the State Historical Society of Wisconsin maintains for historic buildings, archaeological sites, and burial sites.
- (l) 1) A digital *.DXF, *.DGN file, or *.DWG file of the preliminary plat shall be submitted to the City on 3-1/2" diskette or CD ROM concurrent with the preliminary plat submittal, and all information shall be tied to and referenced to the State Plane NAD 1927 Wisconsin South Zone or others approved by the GIS Coordinator. All digital files shall be submitted in accordance with the minimum standards as approved by the Common Council and amended from time to time. (Ord. #1118 - 10-17-2002)
- 2). Development yield analysis. The subdivider shall submit a table showing the maximum number of dwelling units that would be permitted under the City zoning ordinance, consistent with the minimum lot size, lot widths, set backs, and other provisions of the zoning ordinance and compare it to the number of dwelling units proposed. Land/lots that are undevelopable because of other laws and ordinances that prohibit development in certain areas (e. g. floodplains, wetlands, steep slopes, and drainage ways) or due to unavailability of proper services (unable to support public facilities (sewer/water) shall be excluded from the development yield analysis, however, some undevelopable lands may be allowed as easements on lots within the Development Yield Analysis as long as buildable area is found on each parcel depicted and the Planning Commission agrees with the allowance. The developer must demonstrate that each lot in the yield analysis would be

able to be supported as a viable residential lot producing any mechanisms necessary that the Planning Commission may request to make this determination. (Ord. #1244 – 02/01/2007)

The base development density for an EA Exclusive Agriculture or A Agricultural zoned lot is based upon a rate of at least 120,000 square feet per lot. The base development density for any other piece of land is based on the existing minimum zoning requirements OR the minimum Comprehensive Plan density requirements, whichever is stricter. All parcels shown in a developer's yield analysis must demonstrate that each parcel could actually be developed on the site proposed. Thus, each yield parcel must show that adequate water, sewer, stormwater management, and buildable area are present and attainable to the Planning Commission.



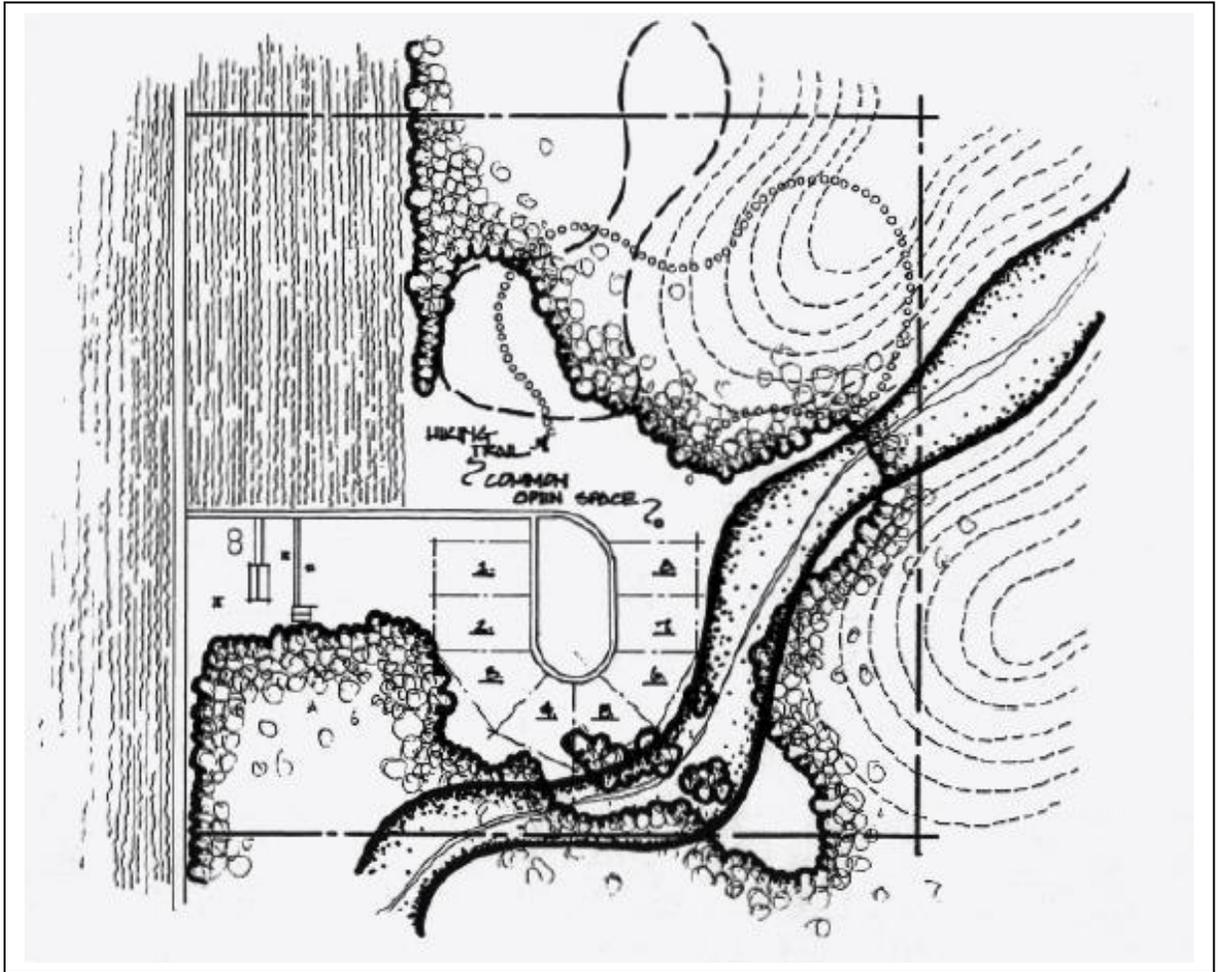
Step 1: Inventory and mapping of existing resources for a hypothetical 40 acre site.



Step 2 : Development yield as permitted under existing ordinances (zoning, etc.) for the 40 acre site assuming a 5 acre minimum lot size zoning standard in which all lots are truly buildable. 8 lots would be permitted under this scenario.

3. Site analysis and concept plan. Using the inventory provided in section 18.31(3)(k)(1) above, the development yield analysis provided in section 18.31(3)(i)(2) above, and applying the design standards specified in section 4 of this ordinance, the subdivider shall submit a concept plan including at least the following information at a scale of no less than one inch = 50 feet:

- a. *Open space areas indicating which areas are to remain undeveloped, agricultural in perpetuity, and/or trail locations.*
- b. *Boundaries of areas to be developed and proposed general street and lot layout.*
- c. *Number and type (i. e., single- family, multi- family) of housing units proposed.*
- d. *Proposed methods for and location of water supply, stormwater management (e. g., best management practices), and sewage treatment.*
- e. *Inventory of preserved and disturbed natural features and prominent views.*
- f. *Preliminary development pads showing areas for lawns, pavement, buildings, and grading.*
- g. *Proposed methods for ownership and management of open space.*
- h. *Calculations showing the appropriate amount of open space preservation for a Conservation Subdivision (50%).*



Step 3a : Concept map of a Conservation Subdivision showing the 8 lots that would be permitted, plus the historic farmhouse, which would be preserved, for a total of 9 dwelling units.

4. **General location map.** The subdivider shall submit a map showing the general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch: 400 feet.
5. **A Management Plan** for the restoration and long-term care of open space areas and agricultural lands in perpetuity if applicable.

18.32 FINAL PLAT.

- (1) **REVIEW.** The Subdivider shall prepare a final plat and letter of application in accordance with this chapter and file 39 folded copies of the plat with the City Clerk or designee (Community Development Department) at least 30 days prior to the meeting of the Plan Commission at which action is desired. In addition:
 - (a) The City Clerk or designee (Community Development Department) shall provide the plat and required copies to the Community Development Director, who shall, within 2 normal work days after filing, transmit 2 copies to the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP); additional copies to the Department of Agriculture, Trade and Consumer Protection (DATCP) for

retransmission of 2 copies each to the Wisconsin Department of Transportation (WDOT), if the subdivision abuts or adjoins a State trunk highway or connecting highway; the Department of Commerce, if the subdivision is not served by a public sewer and provision for such service has not been made, and Department of Natural Resources, if navigable waters, shoreland/wetlands or floodlands are contained within the proposed subdivision. The Departments of Agriculture, Trade and Consumer Protection (DATCP), Transportation, Natural Resources and Department of Commerce shall hereafter be referred to as objecting agencies.

- (b) The Community Development Department shall transmit 4 copies to the Waukesha County Park and Planning Commission, 7 copies to the City Plan Commission, 7 copies to the Common Council and one copy each to the following City departments/boards: Building and Engineering, Utility, Public Works, Parks and Recreation (to be reviewed by the City Park Board, if applicable), Conservation Commission (if applicable), Police, City Assessor, City Engineer, and Fire Department for their review and recommendations concerning matters within their jurisdiction. The recommendations, if any, of City boards, commissions and departments shall be transmitted to the City Plan Commission within 30 days from the date the plat is filed. The final plat shall then be reviewed by the City Plan Commission for conformance with this chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components.
- (c) The Community Development Department shall transmit 2 copies to the Wisconsin Natural Gas Company and one copy each to the Wisconsin Electric Power Company, Ameritech, all cable television franchisees, and Muskego-Norway School District for review and information concerning matters within their jurisdiction. Their comments, if any, shall be transmitted to the Plan Commission within 30 days from the date the plat is filed.
- (d) The City Plan Commission is designated as the recommending agency with respect to design and layout of the final plat under the provisions of §18.40 et seq. and the Common Council is designated as the approving authority with respect to all sections of this chapter.
- (e) The Wisconsin Departments of Agriculture, Trade and Consumer Protection (DATCP), Transportation (WDOT), Natural Resources (DNR) and Department of Commerce shall hereafter be referred to as objecting agencies. The County Park and Planning Commission is designated as an approving agency when the plat is located in the extraterritorial plat approval jurisdiction of the City and is hereafter referred to as an objecting agency when the plat is located within the corporate limits of the City. The Southeastern Wisconsin Regional Planning Commission is an advisory planning agency created under §66.945, Wis. Stats., in part for the purpose of serving the City and its commissions; county and its commissions, town board or commissions and State agencies having jurisdiction under the provisions of this chapter.
- (f) The Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat; any conditions of approval of the preliminary plat; this chapter and all ordinances, rules, regulations, adopted regional, county or City comprehensive plans and adopted components which may affect it and shall recommend approval, conditional approval or rejection of the plat to the Common Council.
- (g) The approved preliminary plat may be final platted in phases with each phase encompassing only that portion of the approved preliminary plat which the Subdivider

proposes to record at one time. However, it is required that each such phase be final platted and designated as a phase of the approved preliminary plat.

- (h) Upon approval of the final plat from the Plan Commission or Common Council, the Subdivider may proceed with installation of subdivision improvements after approval of the engineering plans by the City Engineer, Public Works Committee and Public Utility Committee, approval of all other applicable agencies and submittal to the City of copies of all permits and letters of approval and/or may submit a final plat for review. The Subdivider shall enter into a contract with the City agreeing to install the required improvements and shall file with the contract a letter of credit, cash or certified check meeting the approval of the City Attorney in an amount 120% of the estimated cost of the improvements, such estimate to be made by the Finance Committee and Common Council upon the recommendation of the City Engineer, as a guarantee that such improvements will be completed by the Subdivider or his subcontractors not later than one year from the date of recording of the plat and all obligations to subcontractors for work on the development are satisfied. (Ord. #1261 – 8/23/2007)
 - (i) If after approval or conditional approval of the preliminary plat by either the Plan Commission or Common Council, the Subdivider creates a substantial change to the subdivision layout, the City shall require the resubmittal of a preliminary plat in conformance with §18.31(l) above. A substantial change to the subdivision layout will be presumed to have occurred if the external boundaries of the subdivision plat are changed in any manner, there is an increase in the number of lots by more than 5%, there is a change in street configuration or a permitting agency denies a permit on which the plat depends. If the change is made at the request of the City, a substantial change shall not be presumed to have occurred and the Subdivider may proceed with submittal of a final plat.
- (2) APPROVAL. The objecting agencies shall, within 20 days of the date of receiving their copies of the final plat, notify the Subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the City Plan Commission. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the plat. In addition:
- (a) Submission. If the final plat is not submitted within 6 months of the last required approval of the preliminary plat, the Common Council may refuse to approve the final plat.
 - (b) Plan Commission Action. The City Plan Commission shall, within 30 days of the date of filing of the final plat with the City Clerk or designee, recommend approval, conditional approval or rejection of the plat and shall transmit the final plat and application along with its recommendations to the Common Council.
 - (c) Notification. The Common Council, after it determines to approve the plat, shall give at least 10 days prior written notice of its intention to the clerk of any municipality whose boundaries are within 1,000' of any portion of the proposed plat, but failure to give such notice shall not invalidate any such plat.
 - (d) Common Council Action. The Common Council shall, within 60 days of the date of filing the original final plat with the City Clerk or designee, approve or reject such plat unless the time is extended by agreement with the Subdivider. All corrections required by the objecting and approving agencies shall be made to the final plat prior to placement on the Common Council agenda. If the plat is rejected, the reasons shall be

stated in the minutes of the meeting and a written statement of the reasons forwarded to the Subdivider and surveyor. The Common Council may not inscribe its approval on the final plat unless the City Clerk certifies on the face of the plat that the copies were forwarded to the objecting agencies as required herein, the date thereof and that no objections have been filed within 20 days or, if filed, have been met.

