

CHAPTER 7

SUBDIVISIONS, CONDOMINIUMS AND LAND DIVISIONS

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CHAPTER 7

SUBDIVISIONS, CONDOMINIUM PLATS AND LAND DIVISIONS

7.01 AUTHORITY, PURPOSE AND INTERPRETATION. The Town Board hereby declares that the regulations set forth in this chapter 7 are adopted in accordance with the authority granted by Wis. Stat. §§60.10, 61.34 (1) and 236.45 for the purposes listed in Wis. Stat. §§ 236.01 and 236.45. The provisions of this Chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity, aesthetics, convenience and general welfare of the Town. These regulations are designed to preserve the character of the Town and its environs, conserve the value of the land and improvements placed thereon; providing the most appropriate environment for human habitation; encouraging commerce; protecting farming and open spaces; lessening congestion in the highways and streets; fostering the orderly layout and use of land; securing safety from fire, panic and other dangers; providing adequate light and air; discouraging overcrowding of land; protecting the Town's wetlands and other natural features; preserving woodlands, native plants and animals; facilitating adequate provision for transportation, potable water supply and other public necessities; and facilitating division of large tracts of land into appropriate smaller parcels. Except when this chapter imposes stricter restrictions on land development, this chapter shall not repeal, impair or modify any lawfully existing easements, covenants, private covenants or public laws or ordinances. The requirements of this chapter 7 shall apply to condominium plats.

7.02 DEFINITIONS. As used in this chapter 7, the following terms shall have the following meanings:

(1) Building - any structure designed or intended for the protection, shelter or roofed enclosure of persons, animals or property.

(2) Certified survey or certified survey map - a map of a land division, not a subdivision, prepared in accordance with the applicable provisions of § 236.34, Wis. Stat., and this chapter 7.

(3) Cul-de-sac - a short road having but one end open to traffic and the other end being permanently terminated to a vehicular turn around.

(4) Developer - a person who divides or desires to divide a lot or parcel of land into lots, camping sites or condominium units for purpose of sale or building development. For purposes of this chapter members of a partnership, stockholders of a corporation or beneficiaries of a trust shall be considered developers.

(5) Divider/subdivider - a person or firm which creates a land division or subdivision as defined in this section.

- (6) Family** - two or more persons related by blood or marriage or not more than five (5) unrelated persons.
- (7) Land division** - a division of a lot or parcel of land other than a subdivision by the owner or owners agent for the purpose of sale, transfer of ownership or building development.
- (8) Lot** - a piece, parcel or plot of land intended for building development, siting of a mobile home, use as a camp site or as a unit for transfer of ownership. For purposes of this chapter, the measurement of the area of a lot shall not include lands within the right of way of any public or private road or highway, or a wetland as determined by the Wisconsin Department of Natural Resources or other lawful authority. (Am.#127 10-29-99)
- (9) Master Development Plan** - the policy document prepared by the Town Plan Commission which serves as a guide for the future physical and economic development of the Town.
- (10) Outlot** - a piece, parcel or plot of land included in a map or plat of a land division or subdivision which does not meet the requirements of this municipal code or ch. 236 of the Wisconsin Statutes for a building site. All outlots must be designated as such and numbered separately. No outlot may be used as a building site unless it is in compliance with all restrictions imposed by Chapter 236 of the Wisconsin Statutes and the provisions of this Municipal Code. An outlot may be conveyed whether or not it may be used as a building site.
- (11) Owner** - the person, firm or corporation holding legal title to land as shown on the records of the Door County Register of Deeds, including the grantee under a land contract. For purposes of the requirements of this chapter all lands under option to or in which a person holds any interest and which are contiguous to the lands proposed to be divided or subdivided are to be considered owned by such person.
- (12) Parcel** - a tract of land separately described on the Town tax roll.
- (13) Plat** - the map, drawing or chart on which a subdivider's plan of subdivision is presented to the Town Board for approval. Plat includes a condominium plat created pursuant to Chapter 703 of the Wisconsin Statutes.
- (14) Replat** - the redrawing or resurveying of lines in a recorded plat or certified survey map for purposes of sale or building development. A replat shall conform to these ordinances.
- (15) Road/Highway/Street** - a way for vehicular and pedestrian traffic.
- (16) Single family dwelling** - a detached building used for or occupied exclusively by one family.
- (17) Subdivision** - any division of a lot, outlot, tract or parcel of land by the owner or owner's agent for the purpose of transfer of ownership, sale or building development where:
- (a) The act of division creates five (5) or more parcels, lots or condominium units less than five (5) acres each in area, or
 - (b) Five (5) or more parcels or lots of less than five (5) acres each in area are created by successive divisions within a five-year period.
- (18) Town Engineer** - a registered engineer selected or approved by the Town Board or Town Plan Commission to review a proposed plat or map of a subdivision or land division or proposed improvements therein.
- (19) Unit, Dwelling Unit** - a structure or part thereof containing separate living and sleeping quarters for one family.
- (20) Wetlands** - an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions as determined by competent legal authority.

