

**TITLE 14**  
Subdivision Regulations

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**CHAPTER 1**  
Subdivision Regulations

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**ARTICLE A**

Adoption; Introduction

**SEC. 14-1-1 INTRODUCTION AND PURPOSE.** (RC-297, 2/08/2011)

- (a) **Introduction.** In accordance with the authority granted by Sec. 236.45 of the Wisconsin Statutes and for the purposes listed in Sections 236.01 and 236.45 of the Wisconsin Statutes, the Common Council of the City of Delavan, Wisconsin, does hereby ordain as follows:
- (1) The provisions of this Chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the City of Delavan.
  - (2) This Chapter shall not repeal, impair or modify private covenants or public ordinances, except that it shall apply whenever it imposes stricter restrictions on land use
- (b) **Purpose.** The purpose of this chapter is to regulate and control the division of land within the corporate limits and extraterritorial plat approval jurisdiction of the City in order to promote the public health, safety and general welfare of the City.
- (c) **Intent.** It is the general intent of this chapter to regulate the division of land so as:
- (1) To lessen congestion in the streets and highways and provide for their appropriate and timely upgrade to serve the needs of the land division;
  - (2) To further the orderly layout and appropriate use of land; to secure safety from fire, panic, flood, excessive traffic relative to road capacity, and other dangers;
  - (3) To provide adequate light and air
  - (4) To prevent the overcrowding of land and to avoid undue concentration of population;
  - (5) To facilitate adequate provision of transportation, water, sewerage, schools, parks, bicycle and pedestrian facilities and access, playgrounds and other public requirements;
  - (6) To facilitate the further division of larger tracts into smaller parcels of land while minimizing conflict among adjoining lots and uses;
  - (7) To encourage the orderly and beneficial development of the community through appropriate growth management techniques, infill development in areas with adequate public facilities, and appropriate development phasing that limits land division in areas premature for urban development;
  - (8) To ensure that public facilities, utilities, and services are available concurrent with land division development, and that they will have sufficient capacity to serve the proposed land division, and that the community will be required to bear no more than its fair share of the cost of providing such facilities, utilities, and services;
  - (9) To ensure the protection and, where possible, the enhancement of environmental resources, and the preservation of productive farmland and natural beauty to the extent consistent with City plans;
  - (10) To ensure adequate legal description and proper survey documentation of land divisions;
  - (11) To provide for the administration and enforcement of this chapter and for penalties for its violation and
  - (12) In general to facilitate enforcement of community development standards as set forth in the comprehensive/master plan, master plan components, the zoning Code, the Building Code and the Official Map of the City.

State Law Reference: Chapter 236, Wis. Stats.

**SEC. 14-1-2 ABROGATION AND GREATER RESTRICTIONS.**

It is not intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

**SEC. 14-1-3 INTERPRETATION.**

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

**SEC 14-1-4 SEVERABILITY.**

If any provision of this Chapter is invalid or unconstitutional, or if the application of this Chapter to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Chapter which can be given effect without the invalid or unconstitutional provision or application.

**SEC. 14-1-5 REPEAL.**

All other ordinances or parts of ordinances of the City inconsistent or conflicting with this Chapter, to the extent of the inconsistency only, are hereby repealed.

**SEC. 14-1-6 TITLE.**

This Chapter shall be known as, referred to, or cited as the "City of Delavan Subdivision Chapter," "City of Delavan Subdivision Code" or "City of Delavan Land Division and Subdivision Chapter."

**SEC. 14-1-7 CONDOMINIUM DEVELOPMENTS.** (Added 09/14/1999 by RC-71)

(a) **Purpose.**

- (1) The City Council hereby finds that certain issues arise in condominium development that requires limited applicability of the City's Subdivision Ordinance to condominium developments. The State Legislature has recognized that subdivision ordinances may apply to condominiums, but that subdivision ordinances shall not impose burdens upon condominiums that are different from those imposed on other property of a similar character not subject to a declaration of condominium.
- (2) The City Council hereby finds that condominium developments may impact community resources in the same manner as other developments, which are accomplished by land division. These impacts include:
  - a. Additional population density;
  - b. Possibility of particular land use in a manner unsuitable to the land's characteristics;
  - c. Additional demands upon City area parks, recreation areas and utility facilities;
  - d. Additional traffic and street use.

(b) **Portions of Ordinance Applicable to Condominium Developments.** The following sections of this Subdivision Ordinance shall apply to condominium developments:

- (1) **Section 14-1-30 through 14-1-32 of Article D**, relating to Preliminary Plat approval shall control the procedural aspects of a condominium development. The City may, at its discretion, require additional information be included with the application. This stage of approval shall be the only approval required for a condominium development. The technical requirements for preliminary plats set forth herein of this Ordinance shall not apply, since condominiums have separate technical standards set forth in Wis. Stat. Chap. 703.
- (2) **Articles A, B, C, F, G, H, I, J and K** shall apply to condominium development as deemed necessary by the City, depending on the unique characteristics of the proposed condominium development.

**SEC. 14-1-8 THROUGH 14-1-9 RESERVED FOR FUTURE USE**

**ARTICLE B**

## Definitions

**SEC. 14-1-10 DEFINITIONS.**

- (a) The following definitions shall be applicable in this Chapter:
- (1) Alley. A public right-of-way, which normally affords a secondary means of vehicular access to abutting property.
  - (2) Arterial Street. A street which provides for the movement of relatively heavy traffic to, from or within the City. It has a secondary function of providing access to abutting land.
  - (3) Block. An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or water bodies.
  - (4) Certified Survey (Minor Land Division). (Amended 12-18-2018, Ord RC-402)
    - a. The division of land by the owner or sub divider resulting in the creation of not more than four (4) parcels of land and/or building sites consisting of lots; or
    - b. The division of land by the owner or sub divider, in any five-year period, resulting in the creation of not more than ninety-nine (99) parcels of land and/or building sites consisting of lots where all of the following criteria are met:
      - i. Any parcels created by condominium plat shall not be counted as contributing toward the maximum limit of ninety-nine parcels of land; and
      - ii. The entire area of the division of land is located within the boundaries of a valid General Development Plan (GDP) zoning district per Section 24.914(7) of the Zoning Ordinance, which GDP was approved after December 31, 2018 and explicitly provides for the application of this provision, or which is located within the boundaries of a valid Planned Implementation Plan (PIP) per Section 24.917(8) of the Zoning Ordinance, within a General Development Plan (GDP) zoning district which was approved before December 31, 2018; and,
      - iii. Where the underlying zoning district of the GDP is zoned for commercial, industrial, or mixed-use development; and,
      - iv. Where the division of land is all times in full compliance with Wis. Stat. §236.34(1m)(em) and Section §236.34(1m)(er).
    - c. A certified survey map may be used to change the boundaries of lots and outlots within a recorded plat, a recorded assessor's plat under Wis. Stat. §70.27, or a recorded, certified survey map if the reconfiguration does not result in a subdivision. This division may not alter areas previously dedicated to the public or a restriction placed on the platted land by covenant, by grant of an easement, or by any other manner.
  - (5) City Engineer. References in this Chapter to City Engineer shall mean the Director of Public Works where a City or Consulting Engineer is utilized.
  - (6) Collector Street. A street which collects and distributes internal traffic within an urban area such as a residential neighborhood, between arterial and local streets. It provides access to abutting property.
  - (7) Commission. The Plan Commission created by the Common Council pursuant to Sec. 62.23 of the Wisconsin Statutes.
  - (8) Comprehensive Development Master Plan. A comprehensive plan prepared by the City indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

- (9) Cul-de-sac. A short street having but one (1) end open to traffic and the other end being permanently terminated in a vehicular turnaround.
- (10) Division of Land. Where the title or any part thereof is transferred by the execution of a land contract, an option to purchase, an offer to purchase and acceptance, a deed, or a certified survey. A survey by a registered land surveyor and approval by the Plan Commission is required for any land division that creates an additional building lot.
- (11) Easement. The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.
- (12) Extraterritorial Jurisdiction. The unincorporated area within one and one-half (1-1/2) miles of the City limits, except as may be modified by the overlapping extraterritorial jurisdiction of another city or village under Sec. 66.0105, Wis. Stats. Extraterritorial jurisdiction is also referred to as extraterritorial subdivision review jurisdiction and extraterritorial plat approval jurisdiction. (RC-297, 2/08/2011)
- (13) Final Plat. The final map, drawing or chart on which the sub divider's plan of subdivision is presented for approval and which, if approved, will be submitted to the County Register of Deeds.
- (14) Frontage Street. A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.
- (15) 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.
- (16) Local Street. A street of little or no continuity designed to provide access to abutting property and leading into collector streets.
- (17) Lot. A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter and any applicable zoning ordinance.
- (18) Lot, Area. The area contained within the exterior boundaries of a lot excluding streets, and land under navigable bodies of water.
- (19) Lot, Corner. A lot abutting intersecting streets at their intersection.
- (20) Lot, Reversed Corner. A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.
- (21) Lot, Through. A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a "through lot," both street lines shall be deemed front lot lines.
- (22) Lot Lines. The peripheral boundaries of a lot as defined herein.
- (23) Lot Width. The width of a parcel of land measured along the front building line.
- (24) Major Thoroughfare. A street used or intended to be used primarily for fast or heavy through traffic. Major thoroughfares shall include freeways, expressways and other highways and parkways, as well as arterial streets.
- (25) Minor Street. A street used, or intended to be used, primarily for access to abutting properties; also referred to as a "local street."
- (26) Outlot. A parcel of land, other than a lot or block, so designed on the plat.
- (27) Owner. Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these.
- (28) Pedestrian Pathway. A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.
- (29) Plat. The map, drawing or chart on which the sub divider's plat of subdivision is presented to the City for approval.
- (30) Preliminary Plat. The Preliminary Plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Plan Commission for its consideration as to compliance with the Comprehensive Development Plan and these regulations along with required supporting data.



- (31) Protective Covenants. Contracts entered into between private parties or between private parties and public bodies pursuant to Sec. 236.293, Wis. Stats., which constitute a restriction on the use of all private or platted property within a subdivision for the benefit of the public or property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.
- (32) Replat. The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.
- (33) Shorelands. Those lands within the following distances: one thousand (1,000) feet from the high-water elevation of navigable lakes, ponds and flowages or three hundred (300) feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
- (34) Sub divider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, certified survey or replat.
- (35) Subdivision. Subdivision is a division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development where:
  - a. The act of division creates five (5) or more parcels or building sites; or
  - b. Five (5) or more parcels or building sites are created by successive divisions within a period of five (5) years.
- (36) Wetlands. An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. (Sec. 23.32(1), Wis. Stats.)
- (37) Wisconsin Administrative Code. The rules of administrative agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system, as directed by Sec. 35.93 and Chapter 227 of the Wisconsin Statutes, including subsequent amendments to those rules.

**SEC 14-1-11 THROUGH SEC. 14-1-19 RESERVED FOR FUTURE USE.**

## ARTICLE C

### General Provisions

#### SEC. 14-1-20 GENERAL PROVISIONS.

- (a) **Compliance.** No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, land division or a replat as defined herein; no such subdivision, land division, minor land division or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this Chapter and the following:
- (1) The provisions of Ch. 236 and Sec. 80.08, Wis. Stats.
  - (2) The rules of the Division of Health, Wisconsin Department of Industry, Labor and Human Relations, contained in Wis. Adm. Code for subdivisions not served by public sewer.
  - (3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code 33 for subdivisions which abut a state trunk highway or connecting street.
  - (4) The rules of the Wisconsin Department of Natural Resources contained in the Wis. Adm. Code for Floodplain Management Program.
  - (5) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Common Council.
  - (6) All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.
  - (7) The City of Delavan Master Plan, or components thereof, and applicable ordinances of any city or village whose extraterritorial jurisdiction extends into the City.
  - (8) All applicable rules contained in the Wisconsin Administrative Code not listed in this Subsection.
- (b) **Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the City of Delavan. The provisions of this Chapter, as they apply to divisions of tracts of land into less than five (5) parcels, shall not apply to:
- (1) Transfers of interests in land by will or pursuant to court order;
  - (2) Leases for a term not to exceed ten (10) years, mortgages or easements;
  - (3) Sale or exchange of parcels of land between adjoining property owners or where no additional lot is created. No more than one (1) lot may be created in this fashion within a three (3) year period.
- (c) **Certified Survey.** Any division of land other than a subdivision as defined in Sec. 236.02(12), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in Sec. 236.34, Wis. Stats.
- (d) **Building Permits.** The City of Delavan shall not issue any building permit relating to any parcel of land forming all or any part of lands included in a subdivision, land division, replat or certified survey originally submitted to the City of Delavan on or after the effective date of this Chapter until the applicant has complied with all of the provisions and requirements of this Chapter.
- (e) **Plats Within the Extraterritorial Plat Approval Jurisdiction.** Plats within the extraterritorial plat approval jurisdiction of the City are subject to this Chapter pursuant to Sec. 236.45(3), Wis. Stats.

**SEC. 14-1-21 LAND SUITABILITY.**

- (1) No land shall be subdivided unless the Common Council determines that adequate public or community facilities and public or community services are available to support and service the area of the proposed subdivision, including:
- (a) Public roads and public transportation facilities;
  - (b) Stormwater management facilities;
  - (c) Sewerage facilities;
  - (d) Water service;
  - (e) Fire protection and police service;
  - (f) Parks, open space and recreation; and
  - (g) School facilities.
- (2) In considering the adequacy of public facilities and public services, the Common Council shall consider, but not be limited to:
- (a) The recommendation of the Plan Commission;
  - (b) The recommendations of any City departments, state agencies, or other government agencies reviewing the proposed subdivision;
  - (c) The nature, extent and size of the proposed subdivision and its impact in terms of the estimated increase in population expected to result;
  - (d) The expenditures of public funds necessitated by the proposed subdivision which are not in adopted capital or operating budgets;
  - (e) The applicable levels of traffic service; peak hour use and average use;
  - (f) Whether existing roads are adequate to accommodate the traffic that would be generated by the proposed subdivision in addition to existing traffic and are publicly maintained all weather roads;
  - (g) Whether such additional roads or road improvements necessary in combination with existing roads to accommodate the additional traffic that would be generated by the subject subdivision are budgeted in the current adopted budget for construction with public or private financing;
  - (h) Whether the subdivision is located within a sewer service area prescribed by the Common Council or other appropriate units of government:
    1. Where the land to be subdivided is served by a public sewer, the Common Council shall consider the capacity of trunk lines and sewerage treatment facilities;
    2. Where the land is not served by public sewer located and provisions for such service have not been made, soil survey information shall also be considered in determining any areas not suitable for on-site soil absorption sewage disposal system due to inorganic soil, soil subject to flooding, ground water table, proximity to bedrock, or excessive slopes;
  - (i) Whether the subdivision is located within a water service area prescribed by the Common Council or other appropriate local units of government:
    1. Where the land to be subdivided is served by municipal water, the Common Council shall consider whether the subdivision is contiguous to an arterial transmission water main of adequate capacity for the increased supply necessary or if the water distribution system that is needed is under construction or scheduled by the appropriate governing unit for installation within the current budget year and funds, either private or public, are available for such program;
    2. Where the land is not served by a municipal water, the Common Council shall consider the availability and quality of water resources as well as potential impacts on aquifers supporting public and community water systems;

- (j) Whether the subdivision is located such that adequate and timely police and fire service can be provided so as not to involve danger or injury to health, safety or general welfare to the future residents of the proposed subdivision;
  - (k) Whether the future residents of the proposed subdivision will have such park, open space and recreation services and facilities available to them as are contemplated by the master plan; and
  - (l) Whether the school district in which such proposed subdivision will be located upon its development, provides information that adequate classroom space is either available within the normal walk-in service area or that adequate transportation as normally provided by the school district can be provided to elementary through high schools that have sufficient classroom space to provide for the anticipated school age children in the proposed subdivision.
- (3) Where the Common Council determines that one or more facilities or services are not adequate for the full development proposed, but that a portion of the area could be served adequately, or careful phasing of the development could result in all facilities or services being adequate, conditional approval may:
- (a) Include only such portions;
  - (b) Specify phasing of the development; or
  - (c) Require a development agreement to insure future provision of required public facilities and services.
- (4) No land shall be subdivided which is held by the Common Council to be unsuitable for use by reason of flooding, bad drainage, soil or rock formations with severe limitations for development, severe erosion potential, or unfavorable topography, or any other feature likely to be harmful to safety or welfare of future residents or landowners in the proposed subdivision or of the community.
- (5) No lot of ½ acre or less in the area shall include floodlands. All lots more than ½ acre shall contain not less than 10,000 square feet of land which is at an elevation at least 2' above the elevation of the 100-year recurrence interval flood, or where such data is not available 4' above the elevation of the maximum flood on record.
- (6) The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the subdivider.
- (7) The Common Council, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for subdivision and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter, the Common Council, upon the recommendation of the Plan Commission, may affirm, modify or withdraw its determination of unsuitability.
- (8) Where a proposed subdivision lies within the City's extraterritorial plat approval jurisdiction, the subdivider shall comply with the provisions set forth in Section 14-1-133 of this code.

**SEC. 14-1-22 THROUGH SEC. 14-1-29 RESERVED FOR FUTURE USE.**

## ARTICLE D

### Plat Review and Approval

#### SEC. 14-1-30 PRELIMINARY CONSULTATION.

Before filing, a Preliminary Plat or certified survey map, the sub divider is encouraged to consult with the Plan Commission and/or City staff for advice regarding general subdivision requirements. Information on meeting, dates, agenda deadlines and filing requirements may be obtained from the City Clerk and/or City staff. The sub divider shall also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the sub divider of the purpose and objectives of these regulations, the comprehensive or master plan, comprehensive or master plan components and duly adopted plan implementation devices of the City and to otherwise assist the sub divider in planning his development. In so doing, both the sub divider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. It is intended by this Section that the sub divider will gain a better understanding of the subsequent required procedures.

#### SEC. 14-1-31 SUBMISSION OF PRELIMINARY PLAT.

- (a) **Submission.** Before submitting a Final Plat for approval, the sub divider shall prepare a Preliminary Plat and a letter of application. The Preliminary Plat shall be prepared in accordance with this Chapter, and the sub divider shall file copies of the Plat and the application as required by this Section with the City Clerk at least thirty (30) days prior to the meeting of the Plan Commission at which action is desired. The sub divider shall submit twenty (20) copies of the Preliminary Plat. The City Clerk shall submit a copy of the Preliminary Plat to the Plan Commission and to the City Engineer for review and written report of his recommendations and reactions to the proposed plat.
- (b) **Public Improvements, Plans and Specifications.** Simultaneously with the filing of the Preliminary Plat, the owner shall file with the City Clerk twenty (20) complete sets of preliminary engineering reports, plans and specifications for the construction of any public improvements required by this Chapter, specifically addressing sewer and water service feasibility, drainage facilities, traffic patterns, typical street cross sections, erosion control plans, pavement design and other improvements necessary in the subdivision.
- (c) **Property Owners Association; Restrictive Covenants.** A draft of the legal instruments and rules for proposed property owners associations, when the sub divider proposes that common property within a subdivision would be either owned or maintained by such an organization of property owners or a subunit of the City pursuant to Sec. 236.293, Wis. Stats., and proposed deed restrictions or restrictive covenants, shall be submitted at the time of filing the Preliminary Plat with the City Clerk.
- (d) **Affidavit.** The surveyor preparing the Preliminary Plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this Chapter.
- (e) **Supplementary Data to be Filed with Preliminary Plat.** The following shall also be filed with the Preliminary Plat:
  - (1) Use Statement. A statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population; and
  - (2) Zoning Changes. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and

- (3) **Area Plan.** Where the sub divider owns property adjacent to that which is being proposed for the subdivision, the Plan Commission may require that the sub divider submit a Preliminary Plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.
- (f) **Street Plans and Profiles.** The sub divider shall provide street plans and profiles showing existing ground surface, and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested.
- (g) **Soil Testing.** The sub divider shall provide a preliminary soils report, listing the types of soil in the proposed subdivision, their effect on the subdivision and a proposed soil testing and investigation program. Pursuant to the public policy concerns prescribed in Section 14-1-21, the City Engineer may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table.
- (h) **Referral to Other Agencies.** (RC-297, 2/08/2011)
- (1) The City Clerk shall, within two (2) days after filing, transmit copies to the County Planning Agency, copies to the Director of the Planning Function in the Wisconsin Department of Development, additional copies to the Director of the Planning Function for retransmission of copies to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street and the Wisconsin Department of Industry, Labor and Human Relations if the subdivision is not served by the public sewer and provision for such service has not been made, and an adequate number of copies to the Plan Commission. The County Planning Agency, the Wisconsin Department of Development, the Wisconsin Department of Transportation and the Wisconsin Department of Industry, Labor and Human Relations shall be hereinafter referred to as objecting agencies. The Plan Commission shall also transmit a copy of the Preliminary Plat to all affected City boards, commissions or departments and all affected City utility departments for their review and recommendations concerning matters within their jurisdiction within fifteen (15) days of the date of receiving the copies of the plat, any state or county agency having authority to object under Subsection (h)(1) above shall notify the sub divider and all approving or objecting authorities of any objection based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover, or, if all objections have been satisfied, it shall so certify on the face of a copy of the plat and return that copy to the approving authority from which it was received. The plat shall not be approved or deemed approved until any objections have been satisfied. If the objecting agency fails to act within the fifteen (15) day limit it shall be deemed to have no objection to the plat. The recommendations of City agencies shall also be transmitted to the Plan Commission within fifteen (15) days from the date the plat is filed.
- (I) **Drafting Standards.** The sub divider shall submit to the City Clerk and to those agencies having the authority to object to plats under provisions in Chapter 236 of the Wisconsin Statutes copies of a Preliminary Plat (or certified survey) based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale of not more than one (1) inch per one hundred (100) feet having two (2) foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), easements which the sub divider proposes to make and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted.

## SEC. 14-1-32 PRELIMINARY PLAT REVIEW AND APPROVAL.

### (a) Plan Commission Review

- (1) After review of the Preliminary Plat and negotiations with the sub divider on changes deemed advisable and the kind and extent of public improvements which will be required, the Plan Commission shall,

within eighty (80) days, or within such time as extended by agreement with the sub divider of its submission, approve, approve conditionally, or reject the Plat. The sub divider shall be notified in writing of any conditions for approval or the reasons for rejection. Such action of the Plan Commission shall be submitted to the Common Council for approval and the sub divider shall be notified in writing of any changes or modifications in the action of the Plan Commission and the reasons therefore. The City Clerk shall give notice of the Plan Commission's review of the Preliminary Plat by listing it as an agenda item in the Commission's meeting notice. The notice shall include the name of the applicant, the address of the property in question and the requested action. (RC-297, 2/08/2011)

- (b) **Council Action.** After receipt of the Plan Commission's recommendation, the Common Council shall, within ninety (90) days of the date the Plat was filed with the City Clerk, approve, approve conditionally or reject such Plat and shall state, in writing, any conditions of approval or reasons for rejection unless the time is extended by agreement with the sub divider. Failure of the Common Council to act within ninety (90) days or extension thereof shall constitute an approval of the Preliminary Plat, unless other authorized agencies object to the Plat. The City Clerk shall communicate to the sub divider the action of the Common Council. If the Preliminary Plat is approved, the City Clerk shall endorse it for the Common Council. (RC-297, 2/08/2011)
- (c) **Effect of Preliminary Plat Approval.** Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within thirty-six (36) months of Preliminary Plat approval and conforms substantially to the Preliminary Plat layout, the Final Plat shall be entitled to approval with respect to such layout. Approval of the Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat, which will be subject to further consideration by the Plan Commission and Common Council at the time of its submission. (RC-297, 2/08/2011)
- (d) **Preliminary Plat Amendment.** Should the sub divider desire to amend the Preliminary Plat as approved, he may resubmit the amended plat which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Plan Commission, of such scope as to constitute a new plat, in which such case it shall be refiled.