- (e) Approval. If the Common Council fails to act within 60 days, time having not been extended, no unsatisfied objections having been filed and all fees payable by the Subdivider having been paid, the plat shall be deemed approved.
 - (a) Recordation. After the final plat has been approved by the Common Council and required improvements as shall be required by the Council either installed or a subdivider's agreement and sureties insuring their installation filed, the City Clerk – Treasurer shall cause the certificate inscribed upon the plat attesting to such approval to be executed, and the City shall cause the plat to be recorded with the County Register of Deeds. The Register of Deeds shall not record the plat unless it is offered. (Ord. #1093 - 03-07-2002)
 - (b) Copies. The Subdivider shall file a reproducible mylar and 11 folded copies of the final plat with the City Clerk or designee for distribution to the City Assessor and Engineer and Planning, Building, Public Works, Utility, Fire, Police and other affected departments and agencies for their files.
 - (h) Installation of Improvements. Upon approval of the final plat from the Plan Commission or Common Council, the Subdivider may proceed with installation of subdivision improvements after approval of the engineering plans by the City Engineer, Public Works and Public Utility Committees, approval of all other applicable agencies and submittal to the City of copies of all permits and letters of approval and/or may submit a final plat for review. The Subdivider shall enter into a contract with the City agreeing to install the required improvements and file with the contract a letter of credit, cash or certified check meeting the approval of the City Attorney in an amount 120% of the estimated cost of the improvements, such estimate to be made by the Finance Committee and Common Council upon recommendation of the City Engineer, as a guarantee such improvements will be completed by the Subdivider or his subcontractors not later than one year from the date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied. (Ord. #1261 – 8-23-2007)
 - (i) If after approval or conditional approval of the preliminary plat by either the Plan Commission or Common Council, the Subdivider creates a substantial change to the subdivision layout, the City shall require the resubmittal of a preliminary plat in conformance with §18.31(l) above. A substantial change to the subdivision layout will be presumed to have occurred if the external boundaries of the subdivision plat are changed in any manner, there is an increase in the number of lots by more than 5%, there is a change in street configuration or a permitting agency denies a permit on which the plat depends. If the change is made at the request of the City, a substantial change shall not be presumed to have occurred and the Subdivider may proceed with submittal of a final plat.
- (3) SUBMITTAL REQUIREMENTS.
- (a) General. A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of §236.20, Wis. Stats.

- (b) Additional Information. The plat shall show correctly on its face, in addition to the information required by §236.20, Wis. Stats., the following:
1. Exact length and bearing of the centerline of all streets.
 2. Exact street width along the line of any obliquely intersecting street.
 3. Railroad rights-of-way within and abutting the plat.
 4. Setbacks or building lines required by the Plan Commission under the guidelines in §18.43 of this chapter.
 5. Easements shall be shown on the preliminary plat and limited to utility, drainage, conservation, access, scenic, mineral or air rights. Easements shall not be used for conveyance of street rights-of-way, pedestrian rights-of-way, park, school or other public lands requiring dedication.
 6. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat. If property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the plat. A note shall be placed on the face of the plat noting ownership and maintenance of all common use areas and that deed restrictions are on file at the County Register of Deeds.
 7. A note on the face of the plat noting ownership and maintenance obligations of all drainage swales, easements, retention and detention ponds or other facilities.
 8. Special restrictions required by the Plan Commission and any other approving or objecting agency relating to access control along public ways, provision of planting strips, solar access restrictions, preservation of wetlands, more restrictive yard requirements or special restrictions for environmentally significant lands.
 9. Location, area, depth and type of soil absorption waste disposal system each building site, if applicable.
 10. Floodplain limits of the 100-year recurrence interval flood as determined the federal flood insurance study or other technical document, or where such data is available, the elevation shall be determined by a registered professional engineer and sealed documents shall be approved by the City Engineer. The contour line lying a vertical distance of 2' above the elevation of the 100-year recurrence interval flood where such data is not available, the elevation shall be determined by a registered professional engineer and the sealed documents approved by the City Engineer within exterior boundaries of the plat or located within 100' therefrom.
 11. Where the Common Council, Plan Commission or Engineer finds t additional information relative to a particular problem presented by a proposed development is required to review the final plat, it shall have the authority to request writing such information from the Subdivider.
 12. Delineation of all wetlands and shoreland/wetlands based on a field staking by the U.S. Army Corps of Engineers, the Wisconsin Department of Natural Resources the Southeastern Wisconsin Regional Planning Commission or other agency or firm certified to make such delineation by the Federal Government or Wisconsin Department of Natural Resources.
 13. Location of soil boring tests. The number of such tests shall be adequate portray the character of the soil and depths of bedrock and groundwater from the natural undisturbed surface. To accomplish this purpose, a minimum of one test per 3 acres

shall be made initially. The results of such tests shall be submitted along with the certified survey map.

14. Location of soil percolation tests where required by §COMM 85.06, Wis. Adm. Code, taken at the location and depth in which soil absorption waste disposal systems are to be installed. The number of such tests initially made shall not be less than one test per 3 acres or one test per lot, whichever is greater. The results of such tests shall be submitted along with the certified survey map.
 15. Location of all conservation easements, permanent open spaces, and special restrictions including but not limited to deed restrictions, use limitations, and maintenance agreements as depicted on the Detailed Site Analysis as approved concurrent with the Preliminary Plat.
 16. Show the City of Muskego's Wetland Protection Offsets, as identified in the Zoning Code. (Ord. #1290 04-23-2009)
 17. Show any applicable DNR wetland setbacks/offsets as required. (Ord. #1290 04-23-2009)
- (c) Survey Accuracy. The City Engineer shall examine all final plats within the City and may make, or cause to be made by a registered land surveyor under the direction of the City Engineer, such field checks as the City Engineer may deem necessary or desirable for the accuracy and closure of survey, the proper kind an location of monuments and legibility and completeness of the drawing.
1. The maximum error of closure before adjustment of the survey of the exterior boundaries of the subdivision shall not exceed that which is permitted by state statute.
 2. All street, block and lot dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary survey.
 3. Where the plat is located within a U. S. Public Land Survey quarter-section, the comers of which have been relocated, monumented and coordinated by the City, Waukesha County or the Southeastern Wisconsin Regional Planning Commission, the tie required by §236.20(3)(b), Wis. Stats., shall be expressed in terms of grid bearing and distance; and the material and Wisconsin State Plane Coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error of closure herein specified for the survey of the exterior boundaries of the subdivision and the street, block and lot dimensions shall comply with the requirements of §236.15, Wis. Stats.
 4. The Common Council shall receive the results of the City Engineer's examination prior to approving the final plat.
- (d) Surveying and Monumenting. Final plats shall meet all the surveying and monumenting requirements of §236.15, Wis. Stats.
- (e) State Plane Coordinate System. Where the plat is located within a U.S. Public Land Survey quarter section the corners of which have been relocated, monumented and placed on the Wisconsin State Plane Coordinate System by the Southeastern Wisconsin Regional Planning Commission, Waukesha County or the City, the plat shall be tied directly to 2 or more of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements and the type of monument and Wisconsin Plane Coordinates of the

monument marking the relocated section or quarter corners 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. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error of closure herein specified for the survey of the exterior boundaries of the subdivision and as adjusted to the City's control survey.

- (f) Certificates. All final plats shall provide all the certificates required by §236.21, Wis. Stats. In addition, the surveyor shall certify that he has fully complied with all the provisions of this chapter.
- (g) Recordation. The final plat shall be recorded with the Waukesha County Register of Deeds only after the certificates of the Wisconsin Department of Agriculture, Trade and Consumer Protection, the Common Council, the surveyor and those required by §§236.21 and 236.12(4), Wis. Stats., are placed on the face of the plat. The plat shall be recorded by the City Clerk within 12 months of its final approval by the Common Council and within 36 months after the first approval. (Ord #1327 08-19-2010)
- (h) Duplicate Plat Required. The Subdivider shall provide a duplicate reproducible copy of the final plat on dimensionally stable polyester film to the City, with 11 folded blue-line copies.
- (i) A digital *.DXF, *.DGN file, or *.DWG file of the final plat must be submitted to the City on 3-1/2" diskette or CD ROM prior to City signatures being placed on the final plat, and all information shall be tied to and referenced to the State Plane NAD 1927 Wisconsin South Zone or others approved by the GIS Coordinator. All digital files shall be submitted in accordance with the minimum standards as approved by the Common Council and amended from time to time. (Ord. #1118 - 10-17-2002)

18.33 MINOR LAND DIVISION.

(1) CERTIFIED SURVEY MAP.

- (a) When Allowed. When it is proposed to divide land into at least 2 but not more than 4 parcels or building sites; to create by land division not more than 4 parcels or building sites within a recorded subdivision plat without changing the exterior boundaries of a block, lot or outlot; or divide any number of parcels greater than one and one-half acres in size (thus not constituting a "subdivision" as defined in §18.08 of this chapter), the Subdivider may subdivide by use of a certified survey map. The certified survey map shall include all parcels of land under ownership or control of the Subdivider. The certified survey map shall be prepared in accordance with sub. (3) of this section.
- (b) Waiver of Survey Requirement. When the parcels to be created by a land division are 20 acres or more in area and are not intended for development, the Plan Commission and/or the Community Development Director may waive the requirement of a certified survey map.

- (2) APPLICATION REQUIREMENTS. A preapplication conference similar to the consultation suggested in § 18.20 of this chapter is recommended prior to submitting the sketch or preliminary map for approval. Prior to submitting a certified survey map or plat of survey for approval, the Subdivider shall submit a preliminary map or sketch to the City Plan Commission for approval, which shall be sufficient in detail to determine whether the final certified survey map will meet the requirements of this chapter and all ordinances, rules, regulations, adopted regional, county and City comprehensive plans or adopted plan components which affect it. At a minimum, all sketches shall be submitted

using the City Cadastral Map as the base map. After approval of the preliminary map or sketch by the City Plan Commission, the Subdivider shall file 18 copies of the certified survey map and the letter of application with the City Clerk or designee 15 days prior to the Plan Commission Meeting. Submitting 15 days prior to a Plan Commission meeting does not constitute being on that individual meeting due to necessary reviews.

(3) CERTIFIED SURVEY MAP SUBMITTAL REQUIREMENTS.

(a) General.

1. A certified survey map prepared by a registered land surveyor shall be required for all minor land division. It shall comply in all respects with the requirements of §236.34, Wis. Stats. The minor land division shall comply with the design standards in Sections 18.40 through 18.46 of this chapter and the improvement requirements in Sections 18.50 through 18.61 of this chapter.
2. A preliminary map or sketch shall be submitted to the City Plan Commission for all tracts of land proposed to be divided in accordance with Section 18.33 of this chapter.

(b) Required Information. The map shall show correctly on its face, in addition to the information required by §236.34, Wis. Stats., the following:

1. Date of the map.
2. Insert showing map of area with property location.
3. Graphic scale and north arrow.
4. Name and address and the owner, Subdivider and surveyor.
5. All existing structures, including square footage and horizontal offset to existing and/or proposed property lines, and the first floor elevation thereof, visible and known wells, watercourses, drainage ditches, existing property lines of abutting property and other features pertinent to proper division.
6. Name of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages, and wetlands.
7. Location of the area on the lot where a structure may be built to afford solar access to the rooftop and south wall.
8. Additional setbacks or building lines required by the City Plan Commission which are more restrictive than the regulations of the zoning district in which the plat is located or which are proposed by the Subdivider and are to be included in recorded protective covenants.
9. Additional setbacks or offsets proposed by the Subdivider which are more restrictive than the regulations of the zoning district in which the plat is located.
10. All lands reserved for future public acquisition.
11. Floodplain limits of the 100-year recurrence interval flood as determined by the federal flood insurance study or other technical document or where such data is not available, the elevation shall be determined by a registered professional engineer and the sealed documents shall be approved by the City Engineer. The contour line lying a vertical distance of 2' above the elevation of the 100-year recurrence interval flood or where such data is not available, the elevation shall be determined by a registered professional engineer and the sealed documents shall be approved by the City Engineer within the exterior boundaries of the plat.