7.03 EXCEPTIONS. The provisions of this chapter 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;
- (3)** Mortgages or easements;
- (4)** The sale or exchange of parcels of land between owners of adjoining properties if the lots resulting are not reduced below the minimum sizes required by this chapter 7 or other applicable laws or ordinances and otherwise meet the requirements of this chapter 7;
- (5)** Cemetery plats; or
- (6)** Assessor's plats, except as provided in chapter 236, Wis. Stats.

These exceptions apply only to the provisions of this chapter 7. Requirements of other Town ordinances, such as chapters 3 and 4 of this Code shall remain applicable.

7.04 GENERAL PROVISIONS

(1) When Compliance Required. Except as provided in section 7.03, no person shall divide, sell, transfer or lease for more than ten (10) years any lot or parcel of land which results in a land division, condominium plat, replat or subdivision as defined herein; no such land division, condominium plat, replat or subdivision shall be entitled to record; and no improvements shall be made to such land unless a certified survey map or subdivision plat of the division is permitted and approved and recorded in the office of the Door County Register of Deeds in accordance with this chapter, the applicable provisions of the Door County Land Division ordinance and ch. 236, of the Wisconsin Statutes.

(2) Permits Not To Be Issued for Unapproved Lots or Parcels. The building inspection supervisor shall not issue any Town building, driveway, sign, holding tank or other Town permit for the construction of any building or structure, driveway or holding tank on any lot or parcel in the Town that was divided, subdivided, transferred or sold in violation of this chapter.

(3) Other Applicable Provisions. In addition to the provisions of this chapter and ch. 236, Wis. Stat., all plats, subdivisions and land divisions shall conform to any town master development plan, to the applicable requirements of County, State and Federal laws and regulations and Town ordinances including, but not limited to, applicable provisions of the Door County Shoreland Zoning and Land Division ordinances, ss 23.095, 29.415, 29.604 of the Wisconsin Statutes, and the rules and regulations of the Wisconsin Department of Natural Resources relating to shoreland-wetlands, stormwater drainage plans and protection of endangered and threatened species of wild animals and plants (chs. NR 27, NR 29, NR 103 and NR 216), the rules and regulations of the United States Army Corps of Engineers relating to filling of wetlands; and chapters 3, 4 and 6 of this Code or Ordinances. The owner or developer shall be responsible for compliance with the applicable provisions of county, state and federal laws and regulations. Approval by Town authorities under this chapter 7 does not constitute approval under any other law or regulation of the Town, county, state or United States or any agency or department thereof.

(4) Plan Commission to Administer. The Town Plan Commission shall recommend any revisions to this chapter and recommend approval or disapproval of any subdivision and condominium plats or certified survey maps, variations or exceptions to the requirements of this chapter, location of public buildings and spaces, vacation or alteration of any certified survey maps or subdivision plats and vacation or alteration of any Town roads. The Plan Commission shall have the following additional powers and duties:

- (a) To maintain the original of this chapter and any amendments thereto;
- (b) To recommend enforcement actions against persons violating any of the provisions of this chapter.

(5) General Principles of Land Division.

(a) Preservation of Wetlands, Natural Features, Open Space, etc. Land shall be divided so as to allow for locating buildings and structures thereon without filling or destroying wetlands or other natural features, such as caves, rare, threatened or endangered species of plants and animals or removing natural vegetation from the site and with due regard for preservation of productive farmland, mature trees and sufficient open space between buildings and structures intended to be placed thereon to allow access by fire and emergency vehicles and prevent overcrowding of land. In designing a land division or subdivision due consideration shall be given to the preservation of suitable sites of adequate area for recreation, drainage, sewerage disposal, open space and other public and private health, safety and welfare needs. In the location of such, consideration shall be given to the preservation of scenic and historic sites, continuity of productive farmlands, mature trees, marshes, lakes, ponds, watercourses, watersheds and ravines.

(b) Coordination with Other Applicable Provisions. Land divisions and subdivisions shall be planned so as to limit lot coverage by buildings, permanent parking areas and other constructions resulting in impervious surfaces to not more than 15% of the lot or parcel, to allow for required street frontages and setbacks, to avoid erosion and excessive runoff of storm water and to allow for future division of larger parcels into conforming lots.

(c) Preservation of mature trees. To the extent practicable the developer shall avoid cutting of more than 25% of the mature trees or their tops on the lands being divided.