#### SEC. 14-1-33 FINAL PLAT REVIEW AND APPROVAL.

- (a) **Filing Requirements.**
  - (1) The sub divider shall prepare a Final Plat and a letter of application in accordance with this Chapter and shall file twenty (20) copies of the Plat and the application with the City Clerk at least twenty-one (21) days prior to the meeting of the Plan Commission at which action is desired. The owner or sub divider shall file twenty (20) copies of the Final Plat not later than thirty-six (36) months after the date of approval of the Preliminary Plat; otherwise, the Preliminary Plat and Final Plat will be considered void unless an extension is requested in writing by the sub divider and for good cause granted by the City. The owner or sub divider shall also submit at this time a current certified abstract of title or title search and such other evidence as the City Attorney may require showing title or control in the applicant. A written transmittal letter shall identify all substantial changes that have been made to the plat since the Preliminary Plat. When the sub divider expects the City to act as the transmitting authority in accordance with Sec. 236.12, Wis. Stats., the application shall state that transmittal responsibilities lie with the City and shall contain a list of the other authorities to which the plat must be subjected and shall be accompanied by such additional fees and copies of the plat as are necessary to be transmitted to such authorities. (RC-297, 2/08/2011)
  - (2) The City Clerk shall, within two (2) days after filing, transmit copies to the County Planning Agency, copies to the Director of the Planning Function in the Wisconsin Department of Development, additional copies to the Director of the Planning Function for retransmission of copies to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street and the Wisconsin Department of Industry, Labor and Human Relations if the subdivision is not served by a public sewer and provision for service has not been made, to all affected City boards,

commissions and committees and the original Final Plat and adequate copies to the Plan Commission. The County Planning Agency, the Wisconsin Department of Development, the Wisconsin Department of Transportation, and the Wisconsin Department of Industry, Labor and Human Relations shall be hereinafter referred to as objecting agencies.

- (3) The Final Plat shall conform to the Preliminary Plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Sec. 236.12(2).
  - (4) Simultaneously with the filing of the Final Plat or map, the owner shall file with the City Clerk twelve (12) copies of the final plans and specifications of public improvements required by this Chapter. The City Clerk shall refer two (2) copies of the Final Plat to the Plan Commission, one (1) copy to the City Engineer, and a copy each to the telephone and power and other utility companies. The abstract of title or registered property report may be referred to the City Attorney for his examination and report. The City Clerk shall also refer the final plans and specifications of public improvements to the City Engineer for review. The recommendations of the Plan Commission and City Engineer shall be made within sixty (60) days of the filing of the Final Plat. The City Engineer shall examine the plat or map and final plans and specifications of public improvements for technical details and, if he finds them satisfactory, shall so certify in writing to the Plan Commission. If the plat or map or the plans and specifications are not satisfactory the City Engineer shall return them to the owner and so advise the Plan Commission. (RC-297, 2/08/2011)
- (b) **Plan Commission Review.**
- (1) The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this Chapter and all applicable ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and shall recommend approval, conditional approval or rejection of the Plat to the Common Council.
  - (2) The objecting state and county agencies shall, within fifteen (15) days of the date of receiving their copies of the Final Plat, notify the sub divider and all other approving and objecting agencies of any objections, except that the Wisconsin Department of Development has thirty (30) days in which to make objections. If there are no objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the City. If an objecting agency fails to act within fifteen (15) days, it shall be deemed to have no objection to the Plat.
  - (3) If the Final Plat is not submitted within thirty-six (36) months of the last-required approval of the Preliminary Plat, the Plan Commission/Common Council may refuse to approve the Final Plat. (RC-297, 2/08/2011)
  - (4) The Plan Commission shall, within sixty (60) days of the date of filing of the Final Plat with the City Clerk, 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. The Plan Commission may hold the matter in abeyance if there is incomplete or inadequate information.
- (c) **Council Review and Approval.**
- (1) The Common Council shall, within ninety (90) days of the date of filing the original Final Plat with the City Clerk, approve or reject such Plat unless the time is extended by agreement with the sub divider. 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 sub divider. 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 objecting agencies as required herein, the date thereof and that no objections have been filed within twenty (20) days or, if filed, have been met. (RC-297, 2/08/2011)
  - (2) The Common Council shall, when it determines to approve a Final Plat, give at least ten (10) days' prior written notice of its intention to the Municipal Clerk of any municipality within one thousand (1,000) feet of the Final Plat.
  - (3) In the event of the failure of the Common Council to act within ninety (90) days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved. (RC-297, 2/08/2011)



- (d) **Recordation.** After the Final Plat has been approved by the Common Council and required improvements either installed or a contract and sureties insuring their installation is filed, the City Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the sub divider for recording with the county register of deeds. The register of deeds cannot record the Plat unless it is offered within twelve (12) months of the date of the last approval of the Plat and within twenty-four (24) months from the date of first approval. (RC-297, 2/08/2011)
- (e) **Final Copies.** The sub divider shall file twenty (20) copies of the Final Plat with the City Clerk for distribution to the approving agencies, affected utilities and other affected agencies for their files.
- (f) **Partial Platting.** The Final Plat may, if permitted by the Common Council, constitute only that portion of the approved Preliminary Plat which the sub divider proposes to record at the time.

**SEC. 14-1-34 MINOR LAND DIVISION (CERTIFIED SURVEY MAP).** (RC-297, 2/08/2011)

- (a) **Use of Certified Survey Map.** When it is proposed to divide land through use of a minor land division, as defined in Section 14-1-10(a)(4), the sub divider shall prepare a certified survey map in accordance with this Chapter and shall file fifteen (15) copies of the map and the letter of application with the City Clerk at least thirty (30) days prior to the meeting of the Plan Commission at which action is desired. (See 14-1-10(10))
- (b) **Referral to Plan Commission.** The City Clerk shall, within two (2) normal workdays after filing, transmit the copies of the map and letter of application to the Plan Commission.
- (c) **Review by Other City Agencies.** The Plan Commission shall transmit a copy of the map to all affected City boards, commissions or departments for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Plan Commission within twenty (20) days from the date the map is filed. The map shall be reviewed by the Plan Commission for conformance with this Chapter and all ordinances, rules, regulations, comprehensive plans, comprehensive plan components and neighborhood plans.
- (d) **Review and Approval.** The Plan Commission shall, within sixty (60) days from the date of filing of the certified survey map, recommend approval, conditional approval or rejection of the map and shall transmit the map along with its recommendations to the Common Council. Following the meeting procedures in the manner used for Preliminary Plats, the Common Council shall approve, approve conditionally and thereby require resubmission of a corrected certified survey map or reject such certified survey map within ninety (90) days from the date of filing of the map unless the time is extended by agreement with the sub divider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the sub divider. If the map is approved, the Common Council shall cause the City Clerk to so certify on the face of the original map and return the map to the sub divider.
- (e) **Recordation.** The sub divider shall record the map with the County Register of Deeds within sixty (60) days of the approval.
- (f) **Copies.** The sub divider shall file five (5) copies of the certified survey map with the City Clerk for distribution to the City Engineer, Building Inspector, Assessor and other affected departments for their files.
- (g) **Certified Survey Maps Within The Extraterritorial Jurisdiction.** When land to be divided within the City's extraterritorial jurisdiction requires the preparation of a certified survey map, the subdivider shall proceed in accordance with subsections (a) through (f).

**SEC 14-1-35 REPLAT.**

- (a) Except as provided in Section 70.27(1), Wis. Stats., when it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the sub divider or person wishing to replat shall vacate or alter the recorded Plat as provided in Sections 236.40 through 236.44 of the Wisconsin Statutes. The sub divider or person wishing to replat shall then proceed, using the procedures for Preliminary and Final Plats.

- (b) The City Clerk shall schedule a meeting before the Plan Commission when a Preliminary Plat of a replat of lands within the City is filed, and shall cause notices of the proposed Replat and meeting 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 one hundred (100) feet of the exterior boundaries of the proposed Replat.
- (c) Where lots are more than double the minimum size required for the applicable zoning district, the Plan Commission may require that such lots be arranged so as to allow resubdivision of such parcels into normal lots in accordance with the provisions of the Chapter.

**SEC. 14-1-36 DETERMINATION OF ADEQUACY OF PUBLIC FACILITIES AND SERVICES.**

- (a) A Preliminary Plat, Final Plat or certified survey shall not be approved unless the Plan Commission and the Common Council determine that adequate public facilities and public services are available to meet the needs of the proposed land division.
- (b) The applicant shall furnish any data requested by the City Clerk who shall transmit this information to the appropriate commission(s), committee(s) and staff for review; the City Clerk shall act as coordinator of the reports from staff to the Plan Commission and Common Council on the adequacy of water, sanitary and storm sewers, fire service, police, parks and open space and recreation facilities, transportation facilities and schools.
- (c) Public facilities and public services for a proposed land division may be found to be adequate when the following conditions exist:
  - (1) The proposed land division is located in an urban service area where adequate sewer service is presently available for extension, under construction or designated by the Common Council for extension of sewer service within the current capital budget year and funds are specifically provided for such extension either from public or private financing. The Plan Commission and the Common Council shall consider the recommendations of the City Engineer and/or the sewer and water utilities and the appropriate committee(s) on the capacity of trunk lines and of sewerage treatment facilities and any other information presented.
  - (2) The proposed land division is located within an urban service area contiguous to an arterial transmission water main of adequate capacity for the proposed development or if the water distribution system that is needed is under construction or scheduled for construction within the current budget year, and funds, either public or private, are available for the program. The Plan Commission and the Common Council shall consider the recommendations of the sewer and water utilities and City Engineer on line capacities, water sources and storage facilities, as well as any other information presented.
  - (3) The City Clerk verifies that adequate funds, either public or private, are available to insure the installation of all necessary storm water management facilities.
  - (4) The Director of Public Works can demonstrate that street maintenance and refuse collection services, either public or private, are so situated that adequate and timely service can be provided so as not to involve danger or injury to the health, safety or general welfare to the future residents of the proposed land division or existing City residents.
  - (5) The City Engineer verifies that the future residents of the proposed land division can be assured park, recreation and open space facilities and services which meet the standards of the City's Comprehensive/Master Plan for Parks and Open Spaces, if such a plan has been adopted.
  - (6) The Police Department, City Emergency Medical Service (E.M.S.) Unit, and Fire Department verify that timely and adequate service can be provided to the residents.
  - (7) The proposed land division is accessible by existing or officially mapped, publicly maintained, all-weather roadway system, adequate to accommodate both existing traffic and that traffic to be generated by the proposed land division in accordance with the Official Map and City Standards.

- (d) Where the Plan Commission and the Common Council determine that one (1) or more public facilities or services are not adequate for the proposed development, but that a portion of the area could be served adequately, or that careful phasing of the development could result in all public facilities and public services being adequate, conditional approval may include only such portions or may specify phasing of the development.
- (e) No land shall be divided which has been officially mapped as public lands or a storm water management facility or is determined by the Common Council to be unsuitable for use by reason of flooding, bad drainage, soil or rock formations with severe limitations for development, severe erosion potential or unfavorable topography, or any other feature likely to be harmful to health, safety or welfare of future residents or landowners in the proposed land division or of the community.
- (f) The above requirements shall not apply to those areas outside the corporate limits of the City of Delavan and within the City's extraterritorial limits.

**SEC. 14-1-37 DISCLAIMERS ON APPROVALS.**

- (a) The purpose of requiring approvals under this Chapter is to insure the health, safety, morale, comfort, prosperity and general welfare of the City. This Chapter shall not be interpreted as placing any responsibility or liability on any City official, City employee or the City as a municipal corporation for the granting of approval or the denial of any approval. All approvals rendered as part of this Chapter shall be considered as being approved conditionally based on the information and circumstances apparent at that time
- (b) Approvals issued by the City shall not be construed as an assumption or expression of any responsibility, warranty or guarantee for the design or construction of any improvements within the land division.

**SEC. 14-1-38 SUBMISSION OF COVENANTS AND RESTRICTIONS** (Added 10/12/99 by RC-77)

Section 1: Each applicant for approval of a plat of subdivision or a minor land division pursuant to Article D herein shall include in their initial application a copy of the proposed Covenants, Conditions and Restrictions (“CCR”) for review by the City as part of the overall consideration of the land division. Said CCRs shall include a provision whereby the City of Delavan shall be named as a benefited party with the power to enforce any or all of said restrictions and with the power to approve or disapprove any future proposed amendments to said CCR’s, including, but not limited to, any future effort to abandon, vacate or void said CCR’s. Said CCR’s shall also disclose the required minimum living area, as set forth in Section 23.410 of the City Subdivision Regulations, for each residential dwelling to be erected within the land division area. The City may request such additional CCR terms as are appropriate for each individual land division, depending upon its unique characteristics and the representations of the developer or land owner to the City.

Section 2: SEVERABILITY: In the event any section, clause, paragraph, or phrase of this ordinance is deemed to be wholly or partially unenforceable by a court of law in a competent jurisdiction, the remaining sections of the ordinance shall remain in full force and effect.

Section 3: EFFECTIVE DATE: This ordinance shall be in full force and effect upon and from its passage, approval and publication as required by law.

**SEC. 14-1-39 PLATS AND CERTIFIED SURVEY MAPS WITHIN THE EXTRATERRITORIAL PLAT APPROVAL JURISDICTION.**

**Plats and Certified survey Maps within the Extraterritorial Plat Approval Jurisdiction.** If the land to be divided lies within 1-1/2 miles of the corporate limits of the City the sub-divider shall proceed as specified in the Sections 14-1-30 through 14-1-35.

## ARTICLE E

### Technical Requirements for Plats and Certified Surveys

#### SEC. 14-1-40 TECHNICAL REQUIREMENTS FOR PRELIMINARY PLATS.

- (a) **General.** A Preliminary Plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on Mylar or paper of good quality at a scale of not more than one hundred (100) feet to the inch and shall show correctly on its face the following information:
- (1) Title under which the proposed subdivision is to be recorded.
  - (2) Location of the proposed subdivision by government lot, quarter section, township, range, county and state.
  - (3) Date, Scale and North Point.
  - (4) Names and Addresses of the owner, sub divider and land surveyor preparing the plat.
  - (5) Entire Area contiguous to the proposed plat owned or controlled by the sub divider shall be included on the Preliminary Plat even though only a portion of said area is proposed for immediate development. The Plan Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Chapter and undue hardship would result from strict application thereof.
- (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 the total acreage encompassed thereby.
  - (2) Locations of all Existing Property Boundary Lines, structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.
  - (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.
  - (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.
  - (6) Location, Size and Invert Elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catch basins, hydrants, electric and communication facilities, whether overhead or underground and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.
  - (7) Corporate Limit Lines within the exterior boundaries of the plat or immediately adjacent thereto.
  - (8) Existing Zoning on and adjacent to the proposed subdivision
  - (9) Contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum at vertical intervals of not more than two (2) feet. At least two (2) permanent bench marks shall be located in the immediate vicinity of the plat; the location of the benchmarks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the benchmarks clearly and completely described. Where, in the judgment of the City Engineer, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.

- (10) High-Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom.
  - (11) Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom at the date of the survey.
  - (12) Floodland and Shoreland Boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, two (2) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within one hundred (100) feet therefrom.
  - (13) Location and Results of Percolation Tests within the exterior boundaries of the plat conducted in accordance with Sec. H 85.06 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service.
  - (14) Location, Width and Names of all proposed streets and public rights-of-way such as alleys and easements.
  - (15) Approximate Dimensions of All Lots together with proposed lot and block numbers. The area in square feet of each lot shall be provided.
  - (16) Location and Approximate Dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting.
  - (17) Approximate Radii of all Curves.
  - (18) Any Proposed Lake and Stream Access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.
  - (19) Any Proposed Lake and Stream improvement or relocation, and notice of application for approval by the Division of Environmental Protection, Department of Natural Resources, when applicable.
  - (20) Where the Plan Commission or City Engineer finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the preliminary Plat, it shall have the authority to request in writing such information from the sub divider.
- (c) **Additional Information.** The Plan Commission and/or City officials may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not planned at the time.

#### **SEC. 14-1-41 TECHNICAL REQUIREMENTS FOR FINAL PLATS.**

- (a) **General.** A Final Plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Section 236.20, Wis. Stats., and this Chapter.
- (b) **Additional Information.** The Final Plat shall show correctly on its face, in addition to the information required by Section 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) Exact Location and Description of street lighting and lighting utility easements.
  - (4) Railroad Rights-of-Way within and abutting the plat.
  - (5) All Lands Reserved for future public acquisition or reserved for the common use of property owners within the Plat.
  - (6) Special Restrictions required by the Common Council, upon the recommendation of the Plan Commission, relating to access control along public ways or to the provision of planting strips.
  - (7) Taxes. Certifications by attached information showing that all taxes and special assessments currently due on the property to be subdivided have been paid in full.
  - (8) Drainage Flows. The sub divider shall cause to be set upon the final plat arrows indicating the directions of drainage flows for each property line not fronting on a street on all parcels and along each street as will result from the grading of the site, the construction of the required public improvements, or which are existing drainage flows and will remain. The arrows indicating the directions of flows shall be appropriately weighted so as to differentiate between the minor and major [one hundred (100) year event] drainage components. The arrows shall be accompanied on the plat with the following note:

Arrows indicate the direction of drainage flows in various components resulting from site grading and the construction of required public improvements. The drainage flow components located in easements shall be maintained and preserved by the property owner unless approved by the City Engineer.

- (9) **Groundwater Presence.** Where the ground water table is equal to or less than nine (9) feet from the proposed street centerline elevation, the sub divider shall place the following note on the plat:

Subsoil information indicates the presence of ground water conditions that may require basement elevations on Lot(s) \_\_\_\_\_ to be at elevation \_\_\_\_\_ or higher, or that a modified structural plan of the structure's foundation shall be submitted to the Building Inspector for approval with the application for a Building Permit as required information.

The elevation of the basement as described in the paragraph to be placed on the plat shall be a minimum of two (2) feet higher than the elevation of the ground water table as determined by the City Engineer from the soils information.

- (c) **Deed Restrictions.** Restrictive covenants and deed registrations for the proposed subdivision shall be filed with the Final Plat.
- (d) **Property Owners Association.** The legal instruments creating a property owners association for the ownership and/or maintenance of common lands in the subdivision shall be filed with the Final Plat.
- (e) **Survey Accuracy.**
- (1) **Examination.** The Common Council, Plan Commission, or their designees, shall examine all Final Plats within the City of Delavan and may check for the accuracy and closure of the survey, the proper kind and location of monuments, and legibility and completeness of the drawing.
  - (2) **Maximum Error of Closure.** Maximum error of closure before adjustment of the survey of the exterior boundaries of the subdivision shall not exceed, in horizontal distance or position, the ratio of one part in five thousand (1:5,000), nor in azimuth, four (4) seconds of arc per interior angle. If field measurements exceed this maximum, new field measurements shall be made until a satisfactory closure of the field measurements has been obtained; the survey of the exterior boundary shall be adjusted to form a closed geometric figure.
  - (3) **Street Block and Lot Dimensions.** All street, block and lot dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary survey. If checks disclose an error for any interior line of the plat greater than the ratio of one part in three thousand (1:3,000), or an error in measured angle greater than one (1) minute of arc for any angle where the shorter side forming the angle is three hundred (300) feet or longer, necessary corrections shall be made. Where the shorter side of a measured angle is less than three hundred (300) feet in length, the error shall not exceed the value of one (1) minute multiplied by the quotient of three hundred (300) divided by the length of the shorter side; however, such error shall not in any case exceed five (5) minutes of arc.
  - (4) **Plat Location.** Where the plat is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the City, the tie required by Section 236.20(3)(b), Wis. Stats., may be expressed in terms of grid bearing and distance; and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error of closure herein specified for the survey of the exterior boundaries of the subdivision.
- (f) **Surveying and Monumenting.** All Final Plats shall meet all the surveying and Monumenting requirements of Section 236.15, Wis. Stats.

- (g) **State Plane Coordinate System.** Where the plat is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the City, the plat shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the City's control survey.
- (h) **Certificates.** All Final Plats shall provide all the certificates required by Section 236.21, Wis. Stats.; and in addition, the surveyor shall certify that he has fully complied with all the provisions of this Chapter.

**SEC. 14-1-42 TECHNICAL REQUIREMENTS FOR CERTIFIED SURVEY LAND  
DIVISIONS; REVIEW AND APPROVAL.**

- (a) **Submission and Review.** The subdivider is encouraged to first consult with the Plan Commission regarding the requirements for certified surveys before submission of the final map. Following consultation, two (2) copies of the final map in the form of a certified survey map shall be submitted to the City. The certified survey shall be reviewed, approved or disapproved by the Plan Commission and Common Council pursuant to the procedures used for Preliminary Plats in Sections 14-1-30 through 14-1-32, including notice and hearing requirements.
- (b) **Additional Information.** The Certified Survey Map shall show correctly on its face, in addition to the information required by Section 236.34, Wis. Stats., the following:
  - (1) All Existing Buildings, watercourses, drainage ditches and other features pertinent to proper division.
  - (2) Setbacks or Building Lines required by the Common Council and the City Zoning Code.
  - (3) All Lands Reserved for future acquisition.
  - (4) Date of the Map.
  - (5) Graphic Scale.
  - (6) Name and Address of the owner, subdivider and surveyor.
  - (7) Square Footage of each parcel. (8) Present Zoning for the parcels.
- (c) **State Plane Coordinate System.** Where the map is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the City, the map shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinate of the monument marking the relocated section or quarter corner to which the map is tied shall be indicated on the map. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the City's control survey.
- (d) **Certificates.** The surveyor shall certify on the face of the certified survey map that he has fully complied with all the provisions of this Chapter. The Common Council, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map.
- (e) **Street Dedication.** Dedication of streets and other public areas shall require, in addition, the owner's certificate and the mortgagee's certificate in substantially the same form as required by Section 236.21(2)(a) of the Wisconsin Statutes.
- (f) **Recordation.** The subdivider shall record the map with the County Register of Deeds within sixty (60) days of its approval by the Common Council and any other approving agencies. Failure to do so shall necessitate a new review and reapproval of the map by the Common Council. (RC-297, 2/08/2011)
- (g) **Requirements.** To the extent reasonably practicable, the certified survey shall comply with the provisions of this Chapter relating to general requirements, design standards and required improvements.

Cross-Reference: Section 14-1-34.