12. Easements shall be shown on the certified survey map and shall be limited to utility easements, drainage easements, conservation easements, access easements, scenic easements, mineral easements, or air rights easements. Easements shall not be used for the conveyance of street rights-of-way, pedestrian rights-of-way, park or school lands or other public lands requiring dedication.
 13. Exact length and bearing of the centerline of all streets.
 14. Exact street width along the line of any obliquely intersecting street.
 15. Railroad rights-of-way within and abutting the plat.
 16. A drainage and grading plan for all lots on the map bearing a statement concerning the relation of all drainage swales, ponds or other facilities.
 17. Special restrictions required by the Plan Commission and any other approving or objecting agency relating to access control along public ways, the provision of planting strips, solar access restrictions, to preservation of wetlands, to more restrictive yard requirements or to special restrictions for environmentally significant lands.
 18. Location, setbacks, area, depth and type of soil absorption waste disposal system for each building site, if applicable.
 19. Delineation of all wetlands and shoreland/wetlands based on a field staking by the U.S. Army Corps of Engineers, the Wisconsin Department of Natural Resources, the Southeastern Wisconsin Regional Planning Commission or other agency or firm certified to make such delineation by the Federal Government or Wisconsin Department of Natural Resources.
 20. Grading plan for the proposed land division extending 150' from the proposed property lines.
 21. Show the City of Muskego's Wetland Protection Offsets, as identified in the Zoning Code. (Ord. #1290 04-23-2009)
 22. Show any applicable DNR wetland setbacks/offsets as required.
(Ord. #1290 04-23-2009)
- (c) Additional Information. The Plan Commission may require that the following additional information be provided when necessary for proper review and consideration of the map:
1. Existing contours at vertical intervals of not more than 2' where the slope of the ground surface is less 10% and of not more than 5' where the slopes of the ground surface is 10% or more. Elevations shall be marked on such contours based on National Geodetic Vertical Datum (NGVD) of 1929 (mean sea level). The requirement to provide topographic data may be waived if the parcels created are fully developed.
 2. Soil type, slope and boundaries as shown on the detailed operational soil survey maps prepared by the U. S. Soil Conservation Service.
 3. Setbacks or building lines required by the City Plan Commission in accordance with the guidelines in §18.43 of this chapter.
 4. Location of soil boring tests if directed by the City Engineer. The number of such tests shall be adequate to portray the character of the soil and depths of bedrock and groundwater from the natural undisturbed surface. To accomplish this purpose, a

minimum of one test per 3 acres shall be made initially. Results of such tests shall be submitted along with the certified survey map.

5. Location of soil percolation tests, where required by §COMM 85.06, Wis. Adm. Code, taken at the location and depth in which soil absorption waste disposal systems are to be installed. The number of such tests initially made shall not be less than one test per 3 acres or one test per lot, whichever is greater. Results of such tests shall be submitted along with the certified survey map.
 6. The Plan Commission may waive the requirement that the entire area contiguous to the land outlined in the proposed certified survey owned or controlled by the Subdivider be included on the certified survey map even though only a portion of such area is proposed for immediate development. However, this waiver may only occur when the parcels to be created by a land division are 20 acres or more in area and are not intended for development.
 7. A Detailed Site Analysis as described in Section 18.31(3)(i).
- (d) State Plane Coordinate System. Where the map is located within a U.S. Public Land Survey quarter section the corners of which have been relocated, monumented and placed on the Wisconsin Plane Coordinate System by the Southeastern Wisconsin Regional Planning Commission, Waukesha County or the City, the map shall be tied directly to 2 or more of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements and the type of monument and Wisconsin Plane Coordinates of the monument marking the relocated section or quarter corner to which the map is tied shall be indicated on the map. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error of closure herein specified for the survey of the exterior boundaries of the subdivision.
- (e) Certificates. The surveyor shall certify on the face of the map that he has fully complied with all the provisions of this chapter. The Common Council, after approval by the Plan Commission and the recommendation by all reviewing agencies, shall certify its approval on the face of the map.
1. When a certified survey map includes the dedication of streets and other public areas, an owner's certificate in substantially the same form as required by §236.21(2)(a), Wis. Stats., shall be required.
 2. All certified survey maps shall provide all the certificates required by §236.21, Wis. Stats.
- (f) Recordation. The certified survey map shall be recorded with the county register of deeds only after the certificates of the Common Council, Plan Commission, surveyor and owner are placed on the face of the map. The map shall be recorded by the City Clerk or designee within 6 months of its last approval by the Common Council or re-approval will be required. The City shall not permit the applicant, Title Company or any other entity to record the certified survey map. (Ord. #1244 – 02/01/2007)
- (g) A digital *.DXF, *.DGN file, or *.DWG file of the certified survey map must be submitted to the City on 3-1/2" diskette or CD ROM prior to City signatures being placed on the final plat, and all information shall be tied to and referenced to the State Plane NAD 1927 Wisconsin South Zone or others approved by the GIS Coordinator. All digital files shall be submitted in accordance with the minimum standards as

approved by the Common Council and amended from time to time. (Ord. #1118 - 10-17-2002)

- (h) Plat Notations. Any notes required by the City shall be placed on the face of the CSM prior to recording by the City.
- (4) PLAN COMMISSION. The City Clerk or designee shall transmit 7 copies of the map and letter of application to the Plan Commission for their review and approval.
- (5) RECOMMENDATIONS. The Community Development Department shall transmit a copy of the map to all affected City departments and the City Engineer for their review and recommendations concerning matters within the jurisdiction.
- (6) PLAN COMMISSION APPROVAL. The Plan Commission shall approve, approve conditionally or reject the map within 45 days from the date of filing, unless time is extended by agreement with the Subdivider, and shall transmit the map along with its recommendations to the Common Council.
- (7) COMMON COUNCIL APPROVAL. The Common Council shall approve, approve conditionally or reject the map within 60 days from the date of filing, unless time is extended by agreement with the Subdivider. If the map is rejected, the reasons shall be stated in the resolution and a written statement forwarded to the Subdivider and surveyor.
- (8) RECORDATION. After the certified survey map has been approved by the Common Council, the City Clerk – Treasurer shall cause the certificate to be inscribed upon the map attesting to such approval and the City shall record the map with the Waukesha County Register of Deeds at the subdivider's expense. The Register of Deeds shall not record the map unless it is offered within six (6) months after the date of the last approval. The City shall not permit the applicant, Title Company or any other entity to record the certified survey map. (Ord. #1093 - 03-07-2002)
- (9) DESIGN STANDARDS. All Minor Land Divisions shall adhere to the Design Standards, Required Improvements, and Construction Standards for Conventional Subdivisions, as found in Sections 18.40, 18.50 and 18.60 of this Ordinance, unless a variance has been granted pursuant to Section 18.24 of this Ordinance.

18.34 EXTRATERRITORIAL PLATS AND CERTIFIED SURVEY MAPS.

When the land to be subdivided lies within 3 miles of the corporate limits of the City, the Subdivider shall proceed as specified in §§18.30 through 18.33, except:

- (1) SKETCH OR MAP NOT REQUIRED. A sketch or preliminary map for a certified survey map is not required to be approved by the Plan Commission prior to filing a certified survey map.
- (2) TRANSMITTAL RESPONSIBILITY. The town or county clerk or county planning agency to whom the plat or certified survey map is first submitted shall be responsible for transmitting copies of the plat or map to designated objecting agencies and the Subdivider shall indicate which one in his application.
- (3) APPROVAL AGENCIES. Approval agencies include the Common Council, town board and County Park and Planning Commission or County Board and the Subdivider shall comply with the land division ordinances of these agencies.
- (4) INSTALLATION OF IMPROVEMENTS. The Subdivider may proceed with the installation of such improvements and under such regulations as the town board of the

town within whose limits the plat lies may require. Wherever connection to any City utility is desired, permission for such connection shall be approved by the Common Council.

- (5) **IMPROVEMENT REQUIREMENTS.** All improvement requirements specified by the town board or any special improvement district in matters over which they have jurisdiction, shall be met before filing of the final plat.

18.35 REPLAT.

- (1) When it is proposed to replat a recorded subdivision or part thereof, so as to change the boundaries of a recorded subdivision or part thereof, the Subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in §§236.40 through 236.44, Wis. Stats. The Subdivider or person wishing to replat shall then proceed as specified in §§18.30 through 18.32(2).
- (2) The Community Development Director shall schedule a public hearing before the City Plan Commission when a preliminary plat of a replat of lands within the City or its extraterritorial jurisdictional limits is filed and shall cause notices of the proposed replat public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within 200' of the exterior boundaries of the proposed replat.

18.36 CONDOMINIUM PLATS.

A condominium plat prepared under §703.11, Wis. Stats., shall be reviewed in the same manner as a subdivision plat under §§18.30 through 18.32 of this chapter.

DESIGN STANDARDS : CONVENTIONAL SUBDIVISIONS

18.40 STREETS.

- (1) ARRANGEMENT. In any new subdivision the street, block and lot layouts shall conform to the arrangement, width and location indicated on the City Official Map, County jurisdictional highway system plan, comprehensive plan or plan component or neighborhood development plan, if any, of the City, town or county and shall be so designated as to: be within the capability of the land and water resources; least disturb the existing terrain, flora, fauna and water regimen; and meet all the use, site, sanitary, floodland and shoreland regulations contained in the City Zoning Code and the Waukesha County Community Health Code. In areas for which such plans have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets and to the most advantageous development of adjoining areas. The subdivision shall be designed so as to provide each lot with satisfactory solar access and access to a public street.
 - (a) Arterial streets, as defined in § 18.08, shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation and points beyond the boundaries of the community. Arterial streets shall also be properly integrated with and related to the existing and proposed area-wide system of arterial streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
 - (b) Collector streets, as defined in § 18.08, shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the arterial street and highway system and shall be properly related to the mass transportation system, to special traffic generators such as schools, churches and shopping centers and other concentrations of population and to the arterial streets into which they connect.
 - (c) Minor streets, as defined in 18.08, shall be arranged to conform to the topography, discourage use by through traffic, permit the design of efficient storm and sanitary sewerage systems and require the minimum street area necessary to provide safe and convenient access to abutting property.
 - (d) Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions or unless the City Plan Commission finds that such extension is not necessary or desirable for the coordination of the layout of the subdivision or for the advantageous development of the adjacent tracts.
 - (e) Arterial street and highway protection. Whenever the proposed subdivision contains or is adjacent to an arterial street or highway, adequate protection of residential properties, limitation of access and separation of through and local traffic shall be provided by reversed frontage with screen planting contained in a non-access reservation along the rear property line or by the use of frontage streets consistent with sub. (2)(a) of this section.
 - (f) Public access shall be provided to all navigable stream or lake shores. Such access shall be at least 60' in width platted to the low watermark at intervals of not more than one-half mile as required by §236.16(3), Wis. Stats., unless greater intervals and wider

access is agreed upon by the City Plan Commission, the Wisconsin Department of Natural Resources and the Department of Agriculture, Trade and Consumer Protection. All platted public access shall front on a public street, highway, parkway or other public way. (Ord. #1186 - 2-3-2005)

- (g) Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such strips is placed with the City under conditions approved by the Plan Commission.
 - (h) Street names shall not duplicate or be similar to existing street names and existing street names shall be projected wherever possible. Final approval of street names rests with the Common Council, upon recommendation of the Plan Commission, Public Works Committee and Police Department. (Ord. #1186 - 2-3-2005)
 - (i) Access shall be provided in commercial and industrial areas for off-street loading and service areas unless otherwise required by the Plan Commission.
- (2) **LIMITED ACCESS HIGHWAY AND RAILROAD RIGHT-OF-WAY TREATMENT.** Whenever the proposed subdivision contains or is adjacent to a limited access highway, arterial or railroad right-of-way, the design shall provide the following treatment.
- (a) When lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited access highway, arterial or a railroad, a planting strip at least 30' in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be part of the platted lots but shall have the following restriction lettered on the face of the plat: "This strip reserved for the planting of trees and shrubs and the building of all structures excepting public or private utility structures hereon is prohibited."
 - (b) Where commercial and industrial districts are involved there shall be provided, 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 streets and highway or railroad, but shall not be less than 150' from the right-of-way of the limited access highway or railroad.
 - (c) Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street and highway or collector street which crosses a railroad or highway, shall be located at a minimum distance of 250' from the highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.
 - (d) Minor streets immediately adjacent and parallel to railroad rights-of-way shall be avoided and location of minor streets immediately adjacent to arterial streets and highways and railroad rights-of-way shall be avoided in residential areas.

(3) STREET AND PEDESTRIAN WAY DESIGN STANDARDS.

- (a) Minimum Standards. The minimum right-of-way, construction standards and roadway width of all proposed streets and alleys shall be as specified by the City's standard specifications, comprehensive plan, comprehensive plan component, official map or neighborhood development plan or county jurisdictional highway system plan or, if no width is specified therein, the minimum width shall be as shown on Table 1 below.
- (b) Existing Rural Right-of-Way. The suggested R.O.W. indicated above are for urban sections; no rural sections are to be used. However, in the case of existing rural type roadway sections, right-of-way widths shall be as follows:

TABLE 1

Urban Street	Right-of-Way Width
Arterial	100' (minimum)
Collector	80'
Minor	60'
Pedestrian Ways	10'
<hr/>	
Rural Street	Right-of-Way Width
Arterial	100' (minimum)
Collector	80'
Minor	60'

- (c) Other Requirements. Street sections are for standard streets only. Cross sections for freeways, expressways and parkways should be based upon detailed engineering studies. In addition:
 1. Cul-de-Sac Streets. Cul-de-Sac streets designed to have one end permanently closed shall not exceed 1,320' in length. Urban cul-de-sac streets shall typically terminate in a tear-drop turn-around having a minimum right-of-way radius of 60' and a minimum outside curb radius of 48'.
 2. Street Grades. Unless necessitated by exceptional topography, subject to the approval of the Common Council, the maximum centerline grade of any street or public way shall not exceed the following:
 - a. Arterial streets: 6%.
 - b. Collector streets: 8%.
 - c. Minor streets, alleys and frontage streets: 10%.
 - d. Pedestrian ways: 12%, unless steps of acceptable design are provided.

