

TITLE 14

Subdivision and Platting

Chapter 1 Land Division and Subdivision Code

ORDINANCE NO. 2015-02

AN ORDINANCE AMENDING IMPROVEMENTS SECURITY PROVISIONS OF THE TOWN OF LUCAS LAND DIVISION CODE

The Town Board of the Town of Lucas, Dunn County, Wisconsin, do ordain as follows:

SECTION 1. REPEAL AND ADOPTION OF PROVISIONS.

Section 14-1-51 of the Town of Lucas Code of Ordinances pertaining to security requirements with land divisions is repealed and recreated to read as follows:

Sec. 14-1-51 Developer's Required Agreement Providing for Proper Installation of Improvements; Survey Monumentation.

(a) **Developer's Agreement Required; Financial Security for Improvements.**

- (1) **Condition of Approval.** Prior to the final approval and recording of any Certified Survey Map, Subdivision Final Plat, or Condominium requiring improvements located within the jurisdictional limits of this Chapter, and prior to the installation of any required improvements, and as a condition of said approval, the Subdivision, Condominium or Certified Survey Map Developer (as applicable), shall enter into a contract ("Developer's Agreement") with the Town of Lucas agreeing to furnish, construct, and install the required improvements at the sole cost of the Subdivision, Condominium or Certified Survey Map Developer (as applicable) and shall file with said contract a performance bond, irrevocable letter of credit, or certified check in the amount equal to, or not exceeding, one hundred twenty percent (120%) of the Town Engineer's estimate. Such security amount determination shall be made by the Town Board after review and recommendation of the Town Engineer's estimated total cost to complete the required public improvements. It shall be the Developer's option whether to execute a performance bond or whether to provide a letter of credit or certified check to satisfy the Town's requirement that the Developer provide security to ensure that the required public improvements are made within a reasonable time per the Subdivider's Agreement. Security phasing, pursuant to Subsection (b) below, shall be utilized if the project is to be completed pursuant to an approved phasing plan.
- (2) **Purpose of Guarantee.** The purpose of the guarantee and surety is to ensure that such required improvements will be completed by the Subdivision, Certified Survey Map or Condominium Developer (as applicable), or the Developer's subcontractor or agent, and serves as a further guarantee that all obligations to subcontractors for work

- on the development are satisfied. Such improvements shall be completed by the Developer of the Subdivision, Certified Survey Map or Condominium project, or by his/her subcontractor, as set forth in the Subdivider's Agreement.
- (3) **Form of Agreement.** The contract form shall be approved by the Town Attorney and provided by the Town and may provide for a phasing of public improvements construction, providing such phasing is approved by the Town Board. The Town reserves the right to control the phasing through limits and sequence so as to provide for continuity of streets, sewers, water mains, and other necessary public improvements within and between the phases. The amount of security that can be required by the Town is limited to the phase of the project that is currently being constructed.
 - (4) **Authorized Reductions of Security Amounts.** The Town may allow for the reduction of the performance bond, irrevocable letter of credit, or certified check as work is completed on the project or phases of the project.
 - (5) **Disputes Over the Amount of Financial Sureties.** In a dispute over the amount of a surety, the estimate prepared by the Town Engineer shall be given the greater weight.
 - (6) **Partial Completion of Improvements; Escrow Account/Security Reductions.** On request of the Subdivision, Certified Survey Map or Condominium Developer (as applicable), the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event the amount of the escrow deposit and/or required security may be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. The amount of any reduction in an escrow account (see Section 14-1-100 regarding escrow account) or required security shall be at the sole discretion of the Town Board, upon the recommendation from the Town Engineer and Town Attorney. Any balance remaining after such improvements have been made shall be returned to the Subdivision, Certified Survey Map or Condominium Developer (as applicable). The Town Board, at its option, may extend the escrow deposit period for an additional period not to exceed two (2) years for non-secured warranty purposes.
 - (7) **Town Authority to Draw on Escrow Accounts.** The Town Board shall have the authority to draw upon the required security or escrow account if at any time:
 - a. The developer is in default under this Chapter in any aspect of the Developer's Agreement with the Town of Lucas; or
 - b. The developer does not complete the installation of improvements within the time established in the Developer's Agreement, unless otherwise extended by agreement or action of the Town Board; or
 - c. The security on file with the Town is dated to expire in the next sixty (60) days and has not been extended, renewed or replaced, or the escrow deposit is seventy-five (75%) exhausted; or
 - d. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) otherwise fails to maintain the required security in the amount approved by the Town Engineer and agreed to in the Developer's Agreement.
 - (8) **Improvements Completion Schedule.** The time for completion of the infrastructure work and the several parts thereof required by this Chapter shall be determined by the Town Board, upon recommendation of the Town Engineer, after consultation with the

Subdivision, Certified Survey Map or Condominium Developer (as applicable). The completion date shall be a component of the contract.

- (9) **Review and Inspection Costs.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall pay the Town for all costs incurred by the Town for review and inspection of the development. [See Section 14-1-100]. This would include review, and preparation at the Town Board's discretion, of plans and specifications by the Town Engineer, Planner, and Attorney, as well as other costs of a similar nature. The Town may draw on the escrow account for this purpose.
 - (10) **Legal Signatories to Contract.** If the Subdivision, Certified Survey Map or Condominium Developer (as applicable) and the individual or entity holding title to the property on which the development is to occur are different entities or individuals, then both shall sign the Developer's Agreement. If either or both the Subdivision, Certified Survey Map or Condominium Developer (as applicable) or titleholder to the development property are a corporate or legal entity, then all of the owners of that entity (or entities if both the subdivider and the title holder are legal entities) shall sign the Developer's Agreement on behalf of the corporate or legal entity and in their individual capacities. Developer's Agreements shall also be acknowledged and executed by all project mortgagees.
 - (11) **Miscellaneous Provisions.** In addition, the following requirements shall apply:
 - a. Contracts and contract specifications for the construction of street and utility improvements on dedicated street rights-of-way, as well as the contractors and subcontractors providing such work, shall be subject to the inspection of construction by the Town or its agent, and approval of the Town. Unless otherwise authorized by the Town Engineer, said specifications shall follow those specified in this Chapter or as directed by the Town Engineer.
 - b. The amount of the required security or certified check shall be determined by the Town Board following the Town Engineer's estimate.
 - c. Governmental units to which these security and contract provisions apply may file, in lieu of said contract and bond/security, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this Section, subject to the approval of the Town Attorney.
- (b) **Phasing.**
- (1) **Infrastructure Phasing Option.** Pursuant to Sec. 236.13(2)(a), Wis. Stats., if the project is approved to be constructed in phases, which approval shall not be unreasonably withheld, the security required to be deposited shall be limited to the phase of the project currently being constructed. The agreement shall provide a reasonable time not exceeding fourteen (14) months by which such security shall be provided, which shall be no sooner than is reasonably necessary before the commencement of the installation of the improvements. In addition, the Town may require by agreement that the Developer provide non-secured improvements warranties. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) may elect, with the approval of the Town, to install the improvements in construction phases provided that:
 - a. The phases are specified in the contract for land division improvements;
 - b. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) submits security in an amount equal to one hundred twenty percent (120%)

of the estimated costs of improvements required for the installation and construction schedules for that phase. Improvements constructed during that phase shall not be accepted nor shall any building permit be issued for construction within the completed area of that phase of the land division unless required infrastructure for that phase has been properly installed pursuant to this Chapter;

- c. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) is responsible for recording deed restrictions, approved by the Town 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 Town's approval is obtained;
 - d. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) 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.
- (2) **Phasing Timeline Considerations.** The time period for completion of a phased improvement program shall take into account the needs of the Town and adjacent property owners for street and other improvements to serve lands adjacent to and/or within the land division.
- (3) **Reduction of Security Upon Phase Completion.** As work progresses on installation of improvements constructed as part of the contract, the Town Engineer, upon written request from the Subdivision, Condominium or Certified Survey Map Developer (as applicable) from time to time, is authorized to recommend a reduction in the amount of surety as hereinafter provided. When portions of construction (any required utilities infrastructure, street, sidewalk, greenway, stormwater management or other improvements) are completed by the Subdivision, Condominium or Certified Survey Map Developer (as applicable) and determined acceptable by the Town Engineer, the Town Clerk is authorized, upon submission of lien waivers by the Subdivision, Condominium or Certified Survey Map Developer (as applicable)'s contractors, to reduce the amount of surety. The amount of surety may be reduced at the time any required underground utilities are installed and tested. The amount of surety remaining shall be equal to one hundred twenty percent (120%) of the estimate of the Town Engineer of costs of work remaining to be completed and accepted and to ensure performance of the fourteen (14) month guarantee as specified in Subsection (d) below against defects in workmanship and materials on work accepted.
- (4) **Town Acceptance of Surety Reduction.** 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 Town Engineer are valid for noncompletion, the Town Board is authorized to accept a reduction in the amount of surety to an amount in the estimate of the Town Engineer, sufficient to cover the work remaining to be completed, including performance of the fourteen (14) month 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 Town Engineer prior to commencing construction.

(c) **Issues To Be Addressed by Developer's Agreement.** The Developer's Agreement should, but is not limited to, address the following development issues:

- (1) The Developer's Agreement shall identify all individuals or business entities holding an ownership interest in the subject property or holding an interest under an executed purchase agreement at the time the Developer's Agreement is executed. The Developer's Agreement shall also be executed and acknowledged by current and known future mortgagees and shall be binding on the successors and assigns of the named developers, owners and mortgagees.
- (2) The Developer's Agreement shall contain a full and accurate description of the area being subdivided.
- (3) The Developer's Agreement shall address all exceptions to design standards being sought or being granted by the Town and affecting the area being subdivided.
- (4) The Developer's Agreement shall require that acceptable security be posted with and in favor of the Town of Lucas if all public improvements called for under this Chapter for the Subdivision, Certified Survey Map, or Condominium development are not fully installed and accepted by the Town by the time a plat receives Preliminary Plat approval or when a Certified Survey Map is finally approved. The Developer's Agreement shall address whether and when said security can be released and shall further require the developer to take all steps necessary to maintain the required security in the Town's possession and not to allow it to expire.
- (5) The Developer's Agreement shall disclose and confirm relevant details regarding the developer's insurance, warranties, continuing maintenance requirements and responsibilities, and other contracts and agreements affecting the subject property.
- (6) Where any platted area in a Subdivision or Certified Survey Map will serve as open or buffer space and be jointly maintained and controlled by the owners of the platted lots or where erosion control or stormwater management devices will be installed in the area being subdivided that will require ongoing maintenance, the Developer's Agreement shall require that a homeowners' association be created with membership on an equal basis of all platted lots not commonly owned and on an equal basis, that association bylaws be developed and that a restrictive covenant or other perpetual, binding legal device be employed that will create, administer and enforce the collective responsibilities of the individual members of said homeowners' association concerning commonly held areas and/or erosion control or stormwater management devices.
- (7) A Developer's Agreement shall contain measures to protect the investments and expectations of existing and future lot owners against unilateral changes in the organizational or governing documents of a homeowners' association by a developer so long as the subject area is under the developer's control by requiring advance Town approval of material changes to the homeowners' association bylaws or restrictive covenants from the time the Developer's Agreement is executed until a majority of the lots are conveyed to individual homeowners.
- (8) The Developer's Agreement shall contain the developer's representation concerning intended subdivision design standards and home price ranges and its agreement to

- maintain such standards through build out of the Subdivision, Certified Survey Map or Condominium development (as applicable).
- (9) The Developer's Agreement shall address the timing of joint driveway paving, shall require shared maintenance agreements concerning shared driveways and shall address the control and removal of debris and rubbish during initial construction on lots being created.
- (10) The Developer's Agreement shall refer to or include as exhibits the following information:
- a. Preliminary Plat (or Certified Survey Map);
 - b. Final Plat, to be added once approved and recorded;
 - c. Road design and construction plans;
 - d. Stormwater calculations and plans;
 - e. Town permits for any incoming transfer of development rights that will operate to create greater dwelling unit densities in the development than would be allowed under this Chapter without a transfer of development rights; and
 - f. Other project-related information as required by the Town.
- (11) The Developer's Agreement shall require the developer to pay all of the Town's professional fees and expenses related to the Developer's Agreement.
- (12) The Developer's Agreement may also address areas not included in this Chapter or otherwise expressly required by law but that are nonetheless mutually agreeable to the developer and the Town and which promote the public health, safety and welfare of the residents and taxpayers of the Town of Lucas.
- (d) **Approval of Subdivider's Agreement.** The Subdivider's Agreement shall be drafted or approved as to form and content by the Town Attorney, and shall be approved by the Town Board prior to the final approval of the Certified Survey Map, Subdivision Final Plat, or Condominium Plat.
- (e) **Improvement Guarantee.**
- (1) **Types of Required Security.** The Subdivision, Condominium or Certified Survey Map Developer (as applicable) shall include in said contract an instrument of public improvement guarantee by irrevocable letter of credit, certified check, or performance bond whereby a bonding company [with assets exceeding Ten Million Dollars (\$10,000,000.00) and authorized to do business in the State of Wisconsin] guarantees maintenance, repair, replacement by the Subdivision, Condominium or Certified Survey Map Developer (as applicable) of said required public improvements which deteriorate or fail to meet performance or operating standards during the bond/security term, or any penalties which may be incurred as a result thereof, equal to one hundred twenty percent (120%) of the Town Engineer's estimate of the cost of the public improvements. Pursuant to Sec. 236.13(2)(a)1, Wis. Stats., it is the Developer's choice as to whether to provide as required security a performance bond, irrevocable letter of credit, or a certified check.
 - (2) **Town Authority to Correct Deficient Improvements.** If within fourteen (14) months after the date the public improvements for which the security is provided are substantially completed are found by the Town to be deficient or substandard, the Subdivision, Condominium or Certified Survey Map Developer (as applicable) shall remove it and replace it with nondefective work in accordance with written instructions given by the Town Engineer. If the Subdivision, Condominium or

Certified Survey Map Developer (as applicable) does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the Town may cause the removal and replacement of said defective work and charge all direct, indirect and consequential costs of such removal and replacement to the performance bond or improvement guarantee instrument.

- (3) The agreement may require a non-secured warranty period longer than the fourteen (14) month secured guarantee period.
- (4) For purposes of this Section pursuant to Section 236.13(2)(a)2, Wis. Stats., public improvements reasonably necessary for a project or phase of a project are considered to be "substantially completed" at the time the binder course is installed on streets or roads to be dedicated or, if the required public improvements do not include a street or road to be dedicated, at the time that ninety percent (90%) of the public improvements by cost are completed. The Town Board may allow for the reduction of the security as work is completed on the project.

(f) **Survey Monuments.**

- (1) Before final approval of any plat within the corporate limits of the Town, the Subdivider or Condominium Developer (as applicable) shall cause survey monuments to be installed as required by and placed in accordance with the requirements of Section 236.15, Wis. Stats., and as may be required by the Town Engineer.
- (2) The Town Engineer may waive the placing of monuments, as provided in Section 236.15(1)(6), Wis. Stats., for a reasonable time, not to exceed one (1) year, on condition that the Subdivider or Condominium Developer (as applicable) provide a letter of credit, certified check, or surety bond to ensure the placing of such monuments within the time required by Wisconsin Statute under and in compliance with the provisions of Subsection (a) above. Additional time may be granted by the Town Engineer upon show of cause.
- (3) 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 the 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 other such section monument, the established monument shall be preserved and/or fully restored by the Subdivision, Condominium or Certified Survey Map Developer (as applicable).

SECTION 2. SEVERABILITY.

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

SECTION 3. EFFECTIVE DATE.

This Ordinance shall take effect upon passage and publication as provided by law.

ADOPTED this 14 day of July, 2015.

TOWN OF LUCAS, WISCONSIN



Town Chairperson



Town Clerk

INTRODUCED: _____

PASSED: _____

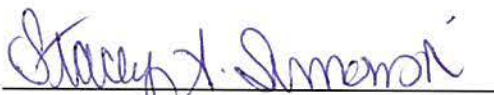
PUBLISHED/POSTED: _____

State of Wisconsin:

County of Dunn:

I hereby certify that the foregoing ordinance is a true, correct, and complete copy of an ordinance duly and regularly adopted by the Town Board of the Town of Lucas on the 14 day of July, 2015, and that said ordinance has not been repealed or amended and is now in full force and effect.

Dated this 14th day of July, 2015.



Town Clerk

ORDINANCE No. 2010-03

**AN ORDINANCE
REGARDING AMENDMENTS TO
TOWN LAND DIVISION AND SUBDIVISION CODE**

The Town Board of the Town of Lucas, Dunn County, Wisconsin, do ordain as follows:

SECTION I. ADOPTION OF PROVISIONS.

Section 14-1-33(e)(1) of the Town of Lucas Code of Ordinances is amended with the addition of the following language as new second and third sentences:

The Final Plat shall be examined by the Town Engineer, Town Planner, Town Attorney or other qualified staff to determine whether the Final Plat conforms substantially to the Preliminary Plat. Any such conclusions shall be made a part of the record of any meeting at which the Final Plat is considered, pursuant to Section 236.11(1)(e), Wis. Stats.

SECTION II. AMENDMENT OF PROVISIONS.

and e2

Section 14-1-33(c)(2)d of the Town of Lucas Code of Ordinances is amended and adopted to read as follows:

If the Final Plat is not submitted within thirty-six (36) months of the last required approval of the Preliminary Plat, the Town Board may refuse to approve the Final Plat, unless the Town Board and the applicant have agreed, in writing, to an extension.

SECTION III. AMENDMENT OF PROVISIONS.

Section 14-1-33(f)(1)c of the Town of Lucas Code of Ordinances is created and adopted to read as follows:

- c. If the Final Plat is not submitted within thirty-six (36) months of the last required approval of the Preliminary Plat, the Town Board may refuse to approve the Final Plat.

SECTION IV. AMENDMENT OF PROVISIONS.

Section 14-1-33(g)(2) of the Town of Lucas Code of Ordinances is amended and adopted to read as follows:

Pursuant to Sec. 236.25(2)(b), Wis. Stats., the County Register of Deeds cannot record the Final Plat unless it is offered within twelve (12) months from the date of last approval of the Final Plat or thirty-six (36) months from the last required approval of the Preliminary Plat.

SECTION V. REPEAL AND RECREATION OF PROVISIONS.

Subsections 14-1-51(a)(1) and (2) of the Town of Lucas Code of Ordinances are repealed and recreated as follows, with existing Subsections (a)(3)-(9) remaining unchanged; Subsections (b)-(d) are renumbered to Subsections (c)-(e) respectively and Subsection (b) is created as follows:

(a) **Developer's Agreement Required; Financial Security for Improvements.**

- (1) **Condition of Approval.** Prior to the final approval and recording of any Certified Survey Map, Subdivision Final Plat, or Condominium requiring improvements located within the jurisdictional limits of this Chapter, and prior to the installation of any required improvements, and as a condition of said approval, the Subdivision, Condominium or Certified Survey Map Developer (as applicable) shall enter into a contract ("Developer's Agreement") with the Town of Lucas agreeing to furnish, construct, and install the required improvements at the sole cost of the Subdivision, Condominium or Certified Survey Map Developer (as applicable) and shall file with said contract an irrevocable letter of credit, cash escrow deposit, or certified check in the amount equal to one hundred and twenty-five percent (125%) of the Town Engineer's estimate. Such security amount determination shall be made by the Town Board after review and recommendation of the Town Engineer; security phasing, pursuant to Subsection (b) below, shall be utilized if the project is to be completed pursuant to an approved phasing plan.
- (2) **Purpose.** The purpose of the guarantee is to ensure that such required improvements will be completed by the Subdivision, Certified Survey Map or Condominium Developer (as applicable), or the Developer's subcontractor or agent, and serves as a further guarantee that all

obligations to subcontractors for work on the development are satisfied. Such improvements shall be completed by the Developer of the Subdivision, Certified Survey Map or Condominium project, or by his/her subcontractor, as set forth in the Developer's Agreement.

- (3) **Contract Form.** The contract form shall be approved by the Town Attorney and provided by the Town and may provide for a phasing of public improvements construction, providing such phasing is approved by the Town Board. The Town reserves the right to control the phasing through limits and sequencing so as to provide for continuity of streets, sewers and water mains (if available), and other necessary public improvements within and between the phases.

[Note: Subsections (a)(3)-(9) remain unchanged]

(b) **Phasing.**

- (1) Pursuant to Sec. 236.13(2)(a), Wis. Stats., if the project is approved to be constructed in phases, which approval shall not be unreasonably withheld, the security required to be deposited shall be limited to the phase of the project currently being constructed. The agreement shall provide a reasonable time by which such security shall be provided, which shall be no sooner than is reasonably necessary before the commencement of the installation of the improvements. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) may elect, with the approval of the Town of Lucas, to install the improvements in construction phases provided that:
 - a. The phases are specified in the contract for land division improvements;
 - b. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) submits surety in an amount equal to one hundred and twenty-five percent (125%) of the estimated costs of improvements required for the installation and construction schedules for that phase. Improvements constructed during that phase shall not be accepted nor shall any building permit be issued for construction within the completed area of that phase of the land division unless required infrastructure for that phase has been properly installed pursuant to this Chapter.
 - c. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) records deed restrictions approved by the Town 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 Town's approval is obtained;
 - d. The Subdivision, Condominium or Certified Survey Map Developer (as applicable) 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.
- (2) The time limit for completion of a phased improvement program shall take into account the needs and desires of the Town and adjacent property owners for street and other improvements to serve lands adjacent to and within the land division.
- (3) As work progresses on installation of improvements constructed as part of the contract, the Town Engineer, upon written request from the Subdivision, Condominium or Certified Survey Map Developer (as applicable) from time to time, is authorized to recommend to the Town Clerk a reduction in the amount of surety as hereinafter provided. When portions of construction (streets, sidewalks, greenways or other improvements) are completed by the Subdivision, Condominium or Certified Survey Map Developer (as applicable) and determined acceptable by the Town Engineer, the Town Clerk is authorized, upon submission of lien waivers by the Subdivision, Condominium or Certified Survey Map Developer (as applicable)'s contractors, to reduce the amount of surety. The amount of surety may be reduced at the time all underground utilities are installed and tested. The amount of surety remaining shall be equal to one hundred and twenty-five percent (125%) of the estimate of the Town Engineer of costs of work remaining to be completed and accepted and to insure performance of the one (1) year guarantee 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 Town Engineer are valid for noncompletion, the Town Clerk, in his/her sole discretion, is authorized to accept a reduction in the amount of surety to an amount in the estimate of the Town 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 Town Engineer prior to commencing construction. The Town Board at its option, may extend the security or additional periods not to exceed two (2) years each.

SECTION VI. REFERENCES AMENDED.

The reference in Section 14-1-32(f) to "twenty-four (24) months" shall be changed to "thirty-six (36) months".

SECTION VII. SEVERABILITY.

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

SECTION VIII. CONFLICTING PROVISIONS REPEALED.


All Ordinances in conflict with any provision of this Ordinance are hereby repealed.

SECTION IX. EFFECTIVE DATE.

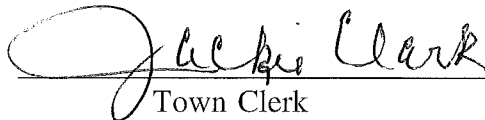
This Ordinance shall take effect upon passage and publication as provided by law.

ADOPTED this 14 day of December, 2010.

TOWN OF LUCAS, WISCONSIN



Chairperson



Town Clerk

INTRODUCED: December 14, 2010

POSTED: December 22, 2010

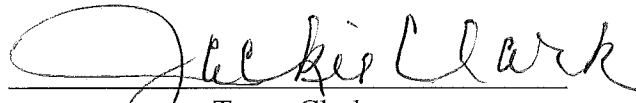
PASSED: December 14, 2010

State of Wisconsin: Dunn County

County of Dunn:

I hereby certify that the foregoing ordinance is a true, correct, and complete copy of an ordinance duly and regularly passed by the Lucas Town Board on the 14th day of December, 2010, following a recommendation from the Plan Commission and public hearing on the proposed ordinance amendment, and that said ordinance is now in full force and effect.

Dated this 14th day of December, 2010


Town Clerk

Ordinance No. 2010-01

**An Ordinance Regarding
Land Division Regulations**

The Town Board of the Town of Lucas, Wisconsin, do ordain as follows:

SECTION I. ADOPTION OF PROVISIONS.

Title 14, Chapter 1 "Land Division and Subdivision Code" of the Town of Lucas Code of Ordinances is created, following public hearing on February 6, 2010, to read as follows:

Title 14 ► Chapter 1

Land Division and Subdivision Code

Article A Adoption; Introduction

- 14-1-1 Introduction and Purpose
- 14-1-2 Abrogation and Greater Restrictions
- 14-1-3 Interpretation
- 14-1-4 Severability
- 14-1-5 Repeal
- 14-1-6 Title
- 14-1-7 Applicability; Effect of Other Laws
- 14-1-8 through
- 14-1-9 Reserved for Future Use

Article B Definitions

- 14-1-10 Definitions
- 14-1-11 through
- 14-1-19 Reserved for Future Use

Article C General Provisions

- 14-1-20 General Provisions
- 14-1-21 Land Suitability
- 14-1-22 Condominium Developments
- 14-1-23 Homeowner, Property Owner or Condominium Associations;
 Common Areas and Facilities
- 14-1-24 Sufficiency of Applications
- 14-1-25 through
- 14-1-29 Reserved for Future Use

Article D Plat Review and Approval

- 14-1-30 Preliminary Consultation; Concept Plan Review
- 14-1-31 Submission of Preliminary Plat

14-1-32	Preliminary Plat Review and Approval
14-1-33	Final Plat Review and Approval
14-1-34	Plats Within the Extraterritorial Plat Approval Jurisdiction
14-1-35	Minor Land Divisions by Certified Survey Map
14-1-36	Administrative Fees
14-1-37	Replat
14-1-38	Reconsideration
14-1-39	Reserved for Future Use

Article E Technical Requirements for Plats and Certified Surveys

14-1-40	Technical Requirements for Concept Plans
14-1-41	Technical Requirements for Preliminary Plats
14-1-42	Technical Requirements for Final Plats
14-1-43	Technical Requirements for Certified Survey Land Divisions
14-1-44	Natural Resource Protection Plan
14-1-45	Landscape Plan
14-1-46 through	
14-1-49	Reserved for Future Use

Article F Required Improvements

14-1-50	Improvements Required
14-1-51	Developer's Agreement Providing for Proper Installation of Improvements; Survey Monumentation
14-1-52	Required Construction Plans; Town Review; Inspections
14-1-53	Street Improvements
14-1-54	Sidewalks; Bicycle Paths and Trails
14-1-55	Stormwater Drainage and Detention/Retention Facilities
14-1-56	Sewerage Systems
14-1-57	Water Supply Facilities
14-1-58	Other Utilities
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Article A: Adoption; Introduction

Sec. 14-1-1 Introduction and Purpose.

- (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 Town Board of the Town of Lucas, Dunn County, 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 Town of Lucas.
 - (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.**
- (1) The purpose of this Chapter is to regulate and control the division of land within the limits of the Town of Lucas, Dunn County, Wisconsin, in order to promote the public health, safety, prosperity, aesthetics, morals, and general welfare of the Town of Lucas.
 - (2) The primary use of land in the Town of Lucas has historically been agricultural. It is the central policy of this Chapter to regulate new nonagricultural development and land division activity in the Town in a manner that preserves significant areas of prime farmland in the Town for agricultural uses and preserves the right to farm, recognizing that viable development of land for agricultural purposes and uses will occur on the large tracts utilized under conventional agricultural practices and on smaller tracts where smaller scale, more intensive or specialty agricultural activity, such as organic farming, truck or market farming, specialty crops and animals, hobby farms, community-supported agricultural plots and the like, can be economically successful agricultural uses, whether located on parcels larger or smaller than thirty-five (35) acres in size.
 - (3) Adequate provisions shall be made for public services required as a result of land division and/or development activity, and all initial public improvements made necessary due to development and land division activity shall be designed and constructed by developers at private expense and in accordance with Town of Lucas requirements. In this way, land division activity can be accomplished in the Town in a way that preserves the most productive and beneficial tracts of farmable land in the Town of Lucas and that also preserves the rural atmosphere of the Town of Lucas.
- (c) **Intent.** It is the general intent of this Chapter to regulate the division of land so as to:
- (1) Promote the wise use, conservation, protection, and proper development of the Town's soils, topography and steep slopes, water, shorelands, wetlands and shoreland-

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- wetlands, woodlands and forests, and wildlife resource features and attain a proper adjustment of land division, land use, and development to the supporting and sustaining natural resource base;
- (2) Promote the public health, safety and general welfare by regulating the subdivision of land in the Town of Lucas in a manner that will protect agricultural practices and land use in the Town.
 - (3) Provide for dedication and/or reservation of appropriately located sites for roads (including adequate right-of-way for anticipated future widening of streets); water supply; stormwater and septic systems and facilities; schools; parks and conservancy areas; and other desirable public facilities and services;
 - (4) Further the orderly layout and appropriate use of land;
 - (5) Provide safe streets and highways and lessen traffic congestion on such streets and highways;
 - (6) Secure safety from fire, emergency response situations, and other dangers;
 - (7) Provide for a rich quality of life and preservation of good farmland;
 - (8) Facilitate and ensure adequate provision of housing, transportation, water supply, stormwater management, wastewater disposal, open space, schools, recreation, parks, playgrounds, and other public facilities and services;
 - (9) Secure safety from flooding, water pollution, disease, and other hazards and minimize expenditures for flood relief and flood control projects;
 - (10) Prevent flood damage to persons and properties and minimize expenditures for flood relief and flood control projects;
 - (11) Prevent and control erosion, sedimentation, and other pollution of surface and subsurface waters;
 - (12) Protect and enhance the rural character and natural beauty of the Town of Lucas;
 - (13) Preserve natural vegetation where appropriate, and promote the Town's natural beauty;
 - (14) Restrict building sites in areas covered by poor soils or in other areas poorly suited for development due to natural resource characteristics;
 - (15) Control the further appropriate division of larger tracts into smaller parcels of land;
 - (16) Avoid the harmful effects resulting from the premature division of land;
 - (17) Ensure adequate legal description and proper survey monumentation of subdivided land;
 - (18) Provide for the administration and enforcement of this Chapter;
 - (19) Provide penalties for violation of this Chapter;
 - (20) Provide for proper ingress and egress from land; and
 - (21) Implement those town, county, watershed, or regional comprehensive plans or their components adopted by the Town and, in general, facilitate enforcement of those development standards as set forth in the adopted regional, county, and local comprehensive plans, neighborhood plans, adopted plan components, official maps and building code of the Town of Lucas, and pertinent Dunn County zoning ordinances.

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 Town of Lucas 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 Town of Lucas 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 "Town of Lucas Subdivision Ordinance", "Town of Lucas Land Division and Subdivision Ordinance", or "Town of Lucas Land Division Ordinance".

Sec. 14-1-7 Applicability; Effect of Other Laws.

This Chapter shall apply to all land divisions, and condominiums as applicable, which occur or are proposed to occur within the geographic limits of the Town of Lucas. Land in the Town is also under the concurrent jurisdiction of Dunn County, which also has a Subdivision Ordinance.

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Land use is also regulated by County zoning ordinances. Where standards herein differ from the standards of another applicable town, extraterritorial or county ordinance, the more restrictive standard shall apply.

Sec. 14-1-8 through Sec. 14-1-9 Reserved for Future Use.

Article B: Definitions

Sec. 14-1-10 Definitions.

- (a) **General Definitions.** The language set forth in the text of this Chapter shall be interpreted according to the following rules of construction:
- (1) **Singular and Plural.** The singular number includes the plural, and the plural the singular.
 - (2) **Tense.** The present tense includes the past and future tenses, and the future the present.
 - (3) **Shall and May.** The word "shall" is mandatory; the word "may" is permissive.
 - (4) **Gender.** The masculine gender includes the feminine and neuter genders.
 - (5) **Defined Words and Terms.** Whenever a word or term defined hereinafter appears in the text of this Chapter, its meaning shall be construed as set forth in the definition thereof. Any word appearing in parentheses between a word and its definition herein, shall be construed in the same sense as that word.
 - (6) **Words Not Defined Herein.** Any words not defined in this Section shall be presumed to have their customary dictionary definitions.
- (b) **Specific Words and Phrases.** The following definitions shall be applicable in this Chapter:
- (1) **Abutting.** Having a common border with, or being separated from such common border by an alley or easement, other than publicly dedicated and approved rights-of-way.
 - (2) **Access.** A means of vehicular or nonvehicular approach or entry to or exit from property, a street, or highway.
 - (3) **Adjacent.** Nearby, but not necessarily touching or abutting.
 - (4) **ADT.** Average daily traffic. The average total number of vehicles traversing a street on a typical day.
 - (5) **Advisory Agency.** Any agency, other than an objecting agency, to which a plat or certified survey map may be submitted for review and comment. An advisory agency may give advice to the Town and suggest that certain changes be made to the plat or certified survey map, or it may suggest that a plat or certified survey map be approved or denied. Suggestions made by an advisory agency are not, however, binding on the Town Board or Plan Commission. Examples of advisory agencies include regional planning commissions, school districts, and local utility companies.
 - (6) **Alley.** A public right-of-way which normally affords a secondary means of vehicular access to abutting property.
 - (7) **Approving Agencies.** Each governmental body having authority to approve or reject a preliminary or final plat. Approving authorities are set forth in Section 236.10, Wis. Stats.

- (8) **Agricultural Purpose.** General farming including beekeeping, egg production, floriculture, fish or fur farms, dairy, licensed game management farms, forest management, livestock, poultry raising, sod farming, roadside stands selling primarily produce from the farm operation on the premises by members of the farm family, nurseries, greenhouses, vegetable production, raising of grain, grass, mint, seed and ginseng crops, raising of fruit, nuts and berries, and other similar uses, including placing land in federal programs for payment in kind or enrolling land in the conservation reserve program under 16 U.S.C. § 3831 to 3836 but excluding farms operated for the disposal or reduction of garbage, sewage, rubbish, or offal.
- (9) **Arterial Street.** A street used, or intended to be used, primarily for fast or heavy through traffic providing for the expeditious movement of through traffic into, out of, and within the community. Arterial streets shall include freeways and expressways as well as standard arterial streets, highways, and parkways. Arterial streets shall be located to minimize the penetration of such streets through existing and proposed residential areas. Arterial streets shall generally be designed to convey an average daily traffic (ADT) of three thousand (3,000) and greater.
- (10) **Bicycle Path.** A pathway designed specifically to satisfy the physical requirements of bicycling.
- (11) **Bikeway.** A bike route completely apart from a street and restricted to bicycle, pedestrian, and maintenance vehicle traffic.
- (12) **Block.** A tract of land bounded by streets or a combination of streets, public parks, cemeteries, railroad rights-of-way, shorelines of navigable waters and municipal boundaries.
- (13) **Buffer.** See definition for "Bufferyard."
- (14) **Bufferyard (or Buffer Space).** An undeveloped area of land within the boundaries of a lot or site, generally adjacent to and parallel with the property line, either consisting of open space or natural vegetation, or using trees, shrubs, fences, and/or berms, designed to limit continuously the view and/or sound from the lot or site to adjacent lots or sites. Bufferyards are typically defined by a delineated easement graphically indicated on the face of the certified survey map, subdivision plat, or condominium plat. Bufferyards cannot be further subdivided and are owned in common by the owners of the subdivision lots and where the primary purpose is to separate residential areas from areas being preserved for agricultural uses. Buffer spaces also serve as "open acres" or "open space".
- (15) **Buildable Lot.** See definition of "Lot, Buildable."
- (16) **Building Line (or Buildable Line).** A line parallel to a lot line and at a distance from the lot line so as to comply with the yard and setback requirements of the applicable Zoning Code, or any restriction on the plat which identifies a line on the plat as a building setback line.
- (17) **Bulb of Cul-De-Sac.** The area of a cul-de-sac rear of a line tangent to points where the radius of the bulb meets the point of curve or reverse curve.