**SEC. 14-1-43 THROUGH SEC. 14-1-49 RESERVED FOR FUTURE USE.**



**ARTICLE F**  
Required Improvements

**SEC. 14-1-50 IMPROVEMENTS REQUIRED.**

(a) **General Requirement.**

- (1) In accordance with the authority granted by Sec. 236.13 of the Wisconsin Statutes, the Common Council of the City of Delavan hereby requires that, as a condition of Final Plat or certified survey map approval, the subdivider agree to make and install public improvements required by this Chapter or the subdivider shall provide the City with security to ensure that the subdivider will make the required improvements. As a further condition of approval, the Common Council hereby requires that the subdivider be responsible for the cost of any necessary alterations of any existing utilities which, by virtue of the platting or certified survey map, fall within the public right-of-way.
- (2) As a condition of the acceptance of dedication of public right-of-way, the City requires that the public ways be provided with all necessary facilities constructed to City specifications, including, but not limited to, sewerage, storm drainage, water mains and services, grading and improvement of the streets and other public ways, sidewalks, street signing, street trees, street lighting, traffic control and such other facilities required by the Common Council, or that a specific portion of the costs be paid in advance as provided in Sec. 66.0709(2) Wis. Stats.:
  - (a) The required public improvements shall be installed by the subdivider at his cost;
  - (b) The subdivider may petition the City for the installation of the required improvements by City contract. If the Common Council elects to install the petitioned improvements, it shall establish special assessments for the recovery of the costs.

(b) **General Standards.** The following required improvements in this Chapter shall be installed in accordance with the engineering standards and specifications which are herein adopted by this Code of Ordinances. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices, approved prior to the start of construction by the City Engineer. When new or revised standards and/or specifications have been adopted by the City, work on public improvements not begun with five (5) years of the date of Final Plat adoption shall be made to the new or revised standards and/or specifications. The City Engineer shall review and approve the construction plans, specifications and calculations for the construction of the required public improvements.

(c) **Project Manager.** The subdivider shall designate a project manager who shall be readily available on the project site during the construction of the required public improvements. The project manager shall be granted authority on behalf of the subdivider to make decisions related to the construction of the required public improvements as they may arise during the course of the construction. The project manager shall also be responsible for the scheduling and coordination of the required work to construct the required improvements. Correspondence with or verbal orders to the designated project manager shall have the same authority as with the subdivider directly.

**SEC. 14-1-51 REQUIRED AGREEMENT PROVISION FOR PROPER  
INSTALLATION OF IMPROVEMENTS; SURETY**

- (a) **Subdivider Shall Either Install Improvements and/or Contract with the City and May Receive Annual Extensions for Delay in Making Improvements.** The subdivider shall, as a condition of plat review:
- (1) Install street and utility improvements as provided by this Chapter; or

- (2) As an alternative, the subdivider shall, before the recording of the Plat, enter into a contract with the City agreeing to install the required improvements and shall file with said contract a bond meeting the approval of the City Attorney or a certified check or irrevocable letter of credit in an amount equal to the estimated cost of the improvements, said estimate to be made by the City Engineer or consultants, as a guarantee that such improvements will be completed by the subdivider or his subcontractors not later than twenty-four (24) months from the date of the recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied.
  - (3) The Common Council may extend for a one (1) year period at a time the requirement that subdividers install street and utility improvements for any plat and/or subdivision. If a one (1) year extension is approved, the contract and bond by this Section shall also be extended and signed or the extension given by the Common Council shall be withdrawn.
- (b) **Financial Guarantees.**
- (1) The subdivider shall file with said contract, subject to the approval of the City Attorney, a bond, a certificate of deposit, irrevocable letter of credit or certified check in an amount equal to one hundred ten percent (110%) of the estimate of the cost prepared by the City Engineer as surety to guarantee that such improvements will be completed by the subdivider or his contractors not later than twenty-four (24) months from the date of recording the plat.
  - (2) However, the subdivider may elect, with the approval of the City, to install the improvements in construction phases provided that;
    - a. The phases are specified in the contract for land division improvements;
    - b. The developer submits surety in an amount equal to one hundred ten percent (110%) of the estimate of the City Engineer sufficient for the construction of all anticipated phases of construction or park improvement;
    - c. The developer record deed restrictions approved by the City Attorney which specify that the lots which are included in future construction phases of the land division will not be transferred or sold unless the City's approval is obtained;
    - d. The subdivider minimizes grading and other disturbances to lands included in future construction phases in order to prevent erosion; and
    - e. Erosion control plans and measures submitted and approved herein shall address the individual phases of construction.
  - (3) The time limit for completion of a phased improvement program shall take into account the needs and desires of the City and adjacent property owners for street and other improvements to serve lands adjacent to and within the land division.
  - (4) As work progresses on installation of improvements constructed as part of the contract, the City Engineer, upon written request from the subdivider from time to time, is authorized to recommend a reduction in the amount of surety as hereinafter provided. When portions of construction (water, sanitary sewer, street, sidewalk, greenway or other improvements) are completed by the subdivider and determined acceptable by the City Engineer, the City Clerk is authorized, upon submission of lien waivers by the subdividers contractors, to reduce the amount of surety. The amount of surety remaining shall be equal to one hundred ten per cent (110%) of the estimate of the City Engineer costs of work remaining to be completed and accepted and to insure performance of the one (1) year guarantee as specified in Subsection (d) below against defects in workmanship and materials on work accepted. When the work on the major components of construction has been substantially completed, except for work which cannot be completed because of weather conditions or other reasons which, in the judgment of the City Engineer are valid for noncompletion, the City Clerk is authorized to accept a reduction in the amount of surety to an amount in the estimate of the City Engineer, sufficient to cover the work remaining to be completed, including performance of the one (1) year guarantee period against defects in workmanship and materials. As a further guarantee that all obligations under contract for work on the development are satisfied, the contractor and subcontractors who are to be engaged in the construction of utilities or street improvements on the street right-of-way to be dedicated shall be approved for such

work by the City Engineer prior to commencing construction. The Common Council, at its option, may extend the bond period for additional periods not to exceed one (1) year.

- (5) Governmental units to which these bond and guarantee provisions apply may, in lieu of said contract or instrument of guarantee, file a resolution or letter from officers authorized to act in their behalf, agreeing to comply with the provisions of this Section.
  - (6) The subdivider shall agree in the development contract to pay all street and sidewalk assessments, specifically all area charges for sanitary sewer mains and all water main assessments, including where the land division abuts existing streets which are not improved with the City, standard street improvements (including, but not limited to curb and gutter, local storm sewer, sidewalks and a bituminous pavement).
- (c) **Waiver of Special Assessment Notice and Hearing.** The subdivider shall file with said contract, subject to the approval of the City Attorney, a waiver of special assessment notices and hearings such that the subdivider, his heirs and assigns (including purchasers or property from subdivider), waive notice and hearing for and authorize the assessment for any and all of the required improvements in phases of the land division intended for future development in accordance with Sec. 66.0703(7)(b), Wis. Stats.

**SEC. 14-1-52 REQUIRED CONSTRUCTION PLANS; CITY REVIEW; INSPECTIONS.**

(a) **Engineering Reports, Construction Plans and Specifications.** As required by Section 14-1-31, engineering reports and proposed specifications shall be submitted simultaneously with the filing of the Preliminary Plat. At the Final Plat stage, construction plans for the required improvements conforming in all respects with the standards of the City Engineer and the ordinances of the City shall be prepared at the subdividers expense by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain his seal. Such plans, together with the quantities of construction items, shall be submitted to the City Engineer for his approval and for his estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Simultaneously with the filing of the Final Plat with the City Clerk, or as soon thereafter as practicable, copies of the construction plans and specifications shall be furnished for the following public improvements, with a copy sent to the appropriate sanitary district:

- (1) Street Plans and Profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- (2) Sanitary Sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
- (3) Storm Sewer and Open Channel plans and profiles showing the locations, grades, sizes, cross-section elevations and materials of required facilities.
- (4) Water Main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
- (5) Erosion and Sedimentation Control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation. Such plans shall comply with the City's Erosion Control Chapter (Building Code).
- (6) Planting Plans showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.
- (7) Additional special plans or information as required by City Officials.

(b) **Action by the City Engineer.** The City Engineer shall review of cause to be reviewed the plans and specifications for conformance with the requirements of this Chapter and other pertinent City ordinances and design standards recommended by the City Engineer and approved by the Common Council. If the City Engineer rejects the plans and specifications, he shall notify the owner, who shall modify the plans or specifications or both accordingly. When the plans and specifications are corrected, the City Engineer shall approve the plans and specifications for transmittal to the Common Council. The City Engineer shall approve the plans and specifications before the improvements are installed and construction commenced.

- (c) **Construction and Inspection.**
- (1) Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the City Engineer upon written receipt of all necessary permits and in accordance with the construction methods of this Chapter. Building permits shall not be issued until all improvements required by this Chapter are satisfactorily completed.
  - (2) During the course of construction, the City Engineer shall make such inspections as the Common Council deems necessary to insure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the City for such inspections. This fee shall be the actual cost to the City of inspectors, engineers and other parties necessary to insure satisfactory work.
- (d) **Subdivider to Reimburse the City for Costs Sustained.** The subdivider of land divisions with the City shall reimburse the City for its actual cost of design, inspection, testing, construction and associated legal and real estate fees for the required public improvements for the land division. The City's costs shall be determined as follows:
- (1) The cost of City employees' time engaged in any way with the required public improvements based on the hourly rate paid to the employee multiplied by a factor determined by the City Clerk to represent the City's cost for expenses, benefits, insurance, sick leave, holidays, vacation and similar benefits.
  - (2) The cost of City equipment employed.
  - (3) The cost of mileage reimbursed to City employees, which is attributed to the land division.
  - (4) The actual costs of City materials incorporated into the work, including transportation costs plus a restocking and/or handling fee not to exceed fifteen percent (15%) of the cost of the materials.
  - (5) All consultant fees associated with the public improvements at the invoiced amount plus administrative costs. Unless the amount totals less than Fifty Dollars (\$50.00), the City shall bill the subdivider monthly for expenses incurred by the City. Bills outstanding for more than thirty (30) days shall accrue interest at the rate of one and one-half percent ( 1 ½ %) per month. Bills outstanding for more than ninety (90) days shall be forwarded to the subdividers surety agency for payment or the outstanding amount may be placed on the tax roll as a special charge against the property pursuant to Sec. 66.0627 Wis. Stats. Amounts less than Fifty Dollars (\$50.00) shall be held for billings by the City until amounts total more than Fifty Dollars (\$50.00) or until the conclusion of the project activities.
- (e) **Record Plans.** After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made three (3) copies of record plans showing the actual locations of all valves, manholes, stubs, sewers and water mains and such other facilities as the City Engineer shall require. These plans shall be prepared on the original mylars of the construction plans and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the record plans shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion. Two (2) copies shall be retained by the City and one (1) copy of such record plans shall be forwarded to the appropriate sanitary district.

## SEC. 14-1-53 STREET IMPROVEMENTS

The subdivider shall construct streets, roads and alleyways as outlined on the approved plans based on the requirements of this Chapter:

- (a) **General Considerations.** The streets shall be designed and located in relation to existing and planned street, to topographical conditions and natural terrain features such as streams and existing tree growth, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
- (b) **Construction Standards.** Construction of all streets shall conform to the current standards established by the City and shall be subject to approval of the City Engineer before acceptance.
- (c) **Conform to Official Map.** The arrangement, width, grade and location of streets shall conform to the Official map.

- (d) **Survey Monumentation.** Before final approval of any plat or certified survey within the corporate limits of the City, the subdivider shall install monuments placed in accordance with the requirements of Chapter 236, Wis. Stats., or as may be required by the City Engineer. All survey monumentation located adjacent to street or public right-of-way, but not located within street pavement, shall be protected with steel fence posts erected near the survey monumentation. The City Engineer may waive the placing of monuments for a reasonable time during public improvement construction on condition that the subdivider executes a survey to insure the placing of such monuments within the time required. On behalf of the City, the City Clerk is authorized to accept such surety bonds and contracts for monumentation in an amount approved by the City Engineer. Building permits shall not be issued until all survey monumentation for the block(s) of lots in which the lot(s) for which building permits are being applied for within the phase of land division under development has been installed. When the land division includes an established one-half (1/2), one-quarter (1/4), one-quarter one-quarter (1/4-1/4), or such other section monument, the established monument shall be preserved and/or fully restored by the subdivider at his cost.
- (e) **Grading.**
- (1) With the submittal of the Final Plat, the subdivider shall furnish drawings, which indicate the existing and proposed grades of roads, streets and alleys shown on the plat.
  - (2) Proposed grades will be reviewed by the City Engineer for conformance with City standards and good engineering practice. Street grades require the approval of the Common Council after receipt of the City Engineer's recommendations.
  - (3) After the installation of temporary block corner monuments by the subdivider and establishment of the street grades according to standards approved by the governing body, the subdivider shall grade the full width of the right-of-way of the streets and alleys proposed to be dedicated, including the vision of clearance triangle on corner lots.
  - (4) In cases where an existing street right-of-way is made a part of the plat or abuts the plat, the subdivider shall grade that portion of the right-of-way between the existing pavement and the property line.
  - (5) The bed for the roadways in the street right-of-way shall be graded to subgrade elevation. A developer and/or subdivider shall remove and stockpile all black dirt and shall remove all subsoil to a grade established by the City Engineer and then place a minimum of two (2) inch gravel base so the street can be traveled in a manner determined by the City Engineer. All stockpiled black dirt shall become the property of the City of Delavan, except that the City Engineer may permit the developer to utilize some or all of the black dirt as part of the project.
  - (6) The City Engineer shall approve all grading within rights-of-way and said grading shall extend for a sufficient distance beyond the right-of-way to insure that the established grade will be preserved.
  - (7) Where electric and other communications or utilities facilities are to be installed underground, the utility easements shall be graded to within six (6) inches of the final grade by the subdivider, prior to the installation of such facilities; earth fill piles or mounds of dirt or construction materials shall not be stored on such easement areas.
- (f) **Street Construction.**
- (1) After the installation of all utility and storm water drainage improvements, the subdivider shall prepare for surfacing all roadways in streets proposed to be dedicated, to the widths prescribed by these regulations, by placing crushed rock on said roadways and, in addition, shall surface said street, in a manner and quality consistent with plans and specifications approved by the City Engineer. The subdivider shall surface roadways to the widths prescribed by City specifications. Construction shall be to City standard specifications for street improvements.
  - (2) After installation of curb and gutter, the roadway shall be paved with a bituminous concrete binder course applied over the prepared and primed gravel base. The binder course shall have a minimum depth of two and one-quarter (2 1/4) inches when compacted. (Amended 12-13-2005 Ordinance RC-21)

- (3) The cost of final street surface pavement and installation of the same shall be that of the subdivider. The estimated cost thereof, as determined by the Public Works Director, shall be placed on deposit with the City Treasurer who shall account for the same as a nonlapsing fund for such purpose. Such final street surface pavement shall be installed at such time as the City shall deem appropriate. Notwithstanding provisions of Subparagraph (4) of this Subsection (f), this provision shall be applicable to subdivisions existing on November 10, 1959, where streets in such subdivision have never been opened up and furthermore shall apply to new subdivision(s) or addition(s) to subdivision(s) for which plat(s) be hereafter offered for approval.
- (4) The costs of street improvements shall be borne by the subdivider. This provision shall apply to the subdivider. This provision shall apply to subdivision existing on November 10, 1959, where a street in such subdivision has never opened up.
- (g) **Street Cross Sections.** When permanent street cross sections have been approved by the City, the subdivider shall finish grade all shoulders and road ditches, install all necessary culverts and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the City Engineer.
- (h) **Completion of Street Construction.**
  - (1) Prior to any building permits being issued on lands adjacent to streets, all street construction shall be completed by the subdivider and approved by the City Engineer.
  - (3) The Common Council may issue a waiver of these requirements in unusual or special circumstances such as excessive weather conditions, heavy construction temporarily in area, construction material shortages or approved phased construction (i.e., cement, asphalt). The issuance of a waiver shall be at the discretion of the Common Council.
  - (3) The subdivider requesting a waiver shall do so in writing, presenting such information and documentation as required by the Common Council. The waiver shall be in written form and shall detail which improvement requirements are temporarily waived and for what period of time.

#### **SEC. 14-1-54 CURB AND GUTTER.**

After the installation of all utility and storm water drainage improvements, the subdivider shall construct concrete curb and gutters in accordance with plans and standard specifications approved by the City Engineer. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts.

#### **SEC. 14-1-55 SIDEWALKS.**

- (a) The Common Council may require the subdivider to construct sidewalks. The construction of all sidewalks shall be in accordance with plans and standard specifications approved by the City Engineer and in compliance with this Code of Ordinances. The cost of sidewalks is to be paid by the subdivider. It shall be discretionary with the Council as to whether or not sidewalks shall be installed. If a subdivider does not wish to install sidewalks, he shall petition the Council to dispense with sidewalks. The Council's permission to the subdivider not to install sidewalks shall not, however, operate as an estoppel against the City, and if at some future date the Council determines that sidewalks should be constructed in a particular subdivision, it may order the same to be done pursuant to applicable City ordinance and/or Wisconsin Statutes. Sidewalks shall be constructed pursuant to the standards found in Section 6-2-2 of this Code of Ordinances
- (b) Wider-than-standard sidewalks may be required by the Common Council in the vicinity of schools, commercial areas and other places of public assemblage; and the Common Council may require the construction of sidewalks in locations other than required under the preceding provisions of this Section if such walks are necessary, in their opinion, for safe and adequate pedestrian circulation.

- (b) Where required, all sidewalks shall be installed prior to the issuance of an occupancy permit for any lot within a subdivision; but, in no event, not later than one (1) year from acceptance of the Final Plat. If the sidewalk is not installed within one (1) year from the acceptance of the Final Plat, the City may order the sidewalk installed. If it is impossible to install sidewalks prior to the issuance, due to weather conditions, then the developer shall place adequate funds in escrow with the City to assure completion.

**SEC. 14-1-56 SANITARY SEWERAGE SYSTEM.** (Amended 4/16/2019 RC-409)

The subdivider shall construct sanitary sewers in such a manner as to make adequate sanitary sewerage service available to each lot within the subdivision. If, in the opinion of the Common Council upon recommendation of the City Engineer, central sewer facilities are not available, the subdivider shall make provision for adequate private sewage disposal systems as specified by the community Board of Health, Department of Health and Social Services; however, any lot containing less than one (1) acre of land and being less than one hundred fifty (150) feet wide must be served by public sanitary sewer facilities, unless in the considered opinion of the Common Council such service will be made available to the subdivision within five (5) years of the date of submission of the Preliminary Plat. The Common Council may require the installation of sewer laterals to the street lot line. If, at the time of final platting, sanitary sewer facilities are not available to the plat, but will become available within a period of five (5) years from the submission of the Preliminary Plat, the subdivider shall install or cause to be installed sanitary sewers and sewer laterals to the street lot line in accordance with this Section and shall cap all laterals as may be specified by the City Engineer. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and standard specifications approved by the City Engineer. All sanitary sewer facilities shall be flood proofed.

**SEC. 14-1-57 WATER SUPPLY FACILITIES**

The subdivider shall construct water mains in such a manner as to make adequate water service available to each lot within the subdivision. If, in the opinion of the Common Council upon the recommendation of the Water and Sewer Commission, municipal water service is not available, the subdivider shall make provision for adequate private water systems as specified by the City Engineer; however, any lot containing less than one (1) acre of land and being less than one hundred fifty (150) feet wide must be served by public water facilities, unless in the considered opinion of the Common Council such services will be made available to the subdivision within five (5) years of the date of the submission of the Preliminary Plat. The Common Council may require the installation of water laterals to the street lot line. The size, type and installation, of all public water mains proposed to be constructed, shall be in accordance with plans and standard specifications approved by the City Engineer.

**SEC. 14-1-58 STORM WATER DRAINAGE FACILITIES**

Pursuant to Section 14-1-74, the subdivider shall provide storm water drainage facilities which may include curb and gutter, catch basins and inlets, storm sewers, road ditches and open channels, as may be required. All such facilities are to be of adequate size and grade to hydraulically accommodate maximum potential volumes of flow, the type facility required, the design criteria and the sizes and grades to be determined by the City Engineer. Storm drainage facilities shall be so designed as to present no hazard to life or property, minimize shoreland erosion and siltation of surface waters, shall prevent excess run-off on adjacent property and shall provide positive drainage away from on-site sewage disposal facilities. The size, type and installation of all storm water drain and sewers proposed to be constructed shall be in accordance with this Chapter and plans and standard specifications approved by the City Engineer. Storm drainage facilities shall be so designed as to minimize hazards to life or property, and the size, type and installation of all storm water drains and sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the City Engineer.

**SEC. 14-1-59 OTHER UTILITIES**

- (a) The subdivider shall cause gas, electric 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, certified survey or land division. All new electrical distribution, television cables and telephone lines from which lots are individually served shall be underground unless the Common Council, upon the recommendation of the Plan Commission, specifically allows overhead poles for the following reasons:
- (1) Topography, soil, water table, solid rock, boulders, or other physical conditions would make underground installation unreasonable or impractical; or
  - (2) The lots to be served by said facilities can be served directly from existing overhead facilities.
- (b) Plans indicating the proposed location of all gas, electrical power, cable television and telephone distribution and transmission lines required to service the plat shall be approved by the City Engineer.

**SEC. 14-1-60 STREET LIGHTS**

The subdivider shall install street lights along all streets proposed to be dedicated of a design compatible with the neighborhood and type of development proposed. Such lights shall be placed at each street intersection and at such interior block spacing as may be required by the City Engineer.

**SEC. 14-1-61 STREET SIGNS**

The subdivider shall arrange with the City and pay the costs of providing the street signing necessary to serve the development. Such signing shall include all street names signs and traffic control signing and other devices, including such temporary barricades and “road closed” signs as may be required by the City Engineer until the street improvements have been accepted by Common Council resolution.

**SEC. 14-1-62 EROSION CONTROL** *(revised 10-10-00, RC-102)*

Pursuant to the City’s Construction Site Erosion Control Chapter (See Section 14-1-124), the subdivider shall cause all gradings, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded or otherwise protected so that erosion, siltation, sedimentation and washing are prevented and that the activity otherwise complies with all provisions of Section 14-1-124.

**SEC. 14-1-63 PARTITION FENCES**

When the land included in a subdivision plat or certified survey map abuts or is adjacent to land used for farming or grazing purposes, the subdivider shall erect, keep, and maintain partition fences, satisfying the requirements of the Wisconsin Statutes for a legal and sufficient fence, between such land and the adjacent land. A covenant binding the developer, its grantees, heirs, successors, and assigns to erect and maintain such fences, without cost to the adjoining property owners, so long as the land is used for farming or grazing purposes, shall be included upon the face of the Final Plat or certified survey map.



**SEC. 14-1-64 EASEMENTS**

- (a) **Utility Easements.** The Common Council, on the recommendation of appropriate departments and agencies serving the City, shall require utility easements for poles, wires, conduits, storm and sanitary sewers, gas and water mains or other utility lines. It is the intent of this Chapter to protect all established easements so as to assure proper grade, assure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prevent the planting of trees in the easement area.
- (b) **Drainage Easements.** Where a subdivision is traversed by a watercourse, drainage way channel or stream:
- (1) There shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or
  - (2) The watercourse, drainage way, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a storm water easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this Section.
  - (3) Whenever possible, it is desirable that drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such water course shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than thirty (30) feet. If, in the opinion of the City Engineer, the easement will be for a major drainage swale, the easement shall be of sufficient width to contain a one hundred (100) year frequency storm. If the drainage easement is located in an established floodway or flood fringe district, the entire floodplain area shall be included within the drainage easement.
- (c) **Easement Locations.** Utility easements shall be at least twelve (12) feet wide, or wider where recommended by the City Engineer, and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Plan Commission and Common Council that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

**SEC. 14-1-65 EXTRA-SIZED AND OFF-SITE FACILITIES** (Amended 7-10-01, RC-118)

When any public improvements of adequate capacity are not available at the boundary of a proposed land division, the City, or its duly authorized representative, shall require, as a prerequisite to approval of a Final Plat, a certified survey map or planned unit development assurances that such improvement extensions shall be provided as follows in accordance with the following standards:

- (a) **Design Capacity.** All improvements within, entering, leaving or necessary to properly serve the proposed development shall be installed by the subdivider to satisfy the service requirements for the entire service or drainage area in which the development is located and the improvements shall be of sufficient capacity to handle the expected development of the overall service area involved. The subdivider shall assume the cost of installing: all sanitary sewers up to the size of ten (10) inches in diameter; all water mains at a minimum size of eight (8) inches in diameter for residential usage and at a minimum size of twelve (12) inches in diameter for industrial and commercial usage, including multiple family usage; and all storm sewers. If service for the development requires larger than the minimum sized services, the developer shall be responsible for the cost thereof. If oversized facilities are not required by the proposal, the cost of oversizing shall be paid by the City or other users connecting to the system.