(d) Land Suitability. No land shall be divided which the Plan Commission determines to be unsuitable for use by reason of flooding, inadequate drainage, existence of wetlands or

adverse soil or rock formations, 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 the community. Generally, land shall be judged suitable where 1½ acres of each parcel or lot is free of the above impediments to development. The Plan Commission, in applying the provisions of this section, shall recite in writing the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and shall afford the developer an opportunity to be heard and to present evidence regarding such unsuitability. Thereafter the Plan Commission may affirm, modify, or withdraw its determination of unsuitability. Any person aggrieved by a determination of the Plan Commission under this paragraph may appeal to the Town Board as provided in § 7.10 of this chapter.

7.05 PROCEDURE FOR SUBMITTING SUBDIVISION PLATS AND CERTIFIED SURVEY MAPS

(1) Pre-Application. It is recommended that, prior to the filing of an application for the approval of a preliminary plat or certified survey map, the developer shall consult with the Town Plan Commission to obtain their advice and assistance. This consultation is neither formal nor mandatory but is intended to inform the divider of the purpose and objectives of these regulations, the Town Plan, and duly adopted plan implementation devices and to otherwise assist the divider in planning the development.

(2) Preliminary Plat and Certified Surveys.

(a) Boundary survey map. The developer or developer's agent shall submit to the Plan Commission and to those agencies having the authority to object to plats and certified surveys under ch. 236.10, Wis. Stat., a preliminary plat or map based upon an accurate exterior boundary survey by a registered land surveyor. Plats and certified surveys shall be submitted to the Plan Commission not less than thirty (30) days before the meeting at which they are to be considered. The plat or map shall be drawn at the scale of one (1) inch equals one hundred (100) feet and contours shall be shown at two (2) foot vertical intervals. The drawing shall show:

1. Location, tax parcel number or numbers and legal description of proposed subdivision or land division.
2. Property lines, actual dimensions, area in acres and identifying numbers for all lots and other sites.
3. Right-of-way lines, dimensions and names of roads and other right-of-ways within or adjacent to the proposed subdivision or land division.
4. Locations, dimensions and purposes of all easements, including any existing or proposed easements of access, on or affecting the property.
5. Purpose for which all sites other than sites for building construction are dedicated or reserved.
6. Name, if any, of proposed subdivision or land division and number of proposed lots, outlots, parcels or units.
7. Names and addresses of owners of record of lands within 300 feet of boundary of proposed subdivision or condominium plat, excluding existing right of ways.
8. Location of existing and proposed utilities, including water supply, sewerage disposal, electric, gas and telephone services.
9. Size of all proposed lots, outlots or parcels in acres.
10. Required minimum building set back lines on all lots and other sites.
11. Acreage and current zoning, if any, of land being platted or divided.
12. A small scale map showing the location of the plat or land division in relation to section and quarter section corners and Town, County or State road and highway intersections.
13. Names, addresses and phone numbers of owner, responsible agent, surveyor and engineer.

14. Proposed public or common facilities, if any, including without limitation because of enumeration, public or private roads, or water supply, sewerage disposal and storm drainage.
15. Title, graphic scale, north arrow, and date.
16. Preliminary storm and surface water drainage plan.
17. Delineation by lawful authority of all wetlands and escarpments proposed to be included in plat or map.

(b) Additional submittals required. In addition to the survey described in paragraph (a) above, grading, tree planting, paving, and storm water, drinking water and sewerage facilities to be provided by the developer shall be described in an accompanying letter which shall indicate when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted. In addition, if the lots, units or sites in the plat or land division are to be accessed by private road the developer shall submit a proposed covenant in recordable form creating a home owners' association or other entity having the obligation to maintain the private road and associated drainage ditches.

(c) Review by Engineer/Planning Consultant. The Plan Commission may request the developer to provide a written report from a registered engineer, land planning consultant or any Door County department head of their reaction to the proposed plat or survey map.

(d) Review by Fire Department. Upon filing of the proposed plat or map, the Clerk-Treasurer shall transmit a copy thereof to the Chief of the Joint Town/Village Fire Department, who shall review it regarding availability of an adequate water supply and access for fire and emergency vehicles and other matters relating to fire safety and submit a report of his or her recommendations to the Plan Commission within fourteen (14) days from the date of transmission.

(3) Approval of Preliminary Plat or Survey Map: Time and Effect. After review of the preliminary plat or survey map and any negotiations with the subdivider or land divider on advisable changes and the kind and extent of public or common improvements which will be required, the Town Board shall reject, approve or approve conditionally the preliminary plat or map within ninety (90) days, as provided by statute. Approval of the preliminary plat or map shall entitle the divider to final approval of the layout shown by such plat or map, provided the final plat or map conforms to such layout and all conditions of preliminary plat or map approval have been met. In addition, approval by the Town Board of a preliminary certified survey shall be sufficient to allow the developer to record a final survey map without further review by the plan commission or Town Board provided all conditions of such approval are met prior to recording as attested by signature of the Town Clerk-Treasurer. The Clerk Treasurer shall only sign the survey map if the Town Building Inspection Supervisor has certified in writing that all such conditions have been met.