- e. The Grade of any street shall in no case exceed 12 % or be less than one-half of one percent.
- (d) Street Grades. Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and general leveling of the topography. All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to 30 times the algebraic difference in the rates of grade for arterial streets and one-half this minimum for all other streets.
- (e) Half-Streets. Where an existing dedicated or platted half-street is adjacent to the tract being subdivided, the other half of the street shall be dedicated by the Subdivider. The platting of new half-streets shall not be permitted.
- (f) Roadway Elevations. Elevations of roadways passing through floodland areas shall be designed in the following manner:
 - 1. At least 2' above the 100-year recurrence interval flood elevation for arterial streets.
 - 2. At least 2' above the 10-year recurrence interval flood elevation for minor streets.
 - 3. At no less than the 100-year recurrence interval flood elevation for collector streets.
- (g) New and Replacement Bridges and Culverts. All new and replacement bridges and culverts over perennial waterways, including pedestrian and other minor bridges, in addition to meeting other applicable requirements, shall be designed so as to accommodate the 100-year recurrence interval flood event without raising the peak stage, either upstream or downstream, more than .01 foot above the peak stage for the 100-year recurrence interval flood, as established in the applicable federal flood insurance study or other technical study. Larger permissible flood stage increases may be acceptable for reaches having topographic land use conditions which could accommodate the increased stage without creating additional flood damage potential upstream or downstream of the proposed structure providing that flood easements or other appropriate legal measures have been secured from all property owners affected by the excess stage increases. Such bridges and culverts shall be so designed and constructed as to facilitate the passage of ice floes and other debris. All new and replacement bridges shall be constructed in accordance with all applicable State statutes and codes and plans shall be submitted to the Department of Natural Resources (DNR) to assure compliance therewith.
- (h) Radii of Curvature. When a continuous street centerline deflects at any one point by more than 10°, a circular curve shall be introduced having a radius of curvature on the centerline of not less than the following:
 - 1. Arterial streets and highways: 500'.
 - 2. Collector streets: 300'.
 - 3. Minor streets: 150'.
 - 4. The Wisconsin Department of Transportation Facilities Design Manual for the design speed of the facility and shall use the greater of the two. A tangent at least 100' in length shall be provided between reverse curves on arterial and collector streets.
- (4) STREET INTERSECTIONS. Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit. In addition:
 - (a) The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than 2.

- (b) The number of intersections along arterial streets and highways shall be held to a minimum. Wherever practicable the distance between such intersections shall not be less than 1200'.
- (c) Property lines at intersections with collectors and arterial streets, as identified by the approved street and arterial system plan for the City of Muskego, shall be rounded with a minimum radius of 15' or of a greater radius when required by the City Plan Commission, or shall be cut-off by a straight line through the points of tangency of any arc having a radius of 45'.
- (d) Minor streets shall not necessarily continue across arterial or collector streets; but if the centerline of such minor streets approach the arterial streets from opposite sides within 300' of each other, measured along the centerline of the arterial or collector street, then the location shall be so adjusted that the alignment across the arterial or collector street is continuous and a jog is avoided.
- (e) On all streets where sidewalks are required, ramps or openings to accommodate handicapped individuals or vehicles shall be provided in accordance with §66.0909, Wis. Stats.

18.41 BLOCKS.

The widths, lengths and shapes of blocks shall be suited to the planned use of the land; zoning requirements; need for convenient access, control and safety of street traffic; topography and solar access.

- (1) The lengths of blocks in residential areas shall not as a general rule be less than 600' nor more than 1500' in length unless otherwise dictated by exceptional topography or other limiting factors of good design.
- (2) Pedestrian ways of not more than 10' in width may be required where deemed necessary by the City Plan Commission to provide safe and convenient pedestrian circulation between the individual lots, streams, lake shores, park lands or other public areas or may be required near the center and entirely across any block where deemed essential by the City Plan Commission to provide adequate pedestrian circulation or access to schools, shopping centers, churches, parks, open spaces, or transportation facilities. The final plat shall contain a special restriction addressing by whom mid-block pedestrian ways will be maintained.
- (3) The width of blocks shall be wide enough to provide for 2 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) Utility easements shall, where practical, be placed on mid-block easements along rear lot lines.

18.42 LOTS.

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

- (1) **LINES.** Side lot lines 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.
- (2) **DOUBLE FRONTAGE AND REVERSE FRONTAGE.** Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
- (3) **ACCESS.** (Ord. #1371 – 04/18/2013) Every lot shall front or abut for a distance of at least 80' on a public street/right-of-way and be at least 45' on all proposed cul-de-sacs.
- (4) **AREA AND DIMENSIONS.** (Ord. #1244 – 02/01/2007) Area and dimensions of all lots shall conform to the requirements of the City Zoning Code or zoning ordinance of the jurisdiction where the land division occurs, except where land divisions occur within the ERS Existing Suburban Residence Districts or RL Lakeshore Residence Districts—shall conform to the area and dimension requirements of a new conforming district appropriate to the surroundings as approved by the Planning Commission and Common Council. The Common Council determines these provisions are necessary to preserve the public health, safety, and morals because:
 - (a) The area and dimensions provided for the ERS and RL zoning districts were intended to accommodate the nature of existing developments, the majority of which pre-date the establishment of zoning codes. The area and dimensions provided by these districts are not intended to perpetuate high-density development opportunities.
 - (b) The provisions of the ERS Existing Suburban Residence Districts or RL Lakeshore Residence Districts would otherwise permit high density development opportunities which are in conflict with the adopted Comprehensive Plans, which call for residential densities not to exceed 2.9 dwelling units per acre on 15,000 square foot lots. The allowance for 10,000 square foot lots in the RL district and 11,250 square foot lots in the ERS district have the effect of raising permitted densities to unacceptable levels.

In addition to the area and dimension requirements above, those building sites not served by a public sanitary sewer system or other approved systems shall be sufficient to permit the use of an on-site soil absorption sewage disposal system designed in accordance with COMM 83, Wis. Adm. Code, and administered by Waukesha County.
- (5) **RESUBDIVISION.** Whenever a tract is subdivided into Parcels 5 acres or less in area and more than - the Plan Commission may require such parcels to be arranged and dimensioned so as to allow resubdivision of any such parcels in accordance with the provisions of this chapter and in conformance with the City or county zoning ordinance.
- (6) **DEPTH.** Depth of lots shall be a minimum of 100'. Excessive depth in relation to width shall be avoided and a proportion of 2 to one shall be considered a desirable ratio under normal conditions. Depth and 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 zoning restrictions for such use.
- (7) **EXTRA DEPTH.** Double frontage and reverse frontage lots, where permitted to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation, shall provide an extra lot depth of 30' or landscaped buffering unless a greater depth is specified herein.
- (8) **WATER'S EDGE.** Lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge

shall be included as part of lots, outlots or public dedications in any plat abutting a stream or lake.

- (9) **WIDTH.** (Ord. #1371 – 04/18/2013) Width of lots shall conform to the requirements of the zoning ordinance or other applicable ordinance, and in no case shall a lot be less than 80' in width at the setback line for that specific zoning district.
- (10) **CORNER LOTS.** Corner lots shall be designed and platted with at least 10' of extra width over and above the minimum required for the zoning district wherein located to permit adequate building setbacks from side streets and access shall be restricted to the minor street.
- (11) The shape of lots shall generally be rectangular, with lots platted on cul-de-sacs generally narrower at the street line than at the rear lot line.

18.43 BUILDING SETBACK LINES.

- (1) Building setback lines, appropriate to the location and type of development contemplated, which are more or less restrictive than the regulations of the zoning district in which the plat is located, may be required by the Plan Commission, if under planned development. Building setback lines appropriate to the location and type of development contemplated which are more restrictive than the regulation of the zoning district in which the plat is located, may be required by the Plan Commission and shall be shown on the final plat or certified survey map. Examples of the application of this provision 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.
- (2) Shoreland/wetland and isolated wetland setbacks, in addition to those required by the City Zoning Code, may be required by the Plan Commission. See the Zoning Code for more details regarding the specific Wetland Protection Offsets. (Ord. #1274 – 04/22/08)

18.44 SPECIAL RESTRICTIONS.

Special restrictions which are appropriate to the location or design of the land division may be required by the Plan Commission and shall be shown on the final plat or certified survey map. Examples of the application of this provision include access control along public ways, required planting and buffering strips, and prohibition of structures and vegetative clearing in environmentally significant lands.

18.45 EASEMENTS.

- (1) **UTILITY.** The Plan Commission may require utility easements of widths deemed adequate for the intended purpose on each side of all rear lot lines and on each side of all side lot lines or across lots where necessary or advisable for electric power and communication facilities, storm and sanitary sewers; street trees, gas, water, street lights and other utility lines and solar access. All easements shall be noted on the final plat followed by reference to the use or uses for which they are intended.
- (2) **DRAINAGE EASEMENTS.** Where a subdivision is traversed by a watercourse, drainageway channel or stream, an adequate easement shall be provided. The location, width, alignment, and improvement of such drainageway or easement shall be subject to the approval of the City Engineer; and parallel streets or parkways may be required in connection therewith. Where necessary, storm water drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically accommodate maximum potential volumes of flow, subject to review and approval by the City Engineer.

All easements shall be noted on the final plat followed by reference to the use or uses for which they are intended.

18.46 PUBLIC SITES AND OPEN SPACES.

- (1) In the design of each land division, due consideration shall be given to the reservation of suitable sites of adequate area for future schools, parks, playgrounds, drainageways, environmental corridors and other public purposes. If designated on the comprehensive plan, comprehensive plan component, official map or component, neighborhood development plan, if any, such areas shall be made a part of the plat as stipulated in Section 18.11 of this chapter. If not so designated, consideration shall be given in the location of such sites to the preservation of scenic and historic sites, stands of fine trees, marshes, lakes and ponds, watercourses, watersheds and ravines.
- (2) (Ord. #1276 – 5/22/2008) Accordingly, each Subdivider of land in the City shall, at the discretion and direction of the Plan Commission, either dedicate open space lands designated on the City comprehensive plan or plan component or reserve such open space lands and pay a fee or, where no open space lands are directly involved, pay a fee. The Plan Commission shall, at the time of reviewing the preliminary plat, condominium plat, or certified survey map, select one of the following options and record its selection in the minutes of the meeting at which the preliminary plat, condominium plat, or certified survey map is presented for approval (Determinations, at the Plan Commission's discretion, may be made by the City's Park Board and/or Conservation Commission when applicable):
 - (a) Dedication Option. Whenever a proposed playground, park or other public open space land designated on the City's comprehensive plan, neighborhood unit development plan or other comprehensive plan component is encompassed, all or in part, within a tract of land to be subdivided by plat or certified survey map, the public lands shall be made a part of the plat and be dedicated to the public by the Subdivider at the rate of 5% of the total net area of the subdivision for schools and 5% of the total net area for parks and 9.7% of the total net area for open space conservation. (Ord. #1303 - 09/17/2009)
 - (b) Park Fee Option. If the proposed land division does not encompass a proposed public park, parkway, open space conservation site or other open space lands, park dedication fees shall be imposed. (Ord. #1303 - 09/17/2009)
- (1) A park dedication fee shall be imposed on both residential and nonresidential properties and shall be paid to the City Treasurer at the time of the signing and recording of a certified survey map, final condominium plat, or final plat of the subdivision, or part thereof in an amount as from time to time established by resolution of the Common Council to defray the impact the additional development and residences will have on City parks, the City trail system, and the preserving of the City's agricultural, natural and cultural resources within the City's park system. The amount of the fee shall be set by resolution, from year to year and shall be applied on the basis of the total number of newly created residential dwelling units, newly created lots, and per acre of developable land. Such fees collected by the City Treasurer under the provisions of this section shall be placed in two separate nonlapsing special funds for passive and active park improvement purposes. The funds shall be separated as established by resolution of Common Council. The funds shall be separate from the City general fund and such special funds shall be used exclusively for funding the acquisition or initial improvement of land for public parks as per WI State Statute. The improvement of land for public parks means grading,

landscaping, installation of utilities, construction of sidewalks, installation of playground equipment, and construction or installation of restroom facilities on land intended for public park purposes.

REQUIRED IMPROVEMENTS : CONVENTIONAL SUBDIVISIONS

18.50 GENERAL. (Ord. #1257 – 7-12-2007)

All required improvements shall be constructed in accordance with plans and standard specifications approved by the City Public Works Committee, Public Utilities Committee, City Engineer, Wisconsin Department of Natural Resources and Milwaukee Metropolitan Sewerage District, as may be appropriate. Such plans and standard specifications shall be submitted, reviewed and approved in accordance with § 18.72 of this chapter.