- (b) **Extra-sized and Off-sized Improvements.** Where improvements of adequate size needed to serve the development are not available at the boundary of the development, the subdivider shall proceed under one (1) of the alternatives as identified in Section 14-1-50(a).
- (c) **Lift Stations.** Where sanitary or storm sewer lift stations and force mains are required to lift sewage to the gravity system, the subdivider shall have plans, profiles, specifications and estimated operation and maintenance costs prepared for the installation of such facilities to the City Engineer's requirements. Equipment similar to existing City equipment shall be utilized whenever possible. The installation, inspection, supervision and engineering fees for lift stations and/or force mains shall be paid for by the subdivider unless otherwise determined and agreed upon by the Common Council. Gravity sanitary sewer service shall be employed whenever determined by the City Engineer to be feasibly accessible.

**SEC. 14-1-66 ACCEPTANCE OF IMPROVEMENTS AND DEDICATIONS.**

- (a) **Acceptance of Improvements.** The dedication of any improvements, utilities, streets, parks, easements, rights-of-way or other lands or rights to the City or the public shall not be considered accepted by the City of public ownership of such required public improvements within the intended dedication or necessary because of the intended dedication until such time the required improvements have been completed and accepted by the Common Council by adoption of a resolution accepting such improvements. The subdivider shall be responsible for and liable for the maintenance, safety and operation of all required public improvements until such time as the improvements are accepted by the Common Council by resolution. In the event the City must take measure to maintain, operate or make safe a public improvement existing or required as a result of the land division but which has not yet been accepted by the City, the costs of such measures shall hereby be determined to be City-incurred costs to be reimbursed to the City by the subdivider in accordance with the provisions of this Chapter.
- (b) **Inspection of Certification of Improvements.**
  - (1) After any of the following increments of the required improvements have been installed and completed, the subdivider shall notify the City Engineer, in writing, that the work is complete and ready for final inspection, shall file reproducible record drawings of the completed improvements and shall file lien waivers or affidavits, in a form acceptable to the City Engineer and approved by the City Attorney, evidencing that there are no claims, actions or demands for damages, based upon contract or tort arising out of or in any way related to the project and that no moneys are owed to any surveyor, mechanic, contractor, subcontractor, materialman or laborer after all required improvements have been installed. Acceptance of the improvements may be requested in the following increments:
    - a. Sewer mains and services (either storm or sanitary).
    - b. Water mains and services.
    - c. Streets comprised of all grading, gravel, curb and gutter, culverts and paving.
    - d. Other miscellaneous appurtenances to the above increments such as sidewalks, bikeways, street lighting, street signing, etc.
  - (2) The City Treasurer shall certify that there are no unpaid taxes or unpaid special assessments on any of the lands included in the area of acceptance and shall prepare a final billing for engineer, inspection and legal fees and submit it to the subdivider for payment. The City Engineer shall conduct any necessary final inspection of the improvements and forward a report to the City Administrator recommending either approval or disapproval. When the engineering, inspection, taxes, special assessments and legal fees have been paid and when the necessary lien waivers and affidavits have been filed, the report of the City Engineer, together with the recommendation of the City Administrator, shall be forwarded to the Common Council for approval and acceptance of the improvements and dedications.

**SEC. 14-1-67 THROUGH SEC. 14-1-69 RESERVED FOR FUTURE USE.**

**ARTICLE G**

## Design Standards

**SEC. 14-1-70 GENERAL STREET DESIGN STANDARDS.**

- (a) **Compliance with Statutes.** In laying out a subdivision, the owner shall conform to the provisions of Chapter 236, Wis. Stats., and all applicable City regulations. In all cases where the requirements of this Chapter are different from the requirements of Chapter 236, the more restrictive provision shall apply.
- (b) **Dedication.** The subdivider shall dedicate land and improve streets as provided in this Chapter and Section 14-1-53. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses and public convenience and safety. Streets shall conform to official maps adopted by the Common Council. The subdivision, certified survey parcel or land division shall be so designed as to provide each lot with satisfactory access to a public street or road.
- (c) **Compliance with Comprehensive Plan.** The arrangement, character, extent, width, grade and location of all streets shall conform to any City Comprehensive Development/Master Plan and to this Chapter and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The arrangement of streets in new subdivisions shall make provision for the appropriate continuation at the same width of the existing streets in adjoining areas.
- (d) **Areas Not Covered by Official Map.** In areas not covered by a City Comprehensive Plan, the layout of streets shall conform to the plan for the most advantageous development of adjoining areas of the neighborhood. Streets shall be designed and located in relation to existing and officially planned streets, topography and natural terrain, streams and lakes and existing tree growth, public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets.
- (e) **Street Classifications.** Streets shall be classified as indicated below.
- (1) **Arterial Streets.** Arterial streets shall be arranged to provide through traffic for a heavy volume of vehicles. Arterial streets shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, shopping areas, recreation areas and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
  - (2) **Collector Streets.** Collector streets shall be arranged so as to provide ready collection of traffic from commercial and residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to special traffic generators such as schools, churches and shopping centers and other concentrations of population and to the major streets into which they feed.
  - (3) **Minor/Local Streets.** Minor streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems and to require the minimum street area necessary to provide safe and convenient access to abutting property.
  - (4) **Proposed Streets.** Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions or unless, in the opinion of the Common Council, such extension is not necessary or desirable for the coordination of the layout of the subdivision or land division or for the advantageous development of the adjacent tracts.
- (f) **Reserve Strips.** Reserve strips shall not be provided on any plat to control access to streets or alleys. except where control of such strips is placed with the City under conditions approved by the Common Council.

(g) **Alleys.**

- (1) **Commercial and Industrial.** Alleys shall be provided in all commercial and industrial districts, except that the Common Council may waive this requirement where other definite and assured provision is made for service access, such as off-street loading and parking, consistent with and adequate for the uses proposed. The width of alleys shall not be less than twenty-four (24) feet.
  - (2) **Residential.** Alleys shall not be approved in residential areas unless necessary because of topography or other exceptional circumstances.
  - (3) **Dead End.** Dead-end alleys are prohibited except under very unusual circumstances, and crooked and "T" alleys shall be discouraged. Where dead-end alleys are unavoidable, they shall be provided with adequate turnaround facilities at the dead end.
- (h) **Continuation.** Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit. Provision shall be made so that all proposed streets shall have a direct connection with, or be continuous and in line with, existing, planned or platted streets with which they are to connect. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Common Council, upon the recommendation of the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing layout or the most advantageous future development of adjacent tracts. Dead-end streets not over five hundred (500) feet in length will be approved when necessitated by the topography.
- (I) **Minor Streets.** Minor streets shall be so laid out so as to discourage their use by through traffic.
- (j) **Frontage Roads.** Where a subdivision abuts or contains an existing or proposed arterial highway, the Common Council may require a frontage road, nonaccess reservation along the rear of the property contiguous to such highway or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.
- (k) **Private Streets.** Private streets may be approved in instances where they are the only access into and/or the only street or drive servicing lots within a subdivision.
- (l) **Visibility.** Streets shall afford maximum visibility and safety and shall intersect at right angles where practicable. As required by the City Engineer, sufficient vision clearance triangles shall be provided at intersections.
- (m) **Tangents.** A tangent at least one hundred ( 100) feet long shall be required between reverse curves on arterial and collector streets.
- (n) **Street Grades.**
- (1) Unless necessitated by exceptional topography subject to the approval of the Plan Commission, the maximum centerline grade of any street or public way shall not exceed the following:
    - Arterial streets six (6%);
    - Collector streets eight (8%)
    - Minor streets, alleys and frontage streets: ten percent (10%).
    - Pedestrian ways: eight percent (8%) unless steps of acceptable design are provided. (Amended 12-13-2005 Ordinance RC-212)

The grade of any street shall in no case exceed twelve percent (12%) or be less than one-half (½) of one percent (1%).
  - (2) 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.
  - (3) All pavement shall have a minimum cross slope of 0.020 ft/ft and a minimum longitudinal slope of 0.50 percent.
- (o) **Radii of Curvature.** When a continuous street centerline deflects at any one (1) point by more than ten (10) degrees, a circular curve shall be introduced having a radius of curvature on said centerline of not less than the following:

Arterial streets and highways: five hundred (500) feet.

Collector streets: three hundred (300) feet.

Minor streets: one hundred (100) feet.

Curves should be provided when centerline deflections exceed one (1) degree in rural areas and in urban areas when deflection exceeds three (3) degrees. All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to fifteen (15) times the algebraic difference in the rates of grade for all major streets and one-half (1/2) this minimum for all other streets.

- (p) **Half Streets.** Where an existing dedicated or platted half-street is adjacent to the subdivision, the other half-street shall be dedicated by the subdivider. The platting of half-streets should be avoided where possible.
- (q) **Intersections.**
- (1) Property Lines. Property lines at street intersections of major thoroughfares shall be rounded with a radius of fifteen (15) feet or of a greater radius where the City Engineer considers it necessary.
  - (2) Angle of Intersect. Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
  - (3) Number of Streets Converging. The number of streets converging at one (1) intersection shall be reduced to a minimum, preferably not more than two (2). Cross-type intersections on local streets shall be avoided whenever possible in favor of T-type intersections. Intersections of local streets shall be at least one hundred twenty-five (125) feet from each other.
  - (4) Number of Intersections. The number of intersections along arterial streets shall be held to a minimum. Wherever practicable, the distance between such intersections shall be not less than twelve hundred (1,200) feet.
  - (5) Property Lines at Street Intersections. Property lines at street intersections shall be rounded with a minimum radius of fifteen (15) feet or of a greater radius when required by the Plan Commission or shall be terminated by a straight line through the points of tangency of an arc having a radius of fifteen (15) feet.
  - (6) Local Streets. Local streets shall not necessarily continue across arterial or collector streets, but if the centerlines of such local streets approach the major streets from opposite sides within three hundred (300) feet of each other, measured along the centerline of the arterial or collector streets, then the location shall be so adjusted that the adjoinment across the major or collector street is continuous.
  - (7) Additional Sight Easements. At any intersection determined by the City Engineer, restricted development easements or additional street right-of-way shall be platted to provide for adequate sight distances in every direction of travel. At a minimum, the subdivider shall grade, clear or otherwise provide for an unobstructed sight triangle at all intersections incorporating the area within a triangle formed by the intersection of the street right-of-way lines and a point on each right-of-way line being not less than thirty (30) feet from the intersection point.
- (r) **Street Names.**
- (1) New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the names of the existing streets. Street names shall be subject to approval by the Common Council.
  - (2) All streets shall be named in conformity with the street naming plan of the City or with adjoining streets. In the case of diverging streets, the name shall be repeated. New street names shall not duplicate the names of existing streets, provided, however, that streets that are obviously in alignment with others already existing and names shall bear the names of the existing streets. Long or continuous thoroughfares running north and south shall be named avenues; those running east and west shall be named streets; diagonal thoroughfares shall be named roads; and curving thoroughfares shall be named drives. Short or discontinuous thoroughfares running north and south shall be named courts; those running east and west shall be named places; diagonal thoroughfares shall be named ways; and curving thoroughfares shall be named lanes.

(s) **Cul-de-sacs.**

- 1) Cul-de-sacs. Cul-de-sac streets designed to have one (1) end permanently closed shall not exceed three hundred (300) feet in length. All cul-de-sac streets designed to have one ( 1) end permanently closed shall terminate with a turnaround of not less than one hundred and twenty (120) feet in diameter of right-of-way and a roadway of not less than ninety-five (95) feet in diameter. The use of cul-de-sacs should be avoided where possible.
- (2) Temporary Dead-ends or Cul-de-sacs. All temporary dead-ends shall have a maximum length of eight hundred (800) feet and a temporary cul-de-sac shall have a minimum right-of-way radius of sixty-six (66) feet and a minimum inside curb radius of forty (40) feet.

(t) **Limited Access Highway and Railroad Right-of-way Treatment.** Whenever the proposed subdivision contains or is adjacent to a limited access highway, arterial street or railroad right-of-way, the design shall provide the following treatment:

- (1) Subdivision Lots. When lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited access highway or a railroad, a planting strip at least thirty (30) feet 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, the building of structures hereon prohibited."
- (2) Commercial and Industrial Districts. Commercial and industrial districts shall have provided, on each side of the limited access highway, arterial street 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 not less than one hundred fifty (150) feet.
- (3) Streets Parallel to a Limited Access Highway. Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street and highway or collector street which crosses said railroad or highway, shall be located at a minimum distance of two hundred fifty (250) feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.
- (4) Minor Streets. 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 to railroad rights-of-way shall be avoided in residential areas.

**SEC. 14-1-71 SPECIFICATIONS FOR PREPARATION, CONSTRUCTION AND DEDICATION OF STREETS AND ROADS.**

(a) **General Requirements.**

- (1) Construction Standards. All roadway construction and materials used shall be performed in accordance with the construction methods as listed in the appropriate sections of the "State of Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction" and its supplements, and this Chapter, whichever is more restrictive. The design requirements of this Section and Section 14-1-70 shall be applicable to all streets and roads that are to be dedicated to the City, regardless of whether such streets or roads are part of a new subdivision or land division. Design requirements for the pavement shall be adequate for the zoning classification of the area served by the subject street. A street which divides areas with different zoning classifications shall be constructed in accordance with the requirements of the area requiring the higher quality pavement. Any variation of this must have prior approval of the City Engineer. Combination concrete curb and gutter is required on all streets. (Refer to the Section describing requirements for curbs and gutters.) A copy of all design assumptions and computations on which the proposed design is based shall be submitted to the City Engineer.

- (2) Project Costs. All roadway surveys, dedications, plans and specifications and construction will be at the expense of the applicant or applicants. This includes any expense incurred by the City in the preparation of plans and review and inspection of plans and construction.
- (3) Preliminary Consultation. Prior to the design, preparation and construction of any roadway to be dedicated to the City of Delavan, the applicant shall notify the City Engineer. An on-site meeting will then be arranged to be attended by the City Engineer and the applicant. Plans must be provided in order for the City Engineer to check the design and the drainage.
- (4) Material Slips. Copies of material slips for all materials furnished for the road construction projects shall be delivered to the City before the City approves the final construction.
- (5) Required Inspections. Prior to the commencement of any street construction, the subdivider shall notify the City Engineer, at least one (1) workday in advance, as to the nature of the work being done. The City Engineer shall be contacted for required inspections after the following phases of construction:
  - a. Subbase grading;
  - b. Crushed aggregate base course;
  - c. Bituminous surface course; and
  - d. Shouldering.

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

- (6) Tests of Materials. The City reserves the right to obtain a sample of the roadway base material prior to placement on the roadway for purposes of determining whether the material meets gradation and soundness requirements.
- (7) Pavement Samples. Samples of bituminous concrete will be taken by the City during pavement construction operations for purposes of determining that the material meets specifications.
- (b) **Construction Standards**. All streets and highways constructed in the City or to be dedicated to the City shall fully comply with the following construction standards:
  - (1) Right-of-Way and Pavement Width. The minimum right-of-way and roadway width of all proposed streets and alleys shall be as specified by the comprehensive plan, comprehensive plan component or official map or, if no width is specified therein, the minimum widths shall be as specified below. Cross sections for freeways and parkways should be based upon detailed engineering studies. (Amended 12-13-2005 Ordinance RC-212)

<u>Type of Street</u>	<u>R.O.W. Width to be Dedicated</u>	<u>Pavement Width (Face of Curb to Face of Curb)</u>
Major Street	100 feet	52 feet
Collector Streets	82-1/2 feet	48 feet
Minor and Marginal Streets	66 feet	40 feet
Access Streets	66 feet	40 feet
Private street or drive	25 feet	22 feet

- (2) Roadway Ditches. Where curb and gutter is not required by the City for rural cross-section streets, the minimum ditch slope shall be fifty one-hundredths percent (0.50%).



- (3) Roadway Base Thickness.
- a. Residential streets shall have a minimum roadway base thickness of twelve (12 inches of compacted in-place crushed aggregate base course for the current D.O.T. standards for "dense-grade base course". (Amended 12-13-2005 Ordinance RC-212)
  - b. On commercial, arterial or other heavy-use streets, as determined by the City Engineer, a base course of twelve (12) inches compacted shall be constructed upon an inspected and approved subgrade, either well graded crushed gravel from a state-approved pit with a maximum stone of one and one-half (1-1/2) inches and no greater than ten percent (10%) by weight passing a No. 200 sieve or No. 3 crushed rock approximately six (6) inches in depth and one (1) or more layers of fine aggregate, either three-fourths (3/4) inch crushed gravel, well-graded with no greater than ten percent (10%) passing a No. 200 sieve, or three-fourths (3/4) inch traffic-bound crushed rock.
  - c. In the case of commercial, arterial or other heavy-use roads, the Common Council may, in the alternative to the above standards, have the City Engineer provide specifications for such roads after researching the site(s) and conducting a soil analysis.
  - d. In any case, the Common Council shall have the sole discretion in determining the use and construction classification to be adhered to.
  - e. In all cases, the base course shall be compacted to the extent necessary to produce a condition so that there will be no appreciable displacement of material laterally and longitudinally under traffic and shall conform to line, grades and shape shown on the approved plans, profiles and cross sections.
- (4) Roadway Base Quality. All subgrade material shall have a minimum California Bearing Ratio (CBR) of three (3). Subgrade material having a CBR less than three (3) shall be removed and replaced with a suitable fill material, or the pavement must be designed to compensate for the soil conditions. The soil support CBR values selected for use by the designer should represent a minimum value for the soil to be used.
- (5) Roadway Sub-Base. Stable and nonorganic sub-base material is required. Unstable and organic material must be subcut, removed and replaced with a suitable granular or breaker-run material approved by the City Engineer.
- (6) Pavement Thickness. Residential streets shall have a minimum of four (4) inches thick compacted bituminous concrete pavement, placed in two (2) layers -- a binder course of two and one-quarter (2-1/4) inches thick and a surface course of one and three-quarters (1-3/4) inch. On commercial, arterial or other heavy-use streets, there shall be a minimum of six and one-quarter (6-1/4) inches of bituminous concrete pavement, placed in three (3) layers - binder courses of two, two and one-quarter (2-1/4) inches thick and a surface course of one and three-quarter (1-3/4) inches thick. In the case of commercial, arterial or other heavy-use roads, the Common Council may, in the alternative to the above standards, have the City Engineer provide specifications for paving such roads after researching the site(s) and conducting a soil analysis. In any case, the Common Council shall have the sole discretion in determining the use and construction classification to be adhered to. (Amended 12-13-2005 Ordinance RC-212)
- (7) Roadway Culverts and Bridges. Roadway culverts and bridges shall be constructed as directed by the City Engineer and sized utilizing the methods listed in Chapter 13, entitled "Drainage," of the "Facilities Development Manual" of the Wisconsin Department of Transportation. All roadway culverts shall be provided with concrete or metal apron endwalls.
- (8) Driveway Culverts. Driveway culverts shall be sized by the City Engineer (if appropriate). The culverts shall be placed in the ditch line at elevations that will assure proper drainage, and they shall be provided with concrete, metal or landscape timber end walls.
- (9) Topsoil, Grass, Seed, Fertilizer and Mulch. All disturbed areas (ditches, backslopes) within the road right-of-way not provided with pavement and shouldering material shall be restored utilizing four (4) inches of topsoil and good quality grass seed, fertilizer and mulch. Ditches along the roadway with greater than a two and one-half percent (2.5%) slope shall be protected by erosion control materials such as hay bales, sod, erosion control mats, etc.

- (10) **Drainage Improvements.** In the case of all new roads and streets, the City Engineer may require that storm water retention areas and storm sewers be constructed in order to provide for proper drainage.
- (11) **Continuity and Transitions.**
- a. All street pavement widths on streets continued from previously developed or platted streets shall, wherever practical, provide for the greater of either the existing or required pavement type, width, grade and cross slope.
  - b. Where it is necessary to provide for a transition of pavement width and/or type between new and existing streets, the transition shall occur in a safe manner at an intersection. In the event a transition in pavement width cannot safely occur at an intersection, it shall not occur closer than two hundred fifty (250) feet to the intersection of right-of-way lines. In width transitions, the ratio of the transition length to width shall not be less than fifteen to one (15:1) unless the City Engineer determines that special circumstances prevent use of such ratio, in which case the minimum transition ratio shall be ten to one (10:1).

#### **SEC. 14-1-72 BLOCK DESIGN STANDARDS.**

- (a) **Length; Arrangement.** The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated, but block length in residential areas shall not exceed one thousand two hundred (1,200) feet nor have less than sufficient width to provide for two (2) tiers of lots of appropriate depth between street lines. As a general rule, blocks shall not be less than five hundred (500) feet in length. Blocks shall be so designated as to provide two (2) tiers of lots, unless it adjoins a railroad, major thoroughfare, river or park where it may have a single tier of lots.
- (b) **Pedestrian Pathways.** Pedestrian pathway easements not less than ten (10) feet wide, may be required by the Common Council and/or Plan Commission, through the center of a block more than nine hundred (900) feet long, where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

#### **SEC. 14-1-73 LOT DESIGN STANDARDS.**

- (a) **Size.**
  - (1) The size, shape and orientation of lots shall be appropriate for the location of topography of the subdivision, the type of sewerage or septic system to be utilized, and for the type of development contemplated, provided that no lot shall be smaller in area than the minimum lot size for the appropriate zone as established by the City Zoning Code.
  - (2) Lot dimensions, shape and size shall provide for conformance to the requirements of the Zoning Code for the permitted land use(s) without the need for the granting of Zoning Code variances by the Zoning Board of Appeals.
- (b) **Commercial Lots.** Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as required by the City Zoning Code.
- (c) **Lots Where Abutting Major Highway.** Residential lots adjacent to major and minor arterial streets and highways and/or railroads shall be platted with an extra fifteen (15) feet of lot and an extra fifteen (15) feet of minimum yard setback and shall otherwise be designed to alleviate the adverse effects on residential adjacent lots platted to the major street, highway, railroad or other such features.
- (d) **Corner Lots.** Corner lots for residential use shall have extra width of ten (10) feet to permit full building setback from both streets.