(4) Final Plat or Map.

(a) Time for Submission. Final plats shall be submitted to the Town within six (6) months of preliminary plat acceptance unless this requirement is waived in writing by the Town Board. If the final plat is timely submitted and conforms substantially to the preliminary plat as approved, including any conditions of that approval, and to local plans and ordinances adopted as authorized by law, it is entitled to approval. If the final plat is not timely submitted, the Town Board may refuse to approve it. The final plat may, if permitted by the Town Board, constitute only that portion of the approved preliminary plat which the developer proposes to record at that time.

(b) Requirements. The final plat or survey map shall conform to the preliminary plat or survey map as approved and to the requirements of all applicable local ordinances and State laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by § 236.12(2), Wis. Stat. The final plat or certified survey map shall be accompanied by detailed construction plans showing prior approval by the Town Board of any public improvements installed or to be installed in the plat by the subdivider or developer.

(c) Review by Plan Commission. The final plat or survey map shall be presented to the Plan Commission at least thirty (30) days prior to the meeting at which it is to be considered by the Town Board and shall be accepted or rejected by the Town Board within sixty (60) days of its submission, unless the time is extended by an agreement with

the subdivider. If the Town Board determines to approve the plat, The Clerk-Treasurer shall give at least 10 days' prior written notice of such determination to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of the proposed plat but failure to give such notice shall not invalidate any such plat. If a plat is rejected, reasons for rejection shall be stated in the minutes of the Town Board meeting and a copy thereof or a written statement of such reasons shall be recorded in accordance with this ordinance and any other laws or statutory requirements prior to the time that lots or condominium units are offered for sale, reference is made to the map for sale purposes or use is made of lot or unit numbers on the plat or survey map. If the original of the final plat has been filed with another approving authority, the subdivider may file a true copy of such plat in lieu of the original. However, before approval of the Town may be inscribed on the original of the final plat or certified survey map, the surveyor or subdivider shall certify the respects in which the original of the final plat differs from the true copy and all modifications must first be approved.

(5) Conflicting Provisions. Where more than one governing body or agency has authority to approve or object to a plat or certified survey map and the requirements of such bodies or agencies are conflicting, the plat or map shall comply with the most restrictive requirements.

(6) Recording of Final Plat or Map. Within 30 calendar days of the date of the last approval of the final plat or survey map, the plat or survey map shall be filed for recording with the Register of Deeds of Door County in accordance with § 216.25, Wis. Stats. Failure to record the plat within 30 calendar days shall nullify the Town's approval of the final plat. The plat shall not be entitled to be recorded unless all conditions attached to the Town Board's approval have been met, all required fees have been paid and there is attached to the original to be recorded a certificate of the Town Clerk-Treasurer stating that there are no unpaid taxes or unpaid special assessments on any of the lands included in the plat or survey and the plat or survey is signed on its face by the Town Clerk-Treasurer certifying that the Town Board has approved the plat in accordance with this chapter 7 or that the plat is deemed approved under § 7.05 (3) (c).

(7) Filing with Town Clerk-Treasurer. The subdivider or developer shall file a true copy of original final plat as recorded as a public record with the Town Clerk-Treasurer.

(8) No Permits To Be Issued Until Recording. No building, driveway or other permits shall be issued for the affected lands and no improvements may be made to such lands until the approved subdivision plat or certified survey map of the lot or parcel affected has been approved and recorded when required by this Chapter 7 is recorded.

7.06 DESIGN STANDARDS. Generally, design standards shall assure that the layout of the plat or land division harmonizes with existing plans affecting the development and its surrounding area and shall be in conformity with the Town Plan.

(1) Roads.

(a) General Requirements. All lots or parcels created by the land division or plat, including residual lots shall front for a distance of 20 feet on an existing public or private road with a driveway entering directly from that public road. Roads shall be considered in their relation to existing and planned roads, reasonable circulation of traffic, topographical conditions, runoff of storm water and the proposed uses of the area to be served. In addition, all roads shall meet the following standards:

1. Visibility. The road shall be visible for three hundred fifty (350) feet at the intersection with a town, county or state road or highway.

2. Cul-de-sacs required for dead end roads or easements. If at all possible, the Town would prefer not to have dead end roads, but if there is a dead end road it must have a cul-de-sac of one hundred twenty (120) feet in diameter and a clear roadway of eight (80) feet in diameter to provide proper turn around for snow removal and fire equipment and school busses and space for snow storage.

3. Extensions of existing roads or easements. Where new roads extend existing or adjoining roads their projections shall be at the same or greater width, but in no case less than the minimum required width for the particular kind of right-of-way.