- (18) **Caliper.** A measurement of the diameter of a tree taken six (6) inches from above the ground level for trees up to and including four (4) inch caliper sizes, and twelve (12) inches above the ground level for larger sizes.
- (19) **Certified Survey Map.** A minor land division, as defined in Section 14-1-35 of this Code of Ordinances and prepared and recorded as set forth in Section 236.34, Wis. Stats. See also "Minor Land Division."
- (20) **Channel.** A natural or artificial watercourse of perceptible extent which periodically or continuously contains moving water, or which forms a connecting link between two (2) bodies of water. It has a definite bed and banks which serve to confine water.
- (21) **Cluster Subdivision.** A subdivision in which the lots sizes are reduced below those normally required in the zoning district in which the development is located, in return for the permanent preservation of undeveloped land.
- (22) **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. It is a street used, or intended to be used, to carry traffic from minor streets to the system of arterial streets including principal entrance streets to residential developments and/or activity/employment centers. Collector streets shall be designed to convey an average daily traffic (ADT) of between five hundred (500) and three thousand (3,000).
- (23) **Commission, Plan.** The Plan Commission created by the Town Board pursuant to Sec. 62.23 of the Wisconsin Statutes.
- (24) **Common Area.** Land in a residential development held in common and/or single ownership and not reserved for the exclusive use or benefit of an individual tenant or owner but rather for the benefit of all occupants of the development.
- (25) **Community.** A town, municipality, or a group of adjacent towns and/or municipalities having common social, economic, or physical interests.
- (26) **Comprehensive Plan ("Smart Growth Plan").** The extensively developed plan, also called a Master Plan or Smart Growth Plan, adopted by the Town of Lucas Plan Commission and certified to the Town Board pursuant to Section 62.23, Wis. Stats., [under enacted village powers pursuant to Section 60.22(3), Wis. Stats.], or a Comprehensive Plan adopted by the Town Board pursuant to Section 66.1001, Wis. Stats. The Land Use Plan shall be considered an element, or component, of the Comprehensive Plan. The Comprehensive Plan shall also include, as its components, neighborhood and sub-area plans, proposals for future land use, open space, farmland preservation, streets and transportation, economic development, and public facilities. Devices for implementation of these plans, such as zoning, official map, land division and building code provisions, design guidelines, and capital improvement programs shall also be considered a part of, or component of, the Comprehensive Plan.
- (27) **Comprehensive Plan Component.** Each plan, ordinance, study, standard, agreement, or other document duly adopted or approved by the Town Board or Plan Commission

- which is related to the regulation of or the planning for land use or development, or to the provisions of public improvements or services within the Town.
- (28) **Concept Plan.** A preliminary, non-binding drawing and supporting material, made to appropriate scale, of a proposed land division or condominium project, prepared for discussion purposes. See also Sections 14-1-30 and 14-1-40. Also called a "sketch plan."
- (29) **Condominium.** A building, or group of buildings, in which dwelling units or other nonresidential floor area portions thereof are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis. Property subject to a condominium declaration as defined, regulated and established under Chapter 703, Wis. Stats., and this Chapter.
- (30) **Condominium Association.** An association, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.
- (31) **Condominium, Conversion.** A structure which, before the recording of a condominium declaration, was wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy with the consent of the purchasers.
- (32) **Condominium Declarant.** The owner of property who subjects said property to a condominium declaration.
- (33) **Condominium Declaration.** The instrument by which property becomes subject to Chapter 703, Wis. Stats.
- (34) **Condominium Development.** A real estate development in which a condominium form of ownership pursuant to Chapter 703, Wis. Stats., is utilized.
- (35) **Condominium Unit.** A part of a condominium intended for any type of independent use, including one (1) or more cubicles of air at one (1) or more levels of space or one (1) or more rooms or enclosed spaces located on one (1) or more floors (or parts thereof) in a building. A unit may include two (2) or more noncontiguous areas.
- (36) **Conservation Easement.** A type of protective covenant, the boundary lines of which are graphically depicted on the face of a certified survey map, preliminary plat, final plat, and/or condominium plat used to conserve and preserve a natural resource feature that is protected under the provisions of this Chapter. A conservation easement is an enforceable non-possessory interest in real property imposing any limitation or affirmative obligation, the purposes of which include permanently protecting farmland so as to better preserve the rural character of the Town; permanently preserving scenic vistas and environmentally significant areas, including wetlands, lakes, streams and wood lots; creating and preserving open areas around significant environmental areas and agricultural areas; protecting the Town from the encroachment of neighboring cities; permanently restricting land divisions, subdivision and/or residential, commercial or industrial development; permanently retaining or protecting natural,

- scenic or open space values of real property; forest, recreational or open space use; permanently protecting natural resources; maintaining or enhancing air or water quality; and/or permanently preserving the historical, architectural, archaeological or cultural aspects of real property.
- (37) **Consolidation.** Legally merging two (2) or more recorded parcels into a single parcel.
- (38) **Contiguous.** In contact with one (1) or more sides.
- (39) **Conveyance.** Where the title or any part thereof is transferred by the execution of a land contract, option to purchase, offer to purchase and acceptance, deed or certified survey.
- (40) **County.** Dunn County, Wisconsin, and its subunits, including, but not limited to, the Dunn County Planning, Resources and Development Committee.
- (41) **County Planning Agency/Department.** The agency created by the County Board and authorized by Statute to plan land use and to review subdivision plats and certified survey maps.
- (42) **Cul-de-sac.** A local street having but one (1) end or outlet open to traffic and the other end being permanently terminated in a vehicular turnaround for the safe and convenient reversal of traffic movement.
- (43) **Curb.** A vertical or sloping edge of a roadway, drive, or parking area.
- (44) **Day, Business.** Monday, Tuesday, Wednesday, Thursday and Friday are for purposes of this Chapter defined as business days.
- (45) **Day, Calendar.** All days of a week, month and year, including Saturdays, Sundays and holidays.
- (46) **DBH.** Diameter at breast height. (See definition of "Diameter at Breast Height.")
- (47) **Dead End Street.** A street permanently or temporarily closed at one end, with or without turnarounds.
- (48) **Dedication (Of Land and/or Interest in Land).** The grant and conveyance of a geographically defined interest in land which is identified on a subdivision plat or certified survey map as being the subject of a dedication, grant and conveyance to the Town or some other entity, usually for public improvements, facilities, or uses; the act of making such a dedication. The transfer may be of fee simple interest or of a less than fee simple interest, including an easement.
- (49) **Dedication (Of Public Improvements).** The grant and conveyance to the Town of completed public improvements in a land division by the subdivider or condominium developer (as applicable); the act of making a dedication.
- (50) **Deed Restriction.** A restriction on the use of a property set forth in the deed.
- (51) **Density.** The acreage to dwelling unit ratio used to calculate the maximum number of dwelling units allowed in a subdivision. Density is the ratio of the number of dwelling units allowable under this Chapter in the area being subdivided to the total number of acres actually being subdivided. In single-family residential developments, the number of dwelling units and the number of buildable lots will usually be the

same. Land used for contiguous, existing road easements can be included in the total number of acres actually being subdivided when calculating a density ratio.

- (52) **Detention Basin.** A man-made or natural depression below the surrounding grade level designed to collect surface and subsurface water so that it might impede its flow and to gradually release the same at a rate not greater than that prior to the development of the property, into natural or man-made outlets (i.e., the storm sewer system or stream).
- (53) **Developer.** The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.
- (54) **Development.**
- a. The carrying out of any building activity, the making of any material change in the use or appearance of any structure or land, or the dividing of land into parcels by any person. Any manmade change to improved or unimproved real estate including, but not limited to, construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials. The following activities or uses shall be taken for the purposes of these regulations to involve "development":
 1. A reconstruction, alteration of, or material change in the external appearance of a structure on land or water; or
 2. A change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or on land or an increase in the floor area or number of businesses, manufacturing establishments, or offices; or
 3. Alteration of a shore or bank of a pond, river, stream, lake, or other waterway; or
 4. Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land; or
 5. Demolition of a structure; or
 6. Clearing of land as an adjunct of construction, including clearing or removal of vegetation, any significant disturbance of vegetation, or any soil manipulation; or
 7. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.
 - b. The following operations or uses shall not be taken for the purpose of these regulations to involve "development":
 1. Work by a highway or road agency or railroad company for the maintenance of a road or railroad track if the work is carried out on land within the boundaries of the right-of-way; or
 2. Work by any public or quasi-public utility, and other persons engaged in the distribution or transmission of gas or water, for the purposes of inspecting, repairing, renewing, or constructing on established rights-of-way sewers,

- mains, pipes, cables, utility tunnels, power lines, towers, poles, tracks, or the like; or
3. The maintenance, renewal, or alteration of any structure, where only the interior or the color of the structure or the temporary decoration of the exterior of the structure is affected; or
 4. The use of any structure or land devoted to dwelling uses for any purpose customarily incidental to enjoyment of the dwelling; or
 5. Work involving the landscaping of a detached dwelling; or
 6. Work involving the maintenance of existing landscaped areas and existing rights-of-way such as setbacks and other non-natural planted areas.
- c. "Development" includes all other activity customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the act of development or to the result of development within the Town. Reference to any specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this definition.
- (55) **Development Agreement.** See definition of "Subdivider's Agreement."
- (56) **Development, Multi-Family Dwelling.** A residential building designed for occupancy by two (2) or more dwelling units.
- (57) **Development Plan.** The Dunn County Development Plan text and all accompanying maps, charts, and explanatory material adopted by Dunn County pursuant to Section 59.97, Wis. Stats., and all amendments thereto, if applicable.
- (58) **Development, Rural.** Agricultural, residential, light commercial, recreational, and other open space development at such concentrations and densities not requiring full urban services and facilities. Such rural development may be expected to result in minimum disturbance of the land and land cover and, therefore, less impact on the natural environment.
- (59) **Development, Urban.**
- a. Residential, commercial, industrial, governmental, and institutional development in sufficient concentrations or densities to require a variety and high level of traditional urban services and facilities, including, but not limited to:
 1. Full- or part-time municipal police and fire protection and community administration;
 2. Additional public streets and highways;
 3. Neighborhood parks and playgrounds;
 4. Neighborhood schools;
 5. Local libraries;
 6. Public sanitary sewer facilities;
 7. Public water supply facilities, and public solid waste removal;
 8. Storm sewer facilities;
 9. Mass transit facilities;

10. Continual street maintenance;
 11. Curbs, gutters, and sidewalks;
 12. Street lighting; and
 13. Neighborhood convenience shopping.
- b. Such development may be expected to alter or require the altering of land and land cover and have detrimental impact on the ground and surface waters (also see definition for "Urban Area").
- (60) **Diameter at Breast Height.** The diameter of the trunk of a tree measured in inches at a point four and one-half (4.5) feet above the ground line. This point of measurement is used for established and mature trees.
- (61) **Division of Land.** A division of a lot, parcel or tract of land by the owner thereof or the owner's agent for any purpose, including sale, development, foreclosure or condemnation. Where the title or part thereof of land is transferred by the execution of a land contract, an option-to-purchase, an offer-to-purchase and acceptance, a deed, a subdivision plat, a certified survey map, or condominium plat.
- (62) **Drainageways.** An open area of land, either in an easement or dedicated right-of-way, the primary purpose of which is to carry storm water on the ground surface in lieu of an enclosed storm sewer. The land on either side of and within thirty (30) feet of the centerline of any naturally occurring trench, ditch, swale, or similar depression into which surface water flows, conveys surface water, and which are dry throughout most of the year, but may hold water during and immediately after either a rain storm or periods of snow melt. Drainageways shall include intermittent streams, but shall not include lakes, ponds, perennial streams, floodlands, 100-year recurrence interval floodplains, floodways, shoreland-wetlands, and wetlands. Drainageways may serve multiple purposes in addition to their principal use including, but not limited to, maintenance, bicycle and pedestrian traffic, sanitary sewers, water mains, storm sewers, storm water detention, park development, and other related uses. (Also referred to as "greenways").
- (63) **Drip Line.** The farthest distance, measured as a radius and the total area encompassed thereby, where the branches of a tree extend from its trunk indicating the extent of the canopy of a tree.
- (64) **Driveway.** A paved or unpaved area used for ingress or egress of vehicles allowing access from a street to a lot or site, use, building, or other structure or facility.
- (65) **Driveway Approach.** That portion of a driveway located within a public right-of-way that is widened to accommodate turning movements to access property and streets.
- (66) **Dwelling Unit.** A self-contained living unit consisting of sleeping quarters, bathroom(s) and kitchen, more than one (1) of which may be located in a single building.
- (67) **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, quasi-public entity (such as a homeowners' association), or part of the public.
- (68) **Easement, Conservation.** A type of "protective covenant" the boundary lines of which are graphically depicted on the face of a certified survey map, preliminary plat, final plat, and/or condominium plat, or filed as a separate legal instrument used to conserve and preserve a natural resource feature protected under the provisions of this Chapter.
- (69) **Equestrian Trail.** A pathway designed specifically to satisfy the physical requirements of horses, or other equine, riding.
- (70) **Erosion.** The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.
- (71) **Extraterritorial Plat Approval Jurisdiction.** The unincorporated area within one and one-half (1-1/2) miles of a fourth-class city or a village and within three (3) miles of all other cities. Wherever such statutory extraterritorial powers overlap with those of another city or village, the jurisdiction over the overlapping area shall be divided on a line all points of which are equidistant from each community so that not more than one (1) community exercises extraterritorial powers over any area.
- (72) **Face of Curb.** On a nonmountable curb, the vertical portion of the curb facing the roadway pavement. On a mountable curb, the curb face is located six (6) inches from the back of the curb in the direction of the roadway pavement.
- (73) **Final Plat.** The final map, drawing, or chart on which the subdivider's or condominium developer's (as applicable) plan of subdivision is presented for approval under the requirements of Chapter 236, Wis. Stats., as amended, and this Chapter, as amended, and which, if approved, will be submitted to the County Register of Deeds.
- (74) **Flood.** A temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel.
- (75) **Flood of Record, Maximum.** The highest recorded elevation of a recorded flood event.
- (76) **Flood Protection Elevation.** An elevation two (2) feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, five (5) feet above maximum flood of record.
- (77) **Floodlands.** Those lands, including the channels, floodways, and flood fringe of any given reach, which are subject to inundation by the flood with a given recurrence frequency. The 100-year recurrence interval flood [or that flood having a one percent (1%) probability of occurring in any given year] is generally used for zoning regulation. Where detailed flood data are not available, the maximum flood of record is used.
- (78) **Floodplains.** Those lands, including the floodplains, floodways, and channels, subject to inundation by the one hundred (100) year recurrence interval flood or, where such data is not available, the maximum flood of record.

- (79) **Floodway.** A designated portion of the 100-year flood that will safely convey the regulatory flood discharge with small, acceptable upstream and downstream stage increases, limited in Wisconsin to 0.01 foot unless special legal measures are provided. The floodway, which provides the channel, is that portion of the floodplain not suited for human habitation. All fill, structures, and other development that would impair floodwater conveyance by adversely increasing flood stages or velocities or would itself be subject to flood damage should be prohibited in the floodway.
- (80) **Forest.** See definitions for "Woodland, Mature" and "Woodland, Young."
- (81) **Final Plat.** The final map, drawing or chart on which the subdivider's plan of subdivision is presented for approval and which, if approved, will be submitted to the County Register of Deeds.
- (82) **Frontage.** All the property fronting on one (1) side of a street between the nearest intersecting streets or between a street right-of-way, waterway, or other similar barrier.
- (83) **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.
- (84) **Gutter.** A shallow channel usually set along a curb or the pavement edge of a road for purposes of catching and carrying off runoff water.
- (85) **Half Street.** A street, either existing as or proposed to be, half of the required right-of-way width with the intention that the adjoining half will be platted at the time the adjoining lands are subdivided; or an existing street, of which, due to reasons of ownership, only half of the right-of-way is within the boundaries of a proposed land division or annexation.
- (86) **High Groundwater Elevation.** The highest elevation to which subsurface water rises. This may be evidenced by the actual presence of water during wet periods of the year, or by soil mottling during drier periods. "Mottling" is a mixture or variation of soil colors. In soils with restricted internal drainage, gray, yellow, red, and brown colors are intermingled giving a multi-colored effect.
- (87) **High Water Elevation (Surface Water).** The average annual high water level of a pond, stream, lake, flowage, or wetland referred to an established datum plane or, where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic, or vegetative characteristic.
- (88) **Homeowners' Association.** A Wisconsin non-profit membership corporation which serves as an association of homeowners within a subdivision, certified survey map, or condominium having shared common interests and responsibilities with respect to the costs and upkeep of common private property of a subdivision, certified survey map, or condominium. Such common property includes private recreation and open space areas within the subdivision, certified survey map, or condominium. For the purposes of this Chapter, homeowners' associations include condominium associations.

- (89) **Impervious Lot Area.** Roof areas, gravel and bituminous surfaces, sidewalks, decks or other hard surface areas.
- (90) **Improvement.** Any man-made immovable item which becomes part of, placed upon, or is affixed to, real estate.
- (91) **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 Town may ultimately assume the responsibility for maintenance and operation.
- (92) **Irrevocable Letter of Credit.** An agreement guaranteeing payment for subdivision improvements, entered into a bank, savings and loan, or other financial institution which is authorized to do business in this state and which has a financial standing acceptable to the Town, and which is approved, as to form, by the Town Attorney.
- (93) **Lake.** Any body of water two (2) acres or larger in size as measured by the shoreline at its maximum condition rather than the permanent pool condition, if there is any difference.
- (94) **Land Division.** Any division or conveyance of land or an interest in land that results in the creation of one (1) or more additional lots or parcels, including, without limitation, any subdivision or minor land division. Notwithstanding the foregoing definition, the creation of any condominium shall be deemed to be a land division under this Chapter. A land division can be legally created or accomplished only by means of:
- A preliminary and final plat approved by the Town as specified by this Chapter;
 - A certified survey map approved by the Town as specified in this Chapter; or
 - In the case of a condominium, by means of condominium instruments approved by the Town as specified in this Chapter.
- (95) **Landscape Bufferyard.** See the definition for "Bufferyard."
- (96) **Landscape Plan.** A written plan for landscaping meeting the requirements of Section 14-1-45.
- (97) **Landscaping.** Living material, such as grass, groundcover, flowers, shrubs, vines, hedges, and trees; and nonliving durable material, such as rocks, pebbles, sand, mulch, wood chips or bark, walls, and fences, but not including paving.
- (98) **Lateral, Sanitary Sewer Service.** Pipes installed for conducting water to the lots of certified survey maps, subdivision plats, condominium plats, or other lots or parcels of land to larger sanitary sewer pipes, called "trunk", "interceptor" or "main" sewers which are oftentimes located within easements or rights-of-way.
- (99) **Lateral, Water Service.** Pipes installed for conducting water to the lots of Certified Survey Maps, Subdivision Plats, Condominium Plats, or other lots or parcels of land from larger water mains which are often times located within easements or rights-of-way.
- (100) **Letter of Credit.** An irrevocable written agreement guaranteeing payment for improvements, entered into by a bank, savings and loan, or other financial institution authorized to do business in the State of Wisconsin and which has a financial standing

acceptable to the Town, which secures a subdivider's obligation to pay the cost of designing, constructing, and installing required public improvements and certain other obligations in connection with an approved land division or condominium.

- (101) **Local Street.** A street of little or no continuity designed to provide access to abutting property and leading into collector streets.
- (102) **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 and shoreland/floodplain ordinance.
- (103) **Lot Area.** The area contained within the exterior boundaries of a lot excluding streets, and land under navigable bodies of water.
- (104) **Lot, Buildable.** A lot on which a principal building to be utilized for one (1) or more uses can be lawfully constructed.
- (105) **Lot, Corner.** A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five degrees (135°) or less, measured on the lot side.
- (106) **Lot Depth.** The average dimension of a parcel measured from the rear lot line to the front lot line along each side yard setback.
- (107) **Lot, Double Frontage.** A lot, other than a corner lot, with frontage on more than one (1) street. Double frontage lots shall normally be deemed to have two (2) front yards and two (2) side yards and no rear yard. Double frontage lots shall not generally be permitted unless the lot abuts an arterial highway. Double frontage lots abutting arterial highways should restrict direct access to the arterial highway by means of a planting buffer or some other acceptable access buffering measure.
- (108) **Lot, Flag.** A lot, typically not meeting minimum frontage requirements and where access to a public street is by a narrow, private access easement, strip of land, or driveway.
- (109) **Lot Frontage.** The front of a lot shall be that boundary of a lot along a public street; for a corner lot the owner may elect either street line as the front lot line.
- (110) **Lot Lines.** The peripheral boundaries of a lot as defined herein. A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.
- (111) **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.
- (112) **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.
- (113) **Lot Width.** The horizontal distance between the side lot lines measured at the front setback lines.

- (114) **Major Subdivision.** The division of a lot, parcel or tract of land resulting in the creation of five (5) or more lots that are thirty-five (35) acres or smaller in area by one-time or successive lot creation within a period of five (5) years. See also "Subdivision".
- (115) **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.
- (116) **Master Plan.** An extensively developed plan, map, or other document pertaining to planning and adopted by the Town Board or other agency which may pertain to the division of lands, including the Comprehensive Plan (Smart Growth Plan), the Official Map, comprehensive utility plans, and other planning documents (if available) including proposals for future land use, transportation, urban redevelopment and public facilities. Devices for the implementation of these plans, such as ordinances pertaining to zoning, official map, land division, and building development and capital improvement plans shall be considered as planning documents within this definition.
- (117) **Minor Street.** A street used, or intended to be used, primarily for access to abutting properties; also referred to as a "local street." Residential minor streets that are designed as either looped or through streets shall be designed so that no section conveys an average daily traffic (ADT) greater than five hundred (500). Residential minor land access streets that are designed as permanent cul-de-sac streets shall be designed so that no section conveys an average daily traffic (ADT) greater than two hundred fifty (250).
- (118) **Minor Subdivision (Certified Survey Map).** Minor land divisions include the division of land by the owner or subdivider resulting in the creation of two (2), but not more than four (4), parcels or building sites within a five (5) year period, any one of which is less than thirty-five (35) acres in size; or the division of a block, lot or outlot within a recorded subdivision plat into not more than four (4) parcels or building sites without changing the exterior boundaries of said block, lot, or outlot. A certified survey map may be used to change the boundaries of lots and outlots within a recorded plat or recorded, certified survey map if the redivision does not result in a subdivision or violate a local subdivision regulation. A certified survey map may not alter the exterior boundary of a recorded plat, 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.
- (119) **National Map Accuracy Standards.** Standards governing the horizontal and vertical accuracy of topographic maps and specifying the means for testing and determining such accuracy, endorsed by all federal agencies having surveying and mapping functions and responsibilities.
- (120) **Natural Resources.** Areas of steep slopes, woodlands and forests (mature and young), lakes, ponds, streams, shore buffer, floodplains, floodlands, wetlands, and shoreland-wetlands as defined in this Chapter.

- (121) **Natural Resource Protection Plan.** A written plan for landscaping meeting the requirements of this Chapter.
- (122) **Natural Resource Protection Standard.** The proportion of the natural features of a site (excluding land occupied by public street rights-of-way), which shall remain undeveloped and protected and is specifically designated for natural resource protection by deed restriction, easement, protective covenant, zoning, or a combination thereof.
- (123) **Navigable Stream.** Any stream capable of floating any boat, skiff, or canoe of the shallowest draft used for recreational purposes.
- (124) **Navigable Water.** Lake Michigan, Lake Superior, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages, and other water within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. The Wisconsin Supreme Court has declared as navigable bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annual recurring basis [*Muench v. Public Service Commission*, 261 Wis. 2d 492 (1952) & *DeGavnor and Co., Inc. v. Department of Natural Resources*, 70 Wis. 2d 936 (1975)].
- (125) **Non-Earth Materials.** Materials other than earth, clay, soil, ground, stones, and rock.
- (126) **Objecting Agencies.** An agency empowered to object to a subdivision plat pursuant to Chapter 236, Wis. Stats. The Town may not approve any plat upon which an objection has been certified until the objection has been satisfied. The objecting agencies include the Wisconsin Department of Administration, Wisconsin Department of Commerce, Wisconsin Department of Transportation, and the County Planning Agency.
- (127) **Official Map.** A map indicating the location, width, and extent of existing and proposed streets, highways, waterways, parkways, required rights-of-way, public transit facilities, parks, playgrounds, and other facilities, as adopted by the Town Board pursuant to Section 62.23(6), Wis. Stats.
- (128) **Open Space.** Any site, parcel, lot, area, or outlot of land or water essentially unimproved and set aside, dedicated, designated, or reserved for the public or private use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Land that is to be used primarily for resource protection, agriculture, recreational purposes, or otherwise left undisturbed and specifically excluding road rights-of-way and lots. Open space land shall not be occupied by nonrecreational buildings, roads, drives, public rights-of-way, or off-street parking areas for nonrecreational uses. Land located within the yards or lots of residential and/or nonresidential properties is not considered open space unless it is deed restricted for open space protection or natural resource features protection. Where lots are above the minimum sizes required and the excess lot area is deed restricted to open space uses it may be counted as open space.

- (129) **Open Space, Common.** Open space within or related to a development, neither individually owned nor dedicated for public use but typically owned by a property owners' association, which is designated and intended for the common use and/or enjoyment of the residents of the development, and which is accessible and usable by all persons who occupy a principal use within the development.
- (130) **Open Space, Deed Restricted.** Deed restricted open space on platted "lots" is not occupied by any principal or accessory buildings or structures, roads, road rights-of-ways, or parking areas. Deed restricted open space on platted "outlots" is not occupied by non-recreational principal or accessory buildings or structures, roads, road rights-of-way, or parking areas. The maintenance of deed restricted open space located on platted "outlots" is by a homeowners' association. The maintenance of deed restricted open space located on platted "lots" is by the individual lot owner.
- (131) **Open Space, Private.** An open space area privately owned by a natural person, individual, firm, association, syndicate, partnership, private corporation, limited liability entity, public or quasi-public corporation, or combination of these having legal title to the open space area.
- (132) **Open Space, Public.** An open space area conveyed or otherwise dedicated to a municipality, municipal agency, public school district, state or county agency, or other public body for recreation or conservation uses.
- (133) **Ordinary High Water Mark.** The point on the bank or shore of a navigable water up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction, or prevention of terrestrial vegetation, or other easily recognized characteristics.
- (134) **Outlot.** A parcel of land, other than a lot, so designated on a plat or certified survey and which is not intended for building or structure development, in the proposed land division. A parcel of land, other than a lot or block, so designated on the plat, but not of standard lot size, which can be either redivided into lots or combined in the future with one (1) or more other adjacent outlots or lots in adjacent subdivisions or minor land divisions in the future for the purpose of creating buildable lots. Section 236.13(6), Wis. Stats., prohibits using an outlot as a building site unless it complies with all the requirements imposed for buildable lots. The Town shall generally require that any restrictions related to an outlot be included on the face of the preliminary plat, final plat or certified survey map.
- (135) **Owner.** Includes the plural as well as the singular and may mean either a natural person, firm, association, syndicate, partnership, private corporation, limited liability entity, public or quasi-public corporation, or combination of these, having legal title or sufficient proprietary interest to seek development of land. For purposes of successive division of a parcel by certified survey maps, "owner" shall be taken to include any related person, firm, partnership or corporation, to whom conveyance has been made within two (2) years of application for approval of a certified survey map.

- "Related" shall mean any natural person related to a transferor by blood or marriage, any person acting in an agency or trust capacity, any partnership in which the transferor is a partner and any corporation in which the transferor is a stockholder, officer or director, or in which related persons are stockholders, officers or directors.
- (136) **Parcel.** Contiguous lands under the control of a subdivider whether or not separated by a combination of streets, exterior subdivision boundary lines, streams, or other water bodies. A single piece of land separately owned, either publicly or privately, and capable of being conveyed separately.
- (137) **Park, Private.** An outdoor recreation park privately owned by a natural person, individual, firm, association, syndicate, partnership, private corporation, public or quasi-public corporation, or combination of these having legal title to the outdoor recreation park.
- (138) **Park, Public.** An outdoor recreation park conveyed or otherwise dedicated to a local government, municipal agency, public school district, state or county agency, or other public body for recreation or conservation uses.
- (139) **Pedestrianway.** A public way that is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.
- (140) **Person.** Shall mean any of the following entities: natural persons, corporations, partnerships, associations, limited liability companies, firms, bodies politic, joint ventures, joint stock companies, public or private corporations, the United States, the State of Wisconsin, including any unit or division thereof, any county, city, village, town, municipal utility, municipal power district, or other governmental unit, cooperative, estate, trust, receiver, executor, administrator, any other fiduciary, any representative appointed by order of any court or otherwise acting on behalf of others, or any other entity of any kind which is capable of being sued (includes singular as well as plural).
- (141) **Plan Commission.** The Town Plan Commission created by the Town Board pursuant to Section 62.23, Wis. Stats.
- (142) **Planned Unit Development (PUD).** A form of development usually characterized by a unified site design for a number of housing units. The concept usually involves clustering of buildings, providing common open space, and mixing different types of housing (single family, duplexes, and multi-family). Ordinances permitting planned unit developments permit planning a project and calculating densities for the entire development rather than on an individual lot by lot basis. It is hereby declared that regulating planned unit developments requires greater involvement of public officials in site plan review and development aspects of both zoning and land division regulation since such developments require exceptions from both types of regulation.
- (143) **Plat.** The map or plan of record of a plat or major subdivision and any accompanying material.
- (144) **Pond.** All bodies of water less than two (2) acres in area as measured by the shoreline at its maximum condition rather than the permanent pool condition, if there is any difference.

- (145) **Preliminary Plat.** A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration pursuant to the requirements of Ch. 236, Wis. Stats., the Comprehensive Plan, and this Chapter.
- (146) **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.
- (147) **Public Way.** Any public road, street, highway, walkway, drainageway, or part thereof.
- (148) **Replat.** The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat, certified survey map, or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat or certified survey map without changing exterior boundaries of said block, lot or outlot is not a replat.
- (149) **Reservation.** A geographically defined area of land or interest in land, identified on a subdivision plat, certified survey map, or condominium as having been temporarily set aside for possible future acquisition for public improvements, facilities, or uses. Such a reservation does not imply public ownership.
- (150) **Reserve Strip.** Any land which would prohibit or interfere with the orderly extension of streets, bicycle or pedestrian ways, sanitary sewer, water mains, storm water facilities, or other utilities or improvements between two (2) abutting properties.
- (151) **Residential Dwelling Unit.** A single family dwelling or part of a duplex, apartment, or other multiple family dwelling occupied by one (1) family or one (1) distinct set of inhabitants or occupants.
- (152) **Retention Basin.** A man-made or natural body of water of a depth of not less than three (3) feet, designed to contain water at all times, the level of which will be increased as a result of the flow into it of surface and subsurface water, collected therein and released gradually into natural or man-made outlets.
- (153) **Right-of-Way.** A public way dedicated to the public for its intended use.
- (154) **Runoff.** The rainfall, snowmelt, discharge pumping, or irrigation water flowing over the ground surface.
- (155) **Setback.** Those minimum street, front, rear, and/or side yards required by the pertinent zoning codes governing the Town.
- (156) **Shared Driveway.** That part of a driveway that serves two (2) lots from the public road and ending at the point where the driveway splits to serve each separate dwelling unit. Also referred to as "joint driveways".
- (157) **Shore Buffer.** The area located within seventy-five (75) feet of the ordinary highwater mark of all navigable waters and parallel to that ordinary high water mark.
- (158) **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 (i.e, the outward edge of the floodplain), whichever distance is greater. If the navigable water is a glacial pothole lake, the distance shall be measured from the highwater mark thereof.

- (159) **Shoreland-Wetland.** A wetland, as defined by this Chapter and pertinent shoreland-wetland ordinances, which is located within a shoreland area.
- (160) **Sidewalk.** A paved path provided for pedestrian use and usually located at the side of a road within a public street right-of-way but physically separated by distance from the road pavement.
- (161) **Slope.** The degree of deviation of a surface from the horizontal, usually expressed in percent of degrees.
- (162) **Slope, Steep.** Three (3) categories of steep slopes are defined herein for use in this Chapter. These categories are based upon the relative degree of the steepness of the slope as follows: ten to twenty percent (10-20%); twenty to thirty percent (20-30%); and greater than thirty percent (30%). No land area shall be considered a steep slope unless the steep slope area has at least a ten (10) foot vertical drop and has a minimum area of five thousand (5,000) square feet. Steep slopes exclude man-made steep slopes.
- (163) **Soil Mapping Unit.** Soil type, slope, and erosion factor boundaries as shown on the operational soil survey maps prepared by the U.S. Soil Conservation Service of the U.S. Department of Agriculture as published in the *Soil Survey: Dunn County, Wisconsin*, latest edition.
- (164) **"Standards and Specifications for Development."** The written set of standards and specifications which the Town uses, and has established as public policy, for the installation of improvements as set forth in this Chapter.
- (165) **Stream.** A course of running water, either perennial or intermittent, flowing in a channel.
- (166) **Street.** A dedicated public way for pedestrians and vehicular traffic and utility access including but not limited to highways, arterials, collectors, parkways, through highways, roads, avenues, boulevards, lanes, places, and courts, and any pavements, turf, fixtures, facilities, structures, plantings, signs, and other elements of the right-of-way.
- (167) **Street Line.** A line separating a lot, piece, or parcel of land from a street.
- (168) **Structure.** Anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground, excepting public utility fixtures and appurtenances.
- (169) **Subdivider.** Any person, firm, corporation, agent, partnership, or entity of any sort, which divides or proposes to divide, by plat, minor subdivision, certified survey map, or replat land in any manner, including such heirs and assigns as may be responsible for the obligations of the subdivider under the provisions of this Chapter. For

purposes of this Chapter, "subdivider" shall also mean and include condominium developers.