- (e) **Public/Private Street Frontage.** Every lot shall front or abut on a public/private street. Every lot shall front or abut for a distance of at least thirty (30) feet on a public/private street and shall be not less than sixty-six (66) feet in width at the building setback line, including cul-de-sac lot.
- (f) **Side Lot Lines.** Side lot lines shall be substantially at right angles to or radial to abutting street lines. Lot lines shall follow City boundary lines.
- (g) **Double and Reversed Frontage Lots.** Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
- (h) **Natural Features.** In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- (i) **Land Remnants.** All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels
- (j) **Large Lots.** In case a tract is divided and results in parcels of more than twice the minimum lot size provided for by the City Zoning Code for the zoning district in which the land is located, such parcels shall be so arranged to permit redividing into parcels in accordance with this Chapter and with the Zoning Code.
- (k) **Trunk Highway Proximity.** All lots adjacent to state trunk and federal highways shall be platted with additional depth necessary to provide for a building setback line not less than fifty (50) feet from the nearer right-of-way line or one hundred ten (110) feet from the centerline, whichever is more restrictive (Ref. Wis. Adm. Code HY 33). The subdivider may appeal this requirement to the City Engineer. Upon written request of the City Engineer; the Wisconsin Department of Transportation is hereby authorized to then determine building setback requirements equal to or less than those required above in all land divisions (including certified surveys) adjacent to state and federal highways in accordance with the authority granted in the Administrative Code. The required building setback line and additional lot depth shall be platted so as to accommodate such required building setbacks.
  - (1) **Easement Allowance.** Lots containing pedestrian or drainage easements shall be platted to include additional width in allowance for the easement.

#### SEC. 14-1-74 DRAINAGE SYSTEM.

- (a) **Drainage System Required.** As required by Section 14-1-58, a drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. A Final Plat shall not be approved until the subdivider shall submit plans, profiles and specifications as specified in this Section, which have been prepared by a registered professional engineer and approved by the Common Council, upon the recommendations of the Plan Commission and City Engineer.
- (b) **Drainage System Plans.**
  - (1) The subdivider shall submit to the City at the time of filing a Preliminary Plat a preliminary drainage plan or engineering report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the additional runoff which would be generated by the development of the land within the subdivision. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. The report shall also include:
    - a. Estimates of the quantity of storm water entering the subdivision naturally from areas outside the subdivision.
    - b. Quantities of flow at each inlet or culvert.
    - c. Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.

- (2) A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area within the subdivision.
  - (3) The design criteria for storm drainage systems shall be based upon information provided by the City Engineer.
  - (4) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, sod, etc.) shall be in compliance with specifications provided by the City Engineer.
- (c) **Drainage System Requirements.** The subdivider shall install all the storm drainage facilities indicated on the plans required in Subsection (a) of this Section.
- (1) **Street Drainage.** All streets shall be provided with an adequate storm drainage system. The street storm system shall serve as the primary drainage system and shall be designed to carry street, adjacent land and building storm water drainage. No storm water shall be permitted to be run into the sanitary sewer system within the proposed subdivision.
  - (2) **Off-Street Drainage.** The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the subdivider shall make provisions for dedicating an easement of the City to provide for the future maintenance of said system
- (d) **Protection of Drainage Systems.** The subdivider shall adequately protect all ditches to the satisfaction of the City Engineer. Ditches and open channels shall be seeded, sodded or paved depending upon grades and soil types. (Generally ditches or channels with grades up to one percent [ 1 % ] shall be seeded; those with grades up to four percent [4%] shall be sodded and those with grades over four percent [4%] shall be paved.)
- (e) **Drainage Easements.** Where a land division is traversed by a watercourse, drainageway, channel or stream:
- (1) There shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or
  - (2) The watercourse, drainageway, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a storm water easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this Section; or
  - (3) Wherever possible, drainage shall be maintained in an easement by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such easements shall be of a minimum width established at the high water mark or, in the absence of such specification, not less than thirty (30) feet.
- (f) **Dedication of Drainageways.** Whenever a parcel is to be subdivided or consolidated and embraces any part of a drainageway identified on a City Comprehensive Storm Water Management Plan, master plan and/or official map or any portion thereof, such part of said existing or proposed public drainageway shall be platted and dedicated by the subdivider as an easement or right-of-way in the location and at the size indicated along with all other streets and public ways in the land division. Whenever any parcel is to be subdivided or consolidated and is part of a drainage district established under the authority of Chapter 88 Wis. Stats., the subdivider shall petition the Circuit Court to transfer the jurisdiction of that portion of the drainage district being subdivided or consolidated to the City in accordance with Chapter SS.83, Wis. Stats.
- (g) **Dedication/Preservation of Storm Water Management Facilities.** The subdivider shall dedicate sufficient land area for the storage of storm water to meet the needs to be created by the proposed land development and in accordance with the standards for on-site detention and as determined by the City Engineer. Whenever a proposed storm water management facility (e.g., detention or retention basin) shown on the Comprehensive Storm Water Management Plan, master plan and/or official map is located, in whole or in part, within the proposed land division, ground areas for providing the required storage capacity in such proposed public facility shall be dedicated to the public to the requirements of the master plan and/or official map. Storage areas necessary to serve areas outside the land division shall be held in reserve for a period of five (5) years

from the date of final plat approval for future acquisition by the City or other appropriate agency having the authority to purchase said property. The subdivider and City shall enter into an agreement with the City to provide for the purchase of the lands held in reserve prior to the conclusion of the five (5) year reserve period.

(h) **Storm Drainage Facilities.**

- (1) The subdivider, at his cost, shall install all drainage facilities identified in the Erosion Control Plan (Building Code) or determined by the City Engineer as being necessary for the management of all lands and roadways within the development. In addition, drainage capacity through the development from other areas shall be provided in accordance with a Comprehensive Surface Water Management Study, if applicable. All required storm drainage facilities shall be constructed and operational prior to acceptance of any dedications and/or public improvements served by the storm drainage facilities.
- (2) The subdivider shall submit to the City Engineer for his review and approval a report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the land division to handle the additional runoff which would be generated by the development of the land within the land division. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed land division. The report shall also include:
  - a. Estimates of the quantity of storm water entering the land division naturally from areas outside the land division.
  - b. Quantities of flow at each inlet or culvert.
  - c. Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.
- (3) A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area within the land division.
- (4) The design criteria for storm drainage systems shall be reviewed by the City Engineer and approved or modified.
- (5) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, code, etc.) shall be in compliance with standards and specifications provided by City ordinance and/or the City Engineer.

(I) **Minor Drainage System.** The subdivider shall install all minor drainage system components necessary to reduce inconvenience and damages from frequent storms. Minor drainage components shall include all inlets, piping, gutters, channels, ditching, pumping and other facilities designed to accommodate the post-development runoff resulting from a two (2) year, twenty-four (24) hour rainfall [ten (10) year, twenty-four (24) hour rainfall for commercial zoning district] event as determined in the most current edition of the Soils Conservation Service Technical Release 55 (TR 55). Temporary accumulations of storm runoff from ponding or flowing water, in or near minor system components, shall be permitted providing such accumulations do not encroach on any traffic lane of any collector or arterial street, nor on the center twenty-four (24) feet of any local street, except on cul-de-sac or permanently dead-end streets serving less than ten (10) dwelling units, where such accumulations may not overtop the curb. In drainageways and drainageway easements, accumulations of water shall not inundate beyond the limits of the drainageway or drainageway easement. Cross street drainage channels (valley gutters) shall not be permitted except on cul-de-sac or permanent dead-end streets serving less than ten (10) dwelling units and where the minimum grade in the valley gutter and street gutter between the valley gutter and the next downstream drainage inlet is not less than one percent (1.00%).

(j) **Major Drainage System.** The subdivider shall install all major drainage system components necessary to reduce inconvenience and damages from infrequent storms. Major system components shall include large channels and drainageways, streets, easements and other paths and shall be capable of accommodating post development runoff in excess of that accommodated by minor system components resulting from twenty-four (24) hour rainfall events for storms with return frequencies greater than two (2) years up to and including

the one hundred (100) year return event (as identified in TR 55). On local and collector streets and drainageways and drainage easements, accumulations of water shall not inundate any buildings at the ground line, unless such buildings are flood-proofed. On arterial streets and in commercial zoning districts, accumulations of water shall not inundate any buildings at the ground line, unless such buildings are flood proofed and the depth of water at the street crown shall not exceed six (6) inches to permit operation of emergency vehicles.

(k) **Drainage Piping Systems.**

- (1) Unless otherwise approved by the City Engineer, all drainage piping of twelve ( 12) inches diameter and greater in street rights-of-way shall be constructed of Class Four (4) reinforced concrete pipe. Piping materials outside of rights-of-way shall be subject to approval of the City Engineer. Open drainage inlet pipes or culverts with any opening dimension in excess of eighteen ( 18) inches shall be equipped with debris grates having an exposed area at least seven (7) times the pipe opening area to avoid backwater accumulations from trash buildup and unsafe stream velocities and a maximum opening size of six (6) inches. Drainage piping outfalls with any opening dimension in excess of thirty-six (36) inches shall be protected from unauthorized entry by fencing, partial or total submergence of the outlet, debris grates or other methods approved by the City Engineer unless in such a location as to render routine maintenance operations impossible. Outfalls and their channels shall be protected from damages due to scour and erosion to the satisfaction of the City Engineer. (Amended 12-13-2005 Ordinance RC-212)
- (2) When, on the basis of the soils information, the City Engineer determines that the ground water elevation is less than nine (9) feet below the proposed street centerline elevation and the adjacent lots have access to a storm drainage piping system, the subdivider shall be required to provide approved sump pump laterals from the storm sewer piping system to the property line of each lot for connection to by the property owner.
- (3) Agricultural drain tiles which are disturbed during construction shall be restored, reconnected or connected to public storm drainage facilities.

(l) **Open Channel Systems.**

- (1) Where open channels are utilized in either the minor or major drainage system, they shall be designed so as to minimize maintenance requirements and maximize safety. Drainage easements (in lieu of dedications) shall be utilized to accommodate open channels provided adequate access by the City for maintenance of drainage capacity. Side slopes shall not exceed a four-to-one (4:1) slope. Drainageways with grades of 0.75% or less, or where subject to high ground water, continuous flows, or other conditions as determined by the City Engineer that would hamper maintenance operations due to consistently wet conditions, shall have a paved concrete invert of not less than eight (8) feet wide and side slopes to a point one (1) foot above the channel invert.
- (2) In areas where invert paving is not required, the drainageway bottom shall be grass. If the drainageway has a bare soil bottom or the natural grasses in the drainageway are disturbed due to development operations, the drainageway bottom shall be sodded and securely staked to one (1) foot above the elevation of inundation resulting from a predevelopment five (5) year, twenty-four (24) hour storm event. Other disturbed areas shall be seeded and prepared in accordance with the City's Erosion Control requirements. Velocities for grass-lined channels shall not exceed those presented in the City's Surface Water Management Study, if one is adopted.

(m) **Standards for On-Site Detention Storage.** The subdivider may employ on-site detention to control erosion and sedimentation, reduce the post-development peak runoff rate or temporarily store storm water runoff due to inadequate downstream drainage facilities. The detention (storage) facilities shall be subject to regulation in accordance with the following standards:

- (1) Where on-site detention is temporarily employed for erosion and sedimentation control, the detention facilities shall safety contain the predevelopment runoff from a twenty-five (25) year storm event of twenty-four (24) hour duration within the limits of the facility.

- (2) Where on-site detention is permanently employed to reduce the post development peak runoff, the detention facility shall safety contain the post-development runoff from a twenty-five (25) year storm event of twenty-four (24) hour duration within the limits of the facility.
- (3) Detention facility peak discharge rates for the maximum storm required to be contained shall not exceed the predevelopment peak discharge rate from a five (5) year storm event of twenty-four (24) hour duration or the capacity of the downstream drainage facilities, whichever is less.
- (4) All temporary detention facilities shall safety contain or pass the runoff from any storm of any duration which exceeds the maximum storm required to be contained up to the one hundred (100) year storm event of twenty-four (24) hour duration.
- (5) All permanent detention facilities shall safety contain the runoff from the one hundred (100) year storm event of twenty-four (24) hour duration on both public and, if necessary, private properties without inundating any building at the ground elevation, the travel lanes of any arterial street, the center ten (10) feet of any collector street or the top of the curb on any local street.
- (6) Determination of on-site detention volumes shall be computed by procedures established by the United States Soil Conservation Service in the most current edition of its technical publication entitled "Urban Hydrology for Small Watersheds, TR-55," and as accepted and approved by the City Engineer.
- (7) The storage of storm water runoff shall not encroach on any public park (except parks designed with detention facilities) or any private lands outside the land division unless an easement providing for such storage has been approved and recorded for said lands.
- (8) All detention facilities shall be designed with the safety of the general public and any considerations for ease of maintenance as top proprieties.
- (9) Any wet detention facilities shall include riprap to not less than two (2) feet above the normal pool elevation for protection from wave action.
- (10) The sides of all detention facilities shall have a maximum slope ratio of four to one (4:1) (horizontal to vertical), with flatter slopes being required where determined practical by the City Engineer.
- (11) The Common Council, upon recommendation by the City Engineer, may require the installation of fencing or other such security measures in detention facilities with excessively long down times or permanent water features, or other features requiring additional security for safety reasons.

**SEC. 14-1-75 NON-RESIDENTIAL SUBDIVISIONS.**

(a) **General.**

- (1) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provisions as the City may require.
- (2) A non-residential subdivision shall also be subject to all the requirements of site plan approval set forth in the City Building Code. A non-residential subdivision shall be subject to all the requirements of this Chapter, as well as such additional standards required by the City and shall conform to the proposed land use standards established by any City Comprehensive/Master Plan or Official Map and the City Zoning Code, if applicable.

(b) **Standards.** In addition to the principles and standards in this Chapter, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Common Council that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

- (1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
- (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
- (3) Special requirements may be imposed by the Common Council, upon the recommendation of the City Engineer, with respect to street, curb, gutter and sidewalk design and construction.

- (4) Special requirements may be imposed by the Common Council, upon the recommendation of the City Engineer, with respect to the installation of public utilities, including water, sewer and storm water drainage.
- (5) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strips when necessary.
- (6) Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

**SEC. 14-1-76 GRADING.**

The subdivider shall grade each land division in order to establish street, block and lot grades in proper relation to each other and to topography as follows:

- (a) The subdivider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans, including the grading of site triangles at each intersection.
- (b) Block grading shall be completed by one (1) or more of the following methods:
  - (1) Regrading along the side or rear lot lines which provides for drainage to the public drainage facilities.
  - (2) Parts of all lots may be graded to provide for drainage to a ditch or to a swale, provided any ditches or swales are in public drainage easements.
  - (3) Draining across rear or side lot lines may be permitted provided that the course of drainage is within a public drainage easement and is toward public drainage facilities.
- (c) Lot grading shall be completed so that water drains away from each building site toward public drainage facilities at a minimum grade of two percent (2%) and provisions shall be made to prevent drainage onto properties adjacent to the land division unless to a public drainage facility.
- (d) Grading activities shall not result in slopes greater than three to one (3:1) on public lands or lands subject to public access.
- (e) The topsoil stripped for grading shall not be removed from the site unless identified in the Erosion Control Plan approved by the City Engineer as not being necessary for erosion control or site landscaping purposes. Topsoil shall be uniformly returned to the lots when rough grading is finished. Topsoil piles shall be leveled and seeded for erosion control prior to the City releasing the one (1) year guarantee provision on public improvements in the streets adjacent to the lots on which the topsoil is stockpiled.
- (f) Such grading shall not result in detriment to any existing developed lands, either within or outside of the corporate limits.

**SEC. 14-1-77 THROUGH SEC. 14-1-79 RESERVED FOR FUTURE USE.**



## ARTICLE H

## Park and Public Land Dedication Requirements

**SEC. 14-1-80 PROVISION OF PUBLIC LANDS AND OPEN SPACE** (repealed and recreated 9/21/04 Ordinance RC-190)

The subdivider or condominium developer shall provide and dedicate to the City adequate land to provide for park, recreation and open space needs within the City. The location of such land to be dedicated shall be determined by the Plan Commission. Where a land dedication is not compatible with the comprehensive plan or the park and open space plan, or for other reasons advised by the Plan Commission, the subdivider or condominium developer shall, in lieu thereof, pay a fee to meet this requirement in whole or on prorated basis.

- (a) **Land Dedication Requirement.** After consultation with the Park and Recreation Commission, the Plan Commission shall determine whether the dedication of land for parks or monies in lieu thereof will better serve the public interest. Where land is to be dedicated, 1,450 square feet of land shall be dedicated for each residential dwelling units is proposed, the requirements shall be based on the number of dwelling units permitted by right under the plat or condominium plat submittal. Lands reserved for stormwater management shall not be credited towards a subdivider or condominium development's park and land dedication requirements. All dedicated lands shall be accompanied by an environment assessment indicating that such lands present no environmental hazard, and that they will not require environmental mitigation or remediation measures. A core soil sample test shall be administered and results submitted to the Park and Recreation Department. Said environmental assessment and soil test shall be paid for at the subdivider or condominium developer's expense.
- (b) **Fees in Lieu of Land Dedication.** Where, after consultation with the Park and Recreation Commission, the Plan Commission recommends the option of fees, or the development has already been platted, a fee in lieu of land per potential dwelling units permitted by right under the proposed subdivision and zoning in effect at the time of preliminary plat or condominium plat submittal shall be collected. The fee per dwelling may be found in Section 15-1-19(a)(25)(a) Fee Schedule and will be adjusted during the first quarter of each year. Fees are due at the time of final plat.
- (c) **Park Improvement Fees.** Regardless of whether land dedication or fees in lieu of land are required, a park improvement fee shall be paid for each dwelling unit proposed. The fee per dwelling may be found in Section 15-1-19(a)(25)(b) Fee Schedule and will be adjusted during the first quarter of each year. If no particular number of dwelling units is proposed, the requirements shall be based on the number of dwelling units permitted by right under the proposed subdivision or condominium develop and zoning is effect at the time of preliminary plat submittal. Fees are due and payable in full at the time of the issuance of a building permit. (repealed and recreated 2/10/2009 Ordinance RC-261)

**SEC 14-1-81 ALLOCATION OF FEES IN LIEU OF LAND AND PARK IMPROVEMENTS** (repealed and recreated 9/21/04 Ordinance RC-190) (repealed and recreated 2/10/2009 Ordinance RC-261)

The fees received by the City shall be placed in a separate segregated interest-bearing Non-Lapsing account, namely the Community Park Fund, separate from any and all other acquisition and development of new park, recreation, and other open space areas; for the improvements of existing parklands and open spaces. The use of said Community Park Fund shall be at the sole discretion of the City.

**SEC 14-1-82 DEVELOPMENT OF PARK AREA** (repealed and recreated 9/21/04 Ordinance RC-190)

- (a) When parklands are dedicated, the subdivider is required to:
- (1) Properly grade and contour for proper drainage;
  - (2) Provide surface contour suitable for anticipated use of area; and
  - (3) Cover areas to be seeded with a minimum of six (6) inches of quality topsoil, seed, fertilize, and mulch as specified by the Park and Recreation Department. When possible original / sub soil shall be left undisturbed with minimum heavy equipment disturbance other than final grading and seeding. Original soil must be equal to or greater than the initial original soil with a minimum of six (6) inches. Fine grading and seeding must occur within one (1) year following issuance of the first building permit within that land division unless otherwise authorized by the City Engineer. The improved area shall not be deemed officially accepted until a uniform grass cover to a two (2) inch height has been established. It shall be the responsibility of the subdivider to maintain the area until the city accepts the dedication.
- (b) When the subdivider shall provide a neighborhood park, it shall be provided with a standard residential water service unless located directly adjacent to the fire hydrant. A community park area shall be provided by the developer with a minimum six (6) inch water service or at least one (1) fire hydrant, and at least one (1) four (4) inch sanitary sewer lateral, all located at the street property line.
- (c) The Common Council shall require certification of compliance with this Article by City officials. The subdivider shall pay the cost of such report.
- (d) Development of parklands is to be completed as soon as twenty percent (20%) of the planned lots in the subdivision are sold or developed, as determined by the Common Council.
- (e) If the subdivider fails to satisfy the requirements of this Section, the Common Council may contract said completion and bill such costs to the subdivider, following a public hearing and written notice to the subdivider of noncompliance. Failure to pay such costs may result in the immediate withholding of all building permits until such costs are paid.

**SEC 14-1-83 ALLOCATION OF FEES IN LIEU OF LAND AND PARK IMPROVEMENT FEES** (repealed and recreated 9/21/04 Ordinance RC-190)

The fees received by the City shall be placed in separate Non-Lapsing accounts (Community Park Fund and Park Improvement Fund), separate from the City General Fund. The Community Park Fund shall be used exclusively for the acquisition and development of new park, recreation, and other open space areas. The Park Improvement Fund may be used for the development of new parklands and open space; and the redevelopment and improvements of existing parklands and open spaces.

**SEC. 14-1-84 RESERVATION OF ADDITIONAL LAND** (Amended 9-13-05, Ordinance RC-208)

When public parks and sites for other public areas, such as schools, as shown on the Master Plan or Master Plan component lie within the proposed area for development and are greater in area than required by section 14-1-80, the owner shall reserve for acquisition by the City, through agreement, purchase or condemnation, the remaining greater public area for a period of three (3) years of Final Plat approval unless extended by mutual agreement.

**SEC. 14-1-85 THROUGH SEC. 14-1-89 RESERVED FOR FUTURE USE.**

**ARTICLE I**

Fees

SEC. 14-1-90 ADMINISTRATIVE AND OTHER FEES

- (a) General. The subdivider shall pay the City all fees as hereinafter required and at the times specified before being entitled to recording of a plat or certified survey map.
- (b) Engineering Fee. The subdivider shall pay a fee equal to the actual cost to the City for all engineering work incurred by the City in connection with the plat or certified survey map, including inspections required by the City. The subdivider shall pay a fee equal to the actual cost to the City for such engineering work and inspection as the Common Council and/or City Engineer deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the City or any other governmental authority. Engineering work shall include the preparation of construction plans, standard specifications and administration of the engineering work.
- (c) Administrative Fee. The subdivider shall pay a fee to the City equal to the cost of any legal, administrative or fiscal work which may be undertaken by the City in connection with the plat or certified survey map.
- (d) Preliminary Plat/Certified Survey Map.
  - (1) A subdivider who submits a preliminary plat or certified survey map for the City Plan Commission and the Common Council shall file said preliminary plat or certified survey map with the City Clerk and shall deposit with the City Clerk a fee to cover the costs of reviewing said application. The fee for a preliminary plat shall be One Hundred Dollars (\$100.00) for up to and including six (6) lots plus Ten Dollars (\$10.00) per each additional lot over six (6). The fee for a certified survey map shall be One Hundred Dollars (\$100.00). If the plat or map is rejected, no part of the fee shall be returned to the petitioner.
  - (2) A reapplication fee of Twenty-five Dollars (\$25.00) shall be paid to the City Clerk at the time of reapplication for approval of any Preliminary Plat, which has previously been reviewed.
- (e) Final Plat Review Fee.
  - (1) The subdivider shall pay a fee of Twenty-five Dollars (\$25.00) plus Two Dollars (\$2.00) for each dwelling unit within the Final Plat to the City Clerk at the time of first application for Final Plat approval of said plat to assist in defraying the cost of review.
  - (2) A reapplication fee of Ten Dollars (\$10.00) shall be paid to the City Clerk at the time of a reapplication for approval of any Final Plat, which has previously been reviewed.
- (f) Objecting Agency Review Fees. The subdivider shall transmit all fees required for state agency review to the City Clerk at the time of application. Said review fees shall be retransmitted to the proper state review agency by the City Clerk. Said fees shall be applicable, where appropriate, to review fees required by the Wisconsin Department of Development, Wisconsin Department of Transportation, Wisconsin Department of Industry, Labor and Human Relations and the Wisconsin Department of Natural Resources.
- (g) Public Site Fee. If the subdivision does not contain lands to be dedicated as required in this Chapter, the City Clerk shall require a fee pursuant to Section 14-1-84 for the acquisition and development of public sites to serve the future inhabitants of the proposed subdivision.