4. Access to undivided lands. Where adjoining areas are not subdivided the arrangement of roads in new subdivisions shall make provisions for the projection of roads where necessary to provide proper access and limit the amount of impervious surface required to provide access to the subdivision or land division and adjoining area.

5. Access points. Where a proposed plat or land division is adjacent to an existing road, spacings between access points to such road of less than six hundred and sixty (660) feet shall be avoided except where impractical or impossible due to existing property divisions, safety hazards such as blind curves or topography.

6. Hardship to owners of adjoining property. The road arrangements shall not be such as to cause hardship to owners of adjoining property in working or dividing their own land and providing convenient access to it.

7. Grades. Unless necessitated by exceptional topography, subject to the approval of the Plan Commission, the maximum centerline grade of any proposed private road or public right of way shall not exceed nine percent (9%) or be less than one half of one percent. Road grades shall be established wherever practicable so as to avoid excessive grading, the unnecessary removal of ground cover and tree growth and general leveling of the topography.

8. Road names. Proposed roads obviously in alignment with existing and named roads shall bear the name of such existing roads. In no case shall the name of the proposed road duplicate existing road names, including phonetic similarities. Names shall be selected with the approval of the Town Board.

(b) Public Road Standards. Roads intended to be turned over to the Town shall meet the above General standards, the current standards for Town roads established by the State and Door County and the following standards:

1. Single purpose roads. When access is to be provided to an existing single user Town road, the developer shall dedicate or cause to be dedicated to the Town sufficient right of way to allow for adequate snow plowing, fire service and school bus turn around and cause the grading, surfacing, seeding or sodding and ditching of the existing and any additional right of way to be constructed to then current Town standards prior to the approval and recording of the plat or survey map. In lieu of such construction, the Town Board may provide for construction at Town expense and assess the cost thereof to the abutting lands pursuant to Wis. Stat. § 66.60 (16) if the owner or owners of the abutting lands execute and record in the office of the register of deeds for Door County, a waiver of notice and hearing and right to contest such assessments. Roads in the plat or certified survey shall be considered in their relation to existing and planned roads, reasonable circulation of traffic, topographical conditions, runoff of storm water and the proposed uses of the area to be served.

2. Width of right of way. Four rods (66 feet) right-of-way.

3. Width of roadway. Roadway width of thirty-two (32) feet.

4. Surface width. Surface width of twenty-two (22) feet.

5. Grade. Maximum grade 9% - 11%.

6. Horizontal curve. Maximum horizontal curve of 7 degrees -30 minutes.

7. Roads intended to be turned over to Town. If the road is to be turned over to the Town, the road must be completed, comply with the minimum specifications of this chapter and be blacktopped. The black topping will have to be minimum of two and one-half (2 1/2) inches thick and the full twenty-two (22) foot width. Prior to application for the Town Board to accept the road, a proposed deed must be reviewed

and approved by the attorney for the Town. Roads intended to be turned over to the Town shall also meet the applicable requirements of §86.26 of the Wisconsin Statutes and are subject to acceptance by the Town Board.

8. Gravel. All roads shall have minimum road bed of eight (8) inches of crushed stone and eight (8) inches of gravel.

9. Drainage ditches. Drainage ditches to be constructed in compliance with all applicable Town road standards of this chapter and the State of Wisconsin Department of Transportation, and mulched, seed with native plants, sodded or otherwise protected so that erosion, siltation, sedimentation and washing are prevented.

10. Road jogs. Road jogs with center line off-sets of less than 125 feet shall not be allowed.

11. Road curvature. When a continuous road centerline deflects at any one 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 one hundred (100) feet.

12. Corners. Curb or ditch lines at road intersections shall be rounded at a radius of not less than ten (10) feet.

13. Reverse curves. A tangent at least one hundred (100) feet long shall be required between reverse curves on roads.

(c) Private Roads. Roads not intended to be turned over to the Town must meet the above General standards and the following standards and be subject to a recorded agreement for continued maintenance, including but not limited by enumeration to, snow plowing, at the expense of abutting land owners as a condition of Town approval of any new lot or parcel not fronting or abutting on a public road.

1. Signs. All private roads shall have a sign at intersections with a town, county or state road or highway, stating they are private roads to be maintained at owners' expense.

2. Width of right of way. Sixty-six (66) foot right of way.

3. Width of roadway. Roadway width, including shoulders, of twenty-two (22) feet.

4. Surfacing width. Black top surfacing width of Twenty-two (22) feet.

(2) Lots.

(a) Access. Every newly created lot or parcel shall have direct access by private driveway to a 66 foot public or private road for a minimum distance of twenty (20) feet.

(b) Layout. Where possible, lot lines shall be at right angles to straight road lines or radial to curved road lines. Lots with frontage on two parallel roads shall be avoided except where one road is an arterial feeder or highway with no direct access to the lot.