- (170) **Subdivider's Agreement.** An agreement by which the Town and subdivider or condominium developer (as applicable) agree in reasonable detail as to all of those matters which the provisions of this Chapter permit to be covered by the Subdivider's Agreement and which Agreement shall not come into effect unless and until an Irrevocable Letter of Credit or other appropriate surety has been issued to the Town.
- (171) **Subdivision.**
- a. The division of a lot, parcel or tract of land by the owner(s) thereof or the owner's agent for the purpose of sale or of building development where:
 1. The act of division creates five (5) or more parcels, lots or building sites of thirty-five (35) acres each or less in area; or
 2. Five (5) or more parcels, lots or building sites of thirty-five (35) acres each or less in area are created by successive divisions within a period of five (5) years.
 - b. The terms "subdivision", "subdivided", or "subdividing" can also generally, for purposes of this Chapter, refer to both minor [sometimes referred to as Certified Survey Maps (CSMs)] and major subdivision activities and plans for the purpose of transfer of ownership or building development where the act of subdivision will create or result in one (1) or more lots or building sites of thirty-five (35) acres or less.
- (172) **Subgrade.** The natural ground lying beneath a road.
- (173) **Surety Bond.** A bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider or condominium developer.
- (174) **Town.** The Town of Lucas, Dunn County, Wisconsin.
- (175) **Town Engineer.** A registered professional engineer who is a consultant to or employee of the Town, or a consulting engineer or engineering firm who provides resident staff services to the Town, and is duly appointed by the Town Board to the position. References to "Town Engineer" may also mean that certain tasks may be performed by the Town Clerk, Chairperson, Director of Public Works or other Town officials.
- (176) **Town Planner.** A professional planner who is a consultant to or employee of the Town, or a consulting professional planner who provides resident staff services to the Town, and who is duly appointed by the Town Board to the position.
- (177) **Tree.** Any self-supporting, woody plant together with its root system, growing upon the earth usually with one (1) trunk, or a multi-stemmed trunk system, supporting a definitely formed crown.
- (178) **Tree, Canopy.** A tree whose leaves would occupy the upper level of a forest in a natural ecological situation. These trees are often referred to as shade trees.

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- (179) **Tree, Street.** A tree adjacent to a public place, street, special easement, or right-of-way adjoining a street.
- (180) **Tree, Understory.** A tree whose leaves would occupy the lower level of a forest in a natural ecological situation. These types of trees are often referred to as ornamental trees.
- (181) **Trip.** A single or one-way vehicle movement to or from a property.
- (182) **Unit.** See definition of "Condominium Unit."
- (183) **Watercourse.** A permanent or intermittent stream channel.
- (184) **Wetland.** An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. (Sec. 23.32(1), Wis. Stats.)
- (185) **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.
- (186) **Woodland, Mature.** An area or stand of trees whose total combined canopy covers an area of one (1) acre or more and at least fifty percent (50%) of which is composed of canopies of trees having a diameter at breast height (DBH) of at least ten (10) inches; or any grove consisting of eight (8) or more individual trees having a DBH: of at least twelve (12) inches whose combined canopies cover at least fifty percent (50%) of the area encompassed by the grove. However, no trees grown for commercial purposes shall be considered a mature woodland.
- (187) **Woodland, Young.** An area or stand of trees where:
 - a. Total combined canopy covers an area of one-half (0.5) acre or more and at least fifty percent (50%) of which is composed of canopies of trees having a diameter at breast height (DBH) of at least three (3) inches; or
 - b. Clusters of six (6) or more trees of at least four (4) inches diameter at breast height (DBH) with a total combined canopy cover of an area of five thousand (5,000) square feet or more. (Note: No trees grown for commercial purposes shall be considered a young woodland).
- (188) **Zoning District.** As defined in the appropriate zoning code and accompanying maps as amended.
- (189) **Zoning Permit.** The permit required by this Chapter and pertinent zoning codes before the erection, reconstruction, enlargement, or moving of any building or structure, or use of a structure, land, or water where such erection or use complies with all provisions of this Chapter.

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, replat or certified survey map as defined herein; no such subdivision, land division, replat or certified survey map 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 (if applicable and/or when adopted):
- (1) The provisions of Ch. 236 and Sec. 80.08, Wis. Stats.
 - (2) The rules of the Division of Health, Wisconsin Department of Commerce, contained in Wis. Adm. Code Chapter H85 for subdivisions not served by public sewer.
 - (3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code Chapter HY 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 Town Board. [Note: After January 1, 2010, Sec. 66.1001(3), Wis. Stats., requires that all approvals under this Chapter shall be consistent with the Town's Comprehensive Plan ("Smart Growth Plan").]
 - (6) All applicable Town and county regulations, including zoning, sanitary, building and official mapping ordinances.
 - (7) The Town of Lucas Comprehensive Plan (Smart Growth Plan), or components thereof, and applicable ordinances of any city or village whose extraterritorial jurisdiction extends into the Town of Lucas.
 - (8) Pertinent provisions of the Zoning Code(s) applicable in the Town of Lucas.
 - (9) 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 Town of Lucas. 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) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by applicable zoning laws or ordinances.
 - (4) Easements;
 - (5) Assessor's Plats made under Sections 70.27 and 236.03(2), Wis. Stats.;
 - (6) Existing parcels affected by the transfer of interest in land acquired on existing right-of-way or for additional right-of-way; and
 - (7) Highway right-of-way plats.

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- (c) **Certified Survey Map.** Any division of land other than a subdivision as defined in Sec. 236.02(8), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in Sec. 236.34, Wis. Stats.
- (d) **Building Permits.** The Town of Lucas 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 map originally submitted to the Town of Lucas 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) **Applicability to Condominiums.** This Chapter is expressly applicable to condominium developments within the Town's jurisdiction, pursuant to Section 703.27(1), Wis. Stats. For purposes of this Chapter, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of subdivision.
- (f) **Parcel Determination.** Lands, regardless of use, which are a government protracted quarter-quarter section or government lot and are under unified ownership shall be considered a single parcel even when divided by a public or private street, road, highway or railroad unless a separate parcel description exists prior to the effective date of this Chapter.

Cross-Reference: Section 14-1-22.

Sec. 14-1-21 Land Suitability.

- (a) **Suitability.** No land shall be subdivided (by plat or certified survey map) for residential, commercial or industrial use which is held unsuitable for such use by the Town Board for reason of flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, inadequate water supply or sewage capability, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community. The Town Board, 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 residential use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he/she so desires. Thereafter the Town Board may affirm, modify, or withdraw its determination of unsuitability. The Town Board may impose reasonable additional and site-specific requirements and conditions upon its approval of any subdivision to accomplish these objectives.
- (b) **Additional Considerations.**
 - (1) Areas of archaeological and/or historical interest shall be designated by the State Historical Society.
 - (2) Areas of geological interest shall be designated by the State Geological and Natural History Survey.

- (3) Suitability of land for private sewerage systems shall be determined in accordance with Chapter COMM 83, Wisconsin Administrative Code.

Sec. 14-1-22 Condominium Developments.

(a) **Purpose.**

- (1) The Town Board hereby finds that certain issues arise in condominium developments that require limited applicability of this Chapter 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 factor that makes this Chapter applicable to a condominium development is the creation of multiple, distinct property entities at or near the ground surface, subject to property taxation as separate "parcels", with each property entity having different ownership and management. The Town determines that this factor makes a condominium development dissimilar, both physically and in ownership, from developments in which the land and improvements are under unitary ownership, management and control.
- (3) Thus, the Town Board hereby finds that new condominium developments can place impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. These impacts include:
 - a. Additional population density;
 - b. Possibility of use of particular land in a manner unsuitable to the land's characteristics;
 - c. Additional demands upon Town area parks, recreation areas, utility facilities and schools;
 - d. Additional traffic and street use.

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

- (1) Sections 14-1-21, relating to land suitability and construction practices;
- (2) Sections 14-1-30 through 14-1-32, relating to preliminary plat approval. This stage of approval shall be the only approval required for a condominium development. The technical requirements for preliminary plats set forth in Section 14-1-40 shall not apply, since condominiums have separate technical standards set forth in Chapter 703, Wis. Stats.
- (3) Section 14-1-34, relating to fees for review;
- (4) Article F, relating to required improvements;
- (5) Article G, relating to design standards for improvements;
- (6) Article H, relating to dedication requirements.

- (c) This Section shall not apply to the following condominiums:
- (1) Any condominium plat recorded prior to the effective date of this Chapter;
 - (2) Any conversion of a structure or structures in existence on the effective date of this Chapter to a condominium after the effective date of this Chapter.

Sec. 14-1-23 Homeowner, Property Owner or Condominium Associations; Common Areas and Facilities.

Common areas or facilities within a land division, subdivision or condominium shall be held in common ownership as undivided proportionate interests by the members of a homeowners, property owners or condominium association, subject to the provisions set forth herein and applicable provisions contained in any pertinent development agreement and deed restriction. Included within the definition of, but not limited to, "common areas or facilities" are: common area open space, conservancy and recreation areas; and shared community private septic systems. The homeowners, property owners or condominium association shall be governed by the following:

- (a) **Documents To Be Submitted.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall provide the Town of Lucas with a description of the homeowners, property owners or condominium association, including its bylaws, and all documents and restrictive covenants governing maintenance requirements and use restrictions for common areas and facilities. These documents shall be subject to review as to form by the Town Attorney at the applicant's expense. The documents required by this Section shall be filed with the Town Clerk at the time of preliminary plat submittal, or upon the request of the Town Clerk.
- (b) **Timetable For Creation.** The association shall be established by the owner or applicant of the land division/condominium, and such association shall be operating prior to the sale of any lots or units in the subdivision, land division or condominium.
- (c) **Mandatory Membership.** Membership in the association shall be mandatory and on-going for all purchasers of lots or units within the subdivision, land division or condominium and their successors and assigns.
- (d) **Maintenance Responsibilities.**
 - (1) The association shall be responsible for maintenance of and insurance for common areas and facilities. Included in such responsibilities is on-going maintenance of any shared community private septic system for that Subdivision, Certified Survey Map or Condominium development, pursuant to a maintenance plan approved by the Town and incorporated in the development agreement; such requirement is only inapplicable where the Town has expressly determined to have, in the alternative, the Town maintain such facilities and areas.
 - (2) The members of the association shall share equitably the costs of maintaining, insuring, and operating common areas and facilities. The Subdivision, Certified

Survey Map or Condominium Developer (as applicable) shall arrange with the Town a method of assessment of any common areas and facilities which will allocate to each lot, parcel or unit within the land division or condominium a share of the total assessment of costs for such common areas and facilities; the services of the Town Assessor or Town Engineer may be utilized in developing such methodology, at the applicant's expense.

- (e) **Plan For Natural Areas.** A land stewardship plan for any common open space or prairies to be maintained in a natural state shall be included in the submittal of association documents.
- (f) **Notice Of Transfer Of Common Areas.** The Town shall receive written notice of any proposed transfer of common areas or facilities by the association or the assumption of maintenance of common areas or facilities. Such notice shall be given by the association to all members of the association and the Town Clerk at least thirty (30) days prior to such transfer.
- (g) **Failure To Maintain.** In the event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the Town may serve written notice upon such association setting forth the manner in which the association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections or maintenance required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the association, or any successor association, shall be considered in violation of this Chapter, in which case the Town shall have the right to enter the premise and take the needed corrective or maintenance actions. The costs of corrective or maintenance actions by the Town shall be assessed against the properties that have the right of enjoyment of and/or are served by the common areas and facilities.

Cross-Reference: Section 14-1-74(d).

Sec. 14-1-24 Sufficiency of Applications.

An application for any Town Board action under this Chapter shall not be deemed to have been validly submitted to the Town of Lucas until a written application, signed by the applicant or an authorized representative and accompanied by all required materials, has been personally delivered to the Town Clerk, copies of all application materials have been delivered to the Town Attorney and Town Engineer and the application submitted has been acknowledged by the Plan Commission at its next meeting following the delivery of materials to designated Town officials.

Sec. 14-1-25 through Sec. 14-1-29 Reserved for Future Use.

Article D: Plat Review and Approval

Sec. 14-1-30 Preliminary Consultation; Concept Plan Review.

Before filing a Preliminary Plat, Condominium or Certified Survey Map, the Subdivider or Condominium Developer (as applicable) is encouraged to consult with the Town Board and/or other professionals assisting the Town of Lucas for advice regarding general land division and/or development policies and requirements. Information on meeting dates, agenda deadlines and filing requirements may be obtained from the Town Clerk. The potential applicant may also submit a Concept Plan showing the relationship of the proposed subdivision to roads and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the potential applicant of the purpose and objectives of these regulations, the Comprehensive Plan, Comprehensive Plan Components and duly adopted plan implementation devices of the Town of Lucas and to otherwise assist the potential applicant in planning his/her development. In so doing, both the subdivider and Town officials may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The potential applicant will gain a better understanding of the subsequent required procedures.

Cross-Reference: Section 14-1-40, Concept Plan.

Sec. 14-1-31 Submission of Preliminary Plat.

(a) **Preliminary Plat Submission.**

(1) ***Filing of a Preliminary Plat.***

- a. Before submitting a Final Plat for approval, the Subdivider or Condominium Developer (as applicable) shall first prepare a Preliminary Plat and associated application materials. The Preliminary Plat shall be prepared in accordance with Section 14-1-41, and the Subdivider or Condominium Developer (as applicable) shall file at least twenty-five (25) copies of the Preliminary Plat, Natural Resources Protection Plan (if required), Landscape Plan for any landscape easement area (See Sections 14-1-44 and 14-1-45), and the application materials with the Town Clerk, together with all necessary fees at least twenty-five (25) days prior to the meeting of the Plan Commission at which first consideration is desired and is properly noticed.
- b. No Preliminary Plat application shall be considered or acted upon by the Town Plan Commission or the Town Board until all material required to evaluate the Preliminary Plat has been submitted.

- (2) **Preliminary Plat Documents to be Transmitted by Town Clerk.** The Town Clerk shall, within three (3) normal business days after filing, transmit Preliminary Plat copies to:
- a. The Plan Commission;
 - b. The Town Board;
 - c. The Town Planner (if utilized) and Town Attorney;
 - d. The Town Engineer;
 - e. The Town's Director of Public Works and Fire Chief;
 - f. The Dunn County Department of Planning, Resources and Development;
 - g. The Director of Plat Review, Wisconsin Department of Administration (two copies for internal use);
 - h. The Director of Plat Review, Wisconsin Department of Administration for retransmission of two (2) copies each to:
 1. The Wisconsin Department of Transportation (WisDOT), if the subdivision abuts or adjoins a State Trunk Highway or a connecting highway;
 2. The Wisconsin Department of Commerce, if the subdivision is not served by a public sewer and provision for such service has not been made;
 3. The Wisconsin Department of Natural Resources (WDNR), if lands included in the plat lie within five hundred (500) feet of the ordinary high water mark of any navigable stream, lake, or other navigable body of water, or if any shorelands or floodlands are contained within the proposed subdivision;
 - i. The clerk of each adjoining city or village if the land division lies within the extraterritorial plat approval jurisdiction of a city or village;
 - j. Each school district with jurisdiction;
 - k. Affected Town officials, committees and commissions;
 - l. Affected County commissions and departments including the County Soil and Water Conservation District, County Highway Commission, and County Surveyor for review and recommendations.
 - m. Additional copies that may be requested by approving authorities and objecting agencies; and
- (3) **Alternative Transmittal Procedure.** Unless directed otherwise by the Town, the following transmittal procedure shall be used instead of the procedure in Subsection (a)(2) above:
- a. In lieu of the procedure set forth under Subsections (a)(2)f-h above, the Subdivider may, pursuant to Section 236.12(6), Wis. Stats., submit the original of the Preliminary Plat directly to the Plat Review Section of the Wisconsin Department of Administration, who will prepare and forward copies of the plat at the Subdivider's expense to the objecting agencies. When the Subdivider elects to use this alternative procedure, or the Town requests that the applicant instead of the Town Clerk be responsible for such transmittals to state review agencies, it shall be the responsibility of the Subdivider to prepare and submit the additional copies required for the reviews required under this Subsection.

- b. Within two (2) days of filing a Preliminary Plat with the Town, the Subdivider or the Subdivider's agent shall submit the original plat to the Wisconsin Department of Administration, which shall forward two (2) copies to each of the agencies authorized to object. The Wisconsin Department of Administration shall have the required number of copies made at the Subdivider's expense. Within twenty (20) days of the date of receiving the copies of the plat, any agency having authority to object shall notify the Subdivider, and all agencies having the authority to object, 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 there is no objection, it shall so certify on the face of a copy of the plat and return that copy to the Town and Wisconsin Department of Administration. After each agency and the Wisconsin Department of Administration have certified that they have no objection or that their objections have been satisfied, the Wisconsin Department of Administration shall so certify on the face of the plat. If an agency fails to act within twenty (20) days from the date of the receipt of copies of the plat, it shall be deemed that there are no objections to the plat and, upon demand, it shall be so certified on the face of the plat by the Wisconsin Department of Administration.
- (4) **Fees Required by State Agencies to be Transmitted by Town Clerk.** Any appropriate fees paid by the Subdivider or Condominium Developer (as applicable) for the required state agency reviews shall be forwarded by the Town Clerk or designee to the Wisconsin Department of Administration.
- (5) **Natural Resource Protection Plan Required.** For properties proposed to be divided by subdivision plat, and that contain natural resource features as described in this Chapter, a Natural Resource Protection Plan", as described in Section 14-1-44, shall be submitted to the Town Clerk for transmittal to and review by the Town Planner and Plan Commission.
- (6) **Certified Survey Maps.** Certified survey maps shall be submitted and approved pursuant to Sections 14-1-35 and 14-1-43.
- (b) **Public Improvements, Plans and Specifications.** Simultaneously with the filing of the Preliminary Plat of map, the owner shall file with the Town Clerk ten (10) 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 (if applicable), drainage facilities, traffic patterns, typical street cross sections, erosion control plans, pavement design and other improvements necessary in the subdivision.
- (c) **Property Owners Association; Draft Restrictive Covenants.** A draft of the legal instruments and rules for proposed property owners associations, when the subdivider 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 Town 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 Town Clerk. (Note: Deed restrictions and restrictive covenants in subdivisions are private contractual agreements and are generally not enforceable by the Town.)

- (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) **Street Plans and Profiles.** The Subdivider or Condominium Developer (as applicable) shall submit with the Preliminary Plat street plans and profiles existing and proposed ground surface, proposed and, when requested by the Town Board, Plan Commission or Town Engineer, established street grades including extensions for a reasonable distance beyond the limits of the proposed subdivision. All elevations shall be based upon mean sea level (1929) datum, and plans and profiles shall meet the approval of the Town Engineer.
- (f) **Soil Testing.**
 - (1) **Testing Purpose.** Certain soils in the county have limitations that are difficult to overcome or that preclude their use for residential development either because of the inability of on-site sewerage systems to function properly and/or because of fluctuating or seasonable high water table or other reasons. The purpose of this requirement is to save the applicant engineering costs should the subject areas be determined to be unsuitable for residential development. The data obtained is to assist the Town Board and Plan Commission in making determinations of land suitability. The subdivider 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 Town Board 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.
 - (2) **Compliance with State/County Sanitary Permit Requirements.** The applicant shall provide verification that all applicable State of Wisconsin and Dunn County sanitary permit requirements can be satisfied.
- (g) **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 subdivider owns property adjacent to that which is being proposed for the subdivision, the Town Board may require that the subdivider 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.

- (h) **Drafting Standards.** The Subdivider shall submit to the Town Clerk and to those agencies having the authority to object to plats under provisions in Ch. 236, Wis. Stats., 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 subdivider proposes to make and shall indicate by accompanying letter when the improvements will be provided.

Cross-Reference: Sections 14-1-41, 14-1-44 and 14-1-45.

Sec. 14-1-32 Preliminary Plat Review and Approval.

(a) **Plan Commission Review.**

- (1) The Preliminary Plat (including a Natural Resource Protection Plan and Landscape Plan, if applicable) shall be reviewed by the Plan Commission for conformance with this Chapter and all other ordinances, rules, regulations, adopted regional or county development plans, the Town Comprehensive Plan or other Plan Components which affect it.
- (2) All reviews and reports concerning the Preliminary Plat prepared by the Town Planner, Town Engineer, Director of Public Works, Town Attorney, and/or Fire Chief shall be submitted to the Plan Commission for its consideration.
- (3) The Town Clerk shall give notice of the Plan Commission's review of the Preliminary Plat by listing the application as an agenda item on the Plan Commission's meeting notice. Such notice shall include the name of the applicant, the address of the property in question, and the requested action.

- (b) **Plan Commission Recommendation to Town Board.** The Plan Commission shall within sixty (60) days of the date of the filing of a Preliminary Plat (including a Natural Resource Protection Plan and Landscape Plan, as applicable) with the Town Clerk or designee recommend to the Town Board approval, conditional approval, or rejection of the Preliminary Plat (including the Natural Resource Protection Plan and Landscape Plan, as applicable), and shall transmit the Preliminary Plat and application, along with its recommendation, to the Town Board. [Note: Pursuant to Section 236.11(1)(a), Wis. Stats., extensions of time from the timeline in Subsection (b)(1) above or a decision to hold an application in abeyance may only be made by written agreement between the Subdivider and Town Board, not the Plan Commission.]

(c) **Notification by Objecting Agencies.**

- (1) The objecting agencies shall, within twenty (20) days of the date of receiving their copies of the Preliminary Plat (statutory period) notify the Subdivider or Condominium Developer (as applicable) and all other approving and objecting agencies of any objections.
- (2) 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 Town Clerk or designee.
- (3) If an objecting agency fails to act within the twenty (20) day period allowed by law, the objecting agency will be deemed to have no objections to the Plat, unless the time is extended by agreement with the Subdivider or Condominium Developer (as applicable).

(d) **Town Board Action.**

- (1) The Town Board shall within ninety (90) days of the date of filing a Preliminary Plat with the Town Clerk or designee shall approve, approve conditionally, or reject such Plat after receipt of the Plan Commission's recommendation, unless time is extended by written agreement with the Subdivider or Condominium Developer pursuant to Section 236.11(1)(a), Wis. Stats.
- (2) The Town Clerk shall give notice of the Town Board's consideration of the Preliminary Plat by listing it as an agenda item in the Town Board's meeting notice published in the official Town newspaper or legally posted. Such notice shall include the name of the applicant, the address of the property in question, and the requested action. Property owners within two hundred (200) feet of the proposed Preliminary Plat shall receive written notice from the Town of the meeting.
- (3) One (1) copy of the Preliminary Plat may thereupon be returned to the Subdivider or Condominium Developer (as applicable) with the date and action endorsed thereon, and if approved conditionally or rejected with a letter setting forth the conditions of approval or the reasons for rejection accompanying the plat. One (1) copy each of the Preliminary Plat and accompanying letter shall be placed in the Town's permanent records.

(e) **Failure of Town Board to Act.** Failure of the Town Board to act within ninety (90) days of the date of filing of the Preliminary Plat, or within the time extended by written agreement with the Subdivider or Condominium Developer (as applicable), shall constitute an approval of the Preliminary Plat pursuant to state law.

(f) **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 twenty-four (24) 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 pursuant to Sec. 236.11(1)(b), Wis. Stats. 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 Town Board at the time of its submission.

- (g) **Preliminary Plat Amendment.** Should the Subdivider or Condominium Developer desire to amend the Preliminary Plat as approved, he/she may resubmit the amended plat which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Town Board, of such scope as to constitute a new plat, in which such case it shall be refiled in its entirety. The Subdivider or Condominium Developer shall pay for all review fees.

Sec. 14-1-33 Final Plat Review and Approval.

- (a) **Designation of Approving Authorities.** The Town Board, the county planning agency, and each adjoining city or village in whose extraterritorial plat approval jurisdiction the subdivision lies, pursuant to Section 236.10(1)(b), Wis. Stats., are designated approving authorities for Final Plats.
- (b) **Designation of Objecting Agencies.** The Wisconsin Department of Administration, Wisconsin Department of Commerce, Wisconsin Department of Transportation (if the subdivision, certified survey map or condominium abuts or adjoins a state trunk highway or connecting highway) and Wisconsin Department of Natural Resources (if applicable) shall be hereinafter referred to as objecting agencies.
- (c) **Final Plat and Application Submittal.** The Subdivider or Condominium Developer (as applicable) shall prepare a Final Plat and an application in accordance with Section 14-1-42 and shall file the required number of Final Plat copies and the application as set forth below:
- (1) **Submittal of Final Plat to the Wisconsin Department of Administration; Objecting Agencies.** Before any approvals of the Final Plat are made, the Subdivider or Condominium Developer (as applicable) or agent shall submit the original Final Plat to the Director of Plat Review, Wisconsin Department of Administration, which agency shall forward, at the Subdivider's or Condominium Developer's expense, the following:
 - a. Two (2) copies of the Final Plat to the Wisconsin Department of Transportation (WisDOT) if the subdivision abuts or adjoins a state trunk highway or a connecting highway;
 - b. Two (2) copies to the Wisconsin Department of Commerce if the subdivision is not served by a public sewer and provision for such service has not been made; and
 - c. Two (2) copies to the Wisconsin Department of Natural Resources (WDNR), if lands included in the Final Plat lie within five hundred (500) feet of the ordinary high water mark or any navigable stream, lake, or other navigable body of water, or if any shorelands or floodlands are contained within the proposed subdivision.
 - (2) **Submittal of Final Plat to the Town Clerk.**
 - a. After approval by the Wisconsin Department of Administration and other state objecting agencies, the Subdivider or Condominium Developer (as applicable)

- shall file a minimum of twenty-five (25) copies of the Final Plat and application with the Town Clerk with required fees and the receipt for the proper filing fees of each of the other approving authorities and objecting agencies at least fifteen (15) days prior to the meeting of the Plan Commission at which consideration is desired.
- b. The Final Plat shall conform to the Preliminary Plat as approved and to the requirements of all applicable ordinances and state laws.
 - c. Simultaneously with the filing of the Final Plat, the owner shall file with the Town Clerk six (6) copies of the final plans and specifications of public improvements required by this Chapter.
 - d. If the Final Plat is not submitted within twenty-four (24) months of the required approval of the Preliminary Plat, the approving authorities may refuse to approve the Final Plat. Extensions may be granted upon mutual agreement of all approving authorities.
- (3) **Town Transmittal of Final Plat.** The Town Clerk or designee shall, within three (3) business days after the filing by the Subdivider or Condominium Developer, transmit with a cover letter and copies of the Final Plat and application materials to:
- a. The Plan Commission;
 - b. The Town Board;
 - c. The Town Planner (if utilized) and Town Attorney;
 - d. The Town Engineer;
 - e. The Town's Director of Public Works and Fire Chief;
 - f. The Dunn County Department of Planning, Resources and Development;
 - g. The clerk of each adjoining city or village if the land division lies within the extraterritorial plat approval jurisdiction of a city or village;
 - h. Each school board with jurisdiction;
 - i. Affected Town officials, committees and commissions;
 - j. The County Highway Commissioner and County Surveyor; and
 - k. Additional copies that may be requested by approving authorities and objecting agencies.
- (d) **Response From Objecting Agencies.** The objecting agencies shall, within twenty (20) days of the date of receiving their copies of the Final Plat, notify the Subdivider or Condominium Developer (as applicable) and all other approving authorities and objecting agencies of any objections, as follows:
- (1) **Certification of No Objections.** If there are no objections, the objecting agencies shall so certify on the face of the copy of the Final Plat and shall return that copy to the Plan Commission.
 - (2) **Failure to File Objections.** If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objections to the plat.
- (e) **Plan Commission Consideration and Recommendation.**
- (1) **Plan Commission Review.** The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the

Preliminary Plat, this Chapter, and all ordinances, rules, regulations, adopted regional and county development plans, and Town Comprehensive Plans and adopted plan components which may affect it. All reviews and reports concerning the Final Plat prepared by the Town Planner, Town Engineer, Director of Public Works, Town Attorney, and Fire Chief shall be submitted to the Plan Commission for its consideration.

- (2) **Plan Commission Recommendation.** The Plan Commission shall, within forty (40) days of the date of filing of the Final Plat with the Town Clerk, recommend approval, conditional approval, or rejection of the Final Plat and shall transmit the Final Plat and application along with its recommendations to the Town Board.
- (f) **Town Board Approval or Rejection of Final Plat.**
- (1) **Town Board Action; Timeline.**
 - a. The Town Board shall, within sixty (60) days of the date of filing the original Final Plat with the Town Clerk or designee, approve or reject the Final Plat, unless the time is extended by agreement with the Subdivider or Condominium Developer (as applicable).
 - b. Failure of the Town Board to act within sixty (60) days, the time having not been extended and no unsatisfied objections having been filed, the Final Plat shall be deemed approved.
 - (2) **Reasons For Rejection To Be Stated.** If the Final Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the Subdivider or Condominium Developer (as applicable).
 - (3) **Wisconsin Department of Administration Certification.** The Town Board may not inscribe its approval on the Final Plat unless the Wisconsin Department of Administration has certified on the face of the Final Plat that the copies were forwarded to the 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.
- (g) **Recordation.**
- (1) **Town Certification.**
 - a. After the Final Plat has been approved by the Town Board and improvements as shall be required by the Town (or which lawfully may be required by a city or village with extraterritorial plat approval jurisdiction) have either been installed or a Subdivider's Agreement with sufficient sureties assuring their installation is executed and filed with the Town Clerk, the Town Clerk shall cause the certificate inscribed upon the Final Plat attesting to such approval to be duly executed and the Final Plat returned to the Subdivider or Condominium Developer (as applicable) for recording with the County Register of Deeds.
 - b. When the Town Board has conditionally approved a Final Plat, the Subdivider or Condominium Developer (as applicable) shall satisfy all of the conditions specified for the execution of the Plat, including final approval by the county planning agency, within sixty (60) days of such conditional approval.

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- (2) **Recording Time Requirement.** Pursuant to Section 236.25(2)(b), Wis. Stats., the County Register of Deeds cannot record the Final Plat unless it is offered within six (6) months from the date of last approval of the Final Plat or twenty-four (24) months from first required approval of the Preliminary Plat.
- (h) **Copies of the Recorded Final Plat.** The Subdivider or Condominium Developer (as applicable) shall file at least ten (10) copies of the recorded Final Plat with the Town Clerk and copies, as necessary, to other affected agencies for their files.
- (i) **Partial Platting.**
 - (1) **Plat and Condominium Phasing.** The Final Plat may, if permitted by the Plan Commission and Town Board, be platted as a Final Plat in phases with each phase constituting only that portion of the approved Preliminary Plat which the Subdivider or Condominium Developer (as applicable) proposes to record at that time. It is required that each such phase be platted as a Final Plat and be designated as a "phase" of the approved Preliminary Plat.
 - (2) **Time Extension for Approval of a Final Plat for Portion of Preliminary Plat.** Final Plats for only a portion of the Preliminary Plat shall extend approval for the remaining portion of the Preliminary Plat for not less than six (6) months but may be allowed to be extended for up to twenty-four (24) months from the date of such Final Plat approval as may be allowed by the Town Board.
 - (3) **Expansion of a Condominium.** Any expansion of a condominium permitted under Section 703.26, Wis. Stats., shall be treated as a separate phase of the condominium.
- (j) **Deed Restrictions and Conservation Easements.** For properties proposed to be divided by Subdivision Plat and which contain natural resources required to be preserved under this Chapter, deed restrictions and/or conservation easements shall be filed with the Final Plat.

Sec. 14-1-34 Plats Within The Extraterritorial Plat Approval Jurisdiction.

When the land to be subdivided lies within one and one-half (1 1/2) miles of the corporate limits of a fourth class city or a village, or within three (3) miles of the corporate limits of a first, second or third class city, the Subdivider or Condominium Developer (as applicable) shall proceed as specified in the other Sections of this Article, except:

- (a) **Transmittal Responsibility.** The Town Clerk or designee to whom the Certified Survey Map, Subdivision Plat, or Condominium is first submitted shall be responsible for transmitting copies of the Certified Survey Map, Subdivision Plat, or Condominium to designated objecting agencies unless the Subdivider or Condominium Developer (as applicable) has specifically requested that the Subdivider or Condominium Developer assume responsibility of transmitting all review copies. The Subdivider or Condominium Developer (as applicable) shall specify in the Subdivider's or Condominium Developer's application to whom the original application was submitted.

- (b) **Collection of Park Dedication and Public Site Fees.** In extraterritorial plat approval jurisdiction areas of any incorporated municipality, the Subdivider or Condominium Developer (as applicable) shall not be required to dedicate park and open space land to said incorporated municipality or be required to pay a public site fee to said incorporated municipality.

Sec. 14-1-35 Minor Land Divisions By Certified Survey Map.

