

## **TITLE 14**

### Land Division, Subdivision and Condominium Regulations

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Chapter 2	Stormwater Management

## **CHAPTER 1**

### Land Division, Subdivision and Condominium Regulations

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## ARTICLE A

### Adoption; Introduction

#### SEC. 14-1-1 INTRODUCTION AND PURPOSE. (Ord. 2006-38)

- (a) **Introduction.** In accordance with the authority granted by Sec. 236.45 of the Wisconsin Statutes and for the purposes listed in Sections 236.01 and 236.45 of the Wisconsin Statutes, the Common Council of the City of Cedarburg, 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 welfare of the City of Cedarburg.
  - (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.** This Chapter applies to subdivisions, land divisions, and also to condominiums because the impact of density of development and the need for planning is the same regardless of the method of ownership. The purpose of this Chapter is to regulate and control the division of land or creation of a condominium that results in the division of land within the corporate limits of the City of Cedarburg, Wisconsin, and within the extraterritorial plat approval jurisdiction of the City in order to promote the public health, safety, convenience and general welfare of the community. The regulations are designed to lessen congestion in the highways and streets; to foster the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to discourage overcrowding of the land; to protect the community's agriculture base; to facilitate adequate provision for housing, transportation, public water and sewerage, schools, parks, playgrounds and other public necessities; to secure safety from flooding, water pollution, disease and other hazards; to prevent flood damage to persons and properties and minimize expenditures for flood relief and flood control projects; to prevent and control erosion, sedimentation and other pollution of surface and subsurface waters; to preserve natural vegetation and cover and promote the natural beauty of the community; to restrict building sites in areas covered by poor soils or in other areas poorly suited for development; to facilitate the further division of larger tracts into smaller parcels of land; to ensure adequate legal description and proper survey monumentation of subdivided land; to provide for the administration and enforcement of this Chapter; to provide penalties for its violation; to implement those municipal, county, watershed or regional comprehensive plans or their components adopted by the City and, in general, to facilitate enforcement of City development standards as set forth in the adopted regional, county and local comprehensive plans, neighborhood plans, adopted plan components, City Zoning Ordinance, and City Building Code of the City of Cedarburg, Wisconsin; and to facilitate the further division of large tracts of land into smaller parcels. The regulations are made with the reasonable consideration of, but not limited to, the present character of the City and its environs, with

the objectives of conserving the value of the land and improvements placed thereon, providing the most appropriate environment for human habitation, encouraging commerce and industry, protecting farming and open spaces, and providing for the most appropriate use of land in the City of Cedarburg.

State Law Reference: Chapter 236, Wis. Stats.

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

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

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

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City of Cedarburg 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 section, portion or provision of this Chapter is invalid or unconstitutional, or if the application of this Chapter to any person or circumstances is adjudged invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Chapter which can be given effect without the invalid or unconstitutional provision or application.

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

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

#### **SEC. 14-1-6 TITLE.** (Ord. 2006-08)

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

#### **SEC. 14-1-7 JURISDICTION.**

The regulations contained in this Land Division and Subdivision Regulations Code shall apply to all property situated either wholly or partly within the boundaries of the City of Cedarburg, Wisconsin, and its extraterritorial limits in accordance with Section 62.23(7) and Chapter 236 of the Wisconsin

State Statutes. (Ord. 2005-18)

## ARTICLE B

### Definitions

#### SEC. 14-1-10 DEFINITIONS. (Ord. 2006-08)

- (a) The following definitions shall be applicable in this Chapter:
- (1) Alley. A public right-of-way which normally affords a secondary means of vehicular access to abutting property.
  - (2) Arterial Street. A street which provides for the movement of relatively fast or heavy traffic to, from or within the City. Arterial streets shall include freeways and expressways as well as standard arterial streets, highways and parkways. It has a secondary function of providing access to abutting land.
  - (3) Block. An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, public parks, cemeteries, railroad rights-of-way, shorelines of navigable waters, municipal boundaries, and exterior boundary lines of the subdivision and streams or water bodies.
  - (4) 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.
  - (5) Commission. The Plan Commission created by the Common Council pursuant to Sec. 62.23 of the Wisconsin Statutes.
  - (6) Comprehensive Development Plan. A comprehensive plan, also called a master plan, prepared by the City indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof. Devices for the implementation of these plans, such as zoning, official map, land division and capital improvements programs shall also be considered a part of the comprehensive plan.
  - (6a) Condominium. A building or group of buildings in which units are owned individually and the structure, common areas, and facilities are owned by all owners on a proportional, undivided basis. It is a legal form of ownership or real estate and not a specific building type or style. (Ord. 2006-08)
  - (7) Cul-de-sac. A short street having but one (1) end open to traffic and the other end being permanently terminated in a vehicular turnaround.
  - (8) Development (Rural). Agricultural, residential, recreational and other open space development at such concentrations and densities not requiring traditional 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. Rural development occurs when residential development is at

densities of 0.2 dwelling units per acre or less.