- (1) The improving of a dedicated roadway to City specifications must follow the following guidelines: All land divisions which create new public ROW shall be required to improve, within said ROW, a public road to City of Muskego specifications and detail drawings. Should the road end with a permanent cul-de-sac, land must be dedicated per City standards and the road constructed to City of Muskego specifications. Should the road end with a future possible road extension, a temporary cul-de-sac may be constructed with a temporary easement, however, the size must be the same as a permanent cul-de-sac. City of Muskego storm water management requirements must be met should the improvements add more than one half of an acre of impervious surface. All roadway, grading, storm sewer, and stormwater plans must be reviewed by the City of Muskego as required by Municipal Code. The following requirements vary by the size of the parcels being divided:
 - A. Should a land division create parcels with an average size of less than or equal to 40,000 square feet, the road shall be built to City Specifications that include curb & gutter and storm sewer.
 - B. Should a land division create parcels with an average size of greater than 40,000 square feet, the developer may choose to request a Public Works Committee decision regarding the type of improvements required. The only option Public Works Committee will consider other than curb & gutter section is ditch section construction per City of Muskego specifications. Should this option be permitted, the ditch sections shall be maintained by the developer initially and ultimately the homeowners association. Furthermore, these restrictions outlining the responsibility of this maintenance shall be recorded in a Developer's Agreement approved the City's Common Council concurrent with the final land division document.
 - C. Private driveways within newly created public ROW are not allowed under any circumstance.
- (2) Improvements to be Extended to Farthest Limit of Parcel or Lot: Any and all improvements, streets, or utility services required by this Ordinance, for the Subdivision, Certified Survey Map, or Condominium Plat shall be extended to the farthest limit of the parcel or lot as set forth on the plans and specifications approved by the City. If determined by the Plan Commission, based on the information of Engineering staff, that a resulting development will cause increased affects on existing infrastructure, the cost of all reasonably necessary improvements on the exterior of a development, such as expanded roadways, intersections, and/or utility extensions shall be paid by the Developer/Owner.

- (3) Improvements to be Extended to Farthest Affected Area: Any and all improvements, streets, or utility services required by this Ordinance, for the Subdivision, Certified Survey Map, or Condominium Plat shall be extended to the farthest affected area. If determined by the Public Works Committee, Public Utilities Committee, or Planning Commission, based on the information of Engineering staff, that a resulting development will cause increased affects on infrastructure, the cost of all improvements on the exterior of a development, such as expanded roadways, intersections, and/or utility extensions shall be paid by the Developer/Owner.

18.51 SURVEY MONUMENTS.

The Subdivider shall install survey monuments placed in accordance with the requirements of Ch. 236.15, Wis. Stats. , and as may be required by the City Engineer.

18.52 GRADING.

- (1) Cut and filled lands shall be graded in accordance with the approved plans or the soils angle of repose, whichever is the lesser, and an approved cover shall be established within 30 days following completion of grading operations or such additional time period as may be approved by the City Engineer.
- (2) The Subdivider shall grade the full width of the right-of-way of all streets proposed to be dedicated in accordance with plans and standard specifications approved by the City Public Works Committee, Public Utilities Committee and any agency having jurisdiction, including the Wisconsin Department of Natural Resources, upon the recommendation of the City Engineer. The Subdivider shall grade the roadbeds in the street rights-of-way to subgrade.
- (3) Where electric and communication facilities are to be installed underground, the utility easements shall be graded to within 6" of final grade by the Subdivider prior to the installation of such facilities and earth fill, piles or mounds of dirt or construction materials shall not be stored on such easement areas.

18.53 SURFACING.

After the installation of all utility and storm water drainage improvements, the Subdivider shall surface all roadways in streets proposed to be dedicated, to the widths prescribed by these regulations and the adopted Comprehensive Plans or adopted plan components. Such surfacing shall be done in accordance with plans and standard specifications approved by the City Public Works Committee, Public Utilities Committee, upon the recommendation of the City Engineer and adopted by the Common Council or its authorized agents. The second lift of asphalt shall be installed in accordance with policies established from time to time by the Public Works Committee.

18.54 CURB AND GUTTER.

The Common Council may require the Subdivider to construct concrete curb and gutters in accordance with plans and standard specifications approved by the City Public Works Committee, Public Utilities Committee, upon the recommendation of the City Engineer and adopted by the Common Council or its authorized agents. Mountable curbs shall generally be constructed. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts. The cost of installation of all inside curbs and gutters for dual roadway pavements on the established arterial street and highway system for the City shall determined based upon policies established from time to time by the Public Works Committee.

18.55 RECREATION TRAILS AND PEDESTRIANWAYS.

- (1) The Plan Commission and Common Council may require the Subdivider to construct a concrete sidewalk or asphalt off-road path on one side of all frontage streets and on one or both sides of all other streets within the subdivision. The construction of all sidewalks or off road paths shall be in accordance with plans and standard specifications adopted by the Common Council.
- (2) Wider than standard sidewalks or off road paths may be required by the Plan Commission and Common Council in the vicinity of schools, commercial areas and other places of public assemblage where the potential pedestrian density may warrant and the Council may require the construction of sidewalks in locations other than required under the preceding provisions of this chapter, if such walks are necessary in their opinion, for safe and adequate pedestrian circulation.

18.56 SEWAGE DISPOSAL FACILITIES.

When public sanitary sewer facilities are available to the subdivision plat or certified survey map, the Subdivider shall construct sanitary sewerage facilities in such a manner as to make adequate sanitary sewerage service available to each lot within the subdivision. When only private sanitary sewer facilities are available to the subdivision plat or certified survey map, the Subdivider shall follow the rules and restriction of Waukesha County and Comm. 83. In addition:

- (1) All subdivisions and minor land divisions within the adopted sanitary sewer service area shall be provided with public sanitary sewer facilities, unless a waiver is granted by the Public Utilities Committee or Community Development Director in accordance with the procedures of Chapter 21 of the Municipal Code due to insufficient service.
- (2) The Subdivider shall install sewer laterals to the street lot line for all lots.
- (3) The size, type and installation of all sanitary sewers and sanitary sewer laterals proposed to be constructed shall be in accordance with plans and standard specifications adopted by the Common Council.
- (4) The Subdivider shall assume the cost of installing all sanitary sewers, sewer laterals and sewer appurtenance within the proposed subdivision, except for the added cost of installing sewers greater than 8" in diameter which are necessary to serve tributary drainage areas lying outside of the proposed subdivision, unless the over-sizing is required to serve vacant lands owned or controlled by the Subdivider or adjacent landowner. In addition, the Subdivider shall pay to the City a sanitary sewer trunk line connection fee based on the added cost of installing larger sewers in the total tributary drainage area which shall be prorated in proportion to the ratio which the total area of the proposed plat is to the total drainage area to be served by such larger sewers.

18.57 STORM WATER DRAINAGE FACILITIES.

The Subdivider shall construct storm water drainage facilities, adequate to serve the subdivision which shall include, but not be limited to, curbs and gutters, catch basins and inlets, storm sewers, road ditches, open channels, water retention structures, water detention structures, temporary sedimentation basins, and settling basins. All such facilities shall be of adequate size and grade to hydraulically accommodate the maximum potential volumes of flow and shall be so designed as to prevent and control soil erosion and sedimentation and to present no hazard to life or property. All storm water drainage facilities shall be constructed in accordance with Chapter 34 of the Municipal Code.

The Subdivider shall assume the cost of installing all storm sewers within the proposed subdivision or minor land division, except for the added cost of installing storm sewers greater than those which are necessary to serve tributary drainage areas lying outside of the proposed subdivision. In addition, the Subdivider shall pay to the City a storm sewer trunk line connection fee based on the added cost of installing larger sewers in the total tributary drainage area which shall be prorated in proportion to the ratio which the total area of the proposed plat is to the total drainage area to be served by such larger sewers.

Copies of all DNR and U.S. Army Corps of Engineer permits shall be submitted to the City prior to any construction or disturbances of land.

18.58 WATER SUPPLY FACILITIES.

When public water supply and distribution facilities are available to the subdivision plat, the Subdivider shall cause such water supply and distribution facilities to be installed in such a manner as to make adequate water service available to each lot within the subdivision. The Subdivider shall make provision for adequate private water systems as required by the City in accordance with the standards of the Wisconsin Departments of Natural Resources and Health and Social Services. In addition:

- (1) All subdivisions and minor land divisions within the water supply service area of the City shall be provided public water supply and distribution facilities or community well facilities, unless a waiver is granted by the Public Utilities Committee.
- (2) The Subdivider shall install water laterals to the street lot line for all lots.
- (3) Where a community well is approved by the Common Council as a water distribution system for the subdivision, the developer shall require the installation of water meters in accordance with the rules and regulations of the City and the State Plumbing Code. The meter water usage shall be the basis for establishing water rates in the subdivision.
- (4) The size, type and installation of all public or private water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the Common Council.
- (5) The Subdivider shall assume the cost of installing all water mains, water laterals and water system appurtenances within the proposed subdivision except for the added cost of installing water mains greater than 8" in diameter. The added cost of water mains greater than 8" in diameter shall be borne by the City Water Utility.

18.59 OTHER UTILITIES.

- (1) The Subdivider shall cause gas, electrical power, cable television and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision or minor land division. No such electrical, telephone or cable television service shall be located on overhead poles. In addition, plans indicating the proposed location of all such utilities shall be approved by the City Engineer.
- (2) All new electric or communication lines from which lots are individually served shall be installed underground within all newly platted subdivisions or minor land divisions unless the Plan Commission shall find that the lots to be served by such facilities can be served directly from existing overhead facilities. Associated equipment and facilities which are pertinent 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. Any landscape screening

plan required for such above-ground equipment shall be submitted to the affected utilities for approval.

18.60 STREET LAMPS, SIGNS AND TREES.

- (1) **STREET LAMPS AND POLES.** The Subdivider shall pay to the City the cost to install street lamps and lamp poles of a design approved by the City Engineer, at each subdivision street which intersects an arterial or collector and at such interior block spacing as may be required by the Common Council.
- (2) **SIGNS.** The Subdivider shall pay to the City the costs for installing street signs of a design approved by the City Superintendent of Public Works at the intersection of all streets proposed to be dedicated, which signs shall be provided and installed by the City.
- (3) **TREES.**
 - A. On all streets the subdivider shall plant one large street tree for each 50' of frontage, or one small street tree for each 30' of frontage on all streets proposed within and adjacent to the subdivision. All street trees shall be located within an easement dedicated for street tree purposes, outside of the City street right-of-way and within 5' of the front lot line (on the homeowners lot), unless otherwise determined by the Plan Commission on the basis of existing conditions in terms of natural tree coverage. The Community Development Department shall maintain a list of approved street trees for small and large planting areas.
 - B. Street Tree planting shall be completed in accordance with the Plans and Specifications approved by the Plan Commission and/or City Forester, and shall be warranted by Subdivider for twelve (12) months following day of planting and City Forester's initial inspection. Twelve (12) month warranty may begin after the initial day of planting if the City Forester is not notified in advance of the day of planting. In this case, the twelve (12) month warranty begins the day the City Forester is notified the planting has taken place and the initial inspection of that planting has taken place by the City Forester.
 - C. The lot owner shall be responsible for all street tree maintenance following the initial planting and 12 month warranty period required of the Subdivider. The lot owner shall replace any dead or dying trees per the original Plans and Specifications approved by the Plan Commission and/or City Forester at lot owner's full expense.
 - D. Subdivider shall submit a bond or letter of credit in an amount determined by the City Engineer to cover the costs of trees, planting, and maintenance for 12 months following initial planting. The bond or letter of credit shall be in effect for 18 months following initial planting and shall not be reduced or released until all required trees have been inspected by the City and deemed to be in a healthy and flourishing condition. Trees determined by the City to be dead or dying shall be replaced at Subdividers full expense.

18.61 IMPROVEMENT OF EXISTING HALF-STREETS.

Where a subdivision or minor land division abuts an existing street or half-street and lots within the subdivision or minor land division access the existing street or half-street, the Subdivider shall be responsible for installing and paying for half the improvements in the existing street or half-street right-of-way. The City shall be responsible for paying the remaining half of the improvements. The City's responsibility may include conducting special assessments for the benefited properties.

CONSTRUCTION STANDARDS : CONVENTIONAL SUBDIVISIONS

18.70 COMMENCEMENT.

No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat or certified survey map has been approved by the Common Council and approving authorities having jurisdiction have given written authorization. No preconstruction meeting shall be scheduled or held until all permits required by the DNR, MMSD, U.S. ACOE, Waukesha County or other such agency have been received by the City and City Engineer. Inspection fees shall be required to be filed as specified in §18.14 of this chapter.

18.71 BUILDING PERMITS.

- (1) **PERMITS REQUIRED.** No building shall be constructed prior to the issuance of the necessary zoning, building and sanitary permits. No building, zoning, sanitary or other permits shall be issued for erection of a structure on any lot not of record until all the requirements of this chapter have been met.
- (2) **INSPECTIONS.** City staff shall have access to premises and structures during reasonable hours to make those inspections deemed necessary to ensure compliance with this chapter. If, however, he is refused entry after presentation of identification, he shall procure a special inspection warrant under §963.10, Wis. Stats., except in cases of emergency, when he shall have the immediate right of entry.

18.72 IMPROVEMENT PLAN APPROVAL PROCEDURE.

The following procedure shall be followed for all subdivision construction/ improvement plans and submittal of revised plans:

- (1) Five copies of each plan shall be submitted to the Community Development Department for distribution to the City Engineer, Public Works Department, Utility Department, Community Development Department and the City Engineering consultant (if applicable). The site grading and erosion control plan shall be forwarded to the City Engineer and/or the City Engineering consultant (if applicable). The deadline for submittal shall be established from time to time by policy of the Public Works Committee.
- (2) In no case will plans be accepted without a developer's deposit.
- (3) In no case will plans be accepted or reviewed by the City Engineer, Public Works Department, Utility Department, Community Development Department or any City committee without first being processed through the Community Development Department.
- (4) In no case will plans be accepted unless all improvement plans are included with the submittal. Plans will not be reviewed on a piecemeal basis. The submittal shall include: grading plans, drainage plan, public improvement plans (including streets, sanitary sewer, storm sewer, water and other utilities), landscape plan and erosion control plan. An individual plan may be submitted if it is one of the total set of plans and is being submitted as a revised plan wherein the remaining plans have been previously approved.
- (5) Any preliminary meeting between the City Engineer and the developer shall have prior authorization of the City and there may be a fee for such meeting, depending on the scope and length of the meeting.
- (6) There will no longer be a review of so-called "prefinal" or "preliminary" construction plans for review by only the City Engineer. Preliminary plan submittal shall be

transmitted via the Community Development Department to all City reviewers for their comments in accordance with the above. These preliminary comments shall be sent to the Community Development Department prior to transmittal to the applicant. Multiple reviews may be necessary and all comments from the reviewers shall be forwarded to the Community Development Department with copies to the applicant. The Community Development Department shall be the coordinator of plan review.