- (a) **When Required.** When it is proposed to divide land into at least two (2) but not more than four (4) parcels or building sites within a five (5) year period, any of which is thirty-five (35) acres or less in size, or when it is proposed to create by land division not more than four (4) parcels or building sites within a recorded Subdivision Plat without changing the exterior boundaries of a block, lot or outlot (thus not constituting a "subdivision" as defined in Section 14-1-10), the Subdivider shall subdivide by use of a Certified Survey Map. The Certified Survey Map shall include all parcels of land thirty-five (35) acres or less in size and may, at the owner's discretion, include any other parcels containing more than thirty-five (35) acres.
- (b) **Certified Survey Maps Creating One (1) Lot.** When an applicant seeks to create one (1) lot by Certified Survey Map within a five (5) year period, the simplified review procedure under this Subsection shall be utilized, the applicant shall prepare the Certified Survey Map in accordance with Section 14-1-43, and file the Map according to the following requirements:
- (1) The Subdivider shall file at least fifteen (15) copies of the Certified Survey Map, Landscape Plan for any landscape easement areas (if applicable), and the application with the Town Clerk at least twenty-one (21) days prior to the meeting of the Town Board at which action is desired.
 - (2) The Town Clerk shall transmit copies of the Map and application along with a cover letter to all approving authorities including extraterritorial plat review agencies if not waived in writing. The Town Clerk shall, within three (3) normal business days after filing, transmit the Certified Survey Map, Landscape Plan (if applicable), and application as follows to:
 - a. The Town Board;
 - b. The Town Planner (if utilized) and Town Attorney;
 - c. The Town's Director of Public Works and Fire Chief;
 - d. The Dunn County Department of Planning, Resources and Development;
 - e. The clerk of each adjoining city or village if the land division lies within the extraterritorial plat approval jurisdiction of a city or village;
 - f. Each school district with jurisdiction;
 - g. Additional copies that may be requested by approving authorities and objecting agencies; and

- (3) The recommendations of all approving authorities shall be transmitting to the Town Board within twenty (20) days from the date the map is filed with the Town Clerk.
 - (4) The Certified Survey Map shall be reviewed by the Twon Board for conformance with this Chapter and all other ordinances, rules, regulations, adopted regional, county or Town comprehensive plans or adopted plan components which affect it. All reviews and reports concerning the Certified Survey Map prepared by the Director of Public Works, Town Attorney, and/or Fire Chief shall be submitted to the Town Board for its consideration.
 - (5) The Town Board 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 with the Town of Lucas unless the time is extended by mutual written agreement with the applicant.
 - (6) If the Map is approved, the Town Board shall cause the Town Clerk to so certify on the face of the original Map and return the Map to the applicant.
 - (7) If the Map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the applicant.
- (c) **Review of Certified Survey Maps Creating Two (2) to Four (4) Lots.** The applicant shall prepare the Certified Survey Map in accordance with Section 14-1-43, and file the Map according to the following requirements:
- (1) The applicant shall file at least twenty-five (25) copies of the Certified Survey Map, Natural Resource Protection Plan (if required), Landscape Plan for any landscape easement areas, and the application with the Town Clerk at least twenty-one (21) days prior to the meeting of the Plan Commission at which action is desired.
 - (2) The Town Clerk shall transmit copies of the map and application along with a cover letter to all approving authorities including extraterritorial plat review agencies if not waived in writing. The Town Clerk shall, within three (3) normal business days after filing, transmit the Certified Survey Map, Natural Resource Protection Plan, Landscape Plan, and application as follows to:
 - a. The Plan Commission;
 - b. The Town Board;
 - c. The Town Planner (if utilized) and Town Attorney;
 - d. The Town Engineer;
 - e. The Town's Director of Public Works and Fire Chief;
 - f. The Dunn County Department of Planning, Resources and Development;
 - g. The clerk of each adjoining city or village if the land division lies within the extraterritorial plat approval jurisdiction of a city or village;
 - h. Each school district with jurisdiction;
 - i. Affected Town officials, committees and commissions;
 - j. Additional copies that may be requested by approving authorities and objecting agencies; and

- (3) The recommendations of all approving authorities shall be transmitting to the Plan Commission within twenty (20) days from the date the map is filed with the Town Clerk.
 - (4) The Certified Survey Map shall be reviewed by the Plan Commission for conformance with this Chapter and all other ordinances, rules, regulations, adopted regional, county or Town development or comprehensive plans or adopted plan components which affect it. All reviews and reports concerning the Certified Survey Map prepared by the Town Planner, Town Engineer, Director of Public Works, Town Attorney, and/or Fire Chief shall be submitted to the Plan Commission for its consideration.
 - (5) The Plan Commission shall, within forty (40) 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 Town Board.
 - (6) Where a Certified Survey Map has been transmitted by the Plan Commission to the Town Board, the Town Board 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 with the Town of Lucas unless the time is extended by mutual written agreement with the applicant.
 - (7) If the Map is approved, the Town Board shall cause the Town Clerk to so certify on the face of the original Map and return the Map to the applicant.
 - (8) If the Map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the Subdivider.
- (d) **Natural Resource Protection Plan Required.** For properties proposed to be divided by Certified Survey Map creating two (2) to four (4) lots, and that contain natural resource features as described in this Chapter, a Natural Resource Protection Plan (if required), as described in this Chapter, shall be submitted for review by the Town Board, Town Attorney, and Plan Commission if so requested by the Town.
- (e) **Deed Restrictions and Conservation Easements.** For properties proposed to be divided by Certified Survey Map and which contain natural resources required to be preserved under this Chapter, deed restrictions and/or conservation easements shall be filed with the Certified Survey Map.
- (f) **Recordation.**
- (1) All improvement requirements, specified by all approving agencies in matters over which they have jurisdiction, shall be met before recording the Certified Survey Map.
 - (2) The Subdivider shall record the Map with the County Register of Deeds within thirty (30) days of its last approval.

Cross-Reference: Section 14-1-43, Technical Requirements for Certified Survey
Land Division; Review and Approval

Sec. 14-1-36 Administrative Fees.

- (a) **General.** The subdivider shall pay the Town of Lucas all fees as hereinafter required per Section 14-1-100 and at the times specified before being entitled to recording of a Subdivision Plat, Condominium Plat, or Certified Survey Map.
- (b) **Engineering and Other Professional Fees.** Per Section 14-1-100, the subdivider shall pay a fee equal to the actual cost plus administrative expenses to the Town for all engineering, planning, legal and other professional services work incurred by the Town in connection with the Subdivision Plat, Condominium Plat or Certified Survey Map, including inspections required by the Town. The subdivider shall pay a fee equal to the actual cost plus administrative expenses to the Town for such inspection(s) as the Town Board deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Town or any other governmental authority.
- (c) **Administrative Fee.** Per Section 14-1-100, subdivider shall pay a fee equal to the cost of any legal, administrative or fiscal work which may be undertaken by the Town in connection with the Subdivision Plat, Condominium Plat, or Certified Survey Map. Included as such administrative fees shall be the cost of publication.

Cross-Reference: Section 14-1-100, Administrative and Other Fees.

Sec. 14-1-37 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 subdivider or person wishing to replat shall vacate or alter the recorded Plat as provided in Sections 236.40 through 236.44, Wis. Stats. The subdivider or person wishing to replat shall then proceed, using the procedures for Preliminary and Final Plats.
- (b) The Town Clerk shall schedule a public hearing before the Town Board when a Preliminary Plat of a replat of lands within the Town is filed, and shall cause notices of the proposed Replat and public hearing to be 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 two hundred (200) 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 Town Board 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. 14-1-38 Reconsideration.

A request for reconsideration of a Certified Survey Map or Plat application, or a new application that is similar to a previously rejected application in that the circumstances or conditions that caused the rejection have not substantially changed, shall not be placed before the Plan

Commission or the Town Board unless a significant change in circumstances has occurred since last Town action on the application. A change of ownership or the passage of time without additional conditions or circumstances is not a substantial change of circumstances or conditions.

Sec. 14-1-39 Reserved for Future Use.

Article E: Technical Requirements for Plats

Sec. 14-1-40 Technical Requirements for Concept Plans.

- (a) **General Standards.** A Concept Plan, a recommended non-binding procedure when a Subdivision, Replat, Certified Survey Map or Condominium is contemplated, should preferably be based upon a survey by a registered land surveyor and the Concept Plan prepared on tracing cloth, reproducible drafting film, or paper of good quality at a map scale of not more than one hundred (100) feet to the inch. While preparation of a Concept Plan is non-mandatory and is intended to provide guidance to an applicant, a Concept Plan should show on its face the following information to facilitate the process:
- (1) **Legal Description of the Property.** Legal description of the proposed subdivision by government lot, quarter-section, township, range, county, and state.
 - (2) **Identification as Concept Plan.** The Concept Plan shall be clearly noted and labeled on its face "Concept Plan."
 - (3) **Location Sketch.** General location sketch showing the location of the subdivision within the U.S. Public Land Survey section along with location of adjacent property boundary lines.
 - (4) **Date, Scale, North Arrow.** Date of Concept Plan, graphic scale, and north arrow.
 - (5) **Owner, Subdivider or Condominium Developer (as applicable), Land Planner, Land Surveyor.** Names and addresses of the owner, Subdivider or Condominium Developer (as applicable), and land planner or land surveyor who prepared the Concept Plan.
 - (6) **Contiguous Land Area.** Entire area contiguous to the proposed plat owned or controlled by the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall be included on the Concept Plan.
 - (7) **Use Statement.** A statement of the proposed use of the lots stating the use, type of buildings and/or uses proposed to occupy the lots, number of proposed lots, and number of dwelling units per lot.
 - (8) **Proposed Zoning Changes.** If any changes are contemplated, the proposed zoning plans for the property, including dimensions. The indication of such information, however, shall not constitute an application for a County zoning amendment.
- (b) **Concept Plan Data.** All Concept Plans should show, at a minimum, the following; additional information may be indicated on the Concept Plan by the Subdivision, Certified Survey Map or Condominium Developer (as applicable):
- (1) **Exterior Plat Boundaries.** The exterior boundaries of the proposed subdivision and the total acreage encompassed thereby.
 - (2) **Corporate Limit Lines.** Any corporate limit lines with the exterior boundaries of the plat, co-terminus to said exterior boundaries, or adjacent thereto.
 - (3) **Existing Rights-of-Way.** Location, right-of-way width, and names of all existing streets, alleys or other public ways, easements, and railroad and utility rights-of-way within the exterior boundaries of the proposed plat or adjacent thereto.

- (4) **Utility Location.** Location, size, and invert elevation of any existing sanitary or storm sewers, culverts, and drain pipes and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent to the lands being platted. The nearest such sewers or water mains which might be extended to serve such lands shall be indicated by their direction and distance from the nearest exterior boundary of the plat and their size.
- (5) **Physical Features.** General locations of all existing property boundary lines, structures, driveways, streams and watercourses, rock outcrops, woodlands, railroad tracks, and other similar significant natural or man-made features within the tract being subdivided and adjacent thereto.
- (6) **Proposed Streets and Public Rights-of-Way.** Location and width of all proposed streets and public rights-of-way, such as alleys and easements.
- (7) **Size of Lots.** Approximate size (in square feet or acres) of all lots and outlots.
- (8) **Sites To Be Reserved or Dedicated.** Location and approximate dimensions and size (in square feet or acres) of any sites to be reserved or dedicated for parks, playgrounds, drainageways, or other public use or which are to be used for group housing, shopping centers, church sites, or other private uses not requiring formation of lots.
- (9) **Lake or Stream Access Locations.** Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to the proposed access.
- (10) **Lake or Stream Improvements or Relocations.** Any proposed lake and stream improvement or relocation including explanation of the proposed improvement and/or relocation.
- (11) **Wetland and/or Floodplain Delineation.** Location and delineated extent of wetlands and floodplains.
- (12) **Drainage Improvements.** Location and size of proposed stormwater detention.

Cross-Reference: Section 14-1-30, Preliminary Consultation; Concept Plan Review.

Sec. 14-1-41 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) **Identification as a Preliminary Plat** shall be clearly noted and labeled on its face "Preliminary Plat".
 - (2) **Title** or name under which the proposed subdivision is to be recorded. Such title shall not be the same or similar to a previously approved and recorded plat, unless it is an addition to a previously recorded Plat and is so stated on the Plat.

- (3) **Location** of the proposed subdivision by government lot, quarter section, township, range, county and state.
 - (4) **Date, Scale and North Arrow.**
 - (5) **Names and Addresses** of the owner, subdivider and land surveyor preparing the plat.
 - (6) **Entire Area** contiguous to the proposed plat owned or controlled by the Subdivider shall be included on the Preliminary Plat even though only a portion of said area is proposed for immediate development. The Town Board 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.
 - (7) **A Use 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 effects of the development on traffic, fire hazards and congestion of population.
- (b) **Plat Data.** All Preliminary Plats shall show the following:
- (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;
 - (2) **Zoning Changes.** If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions;
 - (3) **Area Plan.** Where the Subdivider owns property adjacent to that which is being proposed for the subdivision, the Plan Commission and/or Town Board may require that the Subdivider 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.
 - (4) **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.
 - (5) **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.
 - (6) **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.
 - (7) **Location and Names of any Adjacent Subdivisions,** condominiums, parks and cemeteries and owners of record of abutting unplatted lands.
 - (8) **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, all to mean sea level (1929 datum).
 - (9) **Location, Size and Invert Elevation** of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catchbasins, 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.

- (10) **Corporate Limit Lines** within the exterior boundaries of the plat or immediately adjacent thereto.
- (11) **Existing Zoning** on and adjacent to the proposed subdivision under the requirements of the County Zoning Ordinance.
- (12) **Existing and Proposed Contours.** Existing and proposed contours within the exterior boundaries of the Preliminary Plat and extending to the centerline of adjacent public streets. In addition:
 - a. Existing and proposed contours shall be at vertical intervals of not more than two (2) feet where the slope of the ground surface is less than twenty percent (20%), and of not more than five (5) feet where the slope of the ground surface is twenty percent (20%) or more. Existing contours shall be shaded and proposed contours shall be bold to distinguish between the two. Proposed contours shall be tied into existing contours at grading limits. Lands with slopes of twenty percent (20%) or greater shall be shown with cross-hatch markings — or otherwise clearly indicated.
 - b. Elevations shall be marked on such contours based on National Geodetic Datum of 1929 (mean sea level).
 - c. At least two (2) permanent benchmarks shall be located in the immediate vicinity of the Preliminary Plat. The location of the benchmarks shall be indicated on the Preliminary Plat together with their elevations referenced to National Geodetic Datum of 1929 (mean sea level) and the monumentation of the benchmarks clearly and completely described on the Preliminary Plat.
- (13) **Water Elevations of All Lakes, Ponds, Streams, Flowages and Wetlands** at the date of the survey and approximate high and low water elevations, all referred to National Geodetic Datum of 1929 (mean sea level). In addition, the status of the navigability of the lakes, ponds, rivers, streams, creeks, and drainage ditches shall be noted on the Preliminary Plat based upon a determination by the Wisconsin Department of Natural Resources with the date of such determination so noted on the face of the Preliminary Plat.
- (14) **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.

- (15) **Soil Types** and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.
- (16) **Location of Soil Tests** where required by COMM 83 and 85, Wis. Adm. Code, and in areas not served by municipal or sanitary district sewage treatment facilities, conducted in accordance with COMM 83 and 85, Wis. Adm. Code, taken at the location and depth in which private onsite wastewater treatment systems are to be installed:
 - a. The number of such tests initially made shall not be less than one (1) test per three (3) acres or one (1) test per lot, whichever is greater.
 - b. The results of such tests shall be submitted along with the Preliminary Plat.
- (17) **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.
- (18) **Location, Width and Names** of all proposed streets and public rights-of-way such as alleys and easements.
- (19) **Size of All Lots and Outlots.** Approximate dimensions and size (in square feet or acres) of each lot together with proposed lot and block numbers as well as for all proposed outlots.
- (20) **Building Setback Lines.** All building setback lines (front, side and rear) with the respective dimension of each, shall be indicated on the face of the Preliminary Plat for each lot proposed.
- (21) **Location and Approximate Dimensions** of any sites to be reserved or dedicated for parks, playgrounds, buffer space, conservation easement areas, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring formation of lots.
- (22) **Approximate Radii of all Curves.**
- (23) **Any Proposed Lake and Stream Access** with a small drawing clearly indicating the location of the proposed subdivision in relation to access.
- (24) **Any Proposed Lake, Pond and Stream** improvement or relocation, and notice of application for approval by the Division of Environmental Protection, Wisconsin Department of Natural Resources, when applicable.
- (25) **Wetland and/or Floodplain Delineation.** Location and delineation extent of wetlands and/or floodplains. The name of the person, agency, or firm identifying, delineating, and mapping said boundaries of floodplains and/or wetlands shall be noted on the face of the Preliminary Plat with the date of the field survey concerned.
- (26) **Groundwater Data and Groundwater Supply Impacts.** If the proposed subdivision is to be served by private wells, data shall be provided to the Town which indicates how the existing groundwater table proposed to supply the proposed private wells will be impacted by the proposed subdivision and development.
- (27) **Historic, Cultural, and Archaeological Features.** Any on-site historic, cultural, and archaeological features — including historic buildings, structures, ruins, and burial sites — which have been identified by the State Historical Society of Wisconsin shall

- be so noted on the Preliminary Plat with a brief description of each such feature. Based upon any such sites identified by the State Historical Society of Wisconsin being present on the property, the Plan Commission and/or Town Board may require the applicant to prepare a more detailed on-site historic, cultural, and archaeological features — including historic buildings, structures, ruins, and burial sites — survey of the property in order to better identify and locate such features.
- (28) **Scenic Vistas Identification.** Scenic vistas shall be identified by both views into the proposed subdivision from adjacent roads and public areas and views from within the proposed subdivision. All such scenic vistas shall be documented through the use and submission of topographic maps and photographs identifying all such scenic vistas approved by the Town Board, following the Plan Commission's recommendation.
- (29) **Location of Proposed Deed Restrictions, Landscape Easements, and/or Conservation Easements.**
- a. The location of any proposed deed restrictions, landscape easements, and/or conservation easements shall be graphically indicated and clearly delineated and dimensioned on the face of the Preliminary Plat. The location and extent of conservation easements shall be directly related to the Natural Resource Protection Plan.
 - b. Where applicable, an explanation of how development rights will transfer into the subdivided area with specific density calculations explaining the operation of the transfer and a specific designation of the source, size and number of development rights being used to increase densities in all receiving areas shown in the platted areas.
- (30) **Natural Resource Protection Plan.** As required by Section 14-1-44 of this Chapter.
- (31) **Landscape Plan.** As required by Section 14-1-45 of this Chapter.
- (32) **Lighting Plan.** For all proposed outdoor lighting in a plat, an Outdoor Lighting Plan shall be required.
- (33) **Draft Declaration of Deed Restrictions, Protective Covenants, Conservation Easements, and Homeowners' Association Documents.** Draft declaration of deed restrictions, protective covenants, conservation easements, and homeowners' association documents shall be submitted with the Preliminary Plat as required under Subsection (g).
- (34) **Where the Town Board or Town 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 Subdivider.
- (c) **Street Plans and Profiles.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall submit with the Preliminary Plat street plans and profiles showing existing and proposed ground surface, proposed and, when requested by the Plan Commission, Town Board or Town Engineer, established street grades including extensions for a reasonable distance beyond the limits of the proposed subdivision. All elevations

shall be based upon mean sea level (1929) datum, and plans and profiles shall meet the approval of the Town Engineer.

- (d) **Testing.** The Town Board, upon recommendation of the Town Engineer and/or Plan Commission, may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to groundwater table. Where the subdivision will not be served by public sanitary sewer service, the provisions of COMM 83, Wis. Adm. Code, titled "Soil and Site Evaluations" of the Wisconsin Administrative Code (as applicable), and the County Sanitary Code shall be complied with; and appropriate data submitted with the Preliminary Plat.
- (e) **Soil and Water Conservation.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall submit with the Preliminary Plat soil erosion and sedimentation control plans and specifications. Such plans shall generally follow the guidelines and standards set forth in the publications *USDA Conservation Technical Guide*, prepared by the U.S. Department of Agriculture, the *Wisconsin Construction Site Best Management Practices Handbook* prepared by the Wisconsin Department of Natural Resources, and Title 15, Chapter 2, "Construction Site Erosion Control" of the Town of Lucas Code of Ordinances. (See also Section 14-1-67.)
- (f) **Natural Resource Protection Plan Required.** For properties proposed to be divided by Certified Survey Map or Subdivision Plat or developed as a Condominium, and that contain natural resource features as described in Section 14-1-90, a Natural Resource Protection Plan, as described in Section 14-1-91, shall be submitted for review by the Town Board, and Plan Commission.
- (g) **Declaration of Deed Restrictions, Protective Covenants, Conservation Easements, and Homeowners' Association.** The following documents shall be submitted with the Preliminary Plat, Certified Survey Map or Condominium as required:
 - (1) **Declaration of Deed Restrictions and Protective Covenants.** The Plan Commission shall require submission of a draft of declaration of deed restrictions and protective covenants whereby the Subdivision, Certified Survey Map or Condominium Developer (as applicable) intends to regulate land use in the proposed Subdivision and otherwise protect the proposed development.
 - (2) **Conservation Easements.** The Town Board and/or Plan Commission shall, where natural resources are present which are required to be preserved, require submission of a draft of conservation easements whereby the Subdivision, Certified Survey Map or Condominium Developer (as applicable) intends to regulate the protection of natural resource features in the proposed Subdivision in conjunction with the Natural Resources Protection Plan.
 - (3) **Wisconsin Non-Profit Membership Corporation (Homeowners' Association).** The Town Board and/or Plan Commission shall require submission of a draft of the legal instruments and rules for any proposed Wisconsin non-profit membership corporation (homeowners' association), when the Subdivision, Certified Survey Map or

Condominium Developer (as applicable) proposes that property within a Subdivision would be either owned or maintained by such an organization of property owners or a subunit of the Town pursuant to Section 236.293, Wis. Stats., whereby the Subdivision, Certified Survey Map or Condominium Developer (as applicable) intends to regulate land use in the proposed Subdivision and otherwise protect the proposed development.

- (4) **Town Attorney Review.** The Town Attorney shall review all draft declaration of deed restrictions and protective covenants, conservation easements, and homeowners' association documents and shall approve said instruments as to form.
- (h) **Surveyor's Affidavit.** The surveyor preparing the Preliminary Plat shall certify on the face of the Preliminary Plat that it is a correct representation of all existing land divisions and features within and thereto; and that he/she has fully complied with the provisions of this Chapter and Chapter 236, Wis. Stats.
- (i) **Additional Information.** The Town Board 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. 14-1-42 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 center line 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) **Setbacks, Shore Yard Setbacks, Wetland Shore Yard Setbacks, and Building Lines.** All required setbacks, shore yard setbacks, wetland shore yard setbacks, and building lines shall be graphically indicated and dimensioned on the Final Plat or Condominium Plat.
 - (6) **Utilities and Drainage Easements.** Utility and/or drainage easements.
 - (7) **Future Public Acquisition and Reservations.** All lands reserved for future public acquisition or reserved for the common use of property owners within the plat.
 - (8) **Special Restriction.** Special restrictions required by the Town Board and/or Plan Commission relating to conservation easements, across control along public ways, delineation of floodplain and wetland limits, natural resource mitigation areas, or to the provision of Landscape Bufferyard Easements.
 - (9) **Floodplain Limits.** Floodplain limits and the contour lines lying a vertical distance of two (2) feet above the elevation of the 100-year recurrence interval flood, or where

- such data is not available, five (5) feet above the elevation of the maximum flood of record. The name of the person, agency, or firm identifying, delineating, and mapping of said floodplains shall be noted on the face of the Final Plat with the date of the field survey concerned.
- (10) **Water Elevations of All Lakes, Ponds, Streams, Flowages, and Wetlands.** Water elevations of all lakes, ponds, streams, flowages, and wetlands at the date of the survey and approximate high and low water elevations, all referred to National Geodetic Datum of 1929 (mean sea level). The name of the person, agency, or firm identifying, delineating, and mapping said boundaries of wetlands shall be noted on the face of the Preliminary Plat with the date of the field survey concerned.
 - (11) **Final Declaration of Deed Restrictions, Protective Covenants, Conservation Easements, and Homeowners' Association Documents.** Final declaration of deed restrictions, protective covenants, conservation easements, and homeowners' association documents shall be submitted with the Final Plat as required by Subsection (c).
 - (12) **Town May Require Additional Information.** Where Town officials or consultants finds that in order to review the Final Plat additional information is required relative to a particular problem presented by a proposed development, the Town shall have the authority to request in writing such information from the Subdivision, Certified Survey Map or Condominium Developer (as applicable).
 - (13) **Additional Information May Be Required By Others.** Any additional information required by the Plan Commission, Town Planner, Town Engineer, Town Attorney, or Town Board.
- (c) **Declaration of Deed Restrictions, Protective Covenants, Conservation Easements, and Homeowners' Association.** The following documents shall be submitted with the Final Plat as required:
- (1) **Declaration of Deed Restrictions and Protective Covenants.** Submission to the Town Board and Plan Commission of the final draft of declaration of deed restrictions and protective covenants whereby the Subdivision, Certified Survey Map or Condominium Developer (as applicable) intends to regulate land use in the proposed Subdivision and otherwise protect the proposed development.
 - (2) **Conservation Easements.** The submission to the Town Board and Plan Commission of the final draft of conservation easements whereby the Subdivision, Certified Survey Map or Condominium Developer (as applicable) intends to regulate the protection of natural resource features in the proposed Subdivision in conjunction with the Natural Resource Protection Plan.
 - (3) **Wisconsin Non-Profit Membership Corporation (Homeowners' Association).** The submission to the Town Board and Plan Commission of the final draft of the legal instruments and rules for any proposed Wisconsin non-profit membership corporation (homeowners' association), when the Subdivision, Certified Survey Map or

Condominium Developer (as applicable) proposes that property within a Subdivision would be either owned or maintained by such an organization of property owners or a subunit of the Town pursuant to Section 236.292, Wis. Stats., whereby the Subdivision, Certified Survey Map or Condominium Developer (as applicable) intends to regulate land use in the proposed Subdivision and otherwise protect the proposed development. (See also Section 14-1-23.)

- (4) **Town Attorney Review.** The Town Attorney shall review all final declaration of deed restrictions and protective covenants, conservation easements, and homeowners' associations and shall approve said final instruments as to form.
 - (5) **Town Board Approval.** All final declaration of deed restrictions and protective covenants, conservation easements, and homeowners' associations shall be approved by the Town Board, pursuant to the requirements of this Chapter, as a part of Final Plat approval.
- (d) **State Plane Coordinate System.** Where the plat is located within a U.S. Public Land Survey quarter-section, the corners of which have been relocated or monumented by the County or Town, the Final Plat shall be tied directly to one of the section or quarter corners so relocated and monumented:
- (1) **Grid Bearing and Distance of Tie Determined by Field Measurements.** 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.
 - (2) **Closed Survey Required.** 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.
 - (3) **Reference to the Wisconsin Coordinate System.** All distances and bearings shall be referenced directly to the Wisconsin Coordinate System and adjusted to the County's control survey.
- (e) **Certificates.** All Final Plats shall provide all certificates required by Section 236.21, Wis. Stats. The certificate shall contain a description of the survey beginning at the U.S. Public Land Survey corner to which the survey is tied. In addition, the surveyor shall certify that he or she has fully complied with all the provisions of this Chapter.
- (f) **Recordation.** The Final Plat shall only be recorded with the County Register of Deeds after the certificates of the Wisconsin Department of Administration, of the Town Board, of the Surveyor, and those certificates required by Section 236.21, Wis. Stats., are placed on the face of the Final Plat. The Final Plat shall be recorded as set forth in Section 14-1-33(g).
- (g) **Correction Instruments for Final Plats.**
- (1) **Types.** Correction instruments relating to recorded Final Plats may be recorded in the County Register of Deeds office and may include:

- a. Affidavits to correct distances, angles, directions, bearings, chords, block or lot numbers, street names, or other similar details shown on a recorded Final Plat, which shall be approved by the Town Board, prior to recording, after review and recommendation of the Plan Commission.
 - b. Ratification of a recorded Final Plat, signed and acknowledged in accordance with Section 706.07, Wis. Stats.
 - c. Certificates of owners and mortgages of record at the time of recording.
- (2) **Limitations on Use.** Correction instruments shall create neither new buildable lots nor nonconforming.
- (h) **Survey Accuracy.**
- (1) **Examination.** The Town Engineer shall examine all Final Plats within the Town of Lucas 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 ten thousand (1:10,000), 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 five thousand (1:5,000), 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 Town, the tie required by Section 236.20(3)(b), Wis. Stats., shall be expressed in terms of grid bearing and distance; and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. The grid bearing and distance of the tie shall be determined by a closed survey meeting the error of closure herein specified for the survey of the exterior boundaries of the subdivision.
 - (5) **Town Plan Commission Receipt of Results of Town Engineer's Examination.** The Plan Commission shall receive the results of the Town Engineer's examination prior to recommending approval of the Final Plat to the Town Board.

- (i) **Surveying and Monumenting.** All Final Plats shall meet all the surveying and monumenting requirements of Section 236.15, Wis. Stats.

Sec. 14-1-43 Technical Requirements for Certified Survey Land Divisions.

(a) **Generally.**

(1) **General Requirement.** A Certified Survey Map prepared by a Wisconsin registered land surveyor shall be required for all minor land divisions. It shall comply in all respects with the requirements of Section 236.34, Wis. Stats. The Certified Survey Map shall comply with the design standards and improvement requirements set forth in Article F and G.

(2) **Limitations on the Use of a Certified Survey Map.** A Certified Survey Map may be used to change the boundaries of lots, blocks, and outlots within a recorded Final Plat or Certified Survey Map if the redivision does not result in a subdivision and does not violate any provisions of this Chapter or of Chapter 236, Wis. Stats. A Certified Survey Map shall not alter the exterior boundaries of a recorded plat, alter areas previously dedicated to the public by any plat or Certified Survey Map, or alter any restriction placed on platted or mapped land by covenant, by grant of easement, or by any other means.

(b) **Additional Required 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) **Date, Scale, and North Arrow.** Date of the Certified Survey Map, graphic scale, and north arrow.

(2) **Owner; Subdivider; Land Surveyor.** Name and address of the owner, Subdivider, and land surveyor.

(3) **Location Sketch.** General location sketch showing the location of the Certified Survey Map within the U.S. Public Land Survey section and showing abutting and nearby public streets and highways.

(4) **Area Contiguous to Certified Survey Map.** All property contiguous to the proposed Certified Survey Map owned or controlled by the Subdivider shall be included on the Certified Survey Map even though only a portion of said area is proposed for immediate development. The Town Board, upon the recommendation of the Plan Commission, may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Chapter and severe hardship would result from strict application thereof.

(5) **Physical Features.** Locations of all existing property boundary lines, structures, driveways, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks, and other similar significant natural or man-made features within the tract

being divided as determined by the Town Board, upon the recommendation of the Plan Commission.

- (6) **All Existing Structures.** All existing structures shall be shown on the Certified Survey Map, together with an identification of the type of structure, such as residence, garage, barn, or shed; the distances of such structures from existing and proposed property lines, wells, watercourses, and drainage ditches; and existing property boundary lines in the area adjacent to the exterior boundaries of the proposed Certified Survey Map and within one hundred (100) feet thereof. The proposed use of existing structures to be retained shall be noted. All wells within the exterior boundaries of the proposed Certified Survey Map, and within fifty (50) feet of the exterior boundaries of the Map, shall be shown. All existing treatment tanks, grease traps, and/or soil absorption systems shall be shown.
- (7) **Setbacks, Shore Yard Setbacks; Wetland Shore Yard Setbacks; Building Lines.** All required setbacks, shore yard setbacks, wetland shore yard setbacks, and building lines shall be graphically indicated and dimensioned on the Certified Survey Map.
- (8) **Utility and Drainage Easements.** Utility and/or drainage easements.
- (9) **Reserved Lands.** All lands reserved for future acquisition.
- (10) **Special Restrictions.** Special restrictions required by the Town Board, upon the recommendation of the Plan Commission, relating to conservation easements, access control along public ways, delineation of floodplain and wetland limits, natural resource mitigation areas, or to the provision of Landscape Bufferyard Easements.
- (11) **Existing and Proposed Contours.** Existing and proposed contours at vertical intervals of not more than two (2) feet where the slope of the ground surface is less than ten percent (10%), and of not more than five (5) feet where the slope of the ground surface is ten percent (10%) or more. Elevations shall be marked on such contours based on National Geodetic Vertical Datum of 1929 (mean sea level). This requirement may be waived if the parcel(s) created are fully developed.
- (12) **Floodplain Limits and Contours.** Floodplain limits and the contour lines lying a vertical distance of two (2) feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, five (5) feet above the elevation of the maximum flood of record.
- (13) **Wetland and/or Floodplain Delineation.** Location and delineated extent of wetlands and/or floodplains. The name of the person, agency, or firm identifying, delineating, and mapping said boundaries of floodplains and/or wetlands shall be noted on the face of the Certified Survey Map with the date of the field survey concerned.
- (14) **Parcel and/or Lot Size.** The dimensions and size (in square feet or acres) of each parcel or lot created by the Certified Survey Map including outlots.
- (15) **Existing Zoning.** The Certified Survey Map shall indicate on its face the current zoning of all parcels, lots, or outlots proposed to be created by the Certified Survey Map.

- (16) **Soil Types.** Soil types and boundaries as shown on the detailed operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.
- (17) **Location of Soil Tests.** Location of soil tests where required by COMM 83 and 85, Wis. Adm. Code, and in areas not served by municipal or sanitary district sewage treatment facilities, conducted in accordance with COMM 83 and 85, Wis. Adm. Code, taken at the location and depth to show a depth to a limiting factor or document at least three (3) feet of suitable soil below a proposed private on-site wastewater treatment system installation elevation:
 - a. The number of such tests made and testing requirements are as set forth under the Dunn County Sanitary Code and Private Sewage System Ordinance.
 - b. The results of such tests shall be submitted along with the Certified Survey Map.
- (18) **Sites to be Reserved or Dedicated.** Location and approximate dimensions and size (in square feet or acres) of any sites to be reserved or dedicated for parks, playgrounds, trails, drainageways, or other public use or which are to be used for group housing, shopping centers, church sites, or other private uses not requiring formation of lots.
- (19) **Historic, Cultural, and Archaeological Features.** Any on-site historic, cultural, and archaeological features — including historic buildings, structures, ruins and burial sites — which have been identified by the State Historical Society of Wisconsin shall be so noted on the Preliminary Plat with a brief description of each such feature.
- (20) **Deed Restrictions and/or Conservation Easements.** Deed restrictions and/or conservation easements as required by this Chapter shall be filed with the Certified Survey Map.
- (21) **Location of Proposed Deed Restrictions, Landscape Easements, and/or Conservation Easements.** The location of any proposed deed restrictions, landscape easements, and/or conservation easements shall be graphically indicated and clearly delineated and dimensioned on the face of the Certified Survey Map. The location and extent of conservation easements shall be directly related to the Natural Resource Protection Plan.
- (22) **Natural Resource Protection Plan.** As required by Section 14-1-44 of this Chapter. [Not required for one (1) lot Certified Survey Maps].
- (23) **Landscape Plan.** As required by Section 14-1-45 (if applicable).
- (24) **Existing and Proposed Uses.** The existing and proposed uses on adjacent parcels if known shall be indicated on the face of the proposed Certified Survey Map.
- (25) **Vehicular and Pedestrian Connectivity with Adjacent Parcels.** A commitment to provide vehicular and pedestrian connectivity between the subject property and adjacent parcels when required by the Town.
- (26) **Additional Information.** Any additional information required by the Plan Commission, Public Works Director, Town Attorney, Town Planner, Town Engineer, or Town Board.

- (c) **State Plane Coordinate System.** Where the Certified Survey Map is located within a U.S. Public Land Survey quarter-section, the corners of which have been relocated, monumented by the County or the Town, the map shall be tied directly to one (1) 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 map is tied shall be indicated on the map. All distances and bearings shall be referenced to the Wisconsin Coordinate System and adjusted to the County's or Town's control survey, whichever is applicable.
- (d) **Certificates.**
- (1) **Surveyor's Certification of Compliance with Chapter.** The surveyor shall certify on the face of the Certified Survey Map that he or she has fully complied with all the provisions of this Chapter. The certificate shall contain a description of the survey beginning at the U.S. Public Land Survey corner to which the survey is tied. The Town Board, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map.
 - (2) **Owner's Certificate of Dedication of Streets and Other Public Areas.** The dedication of streets and other public areas shall require the owner's certificate and the mortgagee's certificate in substantially the same form as required by Section 236.21(2)(a), Wis. Stats.
- (e) **Recordation.** The Certified Survey Map shall only be recorded with the County Register of Deeds within thirty (30) days of its approval by the Town Board and any other approving agencies. The certificate of the surveyor shall be placed on the face of the Certified Survey Map pursuant to the requirements of Subsection (d) above.
- (f) **Correction Instruments for Certified Survey Maps.**
- (1) **Types.** Correction instruments relating to recorded Certified Survey Maps may be recorded in the County Register of Deeds office and may include:
 - a. Affidavits to correct distances, angles, directions, bearing, chords, block or lot numbers, street names, or other similar details shown on a recorded Certified Survey Map, which shall be approved by the Town Board, prior to recording, after review and recommendation of the Plan Commission.
 - b. Ratifications of a recorded Certified Survey Map, signed and acknowledged in accordance with Section 706.07, Wis. Stats.
 - c. Certificates of owners and mortgages of record at the time of recording.
 - (2) **Limitations on Use.** Correction instruments shall create neither new buildable lots nor nonconforming lots.