SEC. 14-1-91 THROUGH SEC 14-1-99 RESERVED FOR FUTURE USE.

**ARTICLE J – IMPACT FEES FOR PUBLIC WATER FACILITIES AND PUBLIC SANITARY SEWER FACILITIES** (Repealed and Recreated RC-322 8/21/12)

- 14-1-100 (amended RC-180, 4/13/04) (Repealed RC-217 5/9/06)
- 14-1-101 Intent (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- 14-1-102 Authority (amended RC-180, 4/13/04)
- 14-1-103 Definitions (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- 14-1-104 Standards for Impact Fees (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- 14-1-105 Imposition of Impact Fees for Public Water Facilities and for Public Sanitary Sewer Facilities (amended RC-180, 4/13/04)
- 14-1-106 Exemptions (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- 14-1-107 Non-exemption for Low-Income Housing (amended RC-180, 4/13/04)
- 14-1-108 Payment of Impact Fees (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- 14-1-109 Separate Fund Established (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- 14-1-110 Refund of Impact Fees (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- 14-1-111 Penalty Provision (amended RC-180, 4/13/04)
- 14-1-112 Appeal (amended RC-180, 4/13/04)
- 14-1-113 Severability (amended RC-180, 4/13/04)
- 14-1-114 Imposition of Fire Protection Facilities Impact Fees (Created by RC-217 5/9/06)

**14-1-100** (Amended RC-180, 4/13/04) (Repealed RC-217 5/9/2006)

**14-1-101** **Intent.** This subchapter is intended to establish the mechanism for the imposition of impact fees upon new development to finance the capital costs of acquiring, establishing, upgrading, expanding and constructing public facilities which are necessary to accommodate land development. This chapter is intended to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide public facilities within the City of Delavan and its service areas as they are required to serve the needs arising out of land development. (Amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)

**14-1-102** **Authority.** The Common Council of the City of Delavan has the authority to adopt this Subchapter pursuant to Section 66.0617 of the Wisconsin Statutes. (Amended RC-180, 4/13/04)

**14-1-103** **Definitions.** The following words and terms used within this Subchapter are defined as hereinafter set forth:

(1) “Building Permit” shall mean any permit required for new construction and additions or improvements to existing structures within the City pursuant to the Municipal Code of the City, the same to be obtained from the Building Inspector. (amended RC-180, 4/13/04)

(2) “Capital Costs”, for purpose of this Subchapter, means those expenditures to physically construct, expand or improve public water facilities and/or public sanitary sewer facilities, as the case may be, including the cost of land, and further including legal, engineering and design costs to construct, expand or improve such public facilities, except that not more than 25 % of those “capital costs” may consist of such legal, engineering and design costs unless the City can demonstrate that those costs which relate directly to the public improvement for which impact fees were imposed actually exceed 25 % of capital costs. “Capital Costs” does not include other non-capital costs to construct, expand or improve public facilities or the costs of equipment to construct, expand or improve public facilities. (Amended RC-180, 4/13/04)

- (3) “City” means the City of Delavan, the political subdivision as well as the physical area thereof as defined by its corporate limits, as they presently exist and as they may change from time to time during the life of this Subchapter. (Amended RC-180, 4/13/04)
- (4) “Development” means any man-made change to improved or unimproved real property, or to the use of any principal structure or land that requires the issuance of a building permit, excepting, however, repairs and maintenance. (Amended RC-180, 4/13/04)
- (5) “Impact Fees” means a fee to be collected at time a building permit is issued in case of improvement or development of a parcel within the existing corporate limits of the city as well as within the extra-territorial limits of the City, the calculation there of being based upon the cost of public water facilities and/or public sanitary sewer facilities and/or fire protection facilities in relation and in proportion to the type of development creating the need therefore within the existing corporate limits of the city as well as within the extra-territorial limits of the City. There are and shall be separate impact fees for public water facilities. (Amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- (6) “Person” means any natural individual, firm, partnership, association, corporation or developer. (Amended RC-180, 4/13/04)
- (7) "Public facilities" means highways as defined in Section 340.01(22), Wis. Stats., and other transportation facilities, traffic control devices, facilities for collecting and treating sewage, facilities for collecting and treating storm and surface waters, facilities for pumping, storing and distributing water, parks, playgrounds and other recreation facilities, solid waste and recycling facilities, Fire Protection Facilities, law enforcement facilities, emergency medical facilities and libraries. "Public facilities" does not include facilities owned by a school district. (Created RC-217 5/9/06)
- (8) “Public Facilities Needs Assessment” means that needs assessment required by 66.0617(4), Stats., and, as applicable to the City, are those certain analysis entitled “Delavan Public Facilities Needs Assessment – Water System, , Delavan Public Facilities Needs Assessment – Sewer System, ,” and City of Delavan, Wisconsin Fire Facilities Study" made by and for the City and on file in the office of the City clerk, the same making determination of the impact of new or expanding development on the need for and costs of additional or expansion/improvement of public water facilities, public sanitary sewer facilities, and Fire Protection Facilities in the City as it now exists and may expand in the future. (Amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- (9) “Public Water Facilities” means any or all of the following, which are necessary to support and are attributable to development and which are identified to be financed by the imposition of an impact fee: Water storage facilities; transmission and distribution water mains, i.e., over-sizing costs for those in single family areas in excess of 8”and, for those in multi-family, commercial and industrial areas, in excess of 12”; wells; water pumping supply facilities; and water treatment facilities. If service for a development requires larger than the minimum size mains, the developer shall be responsible for the cost thereof. The costs of such public water facilities shall include those applicable costs as more specifically included in the definition of “capital costs,” above. (Amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- (10) “Public Sanitary Sewer Facilities” means any or all of the following, which are necessary to support and are attributable to development and which are identified to be financed by the imposition of a sanitary sewer impact fee: Facilities for collecting sewage, being, more specifically, sanitary

sewer interceptor mains, i.e. oversizing costs for those in excess of 10” diameter; force mains (all sizes), and; wastewater lift (pumping) stations. If service for a development requires larger than the minimum size mains, the developer shall be responsible for the cost thereof. The costs of such public sanitary sewer facilities shall include those applicable costs as more specifically included in the definition of “capital costs,” above. (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)

(11) “Residential Equivalent Unit” means a unit of measure for water impact fees and for sanitary sewer impact fees equivalent, respectively, to the amount of water capacity needed to supply one residential dwelling unit for consumption purposes, and such water capacity needed to service one residential dwelling unit as to wastewater. (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)

**14-1-104 Standards for Impact Fees.**

(1) In accordance with 66.0617(6), Stats., the City does hereby adopt the following standards for impact fees imposed under this Subchapter (by the ordinance so enacting it). Impact fees adopted by the City of Delavan: (amended RC-180, 4/13/04)

- (a) Shall bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.
- (b) May not exceed the proportionate share of the capital costs that are required to serve land development, as compared to existing uses of land within the City.
- (c) Shall be based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.
- (d) Shall be reduced to compensate for other capital costs imposed by the City with respect to land development to provide or pay for public facilities, including special assessments, special charges, land dedications or fees in lieu of land dedications under Chapter 236, Stats., or any other items of value.
- (e) Shall be reduced to compensate for monies received from the federal or state governments specifically to provide or pay for the public facilities for which the impact fees are imposed.
- (f) May not include amounts necessary to address existing deficiencies in public facilities.
- (g) Shall be payable by the developer to the City, either in full or installment payments that are approved by the City before a building permit may be issued or other required approval may be given by the City.

(2) (amended RC-180, 4/13/04) (Repealed RC-217 5/9/06)

**14-1-105 Imposition of Water Facilities.**

(1) Any person who, after the effective date of this Subchapter, seeks to connect to the City of Delavan water system for water usage/consumption shall be required to pay a water facilities impact fee in the manner and amount as provided in this Subchapter; (amended RC-180, 4/13/04)

- (a) Water facilities impact fees are and shall be determined upon a residential equivalent unit (REU) basis with a single family residence being a unit of one (1);
- (b) The number of residential equivalent units (REUs) for all properties for the respective impact fees shall be assigned in accordance with the required water meter size(s) as heretofore established and employed by the Walworth County Metropolitan Sewerage District, and as hereinafter set forth:

Meter Size	REUs/Meter Size	Meter Size (cont.)	REUs/Meter Size (cont.)
3/4" or less	1.0	3"	15.0
1"	2.5	4"	25.0
1 1/2"	5.0	6"	50.0
2"	8.0		

- (c) Based on the standards and imposition of respective impact fees, all hereinbefore established and implemented, and the costs determined per residential equivalent unit for the existing corporate limits of the City as well as within the extra-territorial limits of the City in the public facilities needs assessment, impact fees are and shall be determined by the following methods:

Project Cost/REU	Number of REU's per Required Meter Size		Resultant Impact Fees
\$2,379	REUs per (1)(b) above	=	Water Impact Fee

1. Water Impact Fees: Water Impact Fees within the existing corporate limits of the City as well as within the extra-territorial limits of the City shall be determined by multiplying the project cost per residential equivalent unit by the number of residential equivalent units per required meter size (per Subsec. (1)(b), immediately above).
2. Annual adjustment of costs per REU and Impact Fees: The project cost per residential equivalent unit appearing in the foregoing table for determining water impact fees are based on 2012 dollars. Said costs in said tables shall be adjusted annually for effects of inflation, if any, by reference to the current Engineering News Record.
3. In the case of change of use, redevelopment, expansion or modification of an existing use which requires a new, replacement, or additional connection to the City's water system for water usage/consumption, the impact fee shall be then computed upon the net increase occasioned by increase in size of meter and the number of related residential equivalent units (REUs) therefore in computing the new impact fee over that computation (again, then computed) based on previous meter size whether or not impact fee had ever previously been charged.

4. This Subchapter recognizes that there may be existing agreement(s) with major developers which could supersede the right to charge or collect impact fees or portions thereof whereby, e.g. a developer may have previously advanced or paid costs anticipated herein to be collected by impact fees. Should such case(s) present themselves, the person applying for building permit, if impact fee(s) be proposed to be charged, should pursue the appeal procedure in Section 18.85 hereof for resolution.

**14-1-106 Exemptions.** The following shall be exempted from payment of the impact fees herein provided:

- (1) Alterations or expansion of an existing building where no additional or larger water meter connections are requested or required and where the use is not changed are exempted from the payment of Water Facilities Impact Fees; (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- (2) The replacement of building or structure with a new building or structure of the same or less size where no additional or larger water and/or sewer connections are requested and where the use is not changed are exempted from the payment of Water Facilities Impact Fees. (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- (3) The lawful new construction of a single-family dwelling structure razed or to be razed within one year of the date of issuance of a building permit for the new construction as part of a new construction project shall be exempt from the Fire Protection Facilities Impact Fees imposed under this section. Any new construction of a single-family dwelling structure upon a single parcel of land involving the demolition of a preexisting residential structure upon such single parcel of land, which project is similar to but not exactly as described above, may be found to be exempt from the Fire Protection Facilities impact Fees upon application to the City Council and finding by the City Council that such project does not bear a rational relationship to the need for new, expanded or improved public facilities required to serve such development. Such application shall be made to the City Council prior to the payment of any fees under this section.

Any claim of exemption shall be made at time of application for building permit. Any claim not so made shall be deemed waived. (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)

**14-1-107 Non-exemption for Low-Cost Housing.** No exemption or reduction in the amounts of impact fees shall be made for development that provides for low-cost housing. (amended RC-180, 4/13/04)

**14-1-108 Payment of Impact Fees.** All required impact fees, unless expressly excepted in a section of this chapter, or unless otherwise are payable as specified herein, shall become due and payable upon application for a building permit. Impact fee payments shall be assumed to be the responsibility of the owner of record at the time the fee is imposed on a particular parcel. (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)

**14-1-109 Separate Fund Established; Use Thereof.**

- (1) Revenues from impact fees shall be placed in one or more segregated, interest bearing accounts and shall be accounted for separately from other City general and utility funds. (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)
- (2) Funds collected and deposited to such accounts and interest earned thereon shall be used solely for capital costs for which the impact fees are imposed, and shall not be used for maintenance nor to address any existing deficiencies in public facilities at time of enactment thereof. (amended RC-180, 4/13/04) (Repealed and Recreated RC-217 5/9/06)



- (3) In the event that bonds or similar debt instruments are issued for advanced provision of public water facilities or public sanitary sewer facilities for which such impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are within the capital costs contemplated in said public facilities needs assessment. (amended RC-180, 4/13/04)

**14-1-110 Refund of Impact Fees**

- (1) Impact fees that were collected prior to January 1, 2003 must be used for the purpose for which it was imposed no later than December 31, 2012. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in above Section 14-1-109.
- (2) Impact fees that were collected after December 31, 2002, and before April 11, 2006, must be used for the purpose for which they were imposed no later than the first day of the 120<sup>th</sup> month beginning after the date on which the fee was collected. Any such fee that is not used by the date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as set forth in above Section 14-1-109.
- (3) Impact fees that are collected after April 10, 2006 and more than seven (7) years after the effective date of this amended ordinance, shall be used within a reasonable period of time after they are collected to pay the capital costs for which they were imposed, or they shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated, as set forth in above Section 14-1-109. The City hereby determines that a reasonable time period for the respective public water and sewer facilities contemplated for payment by such collected impact fees for said facilities shall be considered as follows:

(a)	Water storage facilities, wells, water pumping supply facilities, water treatment facilities	20
(b)	Oversizing costs as herein provided, for transmission and distribution watermains	20
(c)	Oversizing costs for sanitary sewer interceptor mains, as herein provided	20
(d)	Sanitary sewer force mains and wastewater lift (pumping) stations	20

**14-1-111 Penalty Provision.** Any person violating any provision of this Subchapter shall be subject to the uniform penalty provisions of Section 1-1-7 of the City of Delavan Municipal Code, or any other legal remedy available according to law. (amended RC-180, 4/13/04)

**14-1-112 Appeal.** Any person upon whom an impact fee is imposed has the right to appeal the amount, collection, or use of the impact fee to the Common Council of the City. The procedure shall be as follows: (amended RC-180, 4/13/04)

- (1) Any person appealing the amount, collection, or use of the impact fee shall submit a letter or petition to the City Clerk describing the nature of the appeal and providing any supporting documentation therewith; (amended RC-180, 4/13/04)
- (2) The Clerk shall present the appeal letter or petition to the Finance Committee for its recommendation to the Common Council. The Clerk shall notify the person appealing of the time and place of the Finance Committee meeting at which time the appellant shall be given the opportunity to present additional information in support of his appeal, following which the Finance Committee shall make its recommendation to the Council which shall thereafter, at subsequent meeting, consider said recommendation and make determination thereon. (amended RC-180, 4/13/04)
- (3) The appellant shall thereafter have the further right, within 60 days, to request and cause the Common Council to conduct formal hearing of the contest within a reasonable time following said request. (amended RC-180, 4/13/04)

**4-1-113 Severability.** If any section, phrase, sentence or portion of this Subchapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. (amended RC-180, 4/13/04)

**14-1-114 Imposition of Fire Protection Facilities Impact Fees.** (Created by RC-217 5/9/06)

- (1) Any developer creating or constructing development within the City of Delavan shall pay a fee to the City to provide for capital costs of Fire Protection Facilities necessary to accommodate land development, except as provided in 14-1-106(3).
- (2) The basis for the imposition of the Fire Protection Facilities Impact Fees is the "City of Delavan, WI, Fire Facilities Study", which is on file in the office of the City Clerk. The amount of the fee per unit to be constructed or created by the proposed development shall be as follows:
  - (a) For single-family residential development, the fee shall be \$576.35 per dwelling unit.
  - (b) For multi-family residential development units, the fee shall be \$78.08 per dwelling unit
  - (c) For commercial and institutional development, the fee shall be \$0.18 per square foot of building space.
  - (d) For institutional development, the fee shall be \$0.18 per square foot of building space.

## SECTION 2.

Section 14-1-115 through Section 14-1-119 reserved for future use.”

**ARTICLE K**  
(created 10-10-00 by RC-102)

Construction Site Erosion Control and Stormwater Management

**SECTION 14-1-120 AUTHORITY**

This ordinance is adopted by the City of Delavan under the authority granted by Sec. 62.234 Wis. Stats.

- (a) Provisions of this ordinance are not deemed to limit any other lawful regulatory powers of the City of Delavan.
- (b) The City of Delavan hereby designates the City Public Works Department, acting through the City Public Works Director, to administer and enforce the provisions of this ordinance.
- (c) The requirements of this ordinance do not pre-empt more stringent stormwater management requirements that may be imposed by Stormwater Permits issued by the Wisconsin Department of Natural Resources pursuant to Sec. 283.33 Wis. Stats. or any successor statute thereto.

**SECTION 14-1-121 FINDINGS OF FACT**

- (a) The Common Council finds that uncontrolled stormwater runoff and construction site erosion from land development and land disturbing activities have a significant impact upon water resources and the health, safety and general welfare of the City of Delavan and its citizens, residents and property and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled stormwater run-off and run-off or discharge from construction sites and other land development or land disturbing activities can: degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, and diminishing stream base flows;
  - (1) diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing loadings of nutrients and other urban pollutants;
  - (2) alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
  - (3) reduce the quality of groundwater by increasing pollutant loading;
  - (4) threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities;
  - (5) threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes;
  - (6) undermine floodplain management efforts by increasing the incidence and levels of flooding;
  - (7) threaten lakes, streams and wetlands with sediment and other pollutants carried by run-off or discharge from construction sites, land development activities or land disturbance activities.

**SECTION 14-1-122 DEFINITIONS**

- (a) The following definitions shall be applicable in this Chapter:
- (1) “Administering authority” means the City of Delavan Public Works Department, acting through the City Public Works Director, empowered under §62.234 Wis. Stats. and designated by the Common Council to administer this ordinance.
  - (2) “Agricultural land use” means use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries.
  - (3) “Applicant” means any landowner, land user(s), their agent, or contractor responsible for submitting and carrying out the requirements of this ordinance. Applicant shall also mean any subsequent landowner to whom this ordinance applies.
  - (4) “Approved stormwater management system plan” means a stormwater management system plan certified and adopted by the Common Council.
  - (5) “Best management practice” means a practice, technique or measure that is an effective, practical means of preventing or reducing soil erosion and water pollution from runoff both during and after land development activities. These can include structural, vegetative or management practices.
  - (6) “Common plan of development or sale” means all lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where integrated multiple separate and distinct land developing activity may take place at different times and on different schedules.
  - (7) “City” means the City of Delavan.
  - (8) “Department” means the City of Delavan Public Works Department.
  - (9) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
  - (10) “Discharge volume” means the quantity of runoff discharged from the land surface as the result of a rainfall event.
  - (11) “Erosion” means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
  - (12) “Erosion control plan” means a written description and detailed site plan of best management practices designed to meet the requirements of this ordinance submitted by the applicant for review and approval by the Department.

- (13) “Groundwater enforcement standard” means a numerical value expressing the concentration of a substance in groundwater which is adopted under s. 160.07 Wis. Stats., and s. NR 140.10 or s. 160.09 Wis. Stats., and s. NR 140.12.
- (14) “Groundwater preventive action limit” means a numerical value expressing the concentration of a substance in groundwater, which is adopted under s. 160.15 Wis. Stats., and s. NR 140.10, 140.12, or 140.20.
- (15) “Impervious surface” means a surface through which rainfall does not infiltrate. Rooftops, sidewalks, parking lots, and street surfaces are examples of impervious surfaces.
- (16) “Infiltration” means the process by which rainfall or surface runoff percolates or penetrates into the underlying soil.
- (17) “Land development activity” means the construction of buildings, roads, parking lots, paved and unpaved storage areas, patios, seawalls and similar facilities, but not including general maintenance of parking lots and drives.
- (18) “Land disturbing activity” means any man-made change of the land surface including removing vegetative cover, cutting of trees, demolition, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; and harvesting of trees, and tree nurseries. It is the intent of this definition to prohibit the cutting of trees in primary and secondary environmental corridors and isolated natural areas without an approved construction site erosion control plan and permit or other authorization set forth in state and local shoreland management codes. This definition does not prohibit the selective cutting of diseased or fallen trees.
- (19) “Landowner” means any person holding title to or having an interest in land.
- (20) “Land user” means any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.
- (21) “Maintenance agreement” means a legal document that is filed with the Walworth County Register of Deeds and which provides for long-term maintenance of stormwater management practices.
- (22) “Non-storm discharge” means a discharge to the storm sewer system created by some process other than the runoff of rain.
- (23) “Peak flow” means the maximum rate at which a unit volume of stormwater is discharged.
- (24) “Pervious surface” means a surface that infiltrates rainfall during a large portion of the design rainfall event. Well-managed lawns, fields and woodlands are examples of pervious surfaces.
- (25) “Post-construction stormwater discharge” means any stormwater discharged from a site following the completion of land disturbing construction activity and final site stabilization.

- (26) “Post-development condition” means the extent and distribution of land cover types, anticipated to occur under conditions of full development that will influence rainfall runoff and infiltration.
- (27) “Pre-development condition” means the extent and distribution of land cover types present before the initiation of land development activity.
- (28) “Pre-treatment” means the treatment of stormwater prior to its discharge to the primary stormwater treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary practice.

Subdivision Regulations

- (29) “Residential development” means that which is created to house people, including the residential dwellings as well as all attendant portions of the development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single family, multi-family, apartment, and trailer parks.
- (30) “Runoff” means the rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface.
- (31) “Site” means the entire area of land disturbing or land development activity.
- (32) “Stabilize” means that vegetation is well established or other surfacing material is in place and the risk of further soil erosion is minimal.
- (33) “Stormwater Management Measure” means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants in stormwater including, but not limited to structural stormwater measures.
- (34) “Stormwater management plan” means a document that identifies what actions will be taken to reduce stormwater quantity and pollutant loads from land development activity to levels meeting the purpose and intent of this ordinance.
- (35) “Stormwater management system plan” is a comprehensive plan developed to address stormwater drainage and non-point source water pollution control problems under both existing and planned conditions within a logical planning area such as a watershed or subwatershed. Such a system plan is intended to establish objectives, standards, and design criteria that can be used to evaluate alternatives and select a recommended plan.
- (36) “Stormwater runoff” means that portion of the precipitation falling during a rainfall event that runs off the surface of the land and into the natural or artificial conveyance or drainage network.
- (37) “Structural stormwater management measure” means a practice that is designed to control stormwater runoff pollutant loads, discharge volumes, and peak flow discharge rates.
- (38) “Surface Waters” means all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the City of Delavan.

- (39) “Wetland functional value” means the type, quality, and significance of the ecological benefits provided by wetland resources, such as: flood storage, water quality protection, groundwater recharge and discharge, shoreline protections, fish and wildlife habitat, and floral diversity.
- (40) “Working Day” means a calendar day, except Saturdays, Sundays and State and City of Delavan recognized holidays.

**SECTION 14-1-123 GENERAL ADMINISTRATION**

The Department, acting through the City Public Works Director, is designated to administer and enforce the provisions of this ordinance. The Department shall oversee the administration of this ordinance and issue permits and review erosion control and stormwater management plans as provided herein and make recommendations, where appropriate, to the City of Delavan Common Council and any other agency of the City or the Board of Zoning Appeals relative to matters related to stormwater management and construction site erosion control.