(c) Natural features. Due regard shall be shown for all natural features, including mature trees and native vegetation, which, if preserved, will add attractiveness and stability to the proposed development.

(d) Lot remnants. Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusual outlot or parcel unless the owner can show plans for the future use of such remnant and the Town Board finds that such future use is likely to occur.

(e) Municipal boundary lines. Lots shall follow, rather than cross, municipal boundary lines whenever practical.

(f) Size and dimensions. In order to prevent over crowding of land and undue concentrations of population and to lessen congestion in streets and highways in the Town, lots in the Town shall be in conformance with the following requirements:

1. H85 of the Wisconsin Administrative Code.

2. Lots for single family detached dwellings, campsites and mobile home sites, commercial and industrial buildings shall be not less than 1 1/2 acres in area with a minimum width of one hundred fifty (150) feet at the building line. Lots for multi-occupancy developments shall be 1 1/2 acres or more per occupancy unit and the property used to determine compliance with minimum lot size requirements shall be contiguous, except where the Town Board approved an open space set aside in fee or with an attached conservation or equivalent easement at a noncontiguous location. In calculating lot size, wetlands, navigable waters, public or private right of ways, easements of passage or land whose servitude is inconsistent with its integrated functional use and unified ownership shall not be counted. See *66 Op's Atty Gen 2* . No lot or parcel of land resulting from a land division shall be less than 1½ acres in area or less than 150 feet wide at the intended building line.
3. Lots shall be of sufficient size and shape to allow space for required setbacks and area for intended improvements as set forth in § 3.10 (8) of this Municipal Code.
4. The applicable provisions of §80.08 and ch.236 of the Wisconsin Statutes.

7.07 REQUIRED IMPROVEMENTS.

(1) General. Before the Town Board will give final approval to any subdivision, plat or certified survey, the following improvements shall be either constructed and in place or assured of completion by the deposit with the Town of a certified check, surety bond or irrevocable demand letter of credit issued by a financial institution or surety company authorized to do business in Wisconsin in an amount sufficient to construct any of the following improvements, as may be required by the Town Board. The amount of the security shall be determined by the Town Board and the form of security shall be approved as to form by the Town attorney:

- (a) All roads graded and graveled to final grade and base street surfacing;
- (b) Monuments;
- (c) Road lamps, if any required;
- (d) Road name and traffic signs, if required;
- (e) Adequate facilities to provide surface water drainage within the plat and to protect public roads, adjacent lands and lands within the plat or survey from the 100 year flood. Rockholes and sinkholes shall not be used as drainage facilities.;
- (f) In addition, the developer shall provide to the Building Inspection Supervisor or Town Board, written approval of the size and location of all easements for gas, electricity, telephone and cable television service to the plat signed by the utility or firm providing such service in the area of the plat; and
- (g) Drainageways or easements may be required by the Plan Commission where the subdivision or land division includes a segment or segments of water courses, drainageway channels or streams.

(2) Stormwater and Erosion Control. Plans for stormwater and erosion control required by the Town Board, if any, shall be submitted to the Town Chairperson for approval before any land disturbances decisions are made. Plans shall be prepared by a registered engineer, and, if required by the Plan Commission, reviewed and approved by the Door County Soil and Water Conservation Department. The Commission's decision may be appealed to the Town Board.

(3) Road Improvements.

- (a) When to Begin.** The construction of standard road improvements can begin only when either:
1. The underground utilities were installed in the previous construction season, or
 2. Constructed underground utilities, if any, including mechanical compaction and compaction tests, have been approved by the Town Board.

3. All road plans, surveys and maps shall be turned over to the Town and the road shall be staked out at the time the application is submitted for a permit under chapter 4 of this Code.

(b) Grading. After the installation of temporary block corner monuments by the subdivider or land divider and establishment of road grades by the Town Board, the subdivider or land divider shall grade the full width of the right-of-way of all roads proposed to be dedicated in accordance with plans and standard specifications approved by the Town Board. The subdivider or land divider shall grade the roadbeds in the road right-of-way to subgrade in accordance with specifications as determined by the Town Board.

(c) Surfacing. After the installation of all utility and storm water drainage improvements the subdivider or land divider shall surface all roadways in roads proposed to be dedicated to the Town to the widths prescribed by these regulations and the Town land development plan. Said surfacing shall be done in accordance with plans and standard specifications approved by the Town Board.

(d) Removal of trees, brush and stumps. All trees, brush and stumps shall be removed from the construction site.

(e) Stumps and debris to be removed. Stumps or debris shall not be buried within the road or easement bed.

(f) Gravel. Gravel shall be placed the full width of the road or easement bed to make it passable for fire and emergency vehicles.