- (9) Development (Suburban). Residential, commercial, industrial, governmental and institutional development in sufficient concentrations or densities to a variety and medium level of traditional urban services and including, but not limited to, full- or part-time municipal police and fire protection and community administration; additional public streets and highways; neighborhood parks and playgrounds; neighborhood schools; local libraries; public sanitary sewer facilities, public water supply facilities and public solid waste removal; and street maintenance. 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. Suburban development occurs when residential development is at densities of from 0.2 to 2.17 dwelling units per gross acre.
- (10) Development (Urban). Residential, commercial, industrial, governmental and development in sufficient concentrations or densities to require a variety and high level of traditional urban services and facilities, including, but not limited to: full- or part-time municipal police and fire protection and community administration; additional public streets and highways; neighborhood parks and playgrounds; neighborhood schools; local libraries; public sanitary sewer facilities, public water supply facilities and public solid waste removal; storm sewers; mass transit facilities; continual street maintenance; curbs, gutters and sidewalks; street lighting; and neighborhood convenience shopping. 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. Urban development occurs when residential development is concentrated in densities in excess of 2.17 dwelling units per gross acre.
- (11) Division of Land. Where the title or any part thereof is transferred by the execution of a land contract, an option to purchase, an offer to purchase and acceptance, a deed, a subdivision plat or a certified survey map.
- (12) Easement. The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.
- (13) 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.
- (14) 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.
- (15) Flood Protection Elevation. An elevation two (2) feet above the elevation of the one hundred (100) year recurrence interval flood. Where such data is not readily available, the subdivider shall provide the City with engineering data showing the flood profile, necessary cross-sections, flow elevations and an accurate delineation of the one hundred (100) year recurrence interval floodplain.
- (16) Floodlands. Those lands including the channels, floodways and floodplain fringe of any given reach which are subject to inundation by a flood with a given recurrence

frequency. The one hundred (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. Other flood events used in this Chapter are the fifty (50) year recurrence interval flood [or that flood having a two percent (2%) probability of occurring in any given year] and the ten (10) year recurrence interval flood [or that flood having a ten percent (10%) probability of occurring in any given year]. Where detailed flood data is not available, the maximum flood of record is used.

- (17) 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.
- (18) 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.
- (19) 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.
- (20) Improvement, Public. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, curb and gutter, sidewalk, pedestrian way, planting strip or other facility for which the City may ultimately assume the responsibility for maintenance and operation.
- (21) Local Street. A street of little or no continuity designed to provide access to abutting property and leading into collector streets; also referred to as a "minor street."
- (22) Lot. A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter and any applicable zoning ordinance.
- (23) Lot, Area. The area contained within the exterior boundaries of a lot excluding streets, and land under navigable bodies of water.
- (24) Lot, Corner. A lot abutting intersecting streets at their intersection, provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less, measured on the lot side.
- (25) 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.
- (26) 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



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rear.

- (27) 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.
- (28) Lot Lines. The peripheral boundaries of a lot as defined herein.
- (29) Lot Width. The width of a parcel of land measured along the front line.
- (30) 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.
- (31) Minor Land Division. Any division of land not defined as a "subdivision." 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 of building sites, any one (1) 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. Such minor land divisions shall be made by a certified survey map.
- (32) Minor Street. A street used, or intended to be used, primarily for access to abutting properties; also referred to as a "local street."
- (33) Municipality. An incorporated village or city.
- (34) National Map Accuracy Standards. Standards governing the horizontal and accuracy of topographic maps and specifying the means for testing and determining such accuracy, endorsed by all federal agencies having surveying and mapping functions and responsibilities. These standards have been fully reproduced in Appendix D of SEWRPC Technical Report No. 7, Horizontal and Vertical Survey Control in Southeastern Wisconsin.
- (35) Navigable Stream. Any stream capable of floating any boat, skiff or canoe of the shallowest draft used for recreational purposes.
- (36) Outlot. 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 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.
- (37) Owner. Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these.
- (38) Park Board. The City of Cedarburg Park Board.
- (39) Parkway. That portion of a public street right-of-way typically located between the street curb and the street-side edge of the paved sidewalk. Generally grass and street trees are located within this area. Where there is no sidewalk, the area six (6) feet from the curb line shall be deemed to be a parkway.
- (40) Pedestrian Pathway. A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.
- (41) Plat. The map, drawing or chart on which the subdivider's plat of subdivision is

presented to the City for approval.