**SECTION 14-1-124 CONSTRUCTION SITE EROSION CONTROL**

- (a) **Design Criteria, Standards and Specifications.** All construction site erosion control measures required to comply with this ordinance shall meet the design and maintenance criteria, standards and specifications in the latest edition of the “Wisconsin Construction Site Best Management Practices Handbook” as published and amended from time to time by the State of Wisconsin Department of Natural Resources and “Chapter 4 of the Field Office Technical Guide” as published by the United States Department of Agricultural - Natural Resource Conservation Service. The design criteria, standards and specifications for construction site erosion control and stormwater management measures not contained in the “Wisconsin Construction Site Best Management Practices Handbook” and “Chapter 4 of the Field Office Technical Guide” shall not be permitted unless approved by the Department.
- (b) **Maintenance of Control Measures.** All erosion control and other measures necessary to meet the requirements of this Section 14-1-124 shall be maintained by the applicant or subsequent landowner/user during the period of land disturbance and development of the site in a manner satisfactory to the Department. The standards for the maintenance of erosion control measures shall be as set forth in the Department of Natural Resources’ “Wisconsin Construction Site Best Management Practice Handbook” or as otherwise specified by the Department.
- (c) **Control of Erosion and Pollutants During Land Disturbance and Land Development.**
  - (1) **Applicability.** This Section 14-1-125 applies to the following sites of land development or land disturbing activities:
    - a. Those lands wherein lots are created by a subdivision plat approval for the construction of residential and nonresidential land uses, including, but not limited to, buildings.
    - b. Those lands wherein lots are created by a certified survey map approval for the construction of residential and nonresidential land uses, including, but not limited to, buildings.
    - c. Those lands wherein lots are created by a metes and bounds description for the construction of residential or nonresidential land uses, including, but not limited to, buildings.

- d. Those lands wherein units are created by imposition of the condominium form of ownership or recording of a condominium plat or recording of a condominium declaration in compliance with Ch. 703 of the Wisconsin Statutes which produces one or more sites for construction of residential and non-residential land uses, including, but not limited to, buildings.
- e. Those activities involving grading, removal of protective ground cover or vegetation, land filling or other land disturbing activity affecting a surface area of four thousand (4,000) square feet or more.
- f. Those activities involving excavation or filling or a combination of excavation and filling affecting four hundred (400) cubic yards or more of dirt, sand or other excavation or fill material.
- g. Those activities involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.
- h. Those activities involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of three hundred (300) feet or more.
- i. Those activities involving grading, excavation and land filling of more than fifteen (15) cubic yards and removal of protective ground cover or vegetation, or land disturbing activity within one thousand (1,000) feet from the boundary of a lake and three hundred (300) feet from a river, natural pool, stream, pond or wetland.

(2) **Erosion and Other Pollutant Control Requirements.** The following requirements shall be met on all sites described in Section 14-1-125(b)(1) above:

- a. Site Dewatering. Water pumped from the site shall be treated by control measures specified in the "Wisconsin Construction Site Best Management Practice Handbook". If the water is demonstrated to have no particles greater than one hundred (100) microns during dewatering operations, then no control is needed before discharge, except as determined by the Department. Water may not be discharged in a manner that causes erosion of the site, adjacent land or receiving channels.
- b. Waste and Material Disposal. All waste and unused building materials, including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials, shall be properly disposed of and not allowed to be carried by runoff into a receiving channel or storm sewer system.
- c. Tracking. Each site shall have "graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.
- d. Drain Inlet Protection. All storm drain inlets shall be protected with a straw bale, filter fabric or equivalent barrier meeting accepted design criteria standards and specifications.



- e. Site Erosion Control. The following criteria apply only to land development or land development or land disturbing activities that results in runoff leaving the site.
1. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in Section 14-1-125(b)(2)e.3.iii. below. Sheetflow runoff from adjacent areas greater than ten thousand (10,000) square feet in area shall also be diverted around disturbed areas unless shown to have resultant runoff velocities of less than 0.5 feet/sec. across the disturbed area for the two (2) year twenty-four (24) hour storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels. For allowable velocities in different types of channels, Soil Conservation Service guidelines shall be followed.
  2. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
  3. Runoff from the entire disturbed area on the site shall be controlled by meeting either i. and ii. below or i. and iii. below.
    - i. Where activities will result in disturbed ground being left inactive for ten (10) or more days, positive controls for keeping all erosion on site, including such measures as placement of silt fences, hay bales, detention basins, phased construction or stabilization of the disturbed ground with temporary or permanent seeding; temporary or permanent seeding and mulching; sodding or covering with tarps shall be employed to the satisfaction of the Department. Seeding without mulch may be allowed if the seeding is started and completed between May 1st and September 15th. If temporary seeding is used, a permanent cover shall also be required as part of the final site stabilization. Seeding or sodding shall be conducted as specified in the Department of Natural Resources' "Wisconsin Construction Site Best Management Practice Handbook" or by the Department. Short term and fixed extensions not to exceed ten (10) days may be granted by the Department upon application, but only if the applicant's failure to comply is due to extended periods of rain or other construction delays beyond the control of the responsible party.
    - ii. For sites with ten (10) or more acres disturbed at one time or if a channel originates in the disturbed area, one (1) or more sedimentation basins shall be constructed in addition to other erosion control measures. Each sedimentation basin shall be designed and constructed as specified in the Department of Natural Resources' "Wisconsin Construction Site Best Management Practice Handbook."
    - iii. For sites with less than ten (10) acres disturbed at one time, filter fences, straw bales or equivalent control measures shall be placed along all side slope and down slope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.
  4. Runoff from sites on slopes of twelve percent (12%) or more may require additional or different controls than listed in 14-1-125(b)(2)e.3. above. Control measures for such slopes require approval of the Department.

5. Any soil or dirt storage piles containing more than ten (10) cubic yards of material should not be located with a down slope drainage length of less than twenty-five (25) feet to a roadway or drainage channel. Straw bales or filter fence barriers shall be placed immediately on the down slope side of the piles. If remaining for more than thirty (30) days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Where soil or dirt storage piles resulting from in-street utility repairs are located closer than twenty-five (25) feet to a roadway or drainage channel, adequate control measures shall be taken to prevent erodible materials from entering the adjacent ditch or storm sewer system. Storm-drain inlets must be protected with straw bale or other appropriate filtering barriers. If any soil or dirt storage pile described in this paragraph is in existence for more than six (6) months, the filter fabric or straw bales shall be replaced upon orders of the Department.

**(d) Permit Application, Control Plan, Fees and Permit Issuance.**

- (1) **Application.** At least one (1) landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this Chapter shall submit an application for a permit along with a control plan or control plan statement as hereinafter required and pay a permit fee to the Department prior to the start of any land disturbing activity. The act of submitting an application does, as part thereof, authorize the Department to enter the site to obtain information required for the review of the control plan. After the initial review, the applicant may file supplemental information with the Department to comply with directives from the Department.
- (2) **Control Plan Required for Land Disturbing and Land Development Activities Covering One (1) or More Acres.** A control plan for land disturbing and land development activities covering one (1) or more acres is required which shall include:
  - a. **Existing Site Map.** A map of existing site conditions on a scale of at least one (1) inch equals one hundred (100) feet showing the site and immediately adjacent areas, the same to include such of the following as exist or are pertinent thereto:
    1. Site boundaries and adjacent lands which accurately identify site locations.
    2. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site.
    3. One hundred (100) year regional flood fringe district and regional floodway district.
    4. Vegetative cover.
    5. Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site.
    6. Locations and dimensions of utilities, structures, roads, highways and paving.
    7. Site topography at a contour interval not to exceed two (2) feet.
  - b. **Plan of Final Site Conditions.** A plan of final site conditions on the same scale as the existing site map showing the site changes.

- (c) **Site Construction Plan.** A site construction plan including:
1. Locations and dimensions of all proposed land disturbing and land development activities.
  2. Locations and dimensions of all temporary soil or dirt stockpiles.
  3. Locations and dimensions of all construction site management control measures necessary to meet the requirements of this Chapter.
  4. Schedule of anticipated starting and completion date of each land disturbing or land developing activity, including the installation of construction site control measures needed to meet the requirements of this chapter.
  5. Provisions for maintenance of the construction site control measures during construction.

**Control Plan Statement Required for Land Disturbing and Land Development Activities Covering Less than One (1) Acre.** An erosion control plan statement (with site plan) shall be submitted which shall briefly describe the site and erosion controls, including the proposed site development schedule, that will be used to meet the requirements of this Chapter.

- (3) **Review of Control Plan.** Within fifteen (15) days of receipt of the application and control plan, or control plan statement and fee, the Department shall review the application and control plan or control plan statement to determine if the requirements of this Chapter are met. If conditions are met, the Department shall approve the plan shown in the control plan or control plan statement, inform the applicant and issue a permit. If the conditions are not met, the Department shall inform the applicant in writing and may either require needed information or disapprove the plan. Within ten (10) days of receipt of needed information, the Department shall again determine if the plan meets the requirements of this Chapter. If the plan is disapproved, the Department shall inform the applicant in writing of the reasons for the disapproval.

(4) **Permits.**

- a. **Fees.** Permit fees shall be in such amounts as the Common Council may establish from time to time by resolution or ordinance, together with such other charges as may be incurred for consultant review.
- b. **Duration.** Permits shall be valid for a period of one hundred eighty (180) days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Department may extend the period one (1) or more times for up to an additional one hundred eighty (180) days. The Department may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this Chapter.
- c. **Letter of Credit or Other Security.** For nonresidential land disturbing activities, as a condition of approval and issuance of the permit, the Department may require the applicant to deposit an irrevocable letter of credit or other equally acceptable surety to guarantee a good faith execution of the approved control plan and any permit conditions. For all residential lots, as a condition of approval and issuance of the permit, the Department may require the applicant to deposit an irrevocable letter of credit or other equally acceptable surety to guarantee a good faith execution of the approved control plan and any permit conditions.

- d. Permit Conditions. All permits shall require the permittee to:
1. Notify the Department within forty-eight (48) hours prior to any land disturbing and land developing activity.
  2. Notify the Department of completion of any control measures within twenty-four (24) hours after their installation.
  3. Obtain permission, in writing, from the Department prior to modifying the control plan.
  4. Install all control measures as identified in the approved control plan prior to land disturbance.
  5. Maintain all road drainage systems, storm water drainage systems, control measures and other facilities identified in the control plan.
  6. Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land developing or disturbing activities.
  7. Inspect the construction control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs.
  8. Allow the Department to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan.
  9. Keep a copy of the control plan on the site.

## SECTION 14-1-125 STORMWATER MANAGEMENT

- (a) **Intent.** The City of Delavan Common Council recognizes that the preferred method of addressing stormwater management problems and needs is through the preparation of comprehensive stormwater management system plans for logical subwatershed areas which are designed to meet the purpose and intent of this ordinance. Where such stormwater management system plans have been developed and approved by the Common Council, it is the intent that all land development activities within such stormwater management system plan areas shall include stormwater management measures that meet performance standards set forth in those approved plans. Where such stormwater management system plans have not been developed and approved by the Common Council, it is the intent of the Common Council that the generic stormwater management standards set forth in this Chapter be applied unless otherwise accepted or varied as set forth herein.

(b) **Applicability.**

(1) **Applicability.** The stormwater management provisions of this Chapter shall apply to land development activities which meet the applicability criteria specified in this section. The stormwater management provisions of this Chapter shall also apply to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger integrated common plan of development that meets the following applicability criteria, even though the land development activities may take place at different times and on different schedules.

- a. residential land development with a gross aggregate area of 5 acres or more;
- b. residential land development with a gross aggregate area of at least 3 acres, but less than 5 acres, if there are at least 1.5 acres of impervious surfaces;
- c. land development, other than a residential land development, with a gross aggregate area of 1.5 acres or more, or any nonresidential land development which creates impervious area of .5 acres or more.

- d. land development activities regardless of the size of the development which, in the written opinion of the Department, are likely to result in stormwater runoff which exceeds the safe capacity of the existing drainage facilities or receiving body of water, which causes undue channel erosion, which increases water pollution by scouring or which causes the transportation of particulate matter or which may significantly harm downstream property or public safety.

**(c) Design Criteria, Standard and Specifications.**

- (1) Unless prior authorization is given by the Department, the following methods shall be used in meeting the requirements of this Chapter.
- (2) Water Quality Components. The following methods shall be used in designing components of storm water structures needed to meet the water quality standards of this Chapter.
  - a. Practices shall be designed in accordance with the methods set forth in the latest edition of the “Wisconsin Storm Water Manual, Part 2: Technical Design Guidelines for Storm Water BMP’s” as published and amended from time-to-time by the State of Wisconsin Department of Natural Resources.
  - b. Runoff volumes and peak flow rates used in designing the water quality components of storm water structures shall be calculated using the “Small Storm Hydrology” method set forth in the latest edition of the “Wisconsin Storm Water Manual, Part 2: Technical Design Guidelines for Storm Water BMP’s” as published and amended from time-to-time by the State of Wisconsin Department of Natural Resources.
- (3) Water Quantity Components. The following methods shall be used in designing components of storm water structures needed to meet the water quantity standards of this Chapter.
  - a. Peak flow shaving components of storm water structures shall be designed in accordance with standard engineering practice.
  - b. Runoff volumes and peak flow rates used in designing the water quantity components of storm water structures shall be based on the principles of the document entitled “Urban Hydrology for Small Watersheds” (Technical Release 55: Engineering Division, Soil Conservation Service, United States Department of Agriculture, June 1992).

**(d) Stormwater Management Standards.**

- (1) Stormwater Discharge Quantity. Unless otherwise provided for in this Chapter, all land development activities subject to this Chapter shall establish on-site management measures to control the peak flow rates of stormwater discharged from the site. Infiltration of stormwater runoff from driveways, sidewalks, rooftops, and landscaped areas shall be incorporated to the maximum extent technically and financially practical to provide volume control in addition to control of peak flows. On-site management measures shall be used to meet the following minimum performance standards:
  - a. The peak flow rates of stormwater runoff from the development shall not exceed those calculated for the series of design storms specified in Section 3(D)(1)(b) occurring under development conditions specified in Section 3(D)(1)(c). Discharge velocities must be non-erosive to discharge locations, outfall channels, and receiving streams.

- b. At a minimum, the 2-year, the 10-year, and 100-year rainfall events shall be used in comparing peak flow discharge rates for pre-development and post-development conditions.
- c. When the Natural Resource Conservation Service TR-55 Method is used to calculate peak flow discharge rates and runoff volumes for the pre-development condition, NRCS curve numbers shall not exceed the following for the given soil hydrologic groups. When other methods for computing runoff are used, they shall assume a comparable pre-development condition.

Soil Hydrologic Group:	A	B	C	D
NRCS Curve Number for Meadow:	30	58	71	78
NRCS Curve Number for Woodland:	30	55	70	77
NRCS Curve Number for Agricultural Lands:	58	72	81	85
NRCS Curve Number for Paved Roadways with Open Ditches:	83	89	92	93
NRCS Curve Number for Commercial/Business Districts: 85% impervious	89	92	94	95
NRCS Curve Number for Industrial Districts: 72% impervious	81	88	91	93

- d. Stormwater discharges to wetlands may be appropriate when the increase or decrease in runoff volumes do not negatively change the wetland functional values. Where such changes are proposed, the impact of the proposal on wetland functional values shall be assessed using a methodology acceptable to the Department. Significant degradation to wetland functional values shall be avoided.

(2) **Stormwater Discharge Quality.** Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management measures to control the quality of stormwater discharged from the site. On-site management measures shall be used to meet the following minimum standard:

- a. Stormwater discharges shall be designed to remove, on an average annual basis, a minimum of 80% of the total suspended solids load. To achieve this level of control, stormwater practices shall be designed to accommodate, at a minimum, the runoff volume resulting from 1.5 inches of rainfall over a 4 hour period and control of particulates which are 5 microns or larger in size.
- b. Discharge of urban stormwater pollutants to natural wetlands may be appropriate when the discharge does not negatively change the wetland functional value. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the Department. Significant degradation to wetland functional values shall be avoided.

- c. Stormwater discharges shall be treated as necessary prior to infiltration to prolong the life of the infiltration practice and to prevent discharge of stormwater pollutants at concentrations that will result in exceedances of groundwater preventive action limits or enforcement standards established by the Department of Natural Resources in NR 140 Wisconsin Administrative Code.
  - d. Stormwater ponds and infiltration devices shall not be located closer to water supply wells as set forth in NR811.16, and NR812 than indicated below without first notifying the Department:
    - 1. 100 feet from a well serving a private water system or a transient, non-community public water system;
    - 2. 1,200 feet from a well serving a municipal public water system, an other-than municipal public water system, or a non-transient non-community public water system;
    - 3. the boundary of a recharge area to a wellhead identified in a wellhead area protection plan;
  - e. Land development activities with stormwater runoff reaching Outstanding or Exceptional Resource Waters as identified in Chapter NR 102 Wisconsin Administrative Code may require use of additional on-site management measures.
- (3) Exceptions. The requirements for onsite stormwater management measures established in Subsection (d)(1) and (2) above are not applicable in areas which are determined by the Department to be covered by an approved stormwater management system plan which was developed and approved as an alternative stormwater management planning approach to carrying out onsite measures consistent with the purpose and intent of this Chapter. In such cases, the recommendations of the approved stormwater management system plan shall be applied through the installation of stormwater management provisions recommended to be included on the development site being considered. For properties not controlled by a previously approved stormwater management system plan, the Department may establish stormwater management requirements either more stringent or less stringent than those set forth in this Chapter, provided that at least one of the following conditions applies:
- a. The Department determines that an added level of stormwater management protection is needed to protect sensitive resources.
  - b. A provision has been made to manage stormwater from the site in question in an off-site facility, provided that said facility is already in place, the facility is designed and adequately sized to provide a level of stormwater control equal to or greater than that which would be afforded by on-site practices meeting the requirements of this Chapter, and the facility has a legally obligated entity responsible for its long-term operation and maintenance.
  - c. The Department finds that meeting the minimum on-site stormwater management requirements of the Chapter is impossible or impractical due to space or other site restrictions
- (4) Fee In Lieu of On-Site Stormwater Management Practices. Where the Department waives all or part of the minimum on-site stormwater management requirements of this Chapter, the applicant shall be required to pay a fee in an amount determined in negotiation with the Department and the Common Council for the City of Delavan. In setting the fee for land development projects pursuant to this Subsection, the Department shall consider an equitable distribution of the cost for land, engineering design, construction and maintenance of stormwater management practices needed to serve the land development.

(5) General Considerations for On-Site And Off-Site Stormwater Management Measures. The following considerations shall be observed in managing stormwater runoff.

- a. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used for stormwater infiltration and conveyance, to the extent practical and reasonably feasible, to meet the requirements of this section.
- b. Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(e) Permitting Requirements And Procedures.

- (1) **PERMIT REQUIRED.** No land owner or land operator may undertake a land development activity subject to this ordinance without receiving a permit from the Department prior to commencing the proposed activity.
- (2) **PERMIT APPLICATION AND FEE.** Unless specifically excluded by this Chapter, any land owner or operator desiring a permit shall submit to the Department a permit application made on a form provided by the Department for that purpose.
  - a. Unless otherwise excepted by this Chapter, a permit application must be accompanied by the following in order for that permit application to be considered by the Department: a stormwater management plan, a maintenance agreement, payment of "fees in lieu" ( if any) prior to permit issuance pursuant to, and a non-refundable permit administration fee.
  - b. The stormwater management plan shall be prepared to meet the requirements of this Chapter, the maintenance agreement shall be prepared to meet the requirements of this Chapter, and the "fee in lieu" (if any) shall be as established by the Department.
- (3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The Department shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required fee, as follows:
  - a. Within 20 working business days of the receipt of a complete permit application, the Department shall inform the applicant in writing whether the application, plan and maintenance agreement are approved or disapproved.
  - b. If the stormwater permit application, plan and maintenance agreement are approved, the Department shall issue the permit.
  - c. If the stormwater permit application, plan or maintenance agreement are disapproved, the Department shall detail in writing of the reasons for disapproval.



- d. If additional information is submitted, the Department shall have 20 working days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- e. Failure by the Department to inform the permit applicant of a decision within 20 working days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(4) **PERMIT CONDITIONS.** All permits issued under this Chapter shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions by beginning work pursuant to a permit issued under this Chapter. The Department may suspend or revoke a permit for violation of a permit condition, following written notification of the permittee. An action by the Department to suspend or revoke this permit may be appealed as provided herein.

- a. Compliance with this permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- b. The permit holder shall design, install, and maintain all structural and non-structural stormwater management measures in accordance with the approved stormwater management plan, maintenance agreement, and the permit.
- c. The permit holder shall notify the Department at least 2 working days of commencing any work in conjunction with the stormwater management plan, and within three working days upon completion of the stormwater management measures. If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the Department, so that practice installations can be inspected during construction.
- d. Completed structural water management measures must pass a final inspection to determine if they are in accordance with the approved stormwater management plan and ordinance. The Department shall notify the permit holder in writing of any changes required for such measures so as to bring them into compliance with the conditions of the permit. The stormwater management measure required as part of this Chapter shall be certified as built by a licensed professional engineer representing the landowner and/or permittee.
- e. The permit holder shall notify the Department of any significant modifications it intends to make to an approved stormwater management plan. The Department may require that the proposed modifications be submitted for approval prior to incorporation into the stormwater management plan and execution.
- f. The permit holder shall maintain all stormwater management measures specified in the approved stormwater management plan until the measures either become the responsibility of the City, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

- g. The permit holder authorizes the Department, following written notification, to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to placing associated costs upon the tax roll as a special lien against the property or to charging such costs against the financial guarantee posted for the project.
  - h. If so directed by the Department, the permit holder shall repair at the permit holder's own expense all damage to adjoining municipal facilities and public drainage ways caused by stormwater runoff from the holder's permit site, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
  - i. The permit holder shall permit property access to the Department for the purpose of inspecting the property for compliance with the approved stormwater management plan and the permit.
  - j. Where a stormwater management plan involves changes in direction, increases in peak rate and/or total volume of runoff off of a site, the Department may require the permittee to make appropriate legal arrangements with adjacent property owners concerning the prevention of endangerment to downstream property or public safety.
  - k. The permit holder is subject to the enforcement actions detailed in this Chapter if the permit holders fails to comply with the terms of the permit.
- (5) **PERMIT DURATION.** Permits and stormwater management plan approvals shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, or until release of the financial guarantee as set forth in Section 4 whichever is longer from the date of issuance. The Department may extend the period one or more times for up to an additional 12 months.

**(f) Stormwater Management Plans**

- (1) **PLAN REQUIREMENTS.** A stormwater management plan prepared pursuant to this Chapter shall contain the following information and shall be prepared in accordance with accepted engineering practice and in accordance with The Wisconsin Storm Water Manual, Part 2: Technical Design Guidelines For Storm Water BMP's.
- a. Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of stormwater management measures; person(s) responsible for maintenance of stormwater management measures prior to the transfer, if any, of maintenance responsibility to another party.
  - b. A legal description of the property proposed to be developed referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

## c. Pre-development site conditions, including:

1. A site map, at a scale of not less than 1 inch equals 100 feet. The site map shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site not to exceed two foot contour interval; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all stormwater conveyance sections, including time of travel and time of concentration applicable to each; watershed boundaries used in determinations of peak flow discharge rates and discharge volumes from the site; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells located within 1,200 feet of stormwater detention ponds, infiltration basins, or infiltration trenches; delineation of wellhead protection areas delineated pursuant to NR 811.16 Wis. Admin. Code.
2. Computations of the peak flow discharge rates and discharge volumes, from each discharge point in the development. At a minimum, computations must be made for the following storms: 2-year, 10-year, 100-year. All major assumptions used in developing input parameters shall be clearly stated. The areas used in making the calculations shall be clearly cross-referenced to the required map(s).