(g) Drainage. All roads shall be constructed to provide for proper drainage ditches and shoulders, which shall be free and clear of any and all obstructions. The land divider shall cause all grading, excavations, open cuts, side slopes and other land surface disturbances to be mulched, seeded with native plants, sodded or otherwise protected so that erosion, siltation, sedimentation and washing are prevented.

(h) Road sections. When road sections have been approved by the Town Board, the subdivider or land divider shall finish grade all shoulders and road ditches, install all necessary culverts at intersections and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the Town Board.

(4) Sewage Disposal Facilities. Before commencing any work in the development, the developer shall obtain the necessary permits for sanitary sewage disposal facilities from the Door County sanitarian and, if required, from the authorized Town official.

(5) Utilities and Cable TV. The subdivider shall have installed gas, electrical power, telephone and cable TV facilities in such a manner as to make adequate service available to each lot in the subdivision. No such electric, telephone or cable TV service shall be located on overhead poles unless allowed by the Town Board due to exceptional topography or other physical barrier. Plans indicating the proposed location of all gas, electrical, power, telephone and cable TV distribution and transmission lines required to serve the plat shall be filed with and approved by the Town Board. Gas service laterals shall be installed to each lot line. These utility lines can be run across the road if the road has not yet been laid down. Once the road has been laid down, utility lines must be run parallel on each side of the road. Roads shall not be torn up to put in these lines.

(6) Road Signs. The Town shall provide at the divider's expense and the divider shall assume the cost of installation at the intersection of all roads proposed to be dedicated, a road sign of a design specified by the Town Board. In addition, the divider shall install any official traffic signs estimated by the development at the locations and way the design required by the authority in charge of the highway.

(7) Specifications. Unless otherwise stated, all of the required improvements shall conform to engineering standards and specifications as required by the Town Board. Such improvements shall be made in sequence as determined by the Town Board.

7.08 FEES AND FINANCING.

(1) Divider to Pay Town Costs. The subdivider or land divider shall pay all administrative costs and any engineering, inspection, consulting and legal fees incurred by the Town for services performed by or on behalf of the Town in conjunction with the design, inspection and review of any preliminary plat, certified

survey, final plat or survey or contract; the drafting of documents; and such inspections 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. Consulting, engineering, inspection and legal fees shall be the actual costs to the Town on the basis of submitted invoices plus twice (2 x) the actual payroll costs for time spent by any employees of the Town. Such fees may be billed monthly, or upon completion of the project as determined by the Town Board.

Administrative costs shall include costs of publication of required public notices and costs of special meetings held at the request of the developer as from time to time established by the Town Board.

(2) Security for Improvements. Before recording a plat or certified survey map of a development which includes required public improvements, the divider shall enter into a contract with the Town agreeing to meet all conditions of Town approval and applicable requirements of Town ordinances and shall furnish security for completion of required improvements, if any, in an amount approved by the Town Chair, but not less than 125% of the estimated cost of completion of such improvements and in a form approved by the Town Attorney. When a letter of credit is posted as security, the Town must be the beneficiary. When the security is in the form of a certified check, the check must be immediately payable to the Town. Joint bank deposits or C.D.s will not be accepted as security. The security deposit shall guarantee that all required improvements will be made and installed according to by the subdivider or land divider or its contractors not later than 18 months from the date that the plat or survey map is recorded.

(3) Release of Security. The security furnished by the developer shall remain in full force for a period of two (2) years after the completion of the project and acceptance by the Town Board unless partially released as hereinafter provided.

(a) The security shall be held to guarantee the work performed pursuant to private contracts against defects in workmanship and materials. If any defect appears during the period of the guarantee, the developer or its contractor shall at its expense, install replacements or perform acceptable repairs. In the event that the developer fails to install the replacement or perform the repairs, the Town may do so and deduct the cost thereof from the security deposit. Unless defects have appeared and have not been repaired, the Town will release the security to the developer upon expiration of the two year guarantee period.

(b) The Town may from time to time, but no more often than monthly, during the course of construction partially release the security finished when:

- 1 The reduced security will be sufficient to guarantee the work performed pursuant to private contract against defects in material and workmanship or will be at least twenty five percent (25%) of the total cost of improvements, whichever is greater;
- 2 Affidavits or lien waivers, in an amount acceptable to the Town Board and approved as to form by the Town attorney, evidencing full payment for the required improvements which have been completed, are submitted with the request for a partial security release; and
- 3 An application for partial security release has been filed with the Town Clerk-Treasurer before the 10th day of the month.