Sec. 14-1-44 Natural Resource Protection Plan.

- (a) **Natural Resource Protection Plan Requirements.** If natural resource features defined and described in Sections 14-1-10, 14-1-90 and 14-1-91 are present on the property for

which a Certified Survey Map, Subdivision Plat, or Condominium development is requested, twenty-five (25) full-size copies of a "Natural Resource Protection Plan" drawn to the same scale as the Certified Survey Map, Preliminary Plat, or Condominium development submission shall be submitted with the Certified Survey Map, Preliminary Plat, or Condominium proposal. The Natural Resource Protection Plan shall be prepared on tracing cloth, reproducible drafting film, or paper of good quality at a map scale as appropriate and shall show correctly the following information:

- (1) **Proposed Name.** The proposed name of the Certified Survey Map, Subdivision Plat, or Condominium development.
- (2) **Location.** The location of the proposed Certified Survey Map, Subdivision Plat, or Condominium development.
- (3) **Names, Addresses, and Telephone Numbers of the Owners, Subdividers, Lessee and/or Developer.** The names, addresses, and telephone numbers of the owners, subdividers, lessee(s) or developer(s) of the property and of the designer of the plan.
- (4) **Site Boundary.** The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.
- (5) **Lot Lines, Right-of-Way Lines, and Easements.** The location of all proposed lot lines, right-of-way lines, and easements. In the case of condominiums, closing and non-overlapping artificial "lot" lines shall be placed around the site of each proposed principal building of the Condominium to demonstrate that the spirit of the dimensional requirements of this Section is satisfied.
- (6) **Existing Street.** The location, ownership, widths, and names of all existing and previously platted streets, rights-of-way, parks, and other public or open spaces located within or adjacent to the subject property.
- (7) **Easements and Neighboring Property Boundaries.** The location and dimensions of all permanent easements on the subject property and boundary lines adjacent to the site.
- (8) **Location and Extent of Existing Natural Resource Features.** The location and extent of any existing natural resource features defined and described in Sections 14-1-10, 14-1-90 and 14-1-91. Each individual resource area on the site shall be graphically and numerically shown on the Natural Resource Protection Plan.
- (9) **Disturbed and Preserved Natural Resource Features.** Graphic and numeric illustration shown on the Natural Resource Protection Plan of those existing natural resource features that will be disturbed and those that will be preserved. The illustration shall show the area (in square feet or acres) of each existing resource and those areas of resources that are to be preserved. Numeric data may be shown in tabular form with labeled reference to specific areas designated on the Natural Resource Protection Plan.
- (10) **Method of Natural Resource Preservation.** Graphic illustration and notes relating to how those natural resource features, which are to be preserved, will actually be

preserved (conservation easements, deed restrictions, protective covenants, etc.) on the Natural Resource Protection Plan.

- (11) **Scale, North Arrow, Contours.** A drawing legend containing the scale appropriate to the size of the Certified Survey Map, Subdivision Plat, or Condominium development, the date of preparation, north arrow, and designation of existing and proposed contours at a minimum two (2) foot contour interval.
- (12) **Maximum Sheet Size of Natural Resource Protection Plan.** The Natural Resource Protection Plan shall not exceed a maximum sheet size as required for the Certified Survey Map, Subdivision Plat, or Condominium, whichever is applicable.

Cross-Reference: Section 14-1-10, Definitions; Section 14-1-90, Natural Resource Protection; Section 14-1-91, Natural Resource Features Mitigation.

Sec. 14-1-45 Landscape Plan.

If the Landscape Bufferyard Easements, areas of natural resource protection, or areas of natural resource mitigation are delineated on the Certified Survey Map, Preliminary Plat, or Condominium or are otherwise required by the Town Board, upon the recommendation of the Plan Commission, a landscape plan for those areas shall be prepared. Twenty-five (25) full size copies of a Landscape Plan drawn to the same scale as the Certified Survey Map, Preliminary Plat or Condominium development submission shall be submitted with the Preliminary Plat or Condominium. The Landscape Plan shall be prepared on tracing cloth, reproducible drafting film, or paper of good quality at a map scale as appropriate and shall show correctly the following information:

- (a) **Proposed Name.** The proposed name of the Certified Survey Map, Subdivision Plat, or Condominium development.
- (b) **Location.** The location of the proposed Certified Survey Map, Subdivision Plat, or Condominium development.
- (c) **Names, Addresses, and Telephone Numbers of the Owners, Subdividers, Lessee and/or Developer.** The names, addresses, and telephone numbers of the owners, subdividers, lessee(s) and/or developer(s) of the property and of the designer of the plan.
- (d) **Site Boundary.** The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.
- (e) **Landscape Bufferyard Easements, and Natural Resource Mitigation Areas.** All proposed Landscape Bufferyard Easements and/or areas of natural resource mitigation shall be clearly delineated and dimensioned on the Landscape Plan and shall be graphically shown in relation to all proposed lot lines and lots upon which said Landscape Bufferyard Easements, private mini-parks, or mitigation areas are located.
- (f) **Location, Extent, Type, and Sizes of Existing Trees and Natural Resource Features.** Location, extent, type (common and scientific name in the case of plant materials), and

specific sizes of all existing trees and natural resource features in all areas of the Subdivision, Certified Survey Map, or Condominium development including all areas of the Subdivision, Certified Survey Map, or Condominium development designated as a Landscape Bufferyard Easement, areas of natural resource protection, and/or mitigation areas. If any existing vegetation or other natural resource features are to be demolished or mitigated, the extent of such demolition or area to be mitigated shall be clearly delineated and so noted on the Landscape Plan. The Landscape Plan shall further indicate all proposed grading and filling, ravines, bluffs, wetlands, 100-year recurrence interval floodplains, proposed building footprints ("building envelopes"), and all impervious surfaces. The Landscape Plan shall also identify any and all trees or other vegetation proposed for demolition, removal or movement.

- (g) **Location, Extent, Type, and Sizes of Proposed Landscape Materials and Plantings.** Location, extent, type (common name and scientific name in the case of plant materials), and sizes of proposed landscaping and landscape plantings in all areas of the Subdivision, Certified Survey Map, or Condominium development which are designated as a Landscape Bufferyard Easement, areas of natural resource mitigation, or for areas which are to serve as landscaped entrances or other special landscaped features of the Subdivision, Certified Survey Map, or Condominium development shall be indicated on the Landscape Plan. All proposed ground covers shall be indicated on the Landscape Plan.
- (h) **Landscape Plant Material Specifications.** All new landscape plant material shall be grown in a nursery located in Plant Hardiness Zone 4 and shall conform to the applicable requirements as specified in the current edition of *American Standard for Nursery Stock* as approved by the American National Standards Institute, Inc. and sponsored by the American Association of Nurseryman, Inc. Botanical plant names shall be in accordance with the current edition of *Standardized Plant Names* prepared by the American Joint Committee on Horticultural Nomenclature. The landscape contractor shall be guided in professional and ethical matters by the "Arboculture Code" as adopted by the International Society of Arboculture.
- (i) **Natural Resource Features Mitigation Plan Required.** If any natural resource feature is to be mitigated, either on-site or off-site, the plan for such mitigation in adequate detail, as required by the Town Board, upon the recommendation of the Plan Commission, shall be submitted with the Landscape Plan.
- (j) **Maintenance.** Areas of a Subdivision, Certified Survey Map, or Condominium development designated as landscape easement areas shall be maintained and kept free of all debris, rubbish, weeds and tall grass by the property owner or homeowners' association (whichever is applicable).

Sec. 14-1-46 through Sec. 14-1-49 Reserved for Future Use.

Article F: Required Improvements

Sec. 14-1-50 Improvements Required.

- (a) **Payment for Improvements.** The improvements prescribed in this Chapter are required as a condition of approval of a Subdivision Plat, Certified Survey Map or Condominium Plan. The required improvements described in this Chapter shall be installed, furnished and financed at the sole expense of the Subdivision, Certified Survey Map or Condominium Developer (as applicable). However, in the case of required improvements in a commercial or industrial area, the cost of such improvements may, at the sole discretion of the Town Board, be financed through special assessments to promote economic development and taxbase growth.
- (b) **General Standards.** The following required improvements in this Chapter shall be installed in accordance with the engineering standards and specifications which have been adopted by the Town Board. 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 Town Engineer or Town Board.

Sec. 14-1-51 Developer's Agreement Providing for Proper Installation of Improvements; Survey Monumentation.

- (a) **Developer's Agreement Required; Financial Security.**
 - (1) **Condition of Approval.** Prior to the final approval and recording of any Certified Survey Map, Subdivision Final Plat, or Condominium requiring improvements located within the jurisdictional limits of this Chapter, and prior to the installation of any required improvements, and as a condition of said approval, the Subdivision, Condominium or Certified Survey Map Developer (as applicable), shall enter into a contract ("Developer's Agreement") with the Town of Lucas agreeing to furnish, construct, and install improvements required by this Chapter at the sole cost of the Subdivision, Condominium or Certified Survey Map Developer (as applicable) and shall file with said contract an irrevocable letter of credit, cash escrow deposit, or a certified check in the amount equal to one hundred and twenty-five percent (125%) of the Town Engineer's estimate.
 - (2) **Purpose.** The purpose of the guarantee is to ensure that such required improvements will be completed by the Subdivision, Certified Survey Map or Condominium Developer (as applicable), or the developer's subcontractors or agents, and serves as a further guarantee that all obligations to subcontractors for work on the development are satisfied. Such improvements shall be completed by the Developer of the

Subdivision, Certified Survey Map or Condominium project, or by his/her subcontractor, as set forth in the Developer's Agreement.

- (3) **Disputes Over the Amount of Financial Sureties.** In a dispute over the amount of a surety, the estimate prepared by the Town Engineer shall be given the greater weight.
- (4) **Partial Completion of Improvements; Escrow Account Reductions.** On request of the Subdivision, Certified Survey Map or Condominium Developer (as applicable), the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event the amount of the escrow deposit or letter of credit may be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. The amount of any reduction in an escrow account (see Section 14-1-100 regarding escrow account) or letter of credit shall be at the sole discretion of the Town Board, upon the recommendation from the Town Engineer and Town Attorney. Any balance remaining after such improvements have been made shall be returned to the Subdivision, Certified Survey Map or Condominium Developer (as applicable). The Town Board, at its option, may extend the escrow, deposit or letter of credit, period for additional periods not to exceed two (2) years each period.
- (5) **Town Authority to Draw on Escrow Accounts.** The Town Board shall have the authority to draw upon the letter of credit or escrow account if at any time:
 - a. The developer is in default under this Chapter in any aspect of the Developer's Agreement with the Town of Lucas; or
 - b. The developer does not complete the installation of improvements within the time established in the Developer's Agreement, unless otherwise extended by agreement or action of the Town Board; or
 - c. The letter of credit on file with the Town is dated to expire in the next sixty (60) days and has not been extended, renewed or replaced or the escrow deposit is seventy-five (75%) exhausted; or
 - d. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) otherwise fails to maintain the letter of credit in the amount approved by the Town Engineer and agreed to in the Developer's Agreement.
- (6) **Improvements Completion Schedule.** The time for completion of the infrastructure work and the several parts thereof required by this Chapter shall be determined by the Town Board, upon recommendation of the Town Engineer, after consultation with the Subdivision, Certified Survey Map or Condominium Developer (as applicable). The completion date shall be a component of the contract.
- (7) **Review and Inspection Costs.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall pay the Town for all costs incurred by the Town for review and inspection of the development. [See Section 14-1-100]. This would include review, and preparation at the Town Board's discretion, of plans

and specifications by the Town Engineer, Planner, and Attorney, as well as other costs of a similar nature.

- (8) **Legal Signatories to Contract.** If the Subdivision, Certified Survey Map or Condominium Developer (as applicable) and the individual or entity holding title to the property on which the development is to occur are different entities or individuals, then both shall sign the development contract. If either or both the Subdivision, Certified Survey Map or Condominium Developer (as applicable) or titleholder to the development property are a corporate or legal entity, then all of the owners of that entity (or entities if both the subdivider and the title holder are legal entities) shall sign the development contract on behalf of the corporate or legal entity and in their individual capacities. Developer's Agreements shall also be acknowledged and executed by all project mortgagees.
- (9) **Miscellaneous Provisions.** In addition, the following requirements shall apply:
 - a. Contracts and contract specifications for the construction of street and utility improvements on dedicated street rights-of-way, as well as the contractors and subcontractors providing such work, shall be subject to the inspection of construction by the Town or its agent, and approval of the Town. Unless otherwise authorized by the Town Engineer, said specifications shall follow those specified in this Chapter or as directed by the Town Engineer.
 - b. The amount of the irrevocable letter of credit or certified check shall be determined by the Town Board following the Town Engineer's estimate.
 - c. Governmental units to which these bond and contract provisions apply may file, in lieu of said contract and bond/security, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this Section, subject to the approval of the Town Attorney.
- (b) **Issues To Be Addressed by Developer's Agreement.** The Developer's Agreement should, but is not limited to, address the following development issues:
 - (1) The Developer's Agreement shall identify all individuals or business entities holding an ownership interest in the subject property or holding an interest under an executed purchase agreement at the time the Developer's Agreement is executed. The Developer's Agreement shall also be executed and acknowledged by current and known future mortgagees and shall be binding on the successors and assigns of the named developers, owners and mortgagees.
 - (2) The Developer's Agreement shall contain a full and accurate description of the area being subdivided.
 - (3) The Developer's Agreement shall address all exceptions to design standards being sought or being granted by the Town and affecting the area being subdivided.
 - (4) The Developer's Agreement shall require that an irrevocable letter of credit be posted with and in favor of the Town of Lucas if all public improvements called for under this Chapter for the Subdivision, Certified Survey Map, or Condominium development

are not fully installed and accepted by the Town by the time a plat receives Preliminary Plat approval or when a Certified Survey Map is finally approved. The Developer's Agreement shall address whether and when said irrevocable letter of credit can be released and shall further require the developer to take all steps necessary to maintain the letter of credit in the Town's possession and not to allow it to expire.

- (5) The Developer's Agreement shall disclose and confirm relevant details regarding the developer's insurance, warranties, continuing maintenance requirements and responsibilities, and other contracts and agreements affecting the subject property.
- (6) Where any platted area in a Subdivision or Certified Survey Map will serve as open or buffer space and be jointly maintained and controlled by the owners of the platted lots or where erosion control or stormwater management devices will be installed in the area being subdivided that will require ongoing maintenance, the Developer's Agreement shall require that a homeowners' association be created with membership on an equal basis of all platted lots not commonly owned and on an equal basis, that association bylaws be developed and that a restrictive covenant or other perpetual, binding legal device be employed that will create, administer and enforce the collective responsibilities of the individual members of said homeowners' association concerning commonly held areas and/or erosion control or stormwater management devices.
- (7) A Developer's Agreement shall contain measures to protect the investments and expectations of existing and future lot owners against unilateral changes in the organizational or governing documents of a homeowners' association by a developer so long as the subject area is under the developer's control by requiring advance Town approval of material changes to the homeowners' association bylaws or restrictive covenants from the time the Developer's Agreement is executed until a majority of the lots are conveyed to individual homeowners.
- (8) The Developer's Agreement shall contain the developer's representation concerning intended subdivision design standards and home price ranges and its agreement to maintain such standards through build out of the Subdivision, Certified Survey Map or Condominium development (as applicable).
- (9) The Developer's Agreement shall address the timing of joint driveway paving, shall require shared maintenance agreements concerning shared driveways and shall address the control and removal of debris and rubbish during initial construction on lots being created.
- (10) The Developer's Agreement shall refer to or include as exhibits the following information:
 - a. Preliminary Plat (or Certified Survey Map);
 - b. Final Plat, to be added once approved and recorded;
 - c. Road design and construction plans;
 - d. Stormwater calculations and plans;

- e. Town permits for any incoming transfer of development rights that will operate to create greater dwelling unit densities in the development than would be allowed under this Chapter without a transfer of development rights; and
 - f. Other project-related information as required by the Town.
- (11) The Developer's Agreement shall require the developer to pay all of the Town's professional fees and expenses related to the Developer's Agreement.
 - (12) The Developer's Agreement may also address areas not included in this Chapter or otherwise expressly required by law but that are nonetheless mutually agreeable to the developer and the Town and which promote the public health, safety and welfare of the residents and taxpayers of the Town of Lucas.
- (c) **Approval of Developer's Agreement.** The Developer's Agreement shall be drafted or approved as to form and content by the Town Attorney, and shall be approved by the Town Board prior to the final approval of the Certified Survey Map, Subdivision Final Plat, or Condominium Plat.
 - (d) **Survey Monuments.**
 - (1) Before final approval of any plat within the corporate limits of the Town, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall cause survey monuments to be installed as required by and placed in accordance with the requirements of Section 236.15, Wis. Stats., and as may be required by the Town Engineer.
 - (2) The Town Board may waive the placing of monuments, as provided in Section 236.15(1)(6), Wis. Stats., for a reasonable time, not to exceed one (1) year, on condition that the Subdivision, Certified Survey Map or Condominium Developer (as applicable) provide a letter of credit, certified check, or surety bond to ensure the placing of such monuments within the time required by Wisconsin Statute under and in compliance with the provisions of Subsection (a) above. Additional time may be granted by the Town Board upon show of cause.

Sec. 14-1-52 Required Construction Plans; Town Review; Inspections.

- (a) **Engineering Reports, Construction Plans and Specifications.** As required by Section 14-1-31, general engineering reports, plans and proposed specifications shall be submitted simultaneously with the filing of the Preliminary Plat. At the Final Plat stage, detailed construction plans for the required improvements conforming in all respects with the standards of the Town Engineer and the ordinances of the Town shall be prepared at the developer's expense by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain his/her seal. Such plans, together with the quantities of construction items, shall be submitted to the Town Board or Town Engineer for their

approval and for their 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 Town Clerk, or as soon thereafter as practicable, copies of the construction plans and specifications, where applicable, shall be furnished for the following public improvements, with a copy sent to the appropriate sanitary district, if involved:

- (1) **Street Plans and Profiles** showing existing and proposed grades, elevations and cross sections of required improvements.
 - (2) **Storm Water and Open Channel** plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
 - (3) **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 County's or Town's Erosion Control Ordinance.
 - (4) **Landscaping Plans** showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees meeting the requirements of Section 14-1-45.
 - (5) **Additional** special plans or information as required by Town officials.
- (b) **Action by the Town Engineer.** The Town Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Chapter and other pertinent Town ordinances and design standards recommended by the Town Engineer and approved by the Town Board. If the Town Engineer rejects the plans and specifications, he/she shall notify the owner, who shall modify the plans or specifications or both accordingly. When the plans and specifications are corrected, the Town Engineer shall approve the plans and specifications for transmittal to the Town Board. The Town Board shall approve the plans and specifications before the improvements are installed and construction commenced.
- (c) **Construction and Inspection.**
- (1) **Authorization to Start Work.** Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the Town Board or its agent upon 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) **Timeline for Improvements Construction.** Construction of all improvements required by this Chapter shall be completed within two (2) years from the date of approval of the Preliminary Plat by the Town Board, unless good cause can be shown for the Town Board to grant an extension unless another time frame is set forth in the Developer's Agreement for phased developments as approved by the Town Board.
 - (3) **Inspections.** During the course of construction, the Town Engineer or designee shall make such inspections as the Town Board deems necessary to insure compliance with the plans and specifications as approved. The owner shall pay the actual cost plus

administrative charges incurred by the Town for such inspections. This fee shall be the actual cost plus administrative charges to the Town of inspectors, engineers and other parties necessary to insure satisfactory work.

- (d) **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 location of all improvements and such other facilities as the Town 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 Town and one (1) copy of such record plans shall be forwarded to the appropriate sanitary/utility district, if applicable.

Sec. 14-1-53 Street Improvements.

The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall construct streets, roads and alleys as outlined on the approved plans based on the requirements of this Chapter:

- (a) **Street Construction Standards.** The design and construction of all roads, streets and alleys in the Town shall fully comply with the requirements and specifications of Sections 14-1-70 and 14-1-71.
- (b) **Survey Monuments.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall install survey monuments placed in accordance with the requirements of Chapter 236.15, Wis. Stats., and as may be required by the Town Engineer.
- (c) **Grading.**
- (1) **Right-of-Way and Roadbed Grading.** After the installation of temporary block corner monuments by the Subdivision, Certified Survey Map or Condominium Developer (as applicable) and establishment of street grades, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall grade the full width of the right-of-way of all streets proposed to be dedicated in accordance with plans and standard specifications approved by the Town and in conformance with this Chapter. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall grade the roadbeds in the street rights-of-way to subgrade.
 - (2) **Grading of Cut and Filled Lands.** Cut and filled lands shall be graded to a maximum slope of one (1) to four (4) (1:4), or the soils angle of repose, whichever is the lesser, and covered with permanent vegetation.
 - (3) **Preservation of Septic Field Areas During Grading.** During grading operations, every effort shall be made by the Subdivision, Certified Survey Map or Condominium Developer (as applicable) to preserve and protect any septic field areas from damage.

- (4) **Preservation of Existing Trees During Grading.** During grading operations, every effort shall be made by the Subdivision, Certified Survey Map or Condominium Developer (as applicable) to preserve and protect from damage those existing trees identified in the "Natural Resource Protection Plan" to be preserved and retained as a part of the Subdivision, Certified Survey Map, or Condominium approval. (See Section 14-1-69 for minimum procedures).
- (d) **Roadway Surfacing.**
 - (1) **Roadway Surfacing.** After the installation of all required utility and stormwater drainage improvements, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall surface all roadways in streets proposed to be dedicated to the widths prescribed by these regulations.
 - (2) **Required Surfacing Specifications.** Said surfacing shall be done in accordance with plans and standard specifications approved by the Town pursuant to the standards in this Chapter.
- (e) **Completion of Street Construction.**
 - (1) **Binder Course Requirement.** Prior to any building permits being issued on lands adjacent to streets, street construction up to the binder course of asphalt shall be completed by the Subdivision, Certified Survey Map or Condominium Developer (as applicable) approved by the Town Engineer and accepted by the Town Board. The surface shall be placed as outlined in the developers agreement.
 - (2) **Modification of Requirements.**
 - a. The Town Board may issue a waiver or modification of these requirements in unusual or special circumstances such as excessively severe weather conditions, heavy construction temporarily in area or construction material shortages (i.e., cement, asphalt). The issuance of a waiver shall be at the discretion of the Town Board.
 - b. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) requesting a waiver or modification shall do so in writing, presenting such information and documentation as required by the Town Board. The waiver or modification shall be in written form and shall detail which improvement requirements are temporarily waived and for what period of time.

Cross-Reference: Sections 14-1-70 and 14-1-71.

Sec. 14-1-54 Sidewalks; Bicycle Paths and Trails.

- (a) **Sidewalks.** Sidewalks may be required by the Town Board, upon the recommendation of the Plan Commission, in Subdivision, Certified Survey Map, or Condominium developments located in more densely developed areas, to accommodate safe and adequate

pedestrian circulation. Where sidewalks are provided, they shall be a minimum of five (5) feet in width and be located within a dedicated public right-of-way or pedestrian access easement. If the sidewalk is to be located within a pedestrian access easement, said easement shall be a minimum of twenty (20) feet in width.

- (b) **Bicycle Paths and Trails.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall install Town required bicycle paths and trails in accordance with the Town's plans and specifications, approved by the Town Engineer, and in accordance with the American Association of State Highway and Transportation Officials (AASHTO) in its *Guide for the Development of Bicycle Facilities*, most recent edition. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall assume the entire cost of such bicycle paths and trails.

Sec. 14-1-55 Stormwater Drainage and Detention/Retention Facilities.

- (a) **Generally.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall construct stormwater drainage facilities adequate to serve the Subdivision, Certified Survey Map, or Condominium in conformance (as applicable) with all applicable County Codes pertaining to stormwater management; and/or local comprehensive plans or adopted plan components; or as required by the Town of Lucas under both Title 15, Chapter 2 "Construction Site Erosion Control", Title 15, Chapter 8 "Illicit Discharges", and Title 15, Chapter 9 "Post-Construction Stormwater Management" of the *Town of Lucas Code of Ordinances*, as amended, based upon the recommendations of the Town Engineer. These facilities may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, open channels, water retention and detention structures, basins, settling basins and other approved best management practices (BMPs). All such facilities shall be of adequate size and grade to hydraulically accommodate the maximum potential volumes of flow and shall be so designed as to prevent and control soil erosion and sedimentation and to present no hazards to life or property. In addition, the following subsections shall be complied with.
- (b) **Stormwater Management Plan Required.** A stormwater management plan shall be prepared by a Wisconsin registered professional engineer which shall include, but not be limited to, the following:
- (1) Existing and proposed topography at two (2) foot contour intervals of the proposed Subdivision, Certified Survey Map, or Condominium development.
 - (2) Proposed elevations of all streets.
 - (3) Proposed drainage swales.
 - (4) Proposed storm sewers, manholes and inlets.
 - (5) Construction site erosion facilities.
 - (6) A report and map(s) showing the drainage basin for the entire area where the Subdivision, Certified Survey Map, or Condominium development is located,

- including estimates of the total acreage in the drainage basin and percentage of the drainage basin within the proposed Subdivision, Certified Survey Map, or Condominium development.
- (7) Location of any planned stormwater detention and/or retention basins and applicable calculations for their sizing and design.
 - (8) Calculations relating to the amount of runoff from the site of the proposed Subdivision, Certified Survey Map, or Condominium development prior to improvements, and anticipated runoff following the improvements to the site.
- (c) **General Design Standards.** The Town Engineer's review and approval of stormwater detention storage, retention storage, and runoff control plans shall be based on requiring the more stringent of the following standards:
- (1) The peak runoff rate from the site after the land disturbing activity is completed shall be no greater than the peak runoff rate from the site in its natural undeveloped state.
 - (2) The peak runoff rate shall be limited to a rate prorated on the basis of the safe capacity of downstream stormwater drainage facilities as determined by the Town Engineer.
- (d) **Minimum Design Criteria for Stormwater Detention Storage and Runoff Control.**
- (1) Minimum design criteria for stormwater detention storage and runoff control shall accommodate peak flows resulting from a two (2) year frequency twenty-four (24) hour rain of three (3) inches, a ten (10) year frequency twenty-four (24) hour rain of four and two-tenths (4.2) inches, a twenty-five (25) year frequency twenty-four (24) hour rain of four and seven-tenths (4.7) inches, and a one hundred (100) year frequency twenty-four (24) hour rain of six (6) inches, including winter frozen ground condition design criteria, with greater design capacity required for facilities of greater risks or hazards or where an area is in an identified flood hazard area on the Official Town or County Floodplain Zoning Map.
 - (2) Minimum design criteria for stormwater retention storage and runoff control shall accommodate peak flows resulting from a one hundred (100) year twenty-four (24) hour rain frequency of six (6) inches, including winter frozen ground condition design criteria, or one hundred (100) year frequency back-to-back rainfall events design criteria, with greater design capacity required for facilities of greater risks or hazards or where an area is in an identified flood hazard area on the Official Town or County Floodplain Zoning Map.
- (e) **Flood Hazard Mitigation By New Development Design.** Where possible, potential and existing flood hazards shall be mitigated by new development. The Town shall require stormwater drainage facilities which may include curbs and gutters, diversions, catch basins and inlets, culverts, storm sewers, road ditches, swales, open channels, roof gutters, stormwater detention basins, stormwater retention basins, settling basins, infiltration and absorption areas, and similar measures to control, store, and pre-treat stormwater runoff.
- (f) **Nonpoint Source Runoff Pollutants.** All nonpoint source stormwater runoff pollutant constituent discharges from a site shall include pretreatment design criteria and modeling

analysis calculations in conformance with the Wisconsin Department of Natural Resources and other governing agency requirements and regulations utilizing "Standard Engineering Practice Structural and Nonstructural Best Management Practices."

(g) **Unpaved Street Ditches.**

- (1) Unpaved street ditches are permitted and shall be shaped and seeded and/or sodded as grassed waterways.
- (2) The Subdivision, Certified Survey Map or Condominium Developer (as applicable) is encouraged to use natural wetland plant materials where needed.
- (3) Where the velocity of flow is in excess of four (4) feet per second on soils having a severe or very severe erosion hazard and in excess of six (6) feet per second on soils having moderate, slight, or very slight erosion hazard, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall meander the waterway or install a paved invert or check dams, flumes, or other energy dissipating devices.
- (4) Erosion control mat suitable for channel installation may be utilized for long-term erosion control and vegetation establishment.

(h) **Drainage Facilities.**

- (1) These shall, if required by the Town Engineer, include stormwater detention and/or retention basins, structures, and settling basins necessary so as to reduce peak discharge and sediment release to receiving waters.
- (2) The design criteria, the size, type, grades, and installation of all stormwater drains and sewers and other cross-section, invert, and erosion control paving check dams, flumes, or other energy dissipating structures and seeding and/or sodding of open channels and unpaved road ditches proposed to be constructed shall be in accordance with the requirements of this Chapter, and as approved by Town officials.

- (i) **Storm Sewers.** When required by the Town, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall assume the cost of installing all required storm sewers within the proposed Subdivision, Certified Survey Map, or Condominium development.

Sec. 14-1-56 Sewerage Systems.

Each lot or dwelling unit located outside a sanitary sewer service area shall be capable of meeting the requirements of COMM 83, Wis. Adm. Code, titled "Private Onsite Wastewater Treatment Systems", COMM 85, Wis. Adm. Code, titled "Soil and Site Evaluations" (as applicable), and pertinent County Sanitary Codes and Private Sewage System Ordinances regarding the construction of private on-site wastewater treatment systems. The Subdivision Plat, Certified Survey Map, or Condominium shall be approved, in conformance with COMM 83 and 85, Wis. Adm. Code, the County Sanitary Code and Private Sewage System Ordinance, and any other applicable agency regarding the construction of a private on-site wastewater treatment

system, by the Dunn County Department of Planning, Resources, and Development before any lots or dwelling units are sold.

Sec. 14-1-57 Water Supply Facilities.

- (a) **Adequate Water Supply Facilities To Be Made Available.** When public water supply and distribution facilities are available to the Subdivision Plat, Certified Survey Map, or Condominium development or when it is proposed to have private wells, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall cause such public water supply and distribution facilities to be installed in such a manner as to make adequate water service available to each lot within the Subdivision or Certified Survey Map area or to each Condominium dwelling unit, or have private well service available. If public water service is available, property owners within said Subdivision Plat, Certified Survey Map, or Condominium development shall be required to connect to such water service.
- (b) **Additional Water Supply Facilities Requirements.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall make provision for adequate private water systems as required by the Town in accordance with the standards of the Wisconsin Department of Commerce. In addition:
- (1) **Water Service Laterals to Street Lot Line.** In public water service areas, the Town Board, upon the recommendation of the Plan Commission, may require the installation of water service laterals to the street lot line.
 - (2) **Size, Type, and Installation of Public and Private Water Mains.** The size, type, and installation of all public and/or private water mains proposed to be constructed shall be in accordance with plans and standards specifications approved by the Town Engineer.
 - (3) **Costs of Installing Water Mains, Water Service Laterals, Water System Appurtenances or Wells.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall assume the cost of installing all water mains, water service laterals, water system appurtenances, or wells within the proposed Subdivision, Certified Survey Map, or Condominium development public water service area, except for the added cost of installing public water mains greater than eight (8) inches in diameter. The cost of such larger water mains or other water system-related facilities shall be prorated in proportion to the ratio which the total flow and amount required by the proposed Subdivision, Certified Survey Map, or Condominium development is to the total water service area flow and amount requirements for the larger water main, and the excess cost shall either be borne by the applicable utility district or assessed against the total water service area as determined by the Town Board.
 - (4) **Installation of Public Water Mains.**
 - a. In areas served by a public water supply system (if available), the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall install water mains in accordance with this Chapter and specifications of the Town,

when it is determined by the Town Board that the proposed Subdivision, Certified Survey Map, or Condominium development lies within a public water service area and water main facilities are programmed to be extended to the proposed Subdivision, Certified Survey Map, or Condominium development within six (6) years.

- b. Until such time as the public water mains within the Subdivision, Certified Survey Map, or Condominium development can be connected to the larger community water supply system, they shall be temporarily capped.
 - c. No private or public use shall be connected to the water mains within the Subdivision, Certified Survey Map, or Condominium development until such water mains are connected to the larger public water supply system.
 - d. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall indicate on the face of the Subdivision Plat, Certified Survey Map, or Condominium Plat that the owner of private uses within the Subdivision Plat, Certified Survey Map, or Condominium Plat shall connect such uses to the public water mains within the Subdivision Plat, Certified Survey Map, or Condominium, if such public water service is deemed to be available by the Town Board, and that the Town shall be held harmless for any damages or costs incurred to disconnect and abandon any on-site water supply system then in place, and any costs associated with connection to the public water mains.
- (5) **Installation of Fire Hydrants.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall install fire hydrants connected to water mains, if available, in accordance with this Chapter and specifications of the Town, and other local regulations pertaining to the provision of adequate fire hydrant facilities.

Sec. 14-1-58 Other Utilities.

The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall cause appropriate utilities such as natural gas, electrical power, cable television (where available), and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the Subdivision or Certified Survey Map and to each dwelling unit in a Condominium. No such electrical, cable television, or telephone service shall be located on overhead poles. In addition, plans indicating the proposed location of all natural gas, electrical power, cable television, telephone, and distribution and transmission lines required to service the Subdivision, Certified Survey Map, or Condominium shall be approved by the Town Board.

Sec. 14-1-59 Traffic Control and Street Name Signs; Street Lights.