- (42) Preliminary Plat. The Preliminary Plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Plan Commission for their consideration as to compliance with the Comprehensive Development Plan, zoning code and these regulations along with required supporting data.
- (43) 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 minor land division or 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.
- (44) Public Way. Any public road, street, highway, walkway, drainageway or part thereof.
- (45) 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.
- (46) Shorelands. Those lands within the following distances: one thousand (1,000) feet from the high-water elevation of navigable lakes, ponds and flowages or three hundred (300) feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
- (47) Subdivider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor land division (certified survey map) or replat.
- (48) Subdivision. The division of a lot, outlot, parcel, or tract of land by the thereof or his agent for the purpose of transfer of ownership or building development where the act of division creates five (5) or more parcels or building sites of one and one-half (1-1/2) acres or less in area, or where the act of division creates five (5) or more parcels or building sites of one and one-half (1-1/2) acres each or less in area by successive division within a period of five (5) years, whether done by the original owner or a successor owner.
- (49) Surety Bond. A bond guaranteeing performance of a contract of obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider.
- (50) Wetlands. An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. (Sec. 23.32(1), Wis. Stats.)
- (51) Wisconsin Administrative Code. The rules of administrative agencies having authority in Wisconsin, published in a loose-leaf, continual revision system, as directed by Sec. 35.93 and Chapter 227 of the Wisconsin Statutes, including subsequent amendments to those rules.

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

## ARTICLE C

### General Provisions

#### SEC. 14-1-20 GENERAL PROVISIONS. (Ord. 2006-08)

- (a) **Compliance.** No person, firm or corporation shall divide any land located within the City or its extraterritorial plat approval jurisdiction which results in a subdivision, minor land division or a replat as defined herein; no such subdivision, minor land division, or replat, as defined herein, shall be entitled to recording; and no street shall be laid out or improvements made to land without compliance with all requirements of this Chapter and the following:
- (1) The provisions of Ch. 236 and Sec. 80.08, Wis. Stats.
  - (2) The rules of the Division of Health, Wisconsin Department of Industry, Labor and Human Relations, contained in Wis. Adm. Code Chapter H 85 for minor land divisions and 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 Plan Commission or Common Council.
  - (6) All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.
  - (7) The City of Cedarburg Master Plan, or components thereof, and applicable ordinances of any city or village whose extraterritorial jurisdiction extends into the City.
  - (8) All applicable rules contained in the Wisconsin Administrative Code not listed in this Subsection.
- (b) **Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the City of Cedarburg and its extraterritorial plat approval jurisdictional area. The provisions of this Chapter, as they apply to divisions of tracts of land into less than five (5) parcels, shall not apply to: (Ord. 98-27)
- (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 this Chapter or other applicable laws or ordinances.
  - (4) Cemetery plats made under Sec. 157.07, Wis. Stats.
  - (5) Assessors' plats made under Sec. 70.27, Wis. Stats., but such assessors' plats shall comply with Sections 236.15(1)(a) through (g) and 236.20(1) and (2)(a) through (e), Wis. Stats.

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- (c) **Certified Survey.** 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 City of Cedarburg 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 City of Cedarburg 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) **Declaration of Condominium.** Any declaration of condominium or amended declaration for expansion purposes, affecting property within the City or its extraterritorial plat approval jurisdiction shall be reviewed and the condominium plat approved and recorded pursuant to the provisions of this Chapter and Wis. Stats. ch. 703.