7.09 BASIS FOR APPROVAL.

(1) Wis. Stat. § 236.13. The Town Board shall not approve, pursuant to § 236.13, a subdivision plat or land division in the Town for any person unless approval is conditioned on at least the following:

- (a) Compliance with ch. 236, Wis. Stats;
- (b) Compliance with this chapter;
- (c) Compliance with the County of Door shoreland zoning ordinance, and any adopted by the Wisconsin department of natural resources' applicable rules;
- (d) Compliance with rules of the Wisconsin department of commerce relating to lot size and lot elevation necessary for proper sanitary conditions in the subdivision not served by public sewer, where provisions for public sewers has not been made; and
- (e) Compliance with rules of the Wisconsin department of transportation and Door County highway department relating to provisions for the safety of entrance upon and

departure from any abutting state or county trunk highways or connecting highways and for the preservation of the public interest and investment in such highways.

7.10 VARIATIONS AND EXCEPTIONS. Variations or exceptions to any of the provisions of this chapter may be granted by the Town Board in accordance with section 15.05 of this Code. Where the Plan Commission finds that extraordinary hardships or particular difficulties may result from strict compliance with these regulations, it may recommend to the Town Board variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variance or exception shall not have the effect of nullifying the intent and purpose of this chapter. The Plan Commission's recommendation shall be in writing and contain findings, based upon evidence presented to it in each specific case, that:

- (1) **Safety.** The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
- (2) **Uniqueness.** The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable, generally to other property; and
- (3) **Hardship.** Because of the particular physical surroundings, the shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

7.11 PRE-EXISTING SUBSTANDARD PARCELS

Lots or parcels used or proposed to be placed in a use allowable under this chapter that are deficient in minimum lot area or minimum lot width may be allowable for such use if the parcel was of record with the Register of Deeds on the effective date of the applicable section of this chapter in its current size or shape and if the following conditions are met:

- (1) If one or more adjoining parcels are owned by the same or related parties and if joinder of parcels or movement of parcel boundaries is determined to be feasible, the substandard parcel may be required to be made standard by combination with the adjoining parcel or movement of parcel boundaries.
- (2) If the deficiency is lack of required frontage, an existing substandard parcel may nevertheless be approved if it has either 20 feet of frontage on a public street or (for residential parcels) effective and workable easement access to a public street.

These allowances apply only to legally created and recorded pre-existing substandard parcels and do not establish policy or precedent favoring the creation of new substandard lot configurations.

7.12 ENFORCEMENT, PENALTIES AND REMEDIES.

(1) **Violations.** No person shall to build upon, divide, convey, record or monument any land in violation of this ordinance or of the Wisconsin Statutes; and no person, partnership, corporation, or legal entity of any sort shall be issued a building permit by the Town authorizing the building on, or improvement of, any land division, subdivision, or replat within the jurisdiction of this ordinance not of record as of the effective date of this ordinance until the provisions and requirements of this ordinance have been fully met. The Town may institute appropriate action, including but not limited to, issuance of citations by authorized Town officials or proceedings to enjoin violations of this ordinance or the applicable Wisconsin Statutes.

(2) **Building Inspection Supervisor to Enforce.** The Building Inspection Supervisor shall have primary responsibility for enforcing this chapter. No building permit shall be issued for construction on any lot until the final plat or survey has been approved and duly recorded. Where reasonably necessary to determine compliance with the provisions of this chapter 7 or any other provision of this Code relating to buildings and development, the Building Inspection Supervisor shall be granted access to private property and where the owner denies access, shall be entitled to seek an inspection warrant pursuant to the provision of §§ 66.022 and 66.023, Wis. Stats.

(3) **Penalties and Remedies for Violations.** Any person who fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit no less than Five Hundred Dollars (\$500.00) nor more than One Thousand Hundred Dollars (\$1,000.00) and the costs of prosecution and applicable assessments, fees, court costs and surcharges for each violation and in default of payment of such forfeiture costs shall be imprisoned in the County jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues after due written notice by the Building Inspection Supervisor or any member

of the Town Board shall constitute a separate offense. In addition, the remedies provided by §§ 236.30 and 236.31 of the Wisconsin Statutes shall be available to the Town.

7.13 VESTING OF RIGHTS IN PROJECTS PLANNED UNDER PRECEDING ORDINANCES

This section governs situations in which a project or occupancy was planned and/or partially carried out under a preceding ordinance and is now prohibited or substantially altered by a new ordinance or ordinance amendment. If the project is legally established and operational prior to ordinance change, it has non-conforming status. Projects not fully established and operational at the time of ordinance change may be allowed to be established and operated under previous ordinance standards only by variance granted by the Town Board. The burden shall be on the applicant to prove to the Board that:

- (1) Under the then current state of court cases, as interpreted to the Board by the Town attorney, the applicant has made enough good faith investment toward the proposed project to have vested rights to continue; and
- (2) To enforce the new or amended ordinance strictly would create unnecessary hardship and would not achieve public benefits sufficient to outweigh the hardship. The Board may, in its sound discretion, impose conditions to establish reasonable compromise between old and new standards.