- (a) **Traffic Control Signs; Street Name Signs.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall install traffic control and street name signs

along all streets proposed to be dedicated to the public. Traffic control and street name signs shall meet the following standards:

- (1) **Traffic Control Signs.** The design and placement of traffic control signs shall follow state regulations.
 - (2) **Street Name Signs.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall install at least two (2) street name signs, of a design and color as approved by the Town, at each four-way street intersection proposed to be dedicated and one (1) at each "T" intersection. Street name signs shall be installed so as to be free of visual obstructions.
- (b) **Street Lights.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall install street lights along all streets proposed to be dedicated to the public. Said street lights shall meet the following standards:
- (1) **Pole and Luminaire Design.** The design of the street lights shall be compatible with the neighborhood and type of development proposed. Street light pole and luminaire design meet the requirements set forth by the Town.
 - (2) **Distribution and Placement.** Street lights shall be placed at each street intersection and at each interior block location and other spacing as required by the Town Engineer.
 - (3) **Requirements for Outdoor Lighting.** All street lights shall meet the following requirements:
 - a. All outdoor lighting luminaires shall be shielded in such a manner so that light emitted (either directly from the lamp or indirectly from the luminaire) is projected a minimum of fifteen (15) degrees below the horizontal plane running through the lowest point on the luminaire where light is emitted.
 - b. Mercury vapor outdoor lighting luminaires shall not be allowed.

Sec. 14-1-60 Improvements Extended To Limit of Parcel.

- (a) **Improvements To Be Extended To Farthest Limit of Parcel or Lot.** Any and all improvements or utility services required by this Article, or a municipality's ordinance concerning areas within that municipality's extraterritorial plat jurisdiction, for the Subdivision, Certified Survey Map, or Condominium development shall be extended to the farthest limit of the parcel or lot upon which a building permit is requested unless the owner is excused from meeting such requirement by the Town Board and the municipality which has extraterritorial plat jurisdiction.
- (b) **Financial Sureties for Extension of Improvements Required.** In the event the improvements are required to the end of the parcel or lot, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall be required to post financial sureties with the Town pursuant to Section 14-1-51 if improvements are not made.

Sec. 14-1-61 Landscaping; Street Trees.

- (a) **Landscaping Installation.** The Subdivider shall install landscaping in accordance with a Landscape Plan [see Section 14-1-45] approved by the Town Board, upon the recommendation of the Plan Commission. If plantings are not installed prior to approval of a Final Plat, Certified Survey Map, or Condominium Plat (as applicable), a landscaping fee and installation schedule shall be specified in the Developer's Agreement ("Development Agreement") and appropriate sureties shall be provided.
- (b) **Landscape Maintenance.** Maintenance of all landscaping included in an approved Landscape Plan shall be the responsibility of the property owner, or, for landscaping installed in common areas of a Subdivision Plat or Condominium (as applicable), the homeowners' association or condominium owners' association. Provisions for the maintenance of such landscaping maintenance shall be included in the homeowners' association or condominium owners' association documents required under Sections 14-1-23 and 14-1-42(c).
- (c) **Street Trees.** In all Subdivisions, Certified Survey Maps, and Condominium developments requiring new street dedications, the Town shall require the Subdivision, Certified Survey Map or Condominium Developer (as applicable) to plant a minimum of one (1) street tree of a Town-approved species and of a minimum DBH of three (3) inches for each forty (40) feet of lot frontage on each side of all streets to be dedicated to the public. Said required street trees shall be planted within five (5) feet, but outside of, the public street right-of-way. All required street trees shall be installed by the Subdivision, Certified Survey Map or Condominium Developer (as applicable) in accordance with Town specifications. Existing trees already in the prescribed locations and equal to or greater than the minimum DBH prescribed herein, shall be counted towards the required number of street trees on a one-to-one basis. Street trees shall be of the species acceptable to the Town. In addition:
- (1) **Minimum Distance to Utility Poles.** No street trees shall be planted less than fifteen (15) feet from a utility pole.
 - (2) **Minimum Distance to Driveways.** No street trees shall be planted less than five (5) feet from a driveway.
 - (3) **Minimum Distance to Sidewalks.** No street trees shall be planted less than three (3) feet from a sidewalk.
 - (4) **Street Tree Warranty and Continued Maintenance Required.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall be responsible and provide a two (2) year warranty for all landscape materials planted. Said warranty shall begin upon completion, acceptance, and dedication of improvements to the Town. In no case shall it conflict with the surety bond herein and elsewhere described in this Chapter. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall provide, plant, and warrant equal inches of caliper to

that which is removed. The removal of a tree shall not serve as a release from the requirement for street trees. Upon the expiration of the warranty period, it shall be the adjacent property owner's responsibility to water, weed, trim, maintain, and replant, if necessary, said trees. In addition, any tree that is damaged or destroyed shall be promptly replanted with a new, similar tree by the adjacent owner at the property owner's expense.

Sec. 14-1-62 Easements.

- (a) **Utility Easements.** The Town Board, on the recommendation of appropriate agencies serving the Town, shall require utility easements for poles, sanitary sewer, wire communications conduits, storm sewers, gas, water and sewer 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 installations and prevent the planting of trees in the easement area.
- (b) **Natural Resource Features Protection/Mitigation, Conservation, Landscape Bufferyard, and Utility Easements Required.** The Town Board, upon the recommendation of the Plan Commission, shall require natural resource features protection/mitigation, conservation, landscape bufferyard, and utility easements of widths deemed adequate for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for natural resource feature protection, landscape bufferyards, electric power and communication lines, wires, conduits, storm and sanitary sewers, and gas, water, and other utility lines.
- (c) **Subdivision, Certified Survey Map, or Condominium Plat Traversed by Watercourse, Drainageway Channel, or Stream.**
 - (1) Where a Subdivision, Certified Survey Map, or Condominium Plat development is traversed by a watercourse, drainageway channel, or stream, an adequate drainageway or easement shall be provided as required by the Town Board, upon the recommendation of the Plan Commission. The location, width, alignment, and improvement of such drainageway or easement shall be subject to the approval of the Town Board, upon the recommendation of the Plan Commission, and parallel streets or parkways may be required in connection therewith.
 - (2) Wherever 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 Town 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.

- (d) **Easement Locations.** Such easements shall be at least twelve (12) feet wide, or wider where recommended by the Town Engineer, and may run across lots or alongside lot lines. Evidence shall be furnished the Town Board 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. 14-1-63 Soil Erosion and Sediment Control.

The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall plant those grasses, trees, and vines, the species and size, as approved by the Plan Commission, necessary to prevent soil erosion and sedimentation. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall also comply with Title 15, Chapter 2 "Construction Site Erosion Control" of the *Town of Lucas Code of Ordinances* as amended. In addition:

- (a) **Installation of Protection and Rehabilitation Measures.** The Town Board, upon the recommendation of the Plan Commission, shall require the Subdivision, Certified Survey Map or Condominium Developer (as applicable) to provide or install certain protection and rehabilitation measures to prevent soil erosion and sedimentation, such as fencing, sloping, seeding, rip-rap, revetments, jetties, clearing, dredging, snagging, drop structures, brush mats, willow poles, and grade stabilization structures.
- (b) **Tree Cutting and Shrubbery Clearing Limitations.** Tree cutting and shrubbery clearing shall not exceed the limitations set forth in Article I of this Chapter for natural resource features protection, the approved Natural Resource Features Protection Plan for the property as described in Section 14-1-44, and shall be so conducted as to prevent erosion and sedimentation; preserve and improve scenic qualities; and, during foliation, substantially screen any development from stream or lake users.
- (c) **Maximum Width of Paths and Trails in Wooded and Wetland Areas.** Paths and trails in wooded and wetland areas shall not exceed ten (10) feet in width unless otherwise approved by the Town Board, upon the recommendation of the Plan Commission, and shall be so designed and constructed as to result in the least removal and disruption of trees and shrubs and the minimum impairment of natural beauty.
- (d) **Earth Moving.** Earth moving; such as grading, topsoil removal, mineral extraction, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channel, clearing, ditching, drain tile laying, dredging, and lagooning, shall be so conducted as to prevent soil erosion and sedimentation and to minimize the disturbance of the natural fauna, flora, water course, water regimen, and topography [see Sections 14-1-53(c) and 14-1-65].

- (e) **Review of the Conduct of Cutting, Clearing, and Moving.** Review of the conduct of such cutting, clearing, and moving may be requested by the Town Board, upon the recommendation of the Plan Commission or other Town official, as they deem appropriate.
- (f) **Topsoil Preservation.** Topsoil moved during the course of construction shall be redistributed on all pervious regraded surfaces so as to provide adequate topsoil to cover all previous disturbed areas of the Subdivision, Certified Survey Map, or Condominium development and shall be stabilized to prevent soil erosion by seeding or planting as determined by the Town Board.
- (g) **Slope and Terrace Protection.** Areas of cuts, fills, and terraces shall be landscaped sufficiently to prevent soil erosion in accordance with plans and standard specifications approved by the Town Engineer.

Sec. 14-1-64 Maintenance of Shared Community Private Septic Systems.

- (a) A maintenance agreement shall be required between the Town of Lucas and the subdivider when a shared community private septic system, as permitted by the Wisconsin Administrative Code, is to be utilized. The agreement shall be recorded as a property deed restriction by the subdivider with the County Register of Deeds in a form which shall be binding upon all subsequent owners of land covered by the agreement. Such agreement shall assign on-going responsibility for maintenance and repair of the shared community private septic system to a homeowners, property owners or condominium association per Section 14-1-23. Prior to Final Plat approval, the subdivider shall submit to the Town for its approval an on-going maintenance plan for such facilities, which shall be incorporated by reference into all approvals and development agreements. In the alternative, if unique circumstances or a special benefit to the public can be demonstrated, such ownership and maintenance responsibility may be assumed by the Town.
- (b) If the Town at any time finds that the facility management and maintenance measures constructed in accordance with the system plan are not being properly followed or maintained, or if altered in any way from the location, configuration and capacity of the measures specified in the approved plan, the Town shall have the right to undertake the needed maintenance or repair. This right shall include the right to enter onto private property as necessary to carry out the needed maintenance or repair. The cost of such maintenance or repair shall be levied as a special assessment or special charge against the properties concerned. The special charge or assessment shall be collectible in the same manner as all other special assessments/charges levied by the Town of Lucas.

Sec. 14-1-65 Construction Requirements.

- (a) **Commencement.** No destruction of trees or vegetation, ground or earth-moving, alteration of land, construction or installation of improvements shall commence in a proposed Preliminary Plat, Certified Survey Map, or Condominium development until said

Preliminary Plat, Certified Survey Map, or Condominium development has been approved and the Town Board has given written authorization to commence work. Inspection fees shall be required as specified in this Chapter.

- (b) **Building, Zoning, and Sanitary Permits.** No building, zoning, or sanitary permits shall be issued for the erection of a structure on any lot not of record until all the requirements of this Chapter have been met, including the construction of required streets and sidewalks and the removal of construction debris, waste and/or rubbish from the lot, and any unoccupied building or structures.
- (c) **Plans and Specifications.** The following plans and accompanying construction specifications, in conformance with the Town of Lucas's specifications, shall be required by the Town before authorization of construction or installation of improvements:
- (1) **Street Plans and Profiles.** Street and road plans and profiles showing existing and proposed grades, elevations, and cross-sections of required improvements.
 - (2) **Grading Plans.** Grading plans showing existing and proposed contours, mass and finished grading plans, proposed top of building foundation and finished yard grade elevations, and such supplemental information as required by the Town Engineer. Elevations shall be marked on such contours and grades based on National Geodetic Vertical Datum of 1929 (mean sea level).
 - (3) **Sanitary Sewer Plans and Profiles.** In areas of the Town served by public sewer, , sanitary sewer plans and profiles showing the locations, grades, sizes, cross-sections, elevations, and materials of required facilities, when located within a Town of Lucas adopted existing or proposed sanitary sewer service area.
 - (4) **Storm Sewer Plans and Profiles.** Storm sewer and/or drainage plans and profiles showing the locations, grades, sizes, cross-sections, elevations, and materials of required facilities. Also, a stormwater management program plan shall be required as set forth in Section 14-1-55.
 - (5) **Water Main Plans and Profiles.** In areas of the Town served by public water, water main plans and profiles showing the locations, sizes, elevations, and materials of required facilities, when located with a Town of Lucas adopted existing or proposed sanitary sewer service area.
 - (6) **Natural Gas, Electrical Power, Telephone, and Cable Television Plans.** Plans showing the location and size, where applicable, of all natural gas, electrical power, telephone, and cable television service.
 - (7) **Specifications for Protection Against Erosion, Siltation, Sedimentation, and Washing Required.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded, or otherwise protected that erosion, siltation, sedimentation, and washing are prevented, in accordance with the plans and specifications, approved by the Town of Lucas. In addition:
 - a. Sod shall be laid in strips at those intervals necessary to prevent erosion and at right angles to the direction of drainage.

- b. Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.
 - c. Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.
 - d. Sediment basins shall be installed and maintained at all drainageways to trap, remove, and prevent sediment and debris from being washed outside the area being developed.
 - e. All erosion control procedures must be carried out in conformance with the County's and/or Town's regulations for construction site erosion control.
- (8) **Landscape and Planting Plans.** Landscape and planting plans [see Section 14-1-45] showing the locations, age, caliper, and species of any required grasses, vines, shrubs, and trees.
- (9) **Additional Plans.** Additional special plans or information as required by Town officials.
- (d) **Maintenance of Improvements During Construction.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall make every effort to protect and maintain all improvements made to a Subdivision Plat, Certified Survey Map, or Condominium development that are not dedicated to the Town during the construction of the Subdivision Plat, Certified Survey Map, or Condominium development.
- (e) **Existing Trees and Flora.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall make every effort to protect and retain 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 in accordance with the Natural Resource Protection Plan. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by well islands or retaining walls whenever abutting grades are altered. Towards that end, the following minimum procedures shall be followed during construction:
- (1) **Methodology for Tree Preservation To Be Reviewed by Plan Commission.** The Subdivision, Certified Survey Map or Condominium Developer's (as applicable) proposed method for preserving trees shall be reviewed by the Plan Commission or its staff during the Preliminary Plat, Certified Survey Map, or Condominium approval phase of application to the Town. If, in the opinion of the Town Board, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) has not taken the necessary precaution in preserving existing trees as required by this Chapter, no building permit shall be issued until such time as the Subdivision, Certified Survey Map or Condominium Developer (as applicable) amends the plans for the preservation of such existing trees.
 - (2) **Limitation on Encroachment of Grading and Construction Equipment.** All grading and construction equipment shall be forbidden from encroaching within the tree's drip line.

- (3) **Material Dumping Prohibited Within Tree Drip Line.** Materials detrimental to the tree shall not be dumped or placed within a tree's drip line or at any higher elevation than the base of the tree where drainage toward the tree could adversely affect the health of the tree. Said materials shall include, but not necessarily be limited to, excess soil, stone or rock, additional fill, equipment, liquids, or construction debris.
 - (4) **Snow Fence Required.** During grading and construction, a snow fence shall be installed at the periphery of the tree's drip line.
 - (5) **Attachments to Trees Prohibited.** No attachments or wires, other than those of a protective or nondamaging nature, shall be attached to any trees to be preserved during construction.
 - (6) **Tree Destruction and Replacement.** In the event that a tree designated on the approved Preliminary Plat, Certified Survey Map, Condominium or Natural Resources Protection Plan for preservation is destroyed or razed during the construction process, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall replace such tree of a like species approved by the Town Board and having a diameter of not less than the tree so destroyed or razed. No one replacement, however, shall exceed six (6) inches in diameter as measured at twelve (12) inches above the ground level. However, several smaller diameter trees having a combined diameter equal to the tree razed or destroyed shall be planted for trees larger than six (6) inches. Said replacement trees shall be placed in the approximate location of the tree, or trees, so destroyed. Said replacement trees shall be placed in the approximate location of the tree or trees, so destroyed. Said replacement trees shall not be counted toward any mitigation measures which may be required of the Subdivision, Certified Survey Map or Condominium Developer (as applicable) as specified elsewhere in this Chapter.
- (f) **Review of Plans and Specifications By Town Engineer.** The Town Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Chapter and other pertinent Town ordinances and design standards recommended by the Town Engineer and approved by the Town Board. If the Town Engineer rejects the plans and specifications, the Town Engineer shall notify the Subdivision, Certified Survey Map or Condominium Developer (as applicable), who shall cause the modification of the plans or specifications or both accordingly. When the plans and specifications are corrected, the Town Engineer shall approve the plans and specifications.
- (g) **Authorization and Inspection.**
- (1) **Authorization to Start Construction.** Prior to starting the work covered by the approved plans and specifications, written authorization to start said work shall be obtained from the Town Board based upon recommendation of the Town Engineer upon receipt of all necessary and required permits and in accordance with the construction methods prescribed by this Chapter. Building permits shall not be issued until all improvements required by this Chapter are satisfactorily completed.

- (2) **Inspection.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable), prior to commencing any work within the Subdivision, Certified Survey Map, or Condominium development shall make arrangements with the Town to provide for adequate inspection. The Town Engineer and/or Public Works Director or designee shall inspect or cause to inspect and approve all completed work prior to approval of the Final Plat or release of the required financial sureties. During the course of construction, the Town Engineer shall make such inspections as deemed necessary to ensure compliance with the approved plans and specifications. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall pay the Town for the costs incurred by the Town for such inspections.
- (h) **Financial Sureties.**
- (1) **Form of Financial Sureties.** Financial sureties furnished to the Town by Subdividers or Condominium Developers (as applicable) to ensure performance of obligations and guarantees under the terms of this Chapter shall only be in a form which the Town Board deems secure, and may include cash escrow deposits or irrevocable letters of credit in a form approved by the Town Board, or surety bonds. [See Section 14-1-51.]
- (2) **Determination of Financial Surety Amount.** The amount of financial surety shall be one hundred twenty-five percent (125%) of the Town Engineer's estimated full amount of the obligation being ensured (including the costs of inspection), not for a period less than the period in which the work is scheduled to be completed, however, the Town Board may allow reductions in the amount of the financial surety in proportion to the amounts of the obligations as they are fulfilled.
- (3) **Criteria for Determining Developer's or Condominium Developer's Delinquency in Meeting Requirements.** The Town Board shall give notice to the Subdivision, Certified Survey Map or Condominium Developer (as applicable) and the Subdivision, Certified Survey Map or Condominium Developer's (as applicable) surety, of such delinquency, said notice to specify the corrective measures required if the Subdivision, Certified Survey Map or Condominium Developer (as applicable):
- a. Fails to perform the work with sufficient workers and equipment or with sufficient materials to ensure the completion of said work within the specified time: or
 - b. Performs the work unsuitably, as determined by the Town Board; or
 - c. Neglects or refuses to supply materials or to perform anew such work as shall be rejected as defective and unsuitable; or
 - d. Discontinues the execution of the work; or
 - e. For any other cause whatsoever does not carry on the work in an approved manner.
- (4) **Guarantee of Improvements.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall guarantee all improvements for a period

of two (2) year from the date of the acceptance of improvements by the Town Board. To assure such improvement guarantee, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall provide an amount of financial surety (performance bond or letter of credit) for said guarantee not to exceed twenty-five percent (25%) of the construction value of said improvements.

- (5) **Town Board Action.** After said notice, the Town Board shall call upon the performance guarantee to have the work completed in accordance with the terms of the performance guarantee.
- (i) **Phasing.** The Town Board may permit the construction and installation of public improvements in phases corresponding to the development phases of the Final Plat or the development phases of a Condominium Plat.
- (j) **Construction; Installation.** All public improvements shall be constructed, installed and provided in a workmanlike manner, in accordance with the provisions of this Chapter, the Developer's Agreement entered into by and between the Subdivision, Certified Survey Map or Condominium Developer (as applicable) and the Town, and the plans and specifications approved by the Town Engineer, at the cost of the Subdivision, Certified Survey Map or Condominium Developer (as applicable) except as is otherwise expressly provided by this Chapter, and only after the Town Board has granted final approval of the Final Plat, Certified Survey Map, or Condominium, if the Subdivision, Certified Survey Map or Condominium Developer (as applicable) is responsible for providing the improvements, and only after the Town has issued written authorization to proceed with specified improvements.
- (k) **Stop Work Orders.** The Town Chairperson, Town Engineer, Public Works Director and Building Inspector shall have the authority to issue stop-work orders with respect to noncompliance with the installation of any required public improvements whenever the location, materials, workmanship, or manner of performance is not in accordance with the provisions of this Chapter, the Town's codes and ordinances, the Developer's Agreement (Development Agreement) entered into by and between the Subdivision, Certified Survey Map or Condominium Developer (as applicable) and the Town, or the plans, and specifications approved by the Town Engineer.

Sec. 14-1-66 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 Subdivider or Condominium Developer shall conform to the provisions of Chapter 236, Wis. Stats., and all applicable Town 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 Town Board. The Subdivision, Certified Survey Parcel Map or Condominium Plan shall be so designed as to provide each lot with satisfactory access to a public street or road.
- (c) **Street Layout to Conform to Official Map and/or Adopted Plans.** In any new Subdivision, Certified Survey Map, or Condominium development, the street layout shall conform to the arrangement, width, and location indicated on the Official Map, County jurisdictional highway system plan, Town Comprehensive Plan or Plan Component, or neighborhood unit development plan of the County or the Town of Lucas.
- (d) **Street Layout in Areas with No Official Map or Adopted Plans.** In areas for which plans have not been completed, the street layout shall recognize the functional classifications of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas.
- (e) **Access to Public Streets Required.** The Certified Survey Map or Subdivision shall be designed so as to provide each lot with satisfactory access to a public street.
- (f) **Street Classifications.** Streets shall be classified as follows:
 - (1) **Arterial Streets.** Arterial streets, as hereinafter defined, shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation, and points beyond the boundaries of the community. Arterial streets shall also be properly integrated with and related to the existing and proposed 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, as hereinafter defined, shall be arranged to provide ready collection of traffic from residential areas and conveyance of this traffic to the arterial street, major street, and highway system and shall be properly related to the mass transportation system, to special traffic generators such as schools,

churches or shopping centers, business parks, and other concentrations of population or employment and to the arterial streets to which they connect. Where neighborhoods and/or commercial activity/employment centers abut along arterial streets or highways, collector streets shall be planned to align to provide secondary interconnections between abutting neighborhoods or between abutting commercial activity/employment centers.

- (3) **Minor 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 or developed as a condominium unless prevented by topography or other physical conditions or unless, in the opinion of the Town Board, upon the recommendation of the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the Subdivision, Condominium, or Certified Survey Map or for the advantageous development of the adjacent tracts.
- (g) **Reserve Strips.** Reserve strips, strips which prevent access to public streets, shall not be provided in any Subdivision, Certified Survey Map or Condominium development to control access to streets or alleys, except where control of such strips is placed with the Town under conditions approved by the Town Board, upon the recommendation of the Plan Commission.
- (h) **Alleys.** Alleys may be provided in commercial and industrial districts for off-street loading and service access, but shall not be approved in residential districts. Dead-end alleys shall not be approved and alleys shall not connect to a major thoroughfare or federal, state or county trunk highway.
- (i) **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 Town Board, upon the recommendation of the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the Subdivision, Certified Survey Map or Condominium with existing layout or the most advantageous future development of adjacent tracts. Dead-end streets not over five hundred (500) feet in length may be approved when necessitated by the topography.
- (j) **Minor Streets.** Minor streets shall be so laid out so as to discourage their use by through traffic.
- (k) **Number of Intersections.** The number of intersections of minor streets with major streets shall be reduced to the practical minimum consistent with circulation needs and safety requirements, preferably not more than two (2). Wherever practicable the distance between such intersections should not be less than six hundred (600) feet.

- (l) **Frontage Roads.** Where a Subdivision, Certified Survey Map or Condominium abuts or contains an existing or proposed arterial highway, the Town Board, upon the recommendation of the Plan Commission, 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.
- (m) **Arterial Street and Highway Protection.** Whenever a proposed Condominium, Certified Survey Map or Subdivision contains or is adjacent to an arterial street or highway, adequate protection of residential properties, limitation of access, and separation of thorough and local traffic shall be provided by reversed frontage, with earthen berms (if topographically possible) and screen planting contained in a non-access reservation along the rear property line, or by the use of frontage streets.
- (n) **Stream or Lake Shores.** Stream or lake shores shall have a minimum of sixty (60) feet of public access platted to the low water mark at intervals of not more than one-half (1/2) mile as required by Section 236.16(3), Wis. Stats.
- (o) **Street Names.** Street names shall not duplicate or be similar to existing street names elsewhere in the County, and existing street names shall be projected wherever possible. Street names shall be approved by Dunn County and Town of Lucas.
- (p) **Limited Access Highway and Railroad Right-of-way Treatment.** Whenever the proposed Subdivision, Certified Survey Map, or Condominium contains or is adjacent to a limited access highway, arterial street or railroad right-of-way, the design shall provide the following treatment:
- (1) **Landscape Bufferyard Easement Requirement.** When lots within the proposed Subdivision, Certified Survey Map, or Condominium development back upon the right-of-way of an existing or proposed limited access highway or a railroad, a combined earthen berm (if topographically possible) and planting strip (landscape bufferyard easement) a minimum of thirty-five (35) 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: "Landscape Bufferyard Easement: This strip reserved for the planting of trees and shrubs, the building of structures hereon prohibited."
 - (2) **Streets Serving Commercial and Industrial Properties.** Commercial and industrial properties 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 Right-of-Way.** 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 Adjacent and Parallel to Railroads, Arterial Streets and Highways.** Minor streets immediately adjacent and parallel to railroad rights-of-way shall be avoided, and the 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 Construction and Dedication of Streets and Roads.

(a) **General Requirements.**

- (1) **Construction Standards.** All roadway and street 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 Town of Lucas, regardless of whether such streets or roads are part of a new subdivision or land division.
- (2) **Project Costs.** All roadway surveys, dedications, plans and specifications and construction will be at the expense of the applicant or applicants, unless otherwise specified. This includes any expense incurred by the Town in the preparation of plans and review and inspection of plans and construction.
- (3) **Required Inspections.** Although the Town Engineer or Town Board may conduct inspections as necessary at any state of construction, the Town Engineer or Town Board shall be contacted for required inspections after the following phases of construction:
 - a. Subbase grading;
 - b. Crushed aggregate base courses;
 - c. Bituminous surface course; and
 - d. Shouldering.
 - e. Placement of erosion control measures (soil stabilization and stormwater retention/detention measures).Any deficiencies found by the Town Engineer or Town Board shall be corrected before proceeding to the next phase of construction.
- (4) **Tests of Materials.** The Town 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.
- (5) **Pavement Samples.** Samples of bituminous concrete may be required to be taken by the Town at the developer's expense during pavement construction operations for purposes of determining that the material meets specifications.

- (6) **Town Board Approval.** The finished roadway shall meet with the approval of the Town Board since the Town will include this road work in their annual request for highway aid.
- (b) **Construction Standards.** The minimum construction specifications prescribed by this Section shall pertain to all new roads and streets, including roads set out in plats and private driveways for public use, and these standards shall be met before such roads will be accepted by the Town of Lucas as public roads. After completion of the underground utilities and approval thereof, the streets shall be constructed. Unless phasing of construction of improvements is approved by the Town Board or its designee, building permits shall not be issued prior to the installation of the street improvements and the approval of an individual lot grading plan that conforms to the guidelines of the master site grading plan, as determined by the Town Board or Town Engineer, or designee. All streets and highways constructed in the Town or to be dedicated to the Town shall fully comply with the following minimum construction standards; the Town Board reserves the right to modify these standards as needed:

URBAN CROSS SECTION (Where Curb & Gutter is Required by Town)

Type of Street	Right-of-Way Width to Be Dedicated
Statewide Principal Primary or Standard Arterial Streets	180 feet
Statewide Minor Arterial or Areawide High or Low Collectors	80 feet
Local Streets/Roads	66 feet
Pedestrian Ways	12 feet
Cul-de-Sacs (diameter feet)	160 feet
Type of Street	Pavement Width (Face of Curb to Face of Curb)
Statewide Principal Primary or Standard Arterial Streets	*
Statewide Minor Arterial or Areawide High or Low Collectors	*

Local Streets	32 feet
Pedestrian Ways	6 feet
Cul-de-Sacs (diameter feet)	160 feet

RURAL CROSS SECTION (No Curb & Gutter)

Type of Street	Right-of-Way Width to Be Reserved or Dedicated
Statewide Principal, Primary, Standard, Arterial	*
Local Street/Roads	66 feet
Areawide High and Low Collectors	80 feet
Cul-de-Sacs (diameter feet)	160 feet
Type of Street	Pavement Width (Edge to Edge)
Statewide Principal, Primary, Standard, Arterial	*
Areawide High and Low Collectors	*
Local Streets and Roads	22 ft. (3 ft. shoulder, each side)

*To be determined by the Town Board with advice from the Dunn County Highway Commissioner.

- (1) **Roadway Alignment Details.** As specified in the Dunn County Code of Ordinances.
- (2) **Roadway Grading; Ditches.** Roads and ditches shall be graded to their full width in accordance with approved plans and the standards and requirements set forth in this Chapter and those of Dunn County. The roadway shall be compacted and graded to subgrade using, where necessary, approved fill material which is in accordance with Wisconsin Department of Transportation standards. Roadside ditches shall be a minimum of twenty-six (26) inches below the finished roadway centerline elevation,

- or as approved by the Town Board, upon the recommendation of the Town Engineer (if applicable). Debris may not be buried in the designated road right-of-way. Roadway ditches shall have a normal slope ratio of three to one (3:1) ditch from the edge of the shoulder to the bottom of the ditch slope of one percent (1%) and 2 to 1 (2:1) on the back slope.
- (3) **Road Right-of-Way.** The standard Town road shall have a right-of-way width of sixty-six (66) feet.
 - (4) **Minimum Base Course Specifications.** The base course shall consist of ten (10) inches of three-fourths (3/4) inch crusher run stone. The applicant shall furnish a written certificate of the supplier of stone, certifying the road proposed for acceptance by the Town of Lucas, upon request by the Town Board.
 - (5) **Additional Base Material.** If, in the opinion of the Town Board, soil forming the foundation for a road proposed to be accepted by the Town of Lucas, is unstable as a result of water saturation or unstable composition of soils, or is otherwise so unstable as to preclude the construction of a sound and durable public road in accordance with the minimum specifications otherwise established by this Chapter, the Town Board of the Town of Lucas may require construction of additional base materials before such road shall be accepted as a public road. The use of screenings is not permitted.
 - (6) **Surface Course Standards.** Surfacing must consist of approved asphalt or bituminous concrete composition suitable for anticipated traffic loads. The minimum amount of asphalt pavement necessary for acceptance shall be at least three (3) inches compacted in thickness, installed in two (2) lifts of one and one-half (1-1/2) inches each. Such material shall be laid down at a width of not less than twenty-two (22) feet with its centerline corresponding to the centerline of the right-of-way.
 - (7) **Shouldering.** Shouldering shall be placed on each side of the pavement. Shouldering must correspond with the height of the pavement. It shall be three-fourths (3/4) inch crusher run stone.
 - (8) **Authority for Higher Standards.** The road design standards herein as stated above are intended to be minimum design standards. The Town Board shall have the discretion to impose higher design standards where in the opinion of the Town Board local conditions require higher standards or anticipated traffic which in quantity or quality will require higher standards.
 - (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 shall be protected by necessary erosion control materials such as hay bales, sod, erosion control mats, etc., as prescribed by the engineering design for the ditches as approved by the Town Engineer or Town Board.
 - (10) **Extra Turn Surface.** Increased radii or intersection classification shall be provided at the request of the Plan Commission and/or Town Board.

- (11) **Drainage Improvements.** In the case of all new roads and streets, the Town Board may require that stormwater retention areas and storm sewers be constructed in order to provide for proper drainage.
- (c) **Statutory Requirements.** The laying out of highways and roads shall be as provided in Chapters 80 and 86, Wis. Stats., except that in the case of subdivisions and certified surveys, the provisions of Sec. 236.29(2), Wis. Stats., shall apply.
- (d) **Final Inspection.** Upon completion of the proposed highway, the Town Board or Town Engineer will proceed to make final inspection, accepting or rejecting the road as the case may be. After all of the provisions of this Chapter have been complied with, the roadway or easement will be inspected by the Town officials and, at that time, proof will be made by the presenting of waivers of liens or receipted bills that all work that has been done has been paid for or arrangements have been made for the payment through written instrument by the subdivider. If the road is rejected, corrections shall be made as recommended by the Town Board, before final inspection can then be made again. If final acceptance is then made, the owner or owners shall turn over to the Town the deed of all land necessary for the road as previously mentioned.
- (e) **Maximum Cul-de-Sac Street Length.** Cul-de-sac streets designed to have one (1) end permanently closed shall not exceed one thousand (1,000) feet in length.
- (f) **Temporary Street Termination.** Temporary termination of streets intended to be extended at a later date shall be accomplished with a temporary cul-de-sac in accordance with the standards set forth above, or by the construction of a temporary "T" intersection thirty-three (33) feet in width and thirty-three (33) feet in length abutting the right-of-way lines of the access street on each side.
- (g) **Roadway Elevations; Interval Floods.** Elevations of roadways passing through floodplain areas shall be designed in the following manner:
- (1) **Arterial Streets.** Freeways and arterial streets and highways shall be designed so they will not be overtopped by the 100-year recurrence interval flood.
 - (2) **Collector Streets.** Collector streets shall be designed so they will not be overtopped by the 50-year recurrence interval flood.
 - (3) **Local Streets.** Local streets shall be designed so they will not be overtopped by the 25-year recurrence interval flood.
- (h) **New and Replacement Bridges and Culverts.**
- (1) **Applicable Standards.** All new and replacement bridges shall be constructed in accordance with all applicable Wisconsin Statutes and state regulations, and shall be submitted to the Wisconsin Department of Natural Resources to ensure compliance therewith.
 - (2) **Waterway Bridges.** All new and replacement bridges and culverts over perennial waterways, including pedestrian and other minor bridges, in addition to meeting other applicable requirements, shall be designed so as to accommodate the 100-year recurrence interval flood event without raising the peak stage, either upstream or

downstream, more than 0.01 foot above the peak stage for the 100-year recurrence interval flood:

- a. Larger permissible flood stage increases may be acceptable for reaches having topographic land use conditions which could accommodate the increased stage without creating additional flood damage potential upstream or downstream of the proposed structure.
- b. Such bridges and culverts shall be so designed and constructed as to facilitate the passage of ice flows and other debris.

(i) **Street Grades.**

- (1) **Generally.** 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.
- (2) **Changes in Street Grade.** All changes in street grades shall be connected by vertical curves of a minimum length as directed by the "Wisconsin Department of Transportation Facilities Design Manual (FDM)" for the roadway posted speed.
- (3) **Maximum Centerline Grades.** Unless necessitated by exceptional topography subject to the approval of the Town Board, the maximum centerline grade of any street or public way shall not exceed the following:
 - a. Arterial and collector streets: Six percent (6%).
 - b. Minor streets, alleys and frontage streets: Eight percent (8%).
 - c. Bicycle paths: Five percent (5%) and meeting all applicable guidelines and standards promulgated by the American Association of State Highway and Transportation Officials (AASHTO) in its *Guide for the Development of Bicycle Facilities*, most recent addition.
 - d. Pedestrian ways: Eight percent (8%) and meeting all applicable Americans with Disabilities Act (ADA) "Accessibility Guidelines."
 - e. Equestrian trails: Eight percent (8%).
- (4) **Maximum and Minimum Grade.** The grade of any street shall in no case exceed ten percent (10%) or be less than one-half of one percent (0.5%).
- (5) **Grade Variations.** Street grades may be varied as provided for in Subsection (e)(3) above.