- (7) Each copy of the plans shall have a drawing and/or revision date in order for it to be accepted and routed for review.
- (8) The Community Development Department will transmit the full set of "final" construction/improvement plans to the City Engineer. The City Engineer will transmit to the outside approving agencies. Once the review is complete, the Director will schedule the plans for review by the appropriate committee (Utilities, Public Works, Finance) if and only if a letter of approval by the City Engineer is received. (Ord. #1244 – 02/01/2007)
- (9) It will be the applicant's responsibility to contact the City, to confirm the date, time and location of the respective committee meeting. (Ord.#1244 – 02/01/2007)
- (10) Once the City committees and outside approving agencies provide written approval, the applicant may schedule a preconstruction meeting through the Community Development Department. (Ord. #1244 – 02-01-2007)

18.73 REQUIRED PLANS.

The following plans and accompanying construction specifications shall be provided by the Subdivider and reviewed and approved by the Public Works Committee, Public Utility Committee, Department of Natural Resources, Milwaukee Metropolitan Sewerage District and the City Engineer before construction or installation of improvements is authorized:

- (1) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- (2) Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
- (3) Stormwater management plans, calculations and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
- (4) Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
- (5) Erosion and sedimentation control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation. The time span soil will be exposed and plans to protect existing vegetation (fences, tree wells, etc.) shall be prepared and such plans shall generally follow the guidelines and standards set forth in the publication, U.S. Soil Conservation Service Technical Guide, adopted by the Waukesha County Land Conservation Committee, as amended.
- (6) Master site grading plan showing the finished grades of each lot in the subdivision.
- (7) Planting plans showing the locations, age, caliper and species of any required grasses, vines, shrubs and trees.
- (8) Additional special plans or information as required.

18.74 INSPECTION.

The Subdivider, prior to commencing any work within the subdivision, shall make arrangements for a preconstruction meeting conducted by the City Engineer where all details regarding the installation of the required improvements shall be presented and reviewed and shall include provisions for engineering inspection services. All engineering inspections shall be made by the City Engineer or his designee. The approving authorities or their representatives and the City Engineer or his designee shall inspect and recommend for approval all completed work prior to release of the sureties and acceptance of dedicated subdivision improvements.

18.75 AS-BUILT PLANS REQUIRED.

Within 30 days following the completion and acceptance by the City Engineer of all improvements, the Subdivider shall provide a duplicate reproducible copy of all improvement plans. Sanitary Sewer, Storm Sewer and water as-builts shall be prepared by the City Engineer at the Subdivider's expense, including any costs necessary to update the City's Geographic Information System.

18.76 EROSION CONTROL.

- (1) **REQUIRED.** The Subdivider shall cause all grading, excavations, open cuts, side slopes and other land surface disturbances to be so mulched, seeded, sodded or otherwise protected that erosion, siltation, sedimentation and washing are prevented in accordance with plans and specifications approved by the City Engineer under Chapter 29 of the Municipal Code.
- (2) **SHORELAND PLANTING AND SEDIMENT CONTROL.** The Subdivider shall plant those grasses, trees, shrubs and vines of a species and size native to Wisconsin and specified by the Common Council necessary to prevent soil erosion and protect stream and lake banks. In addition:
 - (a) The City Engineer may require the Subdivider to provide or install certain protection and rehabilitation measures, such as fencing, sloping, seeding, rip-rap, revetments, jetties, clearing, dredging, snagging, drop structures, brush mats, willow poles and grade stabilization structures.
 - (b) Tree cutting and shrubbery clearing shall not exceed 50% of the lot or tract and shall be so conducted as to prevent erosion and sedimentation; preserve and improve scenic qualities; and, during foliage, substantially screen any development from stream or lake users. (See sub. (1) of this section).
 - (c) Paths and trails in wooded and wetland areas shall not exceed 10' in width unless otherwise approved by the City Plan Commission, and shall be so designed and constructed as to result in the least removal and disruption of trees and shrubs. If a gravel path is warranted, it shall be covered and maintained with a wood chip surface.
 - (d) Earth moving, such as grading, topsoil removal, mineral extraction, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channel, clearing, ditching, drain tile laying, dredging, and lagooning, shall be so conducted as to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen, and topography, (See §18.75 and sub. (1) of this section).
 - (e) Review of the conduct of such cutting, clearing and moving may be requested of the Waukesha County Land Conservation Committee, the State District Fish and Game

Managers and the State District Forester by the City Erosion Control Inspector or City Plan Commission as they deem appropriate.

- (3) **EXISTING FEATURES.** The Subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths and trails. Trees are to be protected and preserved during construction in accord with sound conservation practices, including preservation of trees by well islands, temporary fencing or retaining walls whenever abutting grades are altered. In addition:
- (a) Temporary vegetation and mulching shall be used to protect critical areas and permanent vegetation shall be installed as soon as practical.
 - (b) Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.
 - (c) Sediment basins shall be Installed and maintained at all drainageways to trap, remove and prevent sediment and debris from being washed outside the area being developed.
 - (d) Temporary silt fencing may be required to be used to fence off high environmental quality areas such as wetlands.

DESIGN STANDARDS : CONSERVATION SUBDIVISIONS

18.80 LAND SUITABILITY. No land shall be developed which is held to be unsuitable for any proposed use if identified as being environmentally sensitive. Areas identified as being environmentally sensitive include, but are not limited to:

1. All areas mapped as Floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources, or other public or private entity.
2. All wetlands as defined in NR 103.02(5) of the Wisconsin Administrative Code, including any applicable DNR wetland setbacks/offsets. Also, the City of Muskego's Wetland Protection Offsets identified in the Zoning Code to serve as a protection buffer. (Ord. #1290 04-23-2009)
3. All areas within (50) feet of the ordinary high- water mark of navigable streams and lakes, as identified by the Community Development Director or his designee.
4. All areas having slopes greater than twelve (12) percent.
5. Areas that are known to provide habitat for rare, threatened or endangered species.
6. Burial sites and Indian mounds.
7. Drainage ways that contain running water during spring runoff, during storm events or when it rains. A twenty-five (25) foot buffer from the edge of the drainage way shall be included. Areas determined to be environmentally sensitive may be included as common open space in a Conservation Subdivision but shall not be included in the development yield analysis. These lands shall be identified as an outlot or other designation that indicates the land is not available for development.

18.81 DEVELOPMENT YIELD. The number of residential units for a parcel shall be determined in accordance with the following:

1. The development yield analysis in section 18:31(3)(1) shall establish the base development yield for the parcel.
The base development density may be increased at Planning Commission and Common Council discretion that the overall layout fits with the proposed theme and spirit of the ordinance, to the allowed number of bonus parcels per Sub. 2 below, if the development demonstrates it is adequately applying some of some of the following guidelines in some way. Reasons for allowing any bonus parcels shall be stipulated in City approving resolutions/ordinances, as bonus lots are not guaranteed.
 - i. Providing for access by the general public to trails, parks, or other recreational facilities.
 - ii. When practical, reusing existing buildings and structures which incorporate rural or agrarian themes, including but not limited to those sites inventoried by the State Historical Society of Wisconsin.
 - iii. Preservation of Environmental features identified in the adopted Conservation Plan and any other significant environmental features found in the platted area. Preservation may include a minimum 50-75 foot setback from the environmental features identified.
 - iv. Restores native prairie and provides a management plan for perpetual maintenance.
 - v. Improves water quality through stormwater management standards and practices, that exceed the minimum standards of Chapter 34 of the Municipal Code, and, as approved by the City Engineer and the Public Works Committee.
 - vi. Restores or enhances the functional classification of wetlands using techniques approved by the USDA-NRCS, Wisconsin Department of Natural Resources, or the Conservation Coordinator. Enhancement techniques may be performed by third parties (i.e. City, DNR, etc.).

- vii. Provides more than the required 50% of the gross acreage as open space in the development (Rights-of-way shall not count towards open space requirements. Stormwater outlots may count towards open space requirements, subject to Planning Commission discretion/approval, when they are subject to deed restrictions, easements or open space management plans.).
- viii. Provides for preserving larger tracts of agricultural workable land in perpetuity and provides a management plan for perpetual maintenance.
- ix. As opposed to wetlands or other non-buildable areas; Open, buildable land may be counted as more meaningful preservation for purposes of awarding bonus lots.

2. For parcels less than forty (40) acres in area, the maximum bonus permitted is four (4) parcels. For parcels between forty (40) and eighty (80) acres in area, the maximum bonus permitted is five (5) parcels. For parcels eighty (80) acres or greater in area, the maximum bonus permitted is six (6) parcels. All development yield bonuses shall be calculated to the nearest one-hundredth. In cases where the total combined development yield bonus results in a fraction, all such fractions shall be rounded up to the next whole number. All parcels shown in a developer's yield analysis must demonstrate that each parcel could actually be developed on the site proposed. Thus, each yield parcel must show that adequate water, sewer, stormwater management, and buildable area are present and attainable to the Planning Commission.

3. The base development density for an EA Exclusive Agriculture or A Agricultural zoned lot is based upon a rate of at least 120,000 square feet per lot (300 feet in width). The base development density for any other piece of land is based on the existing minimum zoning requirements OR the minimum Comprehensive Plan density requirements, whichever is stricter. All parcels shown in a developer's yield analysis must demonstrate that each parcel could actually be developed on the site proposed. Thus, each yield parcel must show that adequate water, sewer, stormwater management, and buildable area are present and attainable to the Planning Commission.

18.82 PERFORMANCE STANDARDS.

1. **General Consideration.** The Plan Commission shall have the ability to specify which areas shall be preserved.
2. **Agricultural Use.** If agricultural uses are proposed to be maintained, lots shall be configured in a manner that maximizes the useable area remaining for such agricultural uses, with appropriate buffers between agricultural uses and residential structures.
3. **Residential Lot Requirements.** Residential parcels located within Conservation Subdivisions shall conform to the CPD - Conservation Planned District zoning regulations respectively, and the following:
 - a) Lots shall be in conformance with the design standards identified in Section 18.42 (1), 18:42 (2), 18:42 (3), and 18.42 (8).
 - b) All lots and dwellings shall be grouped into clusters of no more than twenty (20) dwelling units. Said clusters shall:
 - i. Be located to minimize negative impacts on the natural, scenic, and cultural resources of the site, and minimize conflicts between incompatible uses.

- ii. Avoid encroaching on rare plant communities, high quality environmental resources, or endangered resources as may be identified by the Wisconsin Department of Natural Resources.
- c) Lots shall be configured to minimize the amount of road length required for the subdivision.
- d) Lots shall be configured away from wetlands to minimize the amount of possible runoff and impacts on these environmental lands.
- e) All lots shall abut open space on at least one side. A minor street may separate lots from said open space.
- f) Lots shall be oriented around one or more of the following:
 - i. A central green or open space.
 - ii. A physical amenity such as a meadow, stand of trees, or other natural or restored feature.

4. Open Space Standards. Open space shall be designated as part of the development.

- i. The minimum required open space is 50% of the gross acreage. Rights-of-way shall not count towards open space requirements. Stormwater outlots may count towards open space requirements, subject to Planning Commission approval, when they are subject to deed restrictions, easements, or open space management plans).
- ii. All open space shall be owned and maintained under one of the alternatives listed in 18:82(6), and as approved by the City.
- iii. The uses within the open space shall be accessible to the residents of the development. These uses may also be available to the general public providing the proper approvals are received. The required open space shall be undivided and restricted in perpetuity from future development, as specified in Section 18:82(5).
- iv. That portion of open space designed to provide plant and animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
- v. Accessible open space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archeological sites.
- vi. A pathway system connecting open space areas accessible to neighborhood residents, and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall be identified in the plan.
- vii. The following areas or structures may be located within the open space area and shall be counted toward the overall open space percentage required:
 - i. Parking areas for access to and use of the open space developed at a scale limited to the potential users of the open space.
 - ii. Privately- held buildings or structures provided they are accessory to the use of the open space.
 - iii. Shared septic systems and shared water systems.

5. Ownership and Maintenance of Common Areas. *The designated common open space and common facilities may be owned and managed by one or a combination of the following below. It should be noted that common areas may be mandated as per Section 18.46 of this code.*

- a. An incorporated homeowners' association. Membership in the association is mandatory for all purchasers of homes in the development and their successors. The homeowners' association bylaws, guaranteeing continuing maintenance of

the open space and other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners association shall be submitted for approval to the City as part of the information required for the preliminary plat.