## d. Post-development site conditions, including:

1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak low runoff rates and volumes the surface waters and wetlands.
2. Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protection plans and ordinances.
3. A site map at a scale of not less than 1 inch equals 100 feet showing: revised pervious land use including vegetative cover type and condition; impervious land use including all buildings, structures, and pavement; revised topographic contours of the site not to exceed two feet; revised drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all stormwater conveyance sections, including time of travel and time of concentration applicable to each; location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in determinations of peak flow discharge rates and discharge volumes; any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
4. Computations of the peak flow discharge rates and discharge volumes, from each discharge point in the development, including analysis of the capacity of downstream drainage conveyance systems. At a minimum, computations must be made for the following storms: 2-year, 10-year, 100-year. All major assumptions used in developing input parameters shall be clearly stated. The areas used in making the calculations shall be clearly cross-referenced to the required map(s).
5. Investigations of soils and groundwater required for the placement and design of stormwater management measures.

6. Results of impact assessments on wetland functional values.
7. Design computations and all applicable assumptions for stormwater conveyance (open channel, closed pipe) and stormwater treatment measures (sedimentation type, filtration-type, infiltration-type) as needed to show that practices are appropriately sized and capable of meeting the discharge performance standards of this ordinance.
8. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment measures.
  - a. A stormwater measure installation schedule.
  - b. A maintenance plan developed for the life of each stormwater management measure including the required maintenance activities and maintenance activity schedule.
  - c. Cost estimates for the construction, operation, and maintenance of each stormwater management practice feature.
  - d. Other information as needed by the Department to determine compliance of the proposed stormwater management measures within the plan with the provisions of this Chapter.
- (2) EXCEPTIONS. The Department may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards as provided herein
- (3) WAIVERS. The Department may waive some of the submittal requirements of this Subsection (f) in order to accommodate smaller scale projects.

**Maintenance.**

- (1) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required by this Chapter for stormwater management practices of this Chapter shall be an agreement between the City and the permittee to provide for maintenance of stormwater management practices beyond the duration period of the permit. The agreement shall be executed in recordable form and shall thereafter be recorded, at the expense of the permittee, with the Walworth County Register of Deeds so as to be binding upon all subsequent owners of land upon which the stormwater management practices are located. Said agreement shall include such additional terms as the City may require so as to put into effect the requirements of this Subsection and this Chapter.
- (2) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following provisions:
  - a. Identification of the storm water facilities and designation of the drainage area served by the facilities.
  - b. A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan.
  - c. Identification of the landowner(s), organization or municipality responsible for long term maintenance of the storm water management practices.

- d. That the landowner(s), organization, or municipality shall maintain storm water management practices in accordance with the schedule included in the agreement.
- e. That the Department is authorized to access the property to conduct inspections of storm water practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
- f. That the Department shall maintain public records of the results of the site inspections, shall inform the landowner responsible for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
- g. That if the Department notifies the party designated under the maintenance agreement of maintenance problems that require correction, the specified corrective actions shall be taken within a reasonable time frame as set by the Department. That the Department is authorized to perform the corrective actions identified in the inspection report if the landowner does not make the required corrections in the specified time period. The Department shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to s. 66.0027 Wis. Stats.

(h) Financial Guarantee.

- (1) ESTABLISHMENT OF THE GUARANTEE. The Department may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the Department. The financial guarantee shall be in an amount determined by the Department to be 125% of the estimated cost of construction and the estimated cost of maintenance during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the Department the authorization to use the funds to complete the project if the landowner defaults or does not properly implement the approved storm water management plan.
- (2) CONDITIONS FOR RELEASE. Conditions for the release of the financial guarantee are as follows:
  - a. The Department shall release the portion of the financial guarantee established to assure installation of storm water practices, minus any costs incurred by the Department to complete installation of practices, upon submission of “as built plans” by a licensed professional engineer. The Department may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
  - b. The Department shall release the portion of the financial security established to assure maintenance of storm water practices, minus any costs incurred by the Department, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

**SECTION 14-1-126 FEE SCHEDULE**

The fees referred to in all Subsections of this Chapter shall be established by the City of Delavan from time-to-time by resolution thereof. A schedule of fees established by the City of Delavan shall be available for review in the City Hall for the City of Delavan.

**SECTION 14-1-127 INSPECTION**

- (a) **CONSTRUCTION SITE EROSION CONTROL.** The Department shall inspect construction sites at least once per month during the period starting March 1 and ending October 31 and at least two (2) times during the period starting November 1 and ending February 28 to ensure compliance with the control plan filed pursuant to this Chapter. If land disturbing or land development activities are being carried on without a construction site erosion control permit, the Department may enter upon the land for purposes of inspection and enforcement pursuant to the provisions of Section 66.0119 Wis. Stats.
- (b) **STORMWATER MANAGEMENT.** At any reasonable time and for any proper purpose, the Department is authorized to enter upon any land and make inspections as necessary to determine performance of the terms of this Chapter and any stormwater management permits or stormwater management approved plans issued pursuant to this Chapter, all pursuant to the provisions of Section 66.0119 Wis. Stats.

**SECTION 14-1-128 ENFORCEMENT AND PENALTIES**

- (a) The Department may post a stop-work order if:
  - (1) Any land disturbing or land developing activity regulated under this Chapter, or any other activity governed by the provisions of this Chapter are being undertaken without a permit for either construction site erosion control or stormwater management or both; or
  - (2) The conditions of any permit issued pursuant to this Chapter are not being complied with, including compliance with the terms of any submittals or plans filed by a property owner or applicant in order to obtain a permit as called for by this Chapter.
  - (3) After posting a stop-work order, the Department may issue a notice of intent to the applicant or land owner or land user of the Department's intent to perform work necessary to bring about compliance with this Chapter or any permit issue pursuant to this Chapter. Under emergency conditions and so as to avert damage to the environment, surface waters or the people or property of the City of Delavan, the Department may enter property for which a stop work order has been posted and take emergency actions necessary to prevent said damage. The cost incurred by the Department, plus interest and legal costs, shall be billed to the owner of title of the property in question.
  - (4) Any individual who violates the terms of this Chapter, conditions of a permit granted pursuant to this Chapter, or permits erosion damage in violation of this Chapter or stormwater runoff in violation of this Chapter shall be deemed to be in violation with the terms of this ordinance and subject to the penalties for violation and enforcement provisions set forth in Article K, Sections 14-1-120 and 14-1-121.

**SECTION 14-1-129 APPEALS**

The Board of Zoning Appeals for the City of Delavan, created pursuant to Section 62.23 of the Wisconsin Statutes, is hereby authorized to serve as the Board of Zoning Appeals for considering appeals to the terms of this Chapter as required by Section 62.234 Wis. Stats. The organization and rules of procedure for said Board of Zoning Appeals shall be as set forth in the City of Delavan Municipal Code and in the Rules of Procedure for the Board of Zoning Appeals.

**SECTION 14-1-130 AMENDMENT**

For provisions of this Article K are adopted as a zoning code provision as required by Section 62.234 Wis. Stats. Therefore, future amendments to any provision of Title 14, Chapter 1, Article K shall require the usual formalities for amendment to a zoning ordinance as required by the Wisconsin Statutes.

**ARTICLE L (renumbered 10-10-00 by RC-102)**

Variances; Penalties and Violations

**SEC. 14-1-131 VARIATIONS AND EXCEPTIONS.** (renumbered 10-10-00 by RC-102)

- (a) Where, in the judgment of the Common Council it would be inappropriate to apply literally the provisions of this Chapter because exceptional or undue hardship would result, the Common Council may waive or modify any requirements to the extent deemed just and proper. Application for any such variance shall be made in writing by the subdivider at the time when the Preliminary Plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Common Council in the analysis of the proposed project.
- (b) The Common Council shall not grant variations or exceptions to the regulations of this Chapter unless it shall make findings based upon the evidence presented to it in each specific case that:
  - (1) The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
  - (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property;
  - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, financial hardship or self-imposed hardship, if the strict letter of the regulations were carried out.
- (c) The Common Council, if it approves of the variance, shall do so by motion or resolution and instruct the City Clerk to notify the subdivider.
- (d) Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Chapter or the desirable general development of the City in accordance with any City Comprehensive Plan or component thereof, this Chapter, or the City Zoning Code. A majority vote of the entire membership of the Common Council shall be required to grant any variance from this Chapter, and the reasons shall be entered in the minutes of the Common Council.
- (e) The Common Council may waive the placing of monuments, required under Sec. 236.15(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the sub divider execute a surety bond to insure the placing of such monuments within the time required.

**SEC. 14-1-132 ENFORCEMENT, PENALTIES AND REMEDIES.** (Renumbered 10-10-00 by RC-102)

- (a) **Violations.** It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Chapter or the Wisconsin Statutes and no person shall be issued a building permit by the City authorizing the building on, or improvement of, any subdivision, land division or replat with the jurisdiction of this Chapter not of record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been fully met. The City may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin Statutes.
- (b) **Penalties.**
  - (1) Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, shall be subject to a penalty pursuant to Section 1-1-7, and in default of payment of such forfeiture costs shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.



- (2) Recordation improperly made has penalties provided in Sec. 236.30, Wis. Stats.
  - (3) Conveyance of lots in unrecorded plats has penalties provided for in Sec. 236.31, Wis. Stats.
  - (4) Monuments disturbed or not placed have penalties as provided for in Sec. 236.32, Wis. Stats.
  - (5) Assessor's plat made under Sec. 70.27 of the Wisconsin Statutes may be ordered by the City at the expense of the sub divider when a subdivision is created by successive divisions.
- (c) **Revocation of Permits and/or Approvals.**
- (1) The City Engineer or the Director of Public Works may revoke or suspend any permit or approval issued under the regulations of this Chapter and may stop construction or use of approved materials, equipment, methods of construction, devices or appliances for any of the following reasons:
    - a. Whenever the City Engineer shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the sub divider or his contractor has refused to conform after written warning or instruction has been issued to him.
    - b. Whenever the continuance of any construction becomes dangerous to life or property.
    - c. Whenever there is any violation of any condition or provisions of the application for permit, or of the permit or of any approval.
    - d. Whenever, in the opinion of the City Engineer or the Director of Public Works, the sub divider has provided inadequate management of the project.
    - e. Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, data specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
    - f. Whenever there is a violation of any of the conditions of an approval or occupancy given by the City Engineer or the Director of Public Works for the use of all materials, equipment, methods of construction, devices or appliances.
  - (2) The notice revoking a permit or approval shall be in writing and may be served upon the applicant of the permit, owner of the premises and his agent, if any, and/or on the person having charge of construction.
  - (3) A revocation placard shall also be posted upon the premises in question by the City Engineer or the Director of Public Works.
  - (4) After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this Chapter, shall be procured and fees paid therefore, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Chapter. However, such work as the City Engineer or the Director of Public Works may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he may require for the preservation of life and safety.
  - (5) Any appeals of such revocations or suspensions must be made in writing and within seven (7) calendar days to the City Clerk for consideration by the Common Council at its next regularly scheduled meeting, provided the appeal is filed not less than seven (7) days prior to the meeting date
  - (6) The Director of Public Works is hereby directed to withhold the issuance of building permits within the land division until compliance with the provisions of this Chapter is obtained.
  - (7) The Director of Public Works is hereby directed to withhold the issuance of occupancy permits within the land division if violations of this Chapter may result in health or safety problems for the occupants.
- (d) **Appeals.** Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in Sections 236.13(5) and 62.23(7)(e)10, 14 and 15 of the Wisconsin Statutes, within thirty (30) days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.

**SEC. 14-1-133 EXTRATERRITORIAL LAND DIVISION POLICIES.** The following policies shall be applied in the City's review of land divisions within its extraterritorial jurisdiction: (RC-341, 06/23/2014)

- (1) Lot Area. This minimum lot size for any proposed division of land within the City's extraterritorial plat approval jurisdiction shall be five (5) acres.
- (2) Adequate Services. Notwithstanding any other provision of this chapter, the proposed subdivision or land division and the resulting development shall not demonstrably adversely affect the City's ability to provide public services, install public improvements or accomplish future annexations. The Plan Commission may consider whether the City and town have reached an agreement on necessary public improvements and public services facilities required to serve the development.
- (3) Land Suitability. The City may consider the land suitability standards for State Statutes and Section 14-1-21, including the adequacy of public facilities and public services, when determining whether to approve or reject a preliminary plat. In determining whether the adequacy of public facilities and services, the City shall consider the standards of the town in which the land division is to occur.
- (4) Special Exception. A special exception to the requirements of this section may be granted by the Plan Commission or Common Council as expressly provided in an intergovernmental agreement, cooperative plan, or extraterritorial zoning ordinance between the City and appropriate town.
- (5) Application and Fees. No person shall divide any land located within the City's extraterritorial jurisdiction without first filing an application, meeting all submittal requirements, and paying the City's standard land division review fees contained in this chapter. The timing for filing the application and paying the City's review fees shall be the same as otherwise required for land divisions within the City per Section 14-1-90. (RC-341, 06/23/2014)

**SEC. 14-1-134 WAIVERS AND MODIFICATIONS.**

Where, in the judgment of the City Council, the literal application of the provisions of this chapter to a particular land division or development is unnecessary to achieve the goals of this chapter and would result in unnecessary hardship to the subdivider, the City Council may waive or modify any requirement to the extent deemed just and proper. Such relief shall be granted only upon a finding by the Council that the waiver or modification will not result in any significant detriment to the public good nor conflict with the intent and purpose of this chapter or the desirable general development of the community in accordance with the master plan or a master plan component of the City. A  $\frac{3}{4}$  vote of the entire membership of the City Council shall be required to grant any modification to such requirements. (RC-297, 02/08/2011)

## CHAPTER 2

### Official Map

14-2-1	Intent of Chapter
14-9-2	Authority
14-2-3	Official Map (Amended 6/12/2012 RC-318)
14-2-4	Changes and Additions to Official Map
14-2-5	Building Permits
14-2-6	Municipal Improvements
14-2-7	Appeals
14-2-8	Certified Copy of Map
14-2-9	Map to be Filed with Register of Deeds
14-2-10	Enforcement

#### **SEC. 14-2-1 INTENT OF CHAPTER.**

It is the intent of the Common Council to establish an Official Map for the purpose of serving and promoting the public health, safety, convenience, economy, orderliness, and general welfare of the community; to further the orderly layout and use of land; to stabilize the location of real property boundary lines; to insure proper legal descriptions and proper documenting of land; to facilitate adequate provision for transportation, parks, playgrounds, and storm water drainage; and to facilitate the further subdivision of larger tracts into smaller parcels of land.

#### **SEC. 14-2-2 AUTHORITY.**

This Chapter is enacted under the authority granted by Sec. 62.23(6) of the Wisconsin Statutes.

#### **SEC. 14-2-3 OFFICIAL MAP.** (Amended 6/12/2012 RC-318)

The Official Map shall show the location and extent of all platted and existing streets, highways, parkways, parks, and playgrounds within the corporate limits of the City of Delavan as heretofore laid out, adopted, and established by law. There is hereby established, as the Official Map of the City of Delavan, the Map which accompanies and is made a part of this Chapter bearing the date of ~~November 14, 1978~~ March 1, 2012. This map is hereby designated as the "Official Map of the City of Delavan," and all notations, references, and other information shown thereon shall be as much a part of this Chapter as though the matters and information thereon were fully described herein.

#### **SEC. 14-2-4 CHANGES AND ADDITIONS TO OFFICIAL MAP.**

- (a) The Common Council may change or add to the Official Map so as to establish the exterior lines of, widen, narrow, extend, or close any platted, existing, proposed, or planned streets, highways, parkways, parks, or playgrounds.
- (b) The Common Council shall refer any change or addition to the Official Map to the Planning Commission for review and report thereon prior to adoption. The Planning Commission shall report their recommendation to the Common Council within sixty (60) days.
- (c) A public hearing of parties in interest and citizens before the Common Council shall be required before any

changes or additions to the Official Map are effective. At least twenty (20) days' notice of said hearing shall be required by publication.

- (d) Changes and additions made by duly approved subdivision plats shall not require the public hearing if the changes or additions do not affect any land outside the area being platted.

**SEC. 14-2-5 BUILDING PERMITS.**

- (a) For the purpose of preserving the integrity of the Official Map, a building permit shall be required for any structure or part thereof that shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered. No permit shall hereafter be issued for any building in the bed of any existing or proposed street, highway, or parkway shown on the Official Map. No permit for the erection of any building shall be issued unless a street, highway, or parkway giving access to such proposed structure has been duly placed on this Map.
- (b) The Building Inspector may require such applicant for a building permit to submit a plan, prepared and certified by a registered land surveyor, showing accurately the location of any proposed building with reference to any street, highway, or parkway shown on the Official Map.

**SEC. 14-2-6 MUNICIPAL IMPROVEMENTS.**

No public sewer or other municipal street utility or improvement shall be constructed in any street, highway, or parkway within the corporate limits of the City of Delavan until such street, highway, or parkway is duly placed on the Official Map.

**SEC. 14-2-7 APPEALS.**

The Board of Appeals shall have the power to review any administrative decision of the City Building Inspector to deny a permit for the erection of a structure under this Chapter and to grant relief from the requirements of this Chapter under the provisions of Sec. 62.23(6)(d), (e), (g) and (h) of the Wisconsin Statutes.

**SEC. 14-2-8 CERTIFIED COPY OF MAP.**

There shall be a certified copy of the Official Map described in Section 14-2-3. The certified copy shall be kept in the office of the City Clerk and shall be available for inspection by any interested person during regular office hours. The certified copy shall bear on its face a certification that it is a true copy of the Official Map described in and accompanying this Chapter and shall show the date of adoption of this Chapter and shall be signed by the Mayor and countersigned by the City Clerk. Thereafter, no change or addition to such Official Map shall become effective until it shall have been indicated by the appropriate conventional entry on the aforesaid certified copy of the Official Map and a certificate placed thereon or attached thereto bearing the number and date of adoption of the amending ordinance. The certificate shall be signed by the Mayor and countersigned by the City Clerk.

**SEC. 14-2-9 MAP TO BE FILED WITH REGISTER OF DEEDS.**

The City Clerk shall be responsible immediately upon adoption of the Official Map or any amendment thereto for filing a true copy of the Official Map or Official Map as amended, duly certified, with the Register of Deeds of the County of Walworth, Wisconsin.

**SEC. 14-2-10 ENFORCEMENT.**

It shall be the duty of the City Building Inspector and the Chief of Police to enforce the provisions of this Chapter and the penalty provisions shall be pursuant to Section 1-1-7.

## CHAPTER 3

### Uniform Address System

- 14-3-1 Uniform Address System Established
- 14-3-2 Assignment of Numbers
- 14-3-3 Administration
- 14-3-4 Street Numbers to be Displayed
- 14-3-5 Penalties

#### **SEC. 14-3-1 UNIFORM ADDRESS SYSTEM ESTABLISHED.**

- (a) A uniform address system for properties and principal buildings, as shown on quarter section maps in the book entitled "Uniform Address System -- City of Delavan" which is on file in the office of the Public Works Director, is hereby adopted for use in this City. Said book, inclusive of the maps therein, is hereby adopted and made a part hereof.
- (b) Said uniform address system is adopted to promote the public health, safety, morals, comfort, and general welfare of persons within the City.

#### **SEC. 14-3-2 ASSIGNMENT OF NUMBERS.**

- (a) All properties or parcels of land within the boundaries of this City shall hereafter be identified by reference to the uniform address system adopted herein:
  - (1) All existing address numbers of properties and buildings not now in conformity with the provisions of this Chapter shall be changed to conform to the system herein adopted within two (2) months from the date of adoption hereof.
  - (2) The owner of any principal building to hereafter be erected shall, at the time of obtaining a building permit, be assigned an address number, which number shall be posted within thirty (30) days from the date of assignment or from the date of original occupancy, whichever shall be last.
  - (3) Within thirty (30) days after final approval of the plat of any subdivision or other division of land, the Public Works Director shall assign address numbers to each new building site.
  - (4) Any existing address numbers of properties and buildings presently in conformity with this Chapter which may hereafter be administratively changed, as hereinafter provided, shall be changed within two (2) months of notification of such administrative change.
- (b) All properties on the east side of north-south streets and all properties on the north side of east-west streets shall be assigned odd numbers. All properties on the west side of north-south streets and all properties on the south side of east-west streets shall be assigned even numbers. Properties fronting on diagonal or curvilinear streets tending to run more in a north-south direction shall be numbered similarly to those located on north-side streets; those properties fronting on diagonal or curvilinear streets tending to run more in east-west direction shall be numbered similarly to those located on east-west streets.
- (c) Each principal building shall bear the address number assigned to the frontage from which the main or front entrance is attained. In case the principal building is occupied by more than one (1) business or family dwelling unit on the ground floor level, each separate front entrance of such principal building shall bear a separate number. Should such principal building be occupied by more than one (1) business or family

dwelling unit, one (1) or more of which are located above ground level, the latter shall bear the half number above that of the ground level.

- (d) Numerals indicating the official address numbers for each principal building or each front entrance to such building shall be posted by the owner or occupant in a manner as to be visible from the street or way on which the property is located.

**SEC. 14-3-3 ADMINISTRATION.**

- (a) The Public Works Director shall be responsible for maintaining the uniform address system as provided in this Chapter. in so doing, he shall:
  - (1) Keep a record of all address numbers assigned.
  - (2) Assign new address numbers for new principal buildings at the time of issuance of building permits;
  - (3) Assign address numbers within thirty (30) days after approval of the plat of any subdivision or other land division to each new building site;
  - (4) Shall administratively make any corrections or changes in assigned address numbers as may to him seem necessary from time to time to further consistency within the uniform system and to recognize physical change in the City which may dictate or occasion change in address(es);
  - (5) Keep said maps in said book current as to all address numbers assigned or changed.
- (b) The Public Works Director may develop such additional and supplemental aids, maps, and records as shall enhance the administration of this Chapter.

**SEC. 14-3-4 STREET NUMBERS TO BE DISPLAYED.**

The owner, occupant, or agent in charge of the premises shall cause to be affixed and to be maintained when so affixed to each principal building controlled by him the official street number assigned to that building as provided in Section 14-3-2 above. The physical numbers provided herein shall be not less than two and one-half (2-1/2) inches high on a background of not less than three (3) inches. Each required number shall be affixed on the particular building in such a location that it may be easily and readily seen by a person of ordinary eyesight on the public street or highway upon which the building abuts. For buildings abutting also on a public alley, the street number shall also be affixed in such a location that it may be seen in a like manner from such alley.

**SEC. 14-3-5 PENALTIES.**

Any owner or occupant of any building required under this Chapter to be numbered or to come into conformance herewith who neglects or fails to comply with this Chapter shall be notified by the Public Works Director in writing to comply with the terms of this Chapter. Such notice shall be served personally or by certified mail. If the owner or occupant fails or neglects to so comply within ten (10) days after service (receipt) of such notice, he shall be subject to a forfeiture for each violation pursuant to Section 1-1-7, together with the costs of prosecution and, in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such costs and forfeitures are paid, but not to exceed fifteen (15) days. Each day that a violation continues to exist after such service (receipt) of said notice shall constitute a separate offense.