(j) **Radii of Curvature.**

- (1) **Standards.** 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:
 - a. Arterial streets and highways: Five hundred (500) feet.
 - b. Collector streets: Three hundred (300) feet.
 - c. Minor streets: One hundred (100) feet.
 - d. Rural and suburban streets: May be less than one hundred (100) feet in environmentally-sensitive areas as determined by the Town Board, upon the recommendation of the Plan Commission.

- (2) **Reverse Curve Tangents.** A tangent at least one hundred (100) feet in length shall be provided between reverse curves on arterial and collector streets.
- (k) **Half-Streets.** Where an existing dedicated or platted half-street is adjacent to the tract being developed by a Subdivision Plat, Certified Survey Map or Condominium Plan, the other half of the street shall be dedicated by the Subdivision, Certified Survey Map or Condominium Developer (as applicable). The platting of new half-streets shall not be permitted.
- (l) **Street Intersections.** Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit. In addition:
 - (1) **Maximum Number of Streets Converging at Single Intersection.** The number of streets converging at one (1) intersection shall be reduced to a minimum, preferably not more than two (2).
 - (2) **Number and Distance Between Intersections Along Arterial Streets and Highways.** The number of intersections along arterial streets and highways shall be held to a minimum. Wherever practicable, the distance between such intersections shall not be less than twelve hundred (1,200) feet.
 - (3) **Rounding of Property Lines at Street Intersections Required.** Property lines at street intersections may be rounded with a minimum radius of fifteen (15) feet, or of a greater radius when required by the Town Board, upon the recommendation of the Plan Commission, or shall be cut off by a straight line through the points of tangency of an arc having a radius of fifteen (15) feet.
 - (4) **Continuous Alignment of Minor Streets Required at Intersections.** Minor streets shall not necessarily continue across arterial or collector streets, but if the centerlines of such minor streets approach the major streets from opposite sides within two hundred (200) feet of each other, measured along the centerline of the arterial or collector street, then the location shall be adjusted so that the adjoinment across the major or collector street is continuous — thus a jog is avoided.
 - (5) **Vision Clearance Easements.** Vision clearance easements shall be provided at street intersections as may be required by any approving or objecting authority concerned.

Sec. 14-1-72 Block Design Standards.

The widths, lengths, and shapes of blocks that are created shall be suited to the planned use of the land, zoning requirements, overall residential density, the need for convenient access, control and safety of street traffic, and the limitations and opportunities of topography. In addition:

- (a) **Maximum Block Length.** The length of blocks in residential areas shall not, as a general rule, be less than six hundred (600) feet nor more than fifteen hundred (1,500) feet in length unless otherwise required by the County General Zoning and Shoreland/Floodplain Zoning Ordinances, exceptional topography, environmental features, request of the Town

Board, upon the recommendation of the Plan Commission, or other limiting factors of good design.

- (b) **Bicycle Paths, Equestrian Trails, and Pedestrian Ways Required at Center of Blocks Over 900 Feet in Length.** Bicycle paths, equestrian trails, and pedestrian ways (easement or dedicated public right-of-way) of not less than twenty (20) feet in width may be required near the center and entirely across any block over nine hundred (900) feet in length where deemed essential by the Town Board, upon the recommendation of the Plan Commission, to provide adequate pedestrian circulation or access to schools, parks, shopping centers, churches, or transportation facilities.
- (c) **Block Width.** The width of blocks shall be wide enough to provide for two (2) tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.
- (d) **Mid-Block Utility Easements Required.** Utility easements for electric power and telephone service shall, where practical, be placed on mid-block easements along rear lot lines.

Sec. 14-1-73 Lot Design Standards.

The size, shape, and orientation of lots shall be appropriate for the location of the Subdivision or Certified Survey Map development, and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing building site and a proper architectural setting for the building contemplated. In addition:

- (a) **Area and Dimensional Requirements of Lots.** Areas and dimensions of all lots shall conform to the requirements of the County General Zoning and Shoreland/Floodplain Zoning Ordinances, and this Chapter, whichever is more restrictive. All new lots in the Town of Lucas shall have a minimum area of two and one-half (2.5) acres. Lots shall contain sufficient area to permit compliance with all required setbacks, including those set forth in the County General Zoning and Shoreland/Floodplain Zoning Ordinances and those that may be required to meet the requirements of TRANS 233, Wis. Adm. Code. Regarding the construction and installation of a private on-site wastewater treatment system, those building sites not served by a public sanitary sewage system or other approved system shall be sufficient to permit the use of a private onsite wastewater treatment system designed in accordance with COMM 83 and 85, Wis. Adm. Code, and all applicable County Codes, including the Sanitary Code and Private Sewage System Code.
- (b) **Front Lot Width at the Right-of-Way.**
 - (1) **Minimum Front Lot Width at the Right-of-Way.** Minimum front lot width at the right-of-way for non-cul-de-sac lots: One Hundred and Fifty (150) feet.

- (2) **Minimum Front Lot Width for Cul-de-Sac Lots.**
 - a. Minimum front lot width at the right-of-way for cul-de-sac lots: One Hundred and Twenty (120) feet.
 - b. The lot width at the cul-de-sac right-of-way may be reduced by an exception to the design standard if the front line setback is measured from the place at which the required lot width can be found, parallel to the cul-de-sac right-of-way.
- (c) **Front Lot Width at Front Building Line.** Minimum lot width at front building line: One Hundred and Fifty (150) feet.
- (d) **Lot Lines.** Lot lines shall follow municipal boundary lines rather than cross them.
- (e) **Double Frontage Lots.** Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
- (f) **Lot Depth.** The maximum front-to-back average lot ratio, calculated per County standards, shall be 3:1. Excessive depth of lots in relation to width shall be avoided. Depth of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated.
- (g) **Corner Lots.** Corner lots which are one (1) acre or less in area shall have an extra width of ten (10) feet to permit adequate building setbacks from side streets.
- (h) **Plats Abutting a Lake or Stream.** In any plat abutting a lake or stream, lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be included as part of lots, outlots, or public dedications.
- (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.** Where lots are created of a size larger than the minimum lot size required by the underlying zoning district, the Town Board, upon the recommendation of the Plan Commission, may require that the plat be so designed as to allow for the possible future resubdivision of such lots into lot sizes compatible with the underlying zoning district.
- (k) **Flag Lots.** Flag lots shall be permitted.
- (l) **Re-Division of Lots.** Wherever a lot, parcel, or tract is subdivided into lots or parcels that are more than twice the minimum lot area required in the zoning district in which the lot or parcel is located, the Town Board, upon the recommendation of the Plan Commission, may require that such lots or parcels be arranged and dimensioned to allow re-division into smaller lots or parcels that will meet the provisions of this Chapter and the County General Zoning and Shoreland/Floodplain Zoning Ordinances.
- (m) **Restrictions Prohibiting Development.** Whenever a lot appearing on a Final Plat, Condominium Plat, or Certified Survey Map is not intended to be buildable, or is intended to be buildable only upon certain conditions, an express restriction to that effect, running with the land and enforceable by the Town, shall appear on the face of the plat or map.

Sec. 14-1-74 Building Setback Lines.

- (a) **Building Setback Lines Generally.** Building setback lines appropriate to the location and type of development contemplated prescribed below, which are more restrictive than the regulation of the zoning district in which the Subdivision, Certified Survey Map, or Condominium development is located, shall be required by the Town and shall be shown on the Final Plat, Certified Survey Map, and Condominium Plat. This provision includes requiring greater setbacks on cul-de-sac lots to achieve the necessary lot width at the setback line; requiring greater setbacks to conform to setbacks of existing adjacent development; requiring greater setbacks to accommodate a unique design; requiring greater setbacks to avoid placing buildings within easements or vision clearance triangles; setting special yard requirements to protect natural resources or requiring greater setbacks along arterial streets and highways to meet the requirements of TRANS 233, Wis. Adm. Code. Unless the requirement is waived by the Town Building Inspector, a registered land surveyor shall mark each lot's front and side minimum building line setbacks at or prior to building permit issuance. Decks and porches are considered to be part of the principal structure for purposes of setback determination.
- (b) **Front Building Line Setback.**
- (1) Front building line setback from road right-of-way: One hundred and fifty (150) foot minimum.
 - (2) Front building line setback from paved road surface: One hundred and seventy (170) foot minimum.
 - (3) The front building line setback shall be the greater of Subsections (b)(1) or (b)(2).
- (c) **Side Building Line Setbacks.**
- (1) Side building line setbacks: Fifty (50) foot minimum, each side.
 - (2) The sideyard setback lines in Subsection (c)(1) above may, by exception, be reduced:
 - a. To ten (10) feet (each side) on lot two and one-half (2.5) acres or less if the distance to the nearest building on the adjoining lot is fifty (50) feet or more away.
 - b. To twenty-five (25) feet (each side) on lots two and one-half (2.5) acres or more if the distance between the next nearest building on the adjoining lot is one hundred (100) feet or more away.
- (d) **Rear Building Line Setbacks.**
- (1) Rear building line setbacks: Fifty (50) foot minimum.
 - (2) The rear yard setback lines in Subsection (d)(1) above may, by exception, be reduced:
 - a. To ten (10) feet on lots two and one-half (2.5) acres or less if the distance to the nearest building on the adjoining lot is fifty (50) feet or more away.
 - b. To twenty-five feet on lots two and one-half (2.5) acres or more if the distance between the next nearest building on the adjoining lot is one hundred (100) feet or more away.
- (e) **Corner Lot Setbacks.** Corner lots shall meet building line setbacks from both roads.

- (f) **Previously Recorded Lots.** With lots created by Plats and Certified Survey Maps recorded prior to the effective date of this Chapter, setback requirements default to the County Zoning Code, if no setbacks are shown on the recorded Plat or Certified Survey Map.
- (g) **Notice Requirement When Setbacks Modified.** Where an exception to a design standard is granted for a particular lot changing a side or rear setback line, an affidavit shall be recorded by the Town Clerk attaching to the affected adjoining lot and explaining in detail how far in from the presumptive setback line the Town Board action has moved the actual setback line. No such exception to design standards shall be granted without the express consent of the adjoining landowner. Use of a signed affidavit is required.

Sec. 14-1-75 Access to Public Streets; Driveways.

This Section sets forth vehicular access and driveway location requirements for Certified Survey Maps, Subdivision Plats, and Condominiums which abut both arterial, collector, and minor streets. This Chapter recognizes that public streets are a public investment which require control mechanisms in order to assure both public safety and functional capacity. Proposed Certified Survey Maps, Subdivision Plats, and Condominiums for residential and nonresidential uses shall meet the following requirements:

- (a) **Access Standards for All Residential and Nonresidential Uses.** All proposed Certified Survey Maps, Subdivision Plats, and Condominiums proposed for residential and/or nonresidential uses located in residential and/or nonresidential zoning districts shall meet the following standards:
 - (1) **Controlled Access to Public Streets.** Lot and parcel vehicular access points shall be permitted only at locations in accordance with this Chapter and other Town of Lucas adopted Comprehensive Plan(s) or elements thereof, ordinances, or other plans approved by the Town Board, upon the recommendation of the Plan Commission. The Town Board, upon the recommendation of the Plan Commission, may limit vehicular access to any adjoining arterial, collector, or minor street.
 - (2) **Distance Between Vehicular Access Points; Adjacent Driveway Separation.** The spacing of vehicular access points from arterial, collector, and minor streets (which are under the jurisdiction of the Town) to lots and parcels shall be determined as a function of arterial street and highway collector street, and minor street operating speeds, based upon average vehicle acceleration and deceleration rates, and as are considered necessary to maintain safe traffic operation. However, the minimum adjacent driveway separation shall be forty-two (42) feet.
 - (3) **Limitation of Access to Interstate, Federal, and State Trunk Highways.** No new direct vehicular access shall be allowed to interstate, federal, and state trunk highway public rights-of-way unless approved by the Wisconsin Department of Transportation, Dunn County, and the Town Board.

- (4) **Temporary Access.**
- a. **Town Streets.** On Town streets, the Town Board may grant temporary access to properties and require their closure when access through adjoining properties is acquired. Such access shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.
 - b. **County Highways.** Temporary access to County highway rights-of-way shall be reviewed and may be approved by the Dunn County Highway Department. It is the Subdivider's or Condominium Developer's responsibility (as applicable) to obtain all necessary approvals from the Dunn County Highway Department for all such temporary access points proposed prior to Certified Survey Map, Subdivision Plat, or Condominium approval by the Town of Lucas.
 - c. **State Highways.** Temporary access to State highway rights-of-way shall be reviewed and may be approved by the Wisconsin Department of Transportation. It is the Subdivider's or Condominium Developer's responsibility to obtain all necessary approvals from the Wisconsin Department of Transportation for all such temporary access points proposed prior to the Certified Survey Map, Subdivision Plat, or Condominium approval by the Town.
- (5) **Area Circulation Plan.** The Town Board, upon the recommendation of the Plan Commission, may require the preparation of an area circulation plan for the proposed Certified Survey Map, Subdivision Plat, or Condominium or covering several properties in an area surrounding a proposed Certified Survey Map, Subdivision Plat, or Condominium. The delineation of this area for the preparation of an area circulation plan shall be determined by the Town Board, upon the recommendation of the Plan Commission. Such a plan may require the sharing of access locations or temporary access. All landowners, except those with a previously approved Certified Survey Map, Subdivision Plat, or Condominium shall be required to conform to such an area circulation plan once it is adopted by the Town Board, upon the recommendation of the Plan Commission, as a component, or element, of the Town Comprehensive Plan. The Town Board, upon the recommendation of the Plan Commission, may require that such an area circulation plan be prepared based upon the conduct of a traffic impact analysis conducted by a licensed professional engineer with expertise in traffic engineering. The Town Engineer shall review all such studies and assist the Plan Commission and Town Board.
- (6) **Vehicular Non-Access Reservations Required.** The Town Board may require that deed restrictions be placed on Certified Survey Maps, Subdivision Plats, or Condominiums in order to limit vehicular access to abutting arterial, collector or minor streets and highways. A landscaped bufferyard of adequate opacity, as determined by the Town Board, upon the recommendation of the Plan Commission or by Town ordinances, shall be provided in vehicular non-access reservations along

the property line abutting a public street right-of-way. In such situations, vehicular access to such lots may be provided by an abutting minor or collector street at designated access driveways. Such vehicular non-access reservations shall be graphically so noted on Certified Survey Maps, Subdivision Plats, or Condominium Plats prior to their approval by the Town.

- (7) **Arterial Street and Highway Access and Street Intersections.** No new direct public or private access shall be permitted to an arterial street or highway within one hundred and fifteen (115) feet of the intersection of the right-of-way lines of another arterial street or highway; and, where lot or parcel size permits, no new direct public or private access shall be permitted to an arterial street or highway within five hundred (500) feet of the intersection of the right-of-way lines of another arterial street.
 - (8) **Minor Streets and Vehicular Access Point Alignments.** Minor streets and vehicular access points along both sides of a collector and/or arterial street shall be aligned to assist in reducing the number of driveways needed and to improve safety conditions related to access to the street system.
 - (9) **Sight Distance and Driveway Placement.** Direct vehicular access placement on abutting minor, collector, and arterial streets and highways shall be such that an exiting vehicle has a minimum, unobstructed sight distance based upon the operating design speed of the abutting collector or arterial street or highway.
- (b) **Access Standards for Nonresidential and Multiple-Family Residential Uses.**
- (1) **Standards.** All proposed Certified Survey Maps, Subdivision Plats, and Condominiums proposed for nonresidential and multiple-family residential uses located in nonresidential and/or multiple-family residential zoning districts and taking access to/from arterial, collector, and minor streets (which are under the jurisdiction of the Town) shall meet the Town's highway design speed and minimum required sight distance for direct vehicular access point placement standards.
 - (2) **Maximum Number of Vehicular Access Points Per Lot.** Generally, along arterial streets and highways (including lots which abut the frontage roads of said rights-of-way), where the abutting street frontage is less than four hundred (400) feet, a maximum of one (1) vehicular access point shall be permitted to a particular lot from each of any one (1) or two (2) abutting arterial streets and highways. One (1) additional driveway entrance along a single continuous lot with frontage in excess of four hundred (400) feet may be permitted by the Town Board, upon the recommendation of the Plan Commission. When a shared vehicular access point is used by two (2) or more abutting lots, said shared vehicular access point shall be considered as one (1) single vehicular access point for each lot or parcel served.
 - (3) **Provision of Shared Vehicular Access Points Between Lots.** Vehicular access points planned to be located along property lines or within five (5) feet of a property line shall be shared vehicular access points with the abutting lot or parcel. The

vehicular access point centerline may be the property line between two (2) lots or parcels of land or may be a mutually agreed upon land access easement.

- (c) **Minimum Adjacent Driveway Separation.** The minimum adjacent driveway separation, measured from center line to center line at the point where driveways connect to the edge of a paved Town road: Forty-two (42) feet.
- (d) **Paved Driveway Requirement.** For lots in a Major Subdivision, a paved driveway is required for the first fifty (50) feet from the point where the driveway connects to a public road. A paved driveway is not required for lots in a Minor Subdivision (Certified Survey Map).
- (e) **Shared Driveways.** Shared driveways are permitted to serve lots in Major or Minor Subdivisions, provided that the shared portion is paved.
- (f) **Minimum Driveway Standards.** In addition to the requirements herein, all driveways created to serve lots shall comply with the construction and location standards of Section 6-3-1 of the Town of Lucas Code of Ordinances.

Cross-Reference: Section 6-3-1, Driveways.

Sec. 14-1-76 Drainage System.

- (a) **Drainage System Required.** As required by Sec. 14-1-56, 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 or Condominium Plan 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 Town Board, upon the recommendations of the Plan Commission and Town Engineer (if consulted).
- (b) **Drainage System Plans.**
 - (1) The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall submit to the Town 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 Subdivision, Certified Survey Map, or Condominium Developer for the area within the proposed development.
 - (3) The design criteria for storm drainage systems shall be based upon information provided by the Town 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 Town Board, upon the recommendation of the Town Engineer.
- (c) **Grading.** The Subdivision, Certified Survey Map, or Condominium Developer shall grade each subdivision in order to establish street, block and lot grades in proper relation to each other and to topography as follows:
- (1) The developer shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans.
 - (2) Block grading shall be completed by one (1) or more of the following methods:
 - a. A ridge may be constructed along the rear lot lines which provides for drainage onto the streets.
 - b. Parts of all lots may be graded to provide for drainage to the street or to a ditch along the rear lot line.
 - c. Draining across rear or side lot lines may be permitted provided that drainage onto adjoining properties is skillfully controlled.
- (d) **Drainage System Requirements.** The Subdivision, Certified Survey Map, or Condominium Developer 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 a 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 Town to provide for the future maintenance of said system. Easements shall be a minimum of twenty (20) feet, but the Town may require larger easements if more area is needed due to topography, size of watercourse, etc.
- (e) **Protection of Drainage Systems.** The subdivider shall adequately protect all ditches to the satisfaction of the Town Board and Town 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.)

(f) **Maintenance Agreement.**

- (1) A maintenance agreement shall be required between the Town and the Subdivision, Certified Survey Map or Condominium Developer (as applicable). The agreement shall be recorded as a property deed restriction by the subdivider with the County Register of Deeds in a form which shall be binding upon all subsequent owners of land covered by the agreement. Such agreement shall assign on-going responsibility for maintenance and repair of the stormwater management system, including detention/retention facilities and drainageways, to a homeowners, property owners or condominium association per Section 14-1-23. Prior to Final Plat approval, the Subdivision, Certified Survey Map, or Condominium Developer (as applicable) shall submit to the Town for its approval an on-going maintenance and mowing plan for such facilities, which shall be incorporated by reference into all approvals and development agreements.
- (2) If the Town at any time finds that the stormwater management measures constructed in accordance with the system plan are not being properly maintained, or if altered in any way from the location, configuration and capacity of the measures specified in the approved plan, the Town shall have the right to undertake the needed maintenance or repair. This right shall include the right to enter onto private property as necessary to carry out the needed maintenance or repair. The cost of such maintenance or repair shall be levied as a special assessment or special charge against the properties concerned. The special charge or assessment shall be collectible in the same manner as all other special assessments/charges levied by the Town of Lucas.

Cross-Reference: Section 14-1-23.

Sec. 14-1-77 Non-Residential Subdivisions.

- (a) **General.** If a proposed Subdivision, Certified Survey Map or Condominium development includes land that is zoned or intended for commercial or industrial purposes, the layout of the development with respect to such land shall be subject to all the requirements of this Chapter, as well as such additional standards required by the Town and shall conform to the land use standards established by the Town Comprehensive Plan or the pertinent Zoning Code.
- (b) **Standards.** In addition to the principles and standards in this Chapter, which are appropriate to the planning of all land divisions, the applicant shall demonstrate to the satisfaction of the Town Board 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/commercial parcels shall be suitable in area and dimensions to the types of industrial/commercial development anticipated.

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- (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 Town Board with respect to street, street drainage, and sidewalk design and construction.
- (4) Special requirements may be imposed by the Town Board 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. 14-1-78 through Sec. 14-1-79 Reserved for Future Use.

Article H: Park and Public Land Dedications

Sec. 14-1-80 General Park and Public Land Dedication Requirements.

- (a) **Dedication Requirement.** In order that adequate open spaces and sites for public uses may be properly located and reserved and in order that the cost of providing public areas, such as but not limited to, parks, recreation areas and public schools may be equitably apportioned on the basis of additional need created by the subdivision development, each Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall be required to dedicate land or fees in lieu of land for park or other public uses.
- (b) **General Design.** In the design of a subdivision, land division, condominium, planned unit development or development project, provision shall be made for suitable sites of adequate area for schools, parks, playgrounds, open spaces, drainage-ways and other public purposes. Such sites are to be shown on the Preliminary Plat and Final Plat, and shall comply with the Town of Lucas Comprehensive Plan or component of said Plan. Consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds, ravines and woodlands, prairie and wetlands, and plant and animal communities.
- (c) **Suitability of Land for Public Use.** Whenever a Certified Survey Map, Subdivision Plat, or Condominium development includes a proposed dedication of land to public use and it is found that such land is not required or not suitable for public use, the Town Board may either refuse to approve such dedication or require the rearrangement of lots in the proposed Certified Survey Map, Subdivision Plat, or Condominium.
- (d) **Location.** Whenever a Certified Survey Map, Subdivision Plat, or Condominium development includes a proposed dedication, it shall be so located and sited with sensitivity to surrounding development and existing and planned land uses.
- (e) **Drainageways, Stormwater Detention and Retention Basins and Other Public Ways or Public Access to Navigable Lakes or Streams.**
 - (1) Whenever a tract of land to be subdivided as a Subdivision, divided by a Certified Survey Map, or developed as a Condominium includes lands designated to be owned by the public to include drainageways and stormwater easements, stormwater detention and retention basins, and other public ways or public access to navigable lakes or streams which have been designated or graphically delineated on the adopted County Development Plan, and/or Town Comprehensive Plan or adopted Plan Components, or as required by the Wisconsin Department of Natural Resources under Section 236.16(3), Wis. Stats., or required by the Town of Lucas, said public way shall be made a part of the Subdivision Plat, Certified Survey Map, or Condominium and dedicated by the Subdivider, Certified Survey Map, or Condominium Developer (as applicable) in the location and dimensions indicated on said plan or map and as set forth in this Chapter.

- (2) Subdivisions or Certified Survey Maps abutting on a navigable lake or stream shall, according to the provisions of Section 236.16(3), Wis. Stats., provide access at least sixty (60) feet wide to the low water mark so that there will be public access, which is connected to existing public roads at least one-half (1/2) mile intervals as measured along the lake or stream shore, except where greater intervals and wider access is approved, and excluding shore areas where public parks or open space and streets or roads on either side of a stream are provided. Such access shall be dedicated to the Town of Lucas or Dunn County.
- (f) **Public Parks or Public Playgrounds.** Whenever a tract of land to be divided by either Certified Survey Map or Subdivision Plat or is developed as a Condominium within the jurisdiction of this Chapter encompasses all or any part of a public park or public playground that has been designated on a duly adopted Town of Lucas, Dunn County, or regional comprehensive plan or plan component pursuant to Section 62.23(6), Wis. Stats., said public park or public playground shall be made a part of that Certified Survey Map, Subdivision Plat, or Condominium and dedicated or reserved by the Subdivider or Condominium Developer (as applicable) in the locations and dimensions indicated on said plan and based upon a public facilities needs assessment pursuant to the requirements of Section 66.0617, Wis. Stats.
- (g) **Form of Dedication Documents.** The form of the dedication documents shall be subject to approval by the Town Attorney.

Sec. 14-1-81 Land Dedication.

- (a) **Dedication Calculation.** All subdividers shall be required to dedicate developable land to the Town of Lucas for park, school or other public uses, other than streets or drainageways, pursuant to the following:
 - (1) **Single-Family Units.** For single-family units, the amount shall be calculated by multiplying ten-hundredths (0.10) acres times the total number of dwelling units in the Plat, subtracting the amount of dedicated acres therefrom, and multiplying the resulting number of remaining acres by _____ dollars. The fee shall be adjusted annually as of January 1st of each year by the Town Board, utilizing the "Consumer Price Index—All Urban Consumers for Small Metro Areas" prepared by the United States Department of Labor.
 - (2) **Multi-Family.** For duplex, multi-family and condominium units, the fee shall be calculated in the amount of _____ dollars per proposed dwelling unit.
- (b) **Shoreland.**
 - (1) **Lake and Stream Shore Plats.** All subdivisions abutting on a navigable lake or stream shall provide public access at least sixty (60) feet wide providing access to the low watermark so that there will be public access, which is connected to existing public roads, at not more than one-half (1/2) mile intervals as measured along the lake

or stream shore except where greater intervals and wider access is agreed upon by the Wisconsin Department of Natural Resources and the Wisconsin Department of Administration, and excluding shore areas where public parks or open-space streets or roads on either side of a stream are provided. No public access established under this Chapter may be vacated except by Circuit Court action. This Subsection does not require the Town to improve land provided for public access.

- (2) **Lake and Stream Shore Plats.** The lands lying between the meander line, established in accordance with Section 236.20(2)(g), Wis. Stats., and the water's edge, and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be included as part of lots, outlots or public dedications in any plat abutting a lake or stream. This Subsection applies not only to lands proposed to be subdivided but also to all lands under option to the subdivider or in which the subdivider holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream.
- (c) **Unknown Number of Dwelling Units.** Where the plat does not specify the number of dwelling units to be constructed, the land dedication shall be based upon the maximum number of units permitted by the pertinent Zoning Chapter and this Chapter.
- (d) **Deeded to the Town.** Land dedicated for public purposes shall be deeded to the Town at the time the Final Plat is approved.
- (e) **Access to Dedicated Land.** All dedicated land shall have frontage on a public street and shall have unrestricted public access.
- (f) **Utility Extensions.** The subdivider shall install or provide for installation of water and sanitary sewer lines to the property line of all dedicated land, where such services are to be provided to the adjacent properties.
- (g) **Fee for Initial Improvement of Parkland.**
 - (1) The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall pay, prior to the Town signing the final plat or certified survey or, in the case of condominium development pursuant to this Land Division Subdivision Ordinance, the developer shall pay, prior to issuance of a building permit, a fee for initial improvement of land for public parks. This is in addition to any fee in lieu of land or land dedication required by this Article. All fees collected hereunder shall be utilized to construct improvements of public parks as specified in Sec. 236.45(6)(ac), Wis. Stats. All fees collected thereunder shall be placed into a separate non-lapsing segregated fund to be used solely for initial improvements for public parks.
 - (2) The specific park improvements authorized and for which fees are collected are as follows:
 - a. Grading;
 - b. Landscaping;
 - c. Installation of utilities;
 - d. Construction of sidewalks;
 - e. Installation of playground equipment; and
 - f. Construction or installation of restroom facilities.

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- (3) The amount of the fee for initial improvement of land for public parks shall be Fifty Dollars (\$50.00) for each multi-family housing unit (with one bedroom or less) and Sixty Dollars (\$60.00) for each other dwelling unit type. The fee for initial improvement of land for public parks shall be adjusted annually for inflation by using the "Consumer Price Index, National Series (assuming December, 1985 = 100)" for all nonfood items as published by the U.S. Department of Labor, Bureau of Labor Statistics.
- (4) This fee shall be required for all new residential development in the Town of Lucas and shall be in addition to any land dedication or payment of fees in lieu of land dedication as required by this Article.

Sec. 14-1-82 Reservation of Additional Land.

When public parks and sites for other public areas as shown on the Comprehensive Plan or Comprehensive Plan Component lie within the proposed area for development and are greater in area than required by Section 14-1-81, the owner shall reserve for acquisition by the Town, through agreement, purchase or condemnation, the remaining greater public area for a period of one (1) year of Final Plat approval unless extended by mutual agreement.

Sec. 14-1-83 Development of Park Area.

- (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 four (4) inches of quality topsoil and good quality grass seed, fertilizer and mulch.
- (b) The Town Board may require certification of compliance by the Town Engineer or other Town official. The cost of such report shall be paid by the subdivider.
- (c) Development of parklands is to be completed as soon as ten percent (10%) of the planned lots in the subdivision are sold, as determined by the Town Board.
- (d) If the subdivider fails to satisfy the requirements of this Section, the Town Board 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.
- (e) Through the development agreement between the Town and the subdivider, provisions may also be agreed upon to allow the subdivider to make necessary park improvements, as part of satisfying the provisions of this Section.

Sec. 14-1-84 through Sec. 14-1-89 Reserved for Future Use.

Article I Natural Resource Protection

Sec. 14-1-90 Natural Resource Protection.

- (a) **Natural Resource Protection Standards.** All new Certified Survey Maps, Subdivision Plats, or Condominiums created in the Town of Lucas shall comply with the Natural Resource Protection Standards Appendix and any applicable Town of Lucas Tree Ordinance. All the natural resources required to be protected under this Article shall remain undisturbed and in a natural state except those natural resources where mitigation is permitted and such mitigation is permitted and such mitigation is in strict accord with those requirements set forth in this Article on natural resource protection.
- (b) **Natural Resource Features Determination.**
- (1) **Steep Slopes.**
- a. The definition of "steep slopes" appears in Section 14-1-10. Steep slopes are to be determined through the use of the following sources and/or methods in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Town Board and/or Plan Commission, the succeeding source shall be used:
 1. Topographic survey prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet.
 2. Large scale 1"=200' Dunn County topographic maps.
 3. U.S.G.S. 7.5-minute topographic quadrangle maps.
 - b. The area of steep slopes (in square feet or acres) shall be measured and graphically delineated on a topographic drawing and on the Natural Resource Protection Plan. Such steep slope drawing shall graphically indicate those steep slope areas, by slope type, of the property pursuant to the "steep slope" definition set forth in Section 14-1-10.
- (2) **Woodlands and Forests.**
- a. The definition of "woodlands" and "forests" (mature and young), as applied to this Article, appears in Section 14-1-10. The determination of woodland and forest boundaries shall be based on the following sources:
 1. 1"=400' aerial photographs or 1"=200' Dunn County topographic map, most recent additions.
 2. A field survey of trees compiled by a registered land surveyor and identified by a landscape architect, forester, arborist, or botanist with a professional degree in one of those fields of endeavor.
 - b. All land area within a proposed development, Certified Survey Map, Subdivision Plat, or Condominium consisting of the woodlands and forests, as defined in this Chapter, shall be accurately measured as follows:

1. Each woodland and forest area shall include the tree trunk and the area located within the drip line or tree canopy.
2. The area of woodlands and forests (mature and young), in square feet or acres, shall be accurately measured and graphically delineated on the Natural Resource Protection Plan. Such Natural Resource Protection Plan drawing shall indicate all woodland and forest areas of the property. In cases where the drip line or canopy areas overlap, the areas of overlap shall only be counted once for area calculations. In cases where the drip line or canopy areas overlap property lines, the property line(s) are to be used as the boundary for the woodland or forest area, with only that portion of the dripline area located on the subject property counted toward the woodland or forest area.
3. The location, size, and species of all healthy trees having a diameter of six (6) inches or greater diameter at breast height (DBH) that are located in woodland and forest areas within twenty-five (25) feet of any proposed improvement and/or in woodland and forest areas to be demolished due to the placement of improvements or grading are to be graphically shown on the Natural Resource Protection Plan or submitted as a separate drawing.
4. For the remaining undisturbed areas of the Certified Survey Map, Subdivision Plat or Condominium development only the outline of woodland and forest areas indicating whether they are mature or young woodlands is required.

(3) **Lakes and Ponds.**

- a. Lakes and ponds, as defined in Section 14-1-10, are to be determined through the use of the definitions of "lake" and "pond" as set forth in Section 14-1-10 and the sources in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Town Board, upon the recommendation of the Plan Commission, the succeeding source shall be used:
 1. Topographic survey prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet.
 2. Large scale 1"=200' Dunn County topographic maps.
 3. U.S.G.S. 7.5-minute topographic quadrangle maps.
- b. The area of lakes and ponds (in square feet or acres) shall be measured and graphically delineated on the Natural Resource Protection Plan.

(4) **Streams.**

- a. Streams, as defined in Section 14-1-10, are to be determined through the use of the definitions of "channel" and "stream" as set forth in Section 14-1-10 and the sources in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Town Board, upon the recommendation of the Plan Commission, the succeeding source shall be used:

1. Topographic survey prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet.
 2. Large scale 1"=200' Dunn County topographic maps.
 3. U.S.G.S. 7.5-minute topographic quadrangle maps.
- b. The area of streams (in square feet and acres) shall be measured and graphically delineated on the Natural Resource Protection Plan.
- (5) **Shore Buffers.**
- a. Shore buffers, as defined in Section 14-1-10, are to be determined as the land within seventy-five (75) feet of the ordinary high water mark of all navigable waters and parallel to that ordinary highwater mark. Navigable waters are to be determined through the use of the definition of "navigable water" set forth in Section 14-1-10 and the source in the order indicated below. If the first source is considered inaccurate or inappropriate, as determined by the Town Board, upon the recommendation of the Town Board, upon the recommendation of the Plan Commission, the succeeding source shall be used:
 1. Topographic survey prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet.
 2. Large scale 1"=200' Dunn County topographic maps.
 3. U.S.G.S. 7.5-minute topographic quadrangle maps.
 - b. The area of shore buffers (in square feet and acres) shall be measured and graphically delineated on the Natural Resource Protection Plan.
- (6) **Floodplain/Floodlands.** The definition of "floodplain" and "floodlands" appears in Section 14-1-10. The one hundred (100) year recurrence interval floodplain and floodways shall be determined as set forth in the Dunn County General Zoning and Shoreland/Floodplain Zoning Ordinance".
- (7) **Wetlands (Including Shoreland-Wetlands).**
- a. "Wetlands" and "shoreland-wetlands" are defined in Section 14-1-10. Wetland areas shall be determined by reference to the following sources in the order shown below. If the first source is considered inaccurate or inappropriate as determined by the Town Board, upon the recommendation of the Plan Commission, the second technique may be used:
 1. Wetland inventory maps prepared for the Town of Lucas as part of the Wisconsin Wetland Inventory prepared by the Wisconsin Department of Natural Resources as amended.
 2. Field survey of plant material by a botanist with a professional degree in either botany or biology.
 - b. The area of wetland and/or shoreland wetlands (in square feet and acres) shall be measured and graphically delineated on the Natural Resource Protection Plan.
- (c) **Natural Resources Measurement.** All land area within a proposed Certified Survey Map, Subdivision Plat, or Condominium development consisting of the natural resource features defined in this Chapter shall be accurately measured. The total square feet and acreage of each natural resource feature shall be multiplied by its respective Natural

Resource Protection Standard as set forth in the "Natural Resource Protection Standards Appendix" to determine the amount of each natural resource feature to be protected by a conservation easement. If two (2) or more natural resource features are present on the same area of land, only the most restrictive natural resource protection standard shall be used. [For example, if floodlands, woodlands and forests occupy the same space on a site, the natural resource protection standard would be one hundred percent (100%) for this area representing the higher of the two (2) standards.] Those areas to be demolished due to improvements or site grading or disturbed through the application of permitted mitigation techniques shall also be measured and so noted but shall not be counted as a natural resource area to be preserved.