- b. A condominium association established in accordance with the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes. If the common open space and facilities is to be held under the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes, the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the common open space. All common open space shall be held as a “common element” as defined in section 703.01(2) of the Wisconsin Statutes.
- c. A nonprofit conservation organization. If the common open space is to be held by a nonprofit conservation organization, the organization must be acceptable to the City of Muskego. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.
- d. The City of Muskego or another governmental body empowered to hold an interest in real property. The City may accept the common open space provided the common open space is accessible to the public and provided the City agrees to and has access to maintain the common open space.
- e. An individual who will use the land for open space purposes as provided by a conservation easement.

6. **Streets**

1. Right of Way widths and design standards shall be in conformance with design standards identified in Section 18:40(3) and 18:40 (4).

18.90 REQUIRED IMPROVEMENTS : CONSERVATION SUBDIVISIONS

18.90 GENERAL. (Ord. #1257 – 07-12-2007)

All required improvements shall be constructed in accordance with plans and standard specifications approved by the City Public Works Committee, Public Utilities Committee, City Engineer, Wisconsin Department of Natural Resources and Milwaukee Metropolitan Sewerage District, as may be appropriate. Such plans and standard specifications shall be submitted, reviewed and approved in accordance with § 18.102 of this chapter.

- (1) The improving of a dedicated roadway to City specifications must follow the following guidelines: All land divisions which create new public ROW shall be required to improve, within said ROW, a public road to City of Muskego specifications and detail drawings. Should the road end with a permanent cul-de-sac, land must be dedicated per City standards and the road constructed to City of Muskego specifications. Should the road end with a future possible road extension, a temporary cul-de-sac may be constructed with a temporary easement, however, the size must be the same as a permanent cul-de-sac. City of Muskego storm water management requirements must be met should the improvements add more than one half of an acre of impervious surface. All roadway, grading, storm sewer, and stormwater plans must be reviewed by the City of Muskego as required by Municipal Code. The following requirements vary by the size of the parcels being divided:
 - a. Should a land division create parcels with an average size of less than or equal to 40,000 square feet, the road shall be built to City Specifications that include curb & gutter and storm sewer.
 - b. Should a land division create parcels with an average size of greater than 40,000 square feet, the developer may choose to request a Public Works Committee decision regarding the type of improvements required. The only option Public Works Committee will consider other than curb & gutter section is ditch section construction per City of Muskego specifications. Should this option be permitted, the ditch sections shall be maintained by the developer initially and ultimately the homeowners association. Furthermore, these restrictions outlining the responsibility of this maintenance shall be recorded in a Developer's Agreement approved the City's Common Council concurrent with the final land division document.
 - c. Private driveways within newly created public ROW are not allowed under any circumstance.
- (2) Improvements to be Extended to Farthest Limit of Parcel or Lot: Any and all improvements, streets, or utility services required by this Ordinance, for the Subdivision, Certified Survey Map, or Condominium Plat shall be extended to the farthest limit of the parcel or lot as set forth on the plans and specifications approved by the City. If determined by the Plan Commission, based on the information of Engineering staff, that a resulting development will cause increased affects on existing infrastructure, the cost of all reasonably necessary improvements on the exterior of a development, such as expanded roadways, intersections, and/or utility extensions shall be paid by the Developer/Owner.

- (3) Improvements to be Extended to Farthest Affected Area: Any and all improvements, streets, or utility services required by this Ordinance, for the Subdivision, Certified Survey Map, or Condominium Plat shall be extended to the farthest affected area. If determined by the Public Works Committee, Public Utilities Committee, or Planning Commission, based on the information of Engineering staff, that a resulting development will cause increased affects on infrastructure, the cost of all improvements on the exterior of a development, such as expanded roadways, intersections, and/or utility extensions shall be paid by the Developer/Owner.

18.91 SURVEY MONUMENTS.

The Subdivider shall install survey monuments placed in accordance with the requirements of Ch. 236.15, Wis. Stats., and as may be required by the City Engineer.

18.92 GRADING.

- (1) Cut and filled lands shall be graded in accordance with the approved plans or the soils angle of repose, whichever is the lesser, and an approved cover shall be established within 30 days following completion of grading operations or such additional time period as may be approved by the City Engineer.
- (2) The Subdivider shall grade the development pads and full width of the right-of-way of all streets proposed to be dedicated in accordance with plans and standard specifications approved by the City Public Works Committee, Public Utilities Committee and any agency having jurisdiction, including the Wisconsin Department of Natural Resources, upon the recommendation of the City Engineer. The Subdivider shall grade the roadbeds in the street rights-of-way to subgrade.
- (3) Where electric and communication facilities are to be installed underground, the utility easements shall be graded to within 6" of final grade by the Subdivider prior to the installation of such facilities and earth fill, piles or mounds of dirt or construction materials shall not be stored on such easement areas.

18.93 SURFACING.

After the installation of all utility and storm water drainage improvements, the Subdivider shall surface all roadways in streets proposed to be dedicated, to the widths prescribed by these regulations and the adopted Comprehensive Plan or adopted plan components. Such surfacing shall be done in accordance with plans and standard specifications approved by the City Public Works Committee, Public Utilities Committee, upon the recommendation of the City Engineer and adopted by the Common Council or its authorized agents. The second lift of asphalt shall be installed in accordance with policies established from time to time by the Public Works Committee.

18.94 CURB AND GUTTER.

The Common Council may require the Subdivider to construct concrete curb and gutters in accordance with plans and standard specifications approved by the City Public Works Committee, Public Utilities Committee, upon the recommendation of the City Engineer and adopted by the Common Council or its authorized agents. Mountable curbs shall generally be constructed.

18.95 RECREATION TRAILS AND PEDESTRIANWAYS.

- (1) The Plan Commission and Common Council may require the Subdivider to construct a concrete sidewalk or asphalt off-road path on one side of all frontage streets and on one or both sides of all other streets within the subdivision. The construction of all sidewalks and paths shall be in accordance with plans and standard specifications adopted by the Common Council.
- (2) Wider than standard sidewalks or paths may be required by the Plan Commission and Common Council in the vicinity of schools, commercial areas and other places of public assemblage where the potential pedestrian density may warrant and the Council may require the construction of sidewalks in locations other than required under the preceding provisions of this chapter, if such walks are necessary in their opinion, for safe and adequate pedestrian circulation.

18.96 SEWAGE DISPOSAL FACILITIES.

When private sanitary sewer facilities are proposed to serve a Conservation Subdivision, such facilities may be located on the individual parcel serviced by the facility, or may be located within common open space areas subject to recording proper easements for use and maintenance.

When public sanitary sewer facilities are available to the Conservation Subdivision, the Subdivider shall construct sanitary sewerage facilities in such a manner as to make adequate sanitary sewerage service available to each lot within the subdivision. In addition:

- (1) All subdivisions within the adopted sanitary sewer service area shall be provided with public sanitary sewer facilities, unless a waiver has been granted by the Public Utilities Committee in accordance with Chapter 21 of the Municipal Code.
- (2) The Subdivider shall install sewer laterals to the street lot line for all lots.
- (3) The size, type and installation of all sanitary sewers and sanitary sewer laterals proposed to be constructed shall be in accordance with plans and standard specifications adopted by the Common Council.
- (4) The Subdivider shall assume the cost of installing all sanitary sewers, sewer laterals and sewer appurtenance within the proposed subdivision, except for the added cost of installing sewers greater than 8" in diameter which are necessary to serve tributary drainage areas lying outside of the proposed subdivision, unless the over-sizing is required to serve vacant lands owned or controlled by the Subdivider or adjacent landowner. In addition, the Subdivider shall pay to the City a sanitary sewer trunk line connection fee based on the added cost of installing larger sewers in the total tributary drainage area which shall be prorated in proportion to the ratio which the total area of the proposed plat is to the total drainage area to be served by such larger sewers.

18.97 STORM WATER DRAINAGE FACILITIES.

The Subdivider shall construct storm water drainage facilities, adequate to serve the subdivision which shall include, but not be limited to, curbs and gutters, catch basins and inlets, storm sewers, road ditches, open channels, water retention structures, water detention structures, temporary sedimentation basins, and settling basins. All such facilities shall be of adequate size and grade to hydraulically accommodate the maximum potential volumes of flow and shall be so designed as to prevent and control soil erosion and sedimentation and to present no hazard to life or property. All storm water drainage facilities shall be constructed in accordance with Chapter 34 of the Municipal Code

The Subdivider shall assume the cost of installing all storm sewers within the proposed subdivision, except for the added cost of installing storm sewers greater than those which are necessary to serve tributary drainage areas lying outside of the proposed subdivision. In addition, the Subdivider shall pay to the City a storm sewer trunk line connection fee based on the added cost of installing larger sewers in the total tributary drainage area which shall be prorated in proportion to the ratio which the total area of the proposed plat is to the total drainage area to be served by such larger sewers.

Copies of all DNR and U.S. Army Corps of Engineer permits shall be submitted to the City prior to any construction or disturbances of land.

18.98 WATER SUPPLY FACILITIES.

When private water supply and distribution facilities are proposed to serve a Conservation Subdivision, such facilities may be located on the individual parcel serviced by the facility, or may be located within common open space areas subject to recording proper easements for use and maintenance.

When public water supply and distribution facilities are available to the Conservation Subdivision, the Subdivider shall cause such water supply and distribution facilities to be installed in such a manner as to make adequate water service available to each lot within the subdivision. The Subdivider shall make provision for adequate private water systems as required by the City in accordance with the standards of the Wisconsin Departments of Natural Resources and Health and Social Services. In addition:

- (1) All subdivisions within the water supply service area of the City shall be provided public water supply and distribution facilities or community well facilities.
- (2) The Subdivider shall install water laterals to the street lot line for all lots.
- (3) Where a community well is approved by the Common Council as a water distribution system for the subdivision, the developer shall require the installation of water meters in accordance with the rules and regulations of the City and the State Plumbing Code. The meter water usage shall be the basis for establishing water rates in the subdivision.
- (4) The size, type and installation of all public or private water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the Common Council.
- (5) The Subdivider shall assume the cost of installing all water mains, water laterals and water system appurtenances within the proposed subdivision except for the added cost of installing water mains greater than 8" in diameter. The added cost of water mains greater than 8" in diameter shall be borne by the City Water Utility.

18.99 OTHER IMPROVEMENTS.

- (1) The Subdivider shall cause gas, electrical power, cable television and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision. No such electrical, telephone or cable television service shall be located on overhead poles. In addition, plans indicating the proposed location of all such utilities shall be approved by the City Engineer.
- (2) All new electric or communication lines from which lots are individually served shall be installed underground within all newly platted subdivisions unless the Plan Commission shall find that the lots to be served by such facilities can be served directly from existing overhead facilities. Associated equipment and facilities which are pertinent 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. Any landscape screening plan required for such above-ground equipment shall be submitted to the affected utilities for approval.

- (3) **STREET LAMPS AND POLES.** The Subdivider shall pay to the City the cost to install street lamps and lamp poles of a design approved by the City Engineer, at each subdivision street which intersects an arterial or collector and at such interior block spacing as may be required by the Common Council.
- (4) **SIGNS.** The Subdivider shall pay to the City the costs for installing street signs of a design approved by the City Superintendent of Public Works at the intersection of all streets proposed to be dedicated, which signs shall be provided and installed by the City.
- (5) **TREES.** The Subdivider shall plant Street Trees in accordance with the requirements of Chapter 37 of the Municipal Code.
- (6) **IMPROVEMENT TO EXISTING HALF-STREETS.** Where a Conservation Subdivision abuts an existing street or half-street and lots within the subdivision or minor land division access the existing street or half-street, the Subdivider shall be responsible for installing and paying for half the improvements in the existing street or half-street right-of-way. The City shall be responsible for paying the remaining half of the improvements. The City's responsibility may include conducting special assessments for the benefited properties.

CONSTRUCTION STANDARDS : CONSERVATION SUBDIVISIONS

18.100 COMMENCEMENT.

No construction or installation of improvements shall commence in a proposed Conservation Subdivision until the preliminary plat, construction plans, Developer's Agreement, and sureties (Letter of Credit or bond) has been approved by the Common Council and approving authorities having jurisdiction have given written authorization. No preconstruction meeting shall be scheduled or held until all permits required by the DNR, MMSD, U.S. ACOE, Waukesha County Environmental Services Department or other such agency have been received by the City and City Engineer. Inspection fees shall be required to be filed as specified in §18.14 of this chapter.

18.101 BUILDING PERMITS.

- (1) **PERMITS REQUIRED.** No building shall be constructed prior to the issuance of the necessary zoning, building and sanitary permits. No building, zoning, sanitary or other permits shall be issued for erection of a structure on any lot not of record until all the requirements of this chapter have been met.
- (2) **INSPECTIONS.** City staff shall have access to premises and structures during reasonable hours to make those inspections deemed necessary to ensure compliance with this chapter. If, however, the inspector is refused entry after presentation of identification, he shall procure a special inspection warrant under §963.10, Wis. Stats., except in cases of emergency, when he shall have the immediate right of entry.