Sec. 14-1-91 Natural Resource Features Mitigation.

- (a) **Intent of Mitigation.** The Town of Lucas recognizes that, under certain circumstances, property owners, Subdivision, Certified Survey Map or Condominium Developers may wish to develop in portions of those protected natural resource feature areas that are shown as eligible for mitigation as indicated in the "Natural Resources Protection Standards Appendix." In Subsection (b) below, the conditions for mitigation and mitigation standards are set forth for the various natural resource features for which mitigation is allowed under the provisions of the "Natural Resources Protection Standards Appendix." The intent of this Section is not to permit greater destruction of natural resource features than is permitted under the requirements of this Chapter for typical property or development. This Section sets specific standards for use when the extent of the natural resources on a site and the use of the regulations would create a major hardship for said natural resource feature protection. Thus, mitigation is intended to be used in lieu of a variance request when severe hardships would result from the strict enforcement of the natural resource protection standards and requirements set forth in this Chapter.
- (b) **Mitigation Standards.** The following methods, requirements, standards and/or criteria shall be followed for the mitigation of those natural resource features that may be mitigated under the requirements set forth under the "Natural Resources Protection Standards Appendix":
- (1) **Woodlands and Forests.** Either of the following two (2) alternative requirements shall be applicable to the mitigation of woodland and forest areas:
- a. *Alternative 1:*
1. Mitigation shall include the planting of one and one-quarter (1.25) acres of new woodland/forest for every one (1) acre of disturbed woodland/forest for which mitigation is required.
 2. Mitigation shall include the replacement of woodlands/forests that have been disturbed. Such mitigation shall consist of the planting of new woodland/forest areas, as specified in Subsection (b)(1)a.1 above, using the following number of plants per acre of mitigated area:

- i. Fifteen (15) canopy trees, minimum 3.5-inch caliper.
- ii. Twelve (12) canopy trees, minimum of 2-inch caliper.
- iii. Two hundred fifty (250) canopy trees, minimum 4-foot high whips.
- iv. Fifty (50) understory trees, minimum 5-foot high whips.
- v. Twenty-five (25) shrubs, 12-inch high.

[Note: Each 3.5-inch caliper canopy tree may be substituted with two (2) 1.5-inch caliper canopy trees.]

b. *Alternative 2:*

1. Mitigation shall include the planting of one and one-half (1.50) acres of new woodland/forest for every one (1) acre of disturbed woodland/forest for which mitigation is required.
2. Mitigation shall include the replacement of woodlands/forests that have been disturbed. Such mitigation shall consist of the planting of new woodland/forest areas, as specified in Subsection (b)(1)b.1 above, using the following number of plants per acre of mitigated area:
 - i. Twelve (12) canopy trees, minimum 3.5-inch caliper.
 - ii. Ten (10) canopy trees, minimum 2-inch caliper.
 - iii. Two hundred (200) canopy trees, minimum of 4-foot high whips.
 - iv. Forty (40) understory trees, minimum 5-foot high whips.
 - vi. Twenty (20) shrubs, minimum 12-inches high.

[Note: Each 3.5-inch caliper canopy tree may be substituted with two (2) 1.5-inch caliper canopy trees.]

3. The species of plants to be used in the mitigation of woodlands/forests shall be similar to those that are destroyed (that is, those species native to Wisconsin southern xeric forests). A minimum mix of twelve (12) species are to be planted. Acceptable species for souther xeric forest woodland and forest mitigation are as indicated in the "Natural Resources Protection Standards Appendix." No more than eighty percent (80%) of the total number of trees planted for mitigation purposes, however, shall be of the White Oak, Red Oak, or Black Oak (*Quercus alba*, *Quercus borealis*, or *Quercus velutina*) species.
4. The land upon which the mitigation is to take place shall be protected with a deed restriction and conservation easement as a permanent natural resource features conservation easement.
5. No tree cutting or removal, subsequent to the original adoption of this Chapter, shall reduce the woodland/forest natural resource features protection requirements of this Chapter.

(2) **Lakes and Ponds.**

- a. As may be permitted under the requirements of the "Dunn County General Zoning and Shoreland/Floodplain Zoning Ordinance", as amended.

- b. Where permitted under the requirements of the "Dunn County General Zoning and Shoreland/Floodplain Zoning Ordinance," as amended, the required lakes and ponds natural resource protection standard may be reduced and/or mitigated only if such reduction and/or mitigation is part of a Town Engineer-approved stormwater drainage system that meets, at a minimum, all of the following criteria:
 - 1. The time of concentration of stormwater flows remains unchanged or is lengthened.
 - 2. Stormwater storage capacity is unchanged or increased.
 - 3. Additional water is not backed up onto adjoining properties.
- (3) **Floodplains and Floodlands.** As may be permitted under the requirements of the "Dunn County General Zoning and Shoreland/Floodplain Zoning Ordinance," as amended.
- (4) **Wetlands and Shoreland Wetlands.** As may be permitted under the requirements of the "Dunn County General Zoning and Shoreland/Floodplain Zoning Ordinance," as amended. In addition, a permit from the U.S. Army Corps of Engineers pursuant to the requirements of Section 404 of the Clean Water Act (33 U.S.C. 1344) shall be submitted to the Town of Lucas certifying that filling has been approved and permitted by the Corps, as a condition of Town review.
- (c) **Off-Site Mitigation.** Off-site mitigation may be permitted by the Plan Commission provided that such off-site mitigation occurs within the same subwatershed as the natural resource feature, or property, being mitigated.

Sec. 14-1-92 Architectural and Aesthetic Design Standards.

- (a) **Purpose; Intent.**
 - (1) The Town of Lucas contains beautiful landscapes of rolling farmland, prairie and forest. The residents of the Town of Lucas have consistently and by significant majorities indicated their desire that the Town preserve its rural atmosphere and prevent the unattractive appearances and land uses of typical suburban major subdivisions in the Town.
 - (2) In part, the purpose of the setback and dimension regulations of this Chapter is to promote more rural, as opposed to suburban, residential subdivision developments, especially with reference to discouraging development of non-clustered major subdivisions with no commonly held buffer space or open acres. Building setbacks from the road and adjacent lot building separations are important factors, especially on cul-de-sacs, in creating less crowded, more rural appearing subdivisions.
 - (3) Non-agricultural development shall not occur on parcels with slopes greater than twenty percent (20%).

- (b) **Exceptions.**
- (1) Where specific features and topography in a subdivision area allow it, exceptions to design standards on setbacks may be permitted, provided that the exception does not lessen the appearance of separation provided by the setback regulations.
 - (2) Exceptions to design standards will not be granted for awkwardly or oddly shaped, non-setback conforming lots being created solely to allow a developer or owner the theoretical maximum number of lots allowed under the density standards of this Chapter.
- (c) **Dwelling Unit Density Ratios; Setback Design Standards.** The dwelling unit density ratios and setback design standards in this Chapter are intended to encourage the design of major subdivisions that are more rural and less suburban in style and are taken in part from similar design standards used in other areas to create more rural appearing subdivisions. However, density ratios and dimensional design standards only partially promote attractive rural residential subdivisions that also must co-exist well with ongoing agricultural operations. The location of subdivisions in relation to the use and topography of the greater parcel of land from which it is taken and the specific location of lots, roads and buildings within subdivisions are also important.
- (d) **Specific Design Standards.** The design standards in this Section are intended to guide developer/applicants in designing and locating subdivisions so as to preserve to the greatest extent possible the natural and existing terrain, forest and conservation areas, thereby maintaining a more rural setting. Such regulations are consistent with providing for the health, safety and welfare of existing and future residents of the Town of Lucas. These architectural and aesthetic design standards shall apply to all subdivision of land in the Town of Lucas:
- (1) **Preservation of Conservation Areas.** Conservation areas such as forests, ponds, natural prairies and streams shall be preserved to the greatest extent possible while still allowing some construction within or adjacent to these areas.
 - (2) **Natural Terrain Preservation.** Natural terrain shall remain unaltered except where required for roads, stormwater management, erosion control and other required infrastructure improvements. Grading, excavation and soil disturbing plans shall be explained in detail to the Town Board and Plan Commission as part of the concept and land division approval process.
 - (3) **Minimal Conversion of Land for Roads.** Local roads and streets may be the minimum required width unless a greater width is required for safety reasons. Rural-type Town roads without curbs are preferred. Concrete curbed roads will be allowed only when required for proper road design, as determined by the Town Engineer.
 - (4) **Stormwater Runoff Control.** Soil absorption fields, culverts and retention ponds are preferred over storm sewers for stormwater runoff control. Public sidewalks are not usually desired in residential subdivisions where lots are one (1) acre or larger in size.
 - (5) **Street Lights.** Street lights are not ordinarily compatible with the rural character of the Town of Lucas. Any public street lighting provided by the developer shall be limited to what is minimally required for safety and shall require Town approval. The

- Town may require developers to install special lights to minimize light pollution. Developers should refer to any Town of Lucas lighting ordinances.
- (6) **Signs; Monuments.** The developer shall provide signs and monuments consistent with the design parameters of the subdivision and as required by the Town. Signs and monument design and construction shall be approved by the Town.
 - (7) **Preferred Landscaping Techniques.** Paths, fields, ponds, plantings, berms and other landscaping techniques should be used and may be required by the Town to maintain the rural atmosphere, to screen the subdivision and to create visual separation between adjacent land uses.
 - (8) **Proximity to Major Streets.**
 - a. Developers should avoid locating lots immediately adjacent to existing collector and/or arterial roads unless it can be demonstrated that existing or proposed screening will substantially lessen the visual impact of the development as viewed from existing roads.
 - b. Lots in a major subdivision fronting on collector or arterial roads should not use such roads for public road access. Minor subdivisions on such roads shall use shared driveways for access to reduce the number of driveways entering collector and arterial roads.
 - (9) **Ridgetop Walkout Houses.** Developers should avoid locating rows of multi-story walkout houses on the ridge tops unless well screened by existing or proposed vegetative cover. Refer to any Town of Lucas ordinances that limit hilltop development.
- (e) **Outcome Based Architectural and Aesthetic Design Standards.** The architectural and aesthetic design standards of this Section are outcome-based and are not to be construed or used as a means to prevent the subdivision and development of land. It is the obligation of a developer/applicant to explain to the Town Board and Plan Commission how the subdivision proposal complies with these standards and to explain where and why an application does not comply with these standards. Because of the impact of topography on design, the Town may allow exceptions from these architectural and design standards that the Town Board finds consistent with creating attractive rural subdivisions.
- (f) **Applicability to Minor Subdivisions.** Minor subdivisions are subject to all of the same requirements and standards as are contained in this Section for major subdivisions unless specifically stated otherwise in a separate provision of this Chapter.

Sec. 14-1-94 through Sec. 14-1-99 Reserved for Future Use.

Sec. 14-1-100 Administrative and Other Fees.

- (a) **Findings, Purpose and Authority.** The Town Board of Lucas finds that as land development activity in the Town of Lucas continues, residential densities increase and farming activity continues, it is increasingly important to acquire ongoing access to and services of competent planning, engineering and legal professionals with the technical expertise needed to best evaluate the effect of proposed land division activity in the Town on the health, safety and welfare of Town residents and on area farming activities and the impact of said proposals on existing residences, farms, businesses and on Town infrastructure and public facilities. The Town Board of the Town of Lucas also finds that it is necessary and appropriate to require fees to defray the Town's initial and continuing administrative costs associated with non-farming development and to offset as fully as possible the costs of professional fees and charges associated with independent, professional and meaningful review on behalf of the Town of Lucas of such land development and subdivision activity and to assign the Town's cost of regulating such activities to the developer.
- (b) **General Requirements.**
- (1) The Town of Lucas may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the Town's review of a proposal coming before the Town Board. The submittal of a development proposal application or petition by a Subdivision, Certified Survey Map or Condominium Developer (as applicable), shall be construed as an agreement to pay for such professional review services applicable to the proposal. The Town may charge the costs for these services to the Subdivision, Certified Survey Map or Condominium Developer (as applicable). The Town may delay acceptance of the application or petition as complete, or may delay final approval of the proposal, until such fees are paid by the Subdivision, Certified Survey Map or Condominium Developer (as applicable). Review fees which are charged to a Subdivision, Certified Survey Map or Condominium Developer (as applicable), but which are not paid, may be levied by the Town as a special assessment against the subject property. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall be required to provide the Town with an executed copy of an Agreement as to Costs, as set forth in the Appendix, to pay for said consulting services as a prerequisite to the processing of the development application.
 - (2) At the time of submission of a plat or certified survey, the Town Board, at their sole discretion, may require the Subdivision, Certified Survey Map or Condominium

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Developer (as applicable) to make a good faith deposit with the Town Clerk to cover, in all or part, the expenses anticipated to be incurred by the Town because of the land division. Unused portions of such fund may be refunded to the Subdivision, Certified Survey Map or Condominium Developer (as applicable).

- (c) **Professional Review and Assistance Fees.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall pay professional review and assistance fees equal to the actual cost to the Town of Lucas for fees and disbursements incurred by it for professional review and assistance of any Concept Plan, Preliminary Plat, Final Plat, Certified Survey Map, or separate application to transfer development rights. "Professional review" is the independent review of and assistance with such plans or proposals on behalf of the Town of Lucas by its employees, officials, agents and consultants, including, without limitation by way of enumeration, planners, engineers, attorneys and any other consultants or professionals consulted by the Town with respect to consideration of subdivision-related activity. Professional review activities for which the developer is responsible include but are not limited to the following:
- (1) Initial and continuing review of Concept Plans, transfer of development rights proposals, Preliminary Plats, Final Plats or Certified Survey Maps and associated engineering plans and specifications.
 - (2) Inspection of the site and public improvements, stormwater management and erosion control plans/devices as and after such improvements and devices are constructed.
 - (3) Drafting or other preparation of any written opinions, advice and suggestions related to or necessitated by the developer's land division proposal and related activities.
 - (4) Drafting and preparation of any ordinances, resolutions, contracts, agreements and other documents with respect thereto.
 - (5) Attendance by the Town's professionals as requested by the Town at meetings or hearings and telephone and actual conferences with them.
 - (6) Any other professional services and disbursements charged to the Town of Lucas and necessitated by the developer's submission of a Concept Plan, transfer of development rights proposal, Preliminary Plat, Final Plat or Certified Survey Map and/or the related construction of public improvements and stormwater management, erosion or sediment control measures by the developer.
- (d) **Administrative Fee.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall pay a fee to the Town equal to the cost of any legal, administrative or fiscal work which may be undertaken by the Town in connection with the plat or certified survey map.
- (e) **Initial Application Fee for Land Division Activity.** The purpose of the land division application fee is to cover some of the Town's initial administrative costs and review costs by the Plan Commission, staff, and Town Clerk. At the time the first application for Town Board approval of any Concept Plan, Certified Survey Map, or Preliminary Plat or an application for transfer of development rights, if not connected with a related Plat or

Certified Survey Map approval application, the developer shall pay an application fee as prescribed in Section 1-3-1.

(f) **Preliminary Plat.**

- (1) A Subdivision or Condominium Developer (as applicable) who submits a Preliminary Plat for the Town Plan Commission and the Town Board shall file said Preliminary Plat with the Town Clerk and shall deposit with the Town Clerk a fee to cover the costs of reviewing said application. The fee for a Preliminary Plat shall be as prescribed in Section 1-3-1 for up to and including six (6) lots plus an additional fee per each additional lot over six (6). If the plat is rejected, no part of the fee shall be returned to the petitioner.
- (2) A reapplication fee as prescribed in Section 1-3-1 shall be paid to the Town Clerk at the time of reapplication for approval or amendment of any Preliminary Plat which has previously been reviewed.

(g) **Final Plat Review Fee.**

- (1) The Subdivision or Condominium Developer (as applicable) shall pay a fee as prescribed in Section 1-3-1 per lot within the Final Plat to the Town 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 as prescribed in Section 1-3-1 shall be paid to the Town Clerk at the time of a reapplication for approval or amendment of any Final Plat which has previously been reviewed.

(h) **Certified Survey Map.**

- (1) The Certified Survey Map Developer shall pay an application fee as prescribed in Section 1-3-1 for each certified survey map.
- (2) Should the Developer submit an amended or revised certified survey map, the resubmittal fee shall be as prescribed in Section 1-3-1 for each amended or revised certified survey map.

(i) **Objecting Agency Review Fees.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall transmit all fees required for state agency review to the Town Clerk at the time of application. Said review fees shall be retransmitted to the proper state review agency by the Town Clerk. Said fees shall be applicable, where appropriate, to review fees required by the Wisconsin Department of Transportation, Wisconsin Department of Administration and the Wisconsin Department of Natural Resources.

(j) **Public Site Fee.** If the Subdivision, Certified Survey Map or Condominium (as applicable) does not contain lands to be dedicated as required in this Chapter, the Town Clerk shall require a fee pursuant to Section 14-1-81(f) for the acquisition and development of public sites to serve the future inhabitants of the proposed development.

(k) **Improvement Review Fee.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) shall pay a fee or present a check or irrevocable letter of credit

equal to five percent (5%) of the cost of the required public improvements as estimated by the Town Engineer at the time of the submission of improvement plans and specifications to partially cover the cost to the Town of checking and reviewing such plans and specifications. Fee may be recomputed, upon demand of the Subdivision, Certified Survey Map or Condominium Developer (as applicable) or Town Engineer, after completion of improvement construction in accordance with the actual cost of such improvements and the difference, if any, shall be paid by or remitted to the Subdivision, Certified Survey Map or Condominium Developer (as applicable). At the Town Board's sole discretion, this procedure may be used as an alternative to the escrow account in Subsection (m) (2) below. Evidence of cost shall be in such detail and form as required by the Town Engineer.

(l) **Assessments.** All outstanding assessments due to the Town shall be due prior to the signing of the Final Plat or Certified Survey Map by the Town.

(m) **Administrative Costs.**

(1) **Cost Determination.** The Subdivision, Certified Survey Map or Condominium Developer (as applicable) creating land divisions within the Town shall reimburse the Town for its actual cost of design, inspection, testing, construction and associated legal, real estate and other fees incurred by the Town in connection with the preliminary plat, final plat, replat or certified survey. The Town's costs shall be determined as follows:

- a. The cost of Town employees' time engaged in any way with the land division based on the hourly rate paid to the employee multiplied by a factor determined by the Town Clerk to represent the Town's cost for expenses, benefits, insurance, sick leave, holidays, vacation and similar benefits.
- b. The cost of Town equipment employed.
- c. The cost of mileage reimbursed to Town employees which is attributed to the land division.
- d. The actual costs of Town materials incorporated into the work, including transportation costs plus a restocking and/or handling fee not to exceed ten percent (10%) of the cost of the materials.
- e. All consultant fees, including but not limited to legal and engineering fees, at the invoiced amount plus administrative costs. Unless the amount totals less than Fifty Dollars (\$50.00), the Town shall draw against the escrow account or bill the Subdivision, Certified Survey Map or Condominium Developer (as applicable) monthly for expenses incurred by the Town. Statements outstanding for more than thirty (30) days shall accrue interest at the rate of one and one-half percent (1-1/2%) per month. Bills outstanding for more than ninety (90) days shall be forwarded to the Subdivision, Certified Survey Map or Condominium Developer (as applicable)'s surety agency for payment. Amounts less than Fifty Dollars (\$50.00) shall be held for billing by the Town until amounts total more than Fifty Dollars (\$50.00) or until the conclusion of project activities.

(2) **Escrow for Fees.**

- a. At such time as the Developer submits a Preliminary Plat or Certified Survey Map for review by the Town, it shall deposit with the Town Clerk, in escrow, the sum required by the following schedule to guarantee the timely payment of the Town's administrative costs:
 1. Minor Subdivision (Certified Survey Map): Five Hundred Dollars (\$500.00).
 2. Subdivisions: One Thousand Dollars (\$1,000.00) for each five (5) lots or units, up to a maximum of Five Thousand Dollars (\$5,000.00).
- b. In the event the amount deposited with the Town Clerk falls below twenty-five percent (25%) of the amount required to be deposited, the Subdivision, Certified Survey Map or Condominium Developer (as applicable) agrees, as a condition of application, to replenish the escrow to the original amount required hereunder. The Subdivision, Certified Survey Map or Condominium Developer (as applicable) agrees to deposit such additional sum within fifteen (15) days of written demand by the Town Clerk or the consideration and/or approval of the proposed land division may be delayed or rejected. The Town is not under any obligation at any time to provide notice to the Subdivision, Certified Survey Map or Condominium Developer (as applicable) that the escrow funds under this provision are insufficient. Statements outstanding for more than thirty (30) days shall accrue interest at the rate of one and one-half percent (1-1/2%) per month. In the event the Subdivision, Certified Survey Map or Condominium Developer (as applicable) withdraws his/her plat or certified survey map, or the same is approved, and money remains in escrow over and above the Town's fees, the excess shall be refunded to the Subdivision, Certified Survey Map or Condominium Developer (as applicable). The escrow account shall not draw interest for the benefit of the Subdivision, Certified Survey Map or Condominium Developer (as applicable). The Town Clerk, with the approval of the Town Board, shall have the right to draw upon the escrow to reimburse the Town for the fees it has incurred in reviewing the minor subdivision or subdivision on a periodic basis.
- c. An accounting of all fees incurred by the Town and the status of the escrow shall also be provided to the Subdivision, Certified Survey Map or Condominium Developer (as applicable) periodically. The Town will provide the Subdivision, Certified Survey Map or Condominium Developer (as applicable) with amounts paid from any such escrow account and copies of invoices it receives for any professional review services for the developer's proposed project. Failure to make professional review fee deposits as required or to deposit additional professional review fees upon written request of the Town shall operate as a request by the Subdivision, Certified Survey Map or Condominium Developer (as applicable) for

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the withdrawal of the application for Town approval of the development project or activity for which professional review fees have been requested.

- (n) **Payment of Impact Fees.** Unless otherwise expressly provided herein, all required impact fees shall be paid one hundred percent (100%) at the time of *issuance of the building permit* by the Town. The impact fee amount due shall be that amount in effect at the time payment of the impact fee is due. Impact fee payments shall be assumed to be the responsibility of the owner of record of the property *for which a building permit is sought*. All fees shall be paid at the Town of Lucas Town Hall.
- (o) **Approvals and Permits Contingent Upon Payment of Fees.** The Town's approval of any Final Plat or Certified Survey Map shall at all times be subject to and contingent on the full and prompt payment by the developer of all professional review fees and disbursements and administrative fees as required herein. If the Town incurs professional review fees and expenses that exceed the amounts on deposit or that are paid by the Town after release of the deposit, the Developer shall reimburse the Town for the amounts within twenty (20) days after the Town Clerk or Treasurer mails a statement to the developer or the Developer's agent. Overdue administrative fees shall be included in the statement. If the statement is not timely paid, the Developer shall be deemed to be in violation of this Chapter and of any Developer's Agreement concerning the subject area. Administrative fees may also be deducted from amounts held under a letter of credit and not needed for the primary purpose of said letter of credit. In addition to the remedies contained or referred to in the Developer's Agreement, no Town permits of any kind shall be issued (including building permits) until such statement has been paid, and any Town permits already issued concerning the subject area shall be deemed suspended. If such amounts go unpaid, they may also be assessed back against all property in the Plat, Condominium or Certified Survey Map for which review was undertaken as a special charge under Sec. 66.0627, Wis. Stats., or from amounts being held by the Town under any letter of credit concerning the subject development project.

Sec. 14-1-101 through Sec. 14-1-109 Reserved for Future Use.

APPENDIX

**Sample Agreement as to Costs
With the Town of Lucas**

_____ The applicant/petitioner

for _____ dated _____,
(nature of application/petition)

agrees, in addition to those normal costs payable by an applicant/petitioner (e.g. filing, or permit fees, publication expenses, recording fee, etc.), that in the event the action applied or petitioned for requires the Town of Lucas, in the judgment of its staff, to obtain additional professional services(s) (e.g. engineering, surveying, planning, environmental, recreational, legal) than normally would be routinely available "in house" to enable the Town to properly address, take appropriate action on, or determine the same, applicant/petitioner shall reimburse the Town for the costs thereof.

Dated this _____ day of _____,

(Signature of Applicant/Petitioner)

Article K: Variances; Penalties and Violations

Sec. 14-1-110 Variances and Exceptions.

- (a) Where the Subdivision, Certified Survey Map or Condominium developer (as applicable) alleges that extraordinary hardships or particular difficulties may result from strict compliance with these regulations, he/she may request variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of this Chapter. Application for any such variance shall be made in writing by the Subdivision, Certified Survey Map or Condominium developer (as applicable) to the Town Clerk at the time when the Preliminary Plat or certified survey 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 Town officials in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan. The Town Clerk may request that the Town Engineer, Town Attorney or other officials review each situation to insure that the request is consistent with the requirements and standards of this Chapter. The Plan Commission shall make a recommendation to the Town Board. The previous granting of variances or exceptions in the same or similar circumstances shall not of itself constitute grounds for the granting of a variance or exception, nor shall strictly financial rationale.
- (b) The Plan Commission shall not recommend, nor shall the Town Board grant, variances 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) Failure to grant the variance may 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 variance is based are unique to the property for which the variance 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.
 - (4) There would be no costs (present or future) to the Town resulting from the granting of the variance or exception.
- (c) Any recommendations for variances or exceptions by the Plan Commission must be approved by a majority vote of the Plan Commission and shall be so endorsed by the

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Secretary and transmitted to the Town Board. The Town Board, if it approves, shall do so by resolution adopted by majority vote and shall instruct the Town Clerk to notify the Plan Commission and the Subdivision, Certified Survey Map or Condominium developer (as applicable).

- (d) Variances from the strict application of this Chapter may also be granted in accordance with this Chapter in the case of Planned Unit Developments provided the Town Board, upon review and recommendations from the Plan Commission, shall find that the proposed development is fully consistent with the purpose and intent of this Chapter, pertinent Zoning Ordinances, and any Town Comprehensive Plan.

Sec. 14-1-111 Enforcement, Penalties and Remedies.

- (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 Town of Lucas authorizing the building on, or improvement of, any subdivision, land division, certified survey, 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 Town of Lucas may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin Statutes.
- (b) **Unlawful Activity.** It shall be unlawful to, and no person shall:
- (1) Record, with respect to any Certified Survey Map, Subdivision Final Plat, or Condominium Plat to which this Chapter is applicable, any Certified Survey Map, Subdivision Final Plat, or Condominium Plat instrument after the original effective date of this Chapter unless and until such time as there has been full compliance with all applicable requirements of this Chapter and all other applicable statutes, rules, regulations, ordinances, and documents enumerated in this Chapter.
 - (2) Convey, offer to convey or contract to convey any portion of a Certified Survey Map, Subdivision Final Plat, or Condominium Plat created in violation of this Chapter.
 - (3) Construct, install, assemble, or place any building, structure, or improvement upon any land subject to Certified Survey Map, Subdivision Final Plat, or Condominium Plat recorded in violation of this Chapter.
 - (4) Fail to comply with any applicable provision of this Chapter.
 - (5) Fail to comply fully with this Chapter or any other Town ordinance regulating the transfer of development rights or any other aspect of the development of land.
 - (6) Fail to comply fully with all permit or approval conditions or requirements made by the Town Board during its review and action on certified survey map or subdivision plat.
 - (7) Violate any requirement of Ch. 236, Wis. Stats.

- (c) **Material Changes to Homeowners' Association or Other Covenants.** A developer's unilateral and material change of any portion of a homeowners' association governing document or restrictive covenants in a manner that has the potential to adversely affect the aesthetic, value or other expectations of current or future lot owners other than those of the developer shall constitute grounds for the Town to withhold further building permits in the subdivision affected until the change has been removed or modified to the satisfaction of the Town.
- (d) **Penalties.**
- (1) Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit no less than Two Hundred Dollars (\$200.00) nor more than Two Thousand Dollars (\$2,000.00) and the costs of prosecution for each violation. 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, Wis. Stats., may be ordered by the Town at the expense of the Subdivision, Certified Survey Map or Condominium developer (as applicable) when a subdivision is created by successive divisions.
- (e) **Zoning, Building, or Occupancy Permit or Approval.** No zoning, building, or occupancy permit or approval shall be granted or issued with respect to any Certified Survey Map, Subdivision Final Plat, or Condominium Plat, or Condominium unit created in violation of this Chapter.
- (f) **Revocation of Permits and/or Approvals.**
- (1) The Town Engineer, Town Chairperson or Building Inspector 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 Town Engineer shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with and that the Subdivision, Certified Survey Map or Condominium developer (as applicable) or his/her contractor has refused to conform after written warning or instruction has been issued to him/her.
 - 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 Town Engineer, Town Chairperson or Building Inspector, the Subdivision, Certified Survey Map or Condominium developer (as applicable) has provided inadequate management of the project.

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- 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 Town Engineer, Town Chairperson or Building Inspector 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/her 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 Town Engineer, Town Chairperson, or Building Inspector.
 - (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 therefor, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Chapter. However, such work as the Town Engineer, Town Chairperson, or Building Inspector may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he/she may require for the preservation of life and safety.
 - (5) Any appeals of such revocations or suspensions must be made in writing and within ten (10) calendar days to the Town Clerk for consideration by the Town Board at its next regularly scheduled meeting, provided the appeal is filed not less than ten (10) days prior to the meeting date.
 - (6) Town officials and/or the Building Inspector are 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 Building Inspector 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.
- (g) **Appeals.** Any person aggrieved by an objection to a plat or certified survey, or a failure to approve a plat or certified survey, may appeal therefrom, as provided in Sections 236.13(5) and 62.23(7)(e)10, 14 and 15, Wis. Stats., within thirty (30) days of notification of the rejection of the plat or certified survey. 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 may direct that the plat or certified survey be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.

Sec. 14-1-112 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 Town of Lucas. This Chapter shall not be interpreted as placing any responsibility or liability on any Town official, Town employee, Town Attorney, Town Engineer, or the Town 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 Town of Lucas 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.
- (c) The Town of Lucas does not guarantee, warrant, or represent that only those areas delineated as floodlands on plats and certified survey maps will be subject to periodic inundation, nor does the Town guarantee, warrant, or represent that the soils shown to be unsuited for a given land use from tests required by this Chapter are the only unsuited soils within the jurisdiction of this Chapter; and thereby asserts that there is no liability on the part of the Town Board, its agencies, or employees for flooding problems, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this Chapter.

Sec. 14-1-113 Restrictions for Public Benefit.

Pursuant to Sec. 236.293, Wis. Stats., any restriction placed on platted lands by covenant, grant of easement, land division, certified survey, or consolidation approval, which was required by the Town of Lucas and which names a public body or public utility as grantee, promisee or beneficiary, vests in the public body or utility the right to enforce the restriction by law or in equity against anyone who has interest in the land subject to the restriction. The restriction may be released or waived by resolution of the Town Board.

SECTION II. SEVERABILITY.

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

SECTION III. EFFECTIVE DATE.

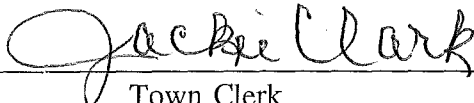
This Ordinance shall take effect upon passage and publication or legal posting as provided by law.

ADOPTED this 9th day of February, 2010.

TOWN OF LUCAS, WISCONSIN



Chairperson



Town Clerk

Published and/or Legally Posted February 22, 2010

Kyotes Den

**ORDINANCE NO. 2010-01
LAND DIVISION ORDINANCE**

STATE OF WISCONSIN
Town of Lucas
Dunn County

I, Jackie Clark, the town clerk of the Town of Lucas, Dunn County, Wisconsin, attest and affirm all of the following:

1. That the following action was posted pursuant to s. 60.80, Wis. Stats:

A Public Hearing Regarding Adoption of the Town of Lucas Proposed Subdivision Ordinance was held on Saturday, February 6, 2010. The Town of Lucas Board Adopted a Land Division Ordinance at the Board Meeting held on February 9, 2010

2. That the above-noted action was posted as required in the following 3 places in the Town of Lucas, Dunn County, Wisconsin:

Kyotes Den, E2339 Hwy 29, Menomonie, WI 54751
Lucas Town Hall, E2301 Hwy 29, Menomonie, WI 54751
Torch's Valley Bar, N5575 Cty Rd Q, Menomonie, WI 54751

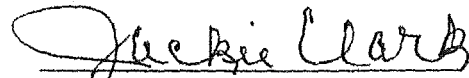
3. That the posting of this action occurred at the following times and dates:

February 22, 2010 at 6:00 p.m.

4. A copy of the full Land Division Ordinance text may be viewed at the Lucas Town Hall located at E2301 Hwy 29, Menomonie, WI 54751 by contacting the clerk, Jackie Clark at 715-235-7331.

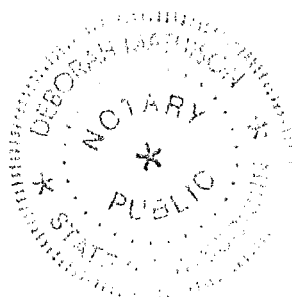
That I filed this affidavit in the records of the town clerk for the Town of Lucas on February 22, 2010.

Dated this 22nd day of February, 2010



Jackie Clark, Clerk

Personally came before me this 22nd day of February, 2010, the town clerk of the Town of Lucas, Dunn County, known to me to be the person who executed and acknowledged the foregoing instrument.



Notary Public, State of Wisconsin

My Commission Expires: 5-30-2010