18.102 IMPROVEMENT PLAN APPROVAL PROCEDURE.

The following procedure shall be followed for all Conservation Subdivision construction/improvement plans and submittal of revised plans:

- (1) Five copies of each plan shall be submitted to the Community Development Department for distribution to the City Engineer, Public Works Department, Utility Department, Community Development Department and the Mayor's Office. The site grading and erosion control plan shall be forwarded to the City Engineer. The deadline for submittal shall be established by policy of the Public Works Committee.
- (2) In no case will plans be accepted without a developer's deposit.
- (3) In no case will plans be accepted or reviewed by the City Engineer, Public Works Department, Utility Department, Community Development Department or any City committee without first being processed through the Community Development Department.
- (4) In no case will plans be accepted unless all improvement plans are included with the submittal. Plans will not be reviewed on a piecemeal basis. The submittal shall include: grading plans, drainage plan, public improvement plans (including streets, sanitary sewer, storm sewer, water and other utilities), landscape plan and erosion control plan. An individual plan may be submitted if it is one of the total set of plans and is being submitted as a revised plan wherein the remaining plans have been previously approved.
- (5) There will no longer be a review of so-called "prefinal" or "preliminary" construction plans for review by only the City Engineer. Preliminary plan submittal shall be transmitted via the Community Development Department to all City reviewers for their comments in accordance with the above. These preliminary comments shall be sent to the Community Development Department prior to transmittal to the applicant. Multiple reviews may be necessary and all comments from the reviewers shall be forwarded to the

Community Development Department with copies to the applicant. The Community Development Department shall be the coordinator of plan review.

- (6) Each copy of the plans shall have a drawing and/or revision date in order for it to be accepted and routed for review.
- (7) The Community Development Department will transmit the full set of "final" construction/improvement plans to the City Engineer. The City Engineer will transmit to the outside approving agencies. Once the review is complete, the Director will schedule the plans for review by the appropriate committee (Utilities, Public Works, Finance) if and only if a letter of approval by the City Engineer is received. (Ord. #1244 – 02-01-2007)
- (8) It will be the applicant's responsibility to contact the City, to confirm the date, time and location of the respective committee meeting. (Ord. #1244 – 02-01-2007)
- (9) Once the City committees and outside approving agencies provide written approval, the applicant may schedule a preconstruction meeting through the Community Development Department. (Ord. #1244 – 02/01/2007)

18.103 REQUIRED PLANS.

The following plans and accompanying construction specifications shall be provided by the Subdivider and reviewed and approved by the Public Works Committee, Public Utility Committee, Department of Natural Resources, Milwaukee Metropolitan Sewerage District and the City Engineer before construction or installation of improvements is authorized:

- (1) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- (2) Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
- (3) Stormwater management plans, calculations and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
- (4) Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
- (5) Erosion and sedimentation control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will minimize erosion and sedimentation. The time span soil will be exposed and plans to protect existing vegetation (fences, tree wells, etc.) shall be prepared and such plans shall generally follow the guidelines and standards set forth in the publication, U.S. Soil Conservation Service Technical Guide, adopted by the Waukesha County Land Conservation Committee, as amended.
- (6) Master site grading plan showing the finished grades of each lot in the subdivision.
- (7) Planting plans showing the locations, age, caliper and species of any required grasses, vines, shrubs and trees.
- (8) Additional special plans or information as required.

18.104 INSPECTION.

The Subdivider, prior to commencing any work within the subdivision, shall make arrangements for a preconstruction meeting conducted by the City Engineer where all details regarding the installation of the required improvements shall be presented and reviewed and shall include provisions for engineering inspection services. All engineering inspections shall be made by the

City Engineer or his designee. The approving authorities or their representatives and the City Engineer or his designee shall inspect and recommend for approval all completed work prior to release of the sureties and acceptance of dedicated subdivision improvements.

18.105 AS-BUILT PLANS REQUIRED.

Within 30 days following the completion and acceptance by the City Engineer of all improvements, the Subdivider shall provide a duplicate reproducible copy of all improvement plans. Sewer and water as-builts shall be prepared by the City Engineer at the Subdivider's expense, including any cost necessary to update the City's Geographic Information System (GIS).

18.106 EROSION CONTROL.

1. **REQUIRED.** The Subdivider shall cause all grading, excavations, open cuts, side slopes and other land surface disturbances to be so mulched, seeded, sodded or otherwise protected that erosion, siltation, sedimentation and washing are prevented in accordance with plans and specifications approved by the City Engineer under Ch. 29 of this Municipal Code.
2. **SHORELAND PLANTING AND SEDIMENT CONTROL.** The Subdivider shall plant those grasses, trees, shrubs and vines of a species and size native to Wisconsin and specified by the Common Council necessary to prevent soil erosion and protect stream and lake banks. In addition:
 - (a) The City Engineer may require the Subdivider to provide or install certain protection and rehabilitation measures, such as fencing, sloping, seeding, rip-rap, revetments, jetties, clearing, dredging, snagging, drop structures, brush mats, willow poles and grade stabilization structures.
 - (b) Tree cutting and shrubbery clearing shall not exceed 50% of the lot or tract and shall be so conducted as to prevent erosion and sedimentation; preserve and improve scenic qualities; and, during foliage, substantially screen any development from stream or lake users. (See sub. (1) of this section).
 - (c) Paths and trails in wooded and wetland areas shall not exceed 10' in width unless otherwise approved by the City Plan Commission, and shall be so designed and constructed as to result in the least removal and disruption of trees and shrubs. If a gravel path is warranted, it shall be covered and maintained with a wood chip surface.
 - (d) Earth moving, such as grading, topsoil removal, mineral extraction, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channel, clearing, ditching, drain tile laying, dredging, and lagooning, shall be so conducted as to prevent erosion and sedimentation and to least disturb the natural fauna, flora, watercourse, water regimen, and topography, (See §18.75 and sub. (1) of this section).
 - (e) Review of the conduct of such cutting, clearing and moving may be requested of the Waukesha County Land Conservation Committee, the State District Fish and Game Managers and the State District Forester by the City Erosion Control Inspector or City Plan Commission as they deem appropriate.
3. **EXISTING FEATURES.** The Subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths and trails. Trees are to be protected and preserved during construction in

accord with sound conservation practices, including preservation of trees by well islands, temporary fencing or retaining walls whenever abutting grades are altered. In addition:

- (a) Temporary vegetation and mulching shall be used to protect critical areas and permanent vegetation shall be installed as soon as practical.
- (b) Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.
- (c) Sediment basins shall be installed and maintained at all drainageways to trap, remove and prevent sediment and debris from being washed outside the area being developed.
- (d) Temporary silt fencing may be required, as directed by the City Engineer, to be used to fence off high environmental quality areas such as wetlands.

INDEX

A

ABROGATION AND GREATER RESTRICTIONS	2
ACCESS	
Lot.....	49
ACREAGE, GROSS	3
ACREAGE, NET	3
ADVANCE REIMBURSEMENT	16
ADVISORY AGENCY	3
ALLEY	3
APPEALS	11
AREA AND DIMENSIONS	
Lot.....	49
Arterial street and highway protection	44
Arterial streets	44
AS-BUILT PLANS	59, 71
AUTHORITY	2

B

BEDROCK Shallow	19
BLOCK	3
BLOCKS	48
Length of.....	48
Bridges	47
BUILDING	3
BUILDING LINE	3
BUILDING PERMITS	57, 69
BUILDING SETBACK LINES	50

C

Cemetery plats	13
CERTIFIED SURVEY MAP	3
Minor land division.....	38
CERTIFIED SURVEY MAP REVIEW	11
CERTIFIED SURVEY MAP SUBMITTAL REQUIREMENTS	38
CERTIFIED SURVEY MAPS	42
COMMUNITY DEVELOPMENT DIRECTOR	3, 10
Collector streets	44
Common Council Action	34
COMMON COUNCIL APPROVAL	42
COMMUNITY	4
COMPLIANCE	13
COMPREHENSIVE PLAN	4
CONDOMINIUM	4
CONDOMINIUM PLATS	43
CONSERVATION EASEMENT	4
CONTRACT APPROVALS	16

CORNER LOTS	50
Covenants	26
Cul-de-Sac Streets	46
Culverts	47
CURB AND GUTTER	53, 65

D

DATCP	22
DEDICATION AND RESERVATION OF LANDS	14
Dedication of Site Option.	51
DEFINITIONS	3
Delineation of all wetlands	36
Developer's Deposit	11
DEVELOPMENT PAD	4
DEVELOPMENT YIELD	61
DOUBLE FRONTAGE	
Lots	49
DRAINAGE TO BE MAINTAINED	10
Duplicate Plat Required	38
DWELLING UNIT	4

E

Earth moving	59, 71
Easements	27
DRAINAGE	50
EASEMENTS	50
Utility	50
ENVIRONMENTAL CORRIDOR	4
EROSION CONTROL	59, 71
EXISTING FLORA	60, 71
Existing Rural Right-of-Way	46
EXISTING SUBSTANDARD LOTS	16
EXTRATERRITORIAL PLAT	4
EXTRATERRITORIAL PLATS	42

F

FEES	11
FILL	5
FILL MATERIALS	19
FINAL PLAT	5, 32
FINANCIAL GUARANTEE	5
FLOODLANDS	5
Floodplain limits	36
FRONTAGE (LOT)	5

G

GRADING	53, 65
----------------------	---------------

GROUNDWATER

Shallow 19

GROUNDWATER ELEVATION

High..... 5

H

Half-Streets..... 47

HALF-STREETS 56

HIGH WATER ELEVATION..... 5

Surface water 5

I

IMPROVEMENT

Public 5

IMPROVEMENT REVIEW FEE..... 11

IMPROVEMENTS 15

INSPECTION..... 59, 70

INSPECTION FEE..... 12

Installation of Improvements..... 35

INTERPRETATION 2

IRREVOCABLE LETTER OF CREDIT 5

J

JURISDICTION 13

L

LAND DIVISION PROCEDURES..... 21

LAND SUITABILITY 18, 61

LIMITED ACCESS HIGHWAY AND RAILROAD RIGHT-OF-WAY TREATMENT.. 45

LINES

Lot..... 49

LOT 5

LOT, CORNER..... 5

LOT, DOUBLE FRONTAGE..... 5

LOT, FLAG 6

lots

Shape of 50

LOTS..... 48

M

MAP ACCURACY STANDARDS..... 6

MEAN SEA LEVEL DATUM..... 6

MINOR LAND DIVISION 6, 38

Minor streets..... 44

MITIGATION AREA 6

N

NAVIGABLE WATER 7
NONPROFIT CONSERVATION ORGANIZATION..... 7

O

OBJECTING AGENCY..... 7
OUTLOT 7
OWNER..... 7
OWNERS ASSOCIATION..... 7

P

PARENT PARCEL..... 7
Paths and trails..... 59, 71
PENALTIES..... 10
PERCOLATION RATES 19
PERFORMANCE STANDARDS..... 62
PLAN COMMISSION..... 3, 19
Plan Commission Action 34
PLAN COMMISSION APPROVAL 42
PLAT 7
 PRELIMINARY 7, 11, 21, 22
 RECORDING 7
Plat Data 24
PLATS OUTSIDE THE CORPORATE LIMITS 16
PROPORTIONATE PAYMENT IN LIEU OF DEDICATION 14
Proposed streets 44
PUBLIC LANDS OUTSIDE THE CORPORATE LIMITS 14
Public Site Fee Option 52
PUBLIC SITES AND OPEN SPACES..... 51
PUBLIC WAY..... 7
PURPOSE AND INTENT 2

R

Radii of Curvature..... 47
Recordation 35, 38
RECORDATION 42
REMEDIES 11
REPLAT 7, 43
REQUIRED IMPROVEMENTS 53
Reservation of Site Option 51
Reserve strips 45
RESUBDIVISION
 Lot..... 49
Roadway Elevations..... 47

S

SANITARY SEWER SERVICE AREA 7

SCHOOLS, PARKS, ENVIRONMENTAL CORRIDORS AND OTHER OPEN SPACES
..... 14

SEVERABILITY AND DISCLAIMER OF LIABILITY 2

SEWAGE DISPOSAL FACILITIES 54, 66

SHORELANDS 8, 14, 19

SIDEWALKS 54, 66

SIGNS 56

SITE ANALYSIS AND CONCEPT PLAN 31

Soil and Water Conservation 26

soil boring tests 36

SOIL MAPPING 8

soil percolation tests 36

SOLAR ACCESS 8

SOUTH WALL 8

SPECIAL RESTRICTIONS 50

State Plane Coordinate System 37

STEEP SLOPES 19

STORM WATER DRAINAGE FACILITIES 54, 66

STREET COLLECTOR 3, 8

Street Grades 46, 47

STREET INTERSECTIONS 47

STREET LAMPS 56

Street names 45

Street Plans and Profiles 26

STREET SLOPE 8

STREET, ARTERIAL 3, 8

STREET, CUL-DE-SAC 4, 8

STREET, FRONTAGE 5, 8

STREET, MINOR 6, 8

STREETS
 Arrangement 44

STREETS, HIGHWAYS AND DRAINAGEWAYS 14

SUBDIVIDER 8

SUBDIVIDER'S AGREEMENT 8

SUBDIVISION 8

SUBDIVISION, CONSERVATION 8

SUBMITTAL REQUIREMENTS 23, 35

SURFACING 53, 65

Survey Accuracy 37

SURVEY MONUMENTS 16, 53, 65

Surveying and Monumenting 37

T

TREE
 Natural Settings 20

Tree cutting 59, 71

TREES 56

V

VARIANCES..... 18
VIOLATIONS..... 10

W

WAIVER OF MONUMENTS 16
WATER SUPPLY FACILITIES..... 55, 67
WATER'S EDGE
 Lots 50
WETLANDS..... 8
WISCONSIN ADMINISTRATIVE CODE..... 9
WOODED AREAS 20