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

- (a) Suitability.
  - (1) No land shall be subdivided for residential, commercial or industrial use which is held unsuitable for such use by the Plan Commission, for reason of flooding, inadequate drainage, adverse soil or rock formation, 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.
  - (2) In addition:
    - a. Floodlands. No lot served by public sanitary sewer facilities shall have less than fifty percent (50%) of its required lot area below an elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood. No lot one (1) acre or less in area served by an on-site sanitary sewage disposal (septic tank) system shall include floodlands. All lots more than one (1) acre in area served by a septic tank system shall contain not less than forty thousand (40,000) square feet of land which is above flood protection elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, five (5) feet above the maximum flood of record.
    - b. Lands made, altered or filled with non-earth materials within the preceding twenty (20) years shall not be divided into building sites which are to be served by soil absorption waste disposal systems.
    - c. Lands made, altered or filled with earth within the preceding seven (7) years shall not be divided into building sites which are to be served by on-site soil absorption sanitary sewage disposal systems.
    - d. Lands having a slope of twelve percent (12%) or more shall be maintained in permanent open space use. No lot shall have more than fifty percent (50%) of its minimum required area in slopes of ten percent (10%) or greater.
    - e. Lands having bedrock within six (6) feet of the natural undisturbed surface shall not be divided into building sites to be served by on-site soil absorption

- sewage disposal systems.
  - f. Lands having groundwater within six (6) feet of the natural undisturbed surface shall not be divided into building sites to be served by soil absorption sewage disposal systems.
  - g. Lands covered by soils having a percolation rate slower than sixty (60) minutes per inch or faster than ten (10) minutes per inch and located outside the corporate limits of the City shall not be divided into building sites to be served by on-site soil absorption sewage disposal systems.
  - h. Lands drained by farm drainage tile or farm ditch systems shall not be divided into building sites to be served by on-site soil absorption sewage disposal systems.
- (3) The Plan Commission, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for residential, commercial, industrial or institutional use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter the Plan Commission may affirm, modify, or withdraw its determination of unsuitability.
- (b) **Existing Flora.** The subdivider shall make every effort to protect and retain all trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the subdivider.

#### **SEC. 14-1-22 LAND DIVISIONS OR SUBDIVISIONS, INCLUDING THOSE UNDER CONDOMINIUM OWNERSHIP, IN EXTRATERRITORIAL PLAT APPROVAL JURISDICTION**

Subdivisions and land divisions in the City's extraterritorial plat approval jurisdictional area, including those under condominium ownership, must be 35 acres or more per parcel. The Plan Commission may approve land divisions or subdivision of lands, including those under condominium ownership, in the extraterritorial plat approval jurisdiction into parcels of less than 35 acres in size based on applicable criteria enumerated below. The City shall not consider any subdivision or land division, including those under condominium ownership, which did not have prior approval by the Town; however, this prior approval does not limit the City's extraterritorial plat approval authority. The City may require any conditions of approval of a subdivision or land division, including those under condominium ownership and including the use of restrictive covenants and the creation of a homeowner's association.

**Criteria for the subdivision of lands into parcels of less than 35 acres in size in the extraterritorial plat approval jurisdiction:**

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- (a) **Criteria for Agricultural Land Division.** The City may grant approval of a land division subdividing portions of agricultural lands provided that the City shall determine that the proposed land division will assist and assure the continuation of the agricultural use.
- (b) **Criteria for Nonagricultural Subdivision or Land Division.** In the case of nonagricultural lands, the City may grant approval of a subdivision provided that the City shall determine that the proposed subdivision or land division complies with each of the following four criteria:
  - (1) The parcel is located outside the City's Sanitary Sewer Service Area (SSA).
  - (2) The proposed subdivision or land division shall be compatible with adjacent land uses and shall maintain the general land use pattern of the area.
  - (3) The proposed subdivision or land division shall result in a development pattern which is compatible with surrounding developments and land uses. Measures of compatibility shall consider lot sizes, traffic generation, access, noise and visual features.
  - (4) The proposed subdivision or land division and the resulting development shall not adversely affect the City's ability to provide public services, install public improvements.

**SEC. 14-1-23 THROUGH SEC. 14-1-29 RESERVED FOR FUTURE USE.**

## ARTICLE D

### Land Division and Condominium Procedures

#### SEC. 14-1-30 PRE-APPLICATION. (Ord. 2006-08)

- (a) **Pre-Application Conference.** It is recommended that, prior to the filing of an application for the approval of a preliminary plat, minor land division or condominium, the subdivider consult with the Plan Commission following a mandatory conference with City staff, in order to obtain their advice and assistance. This consultation is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components, neighborhood plans and duly adopted plan implementation devices of the City, and to otherwise assist the subdivider in planning his development. In so doing, both the subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.
- (b) **Required Information.** The following information shall be submitted to the City at the pre-application stage:
- (1) Use Statement. Statement of the proposed use of the lots, stating the type of residential buildings with the number of proposed dwelling units; type of business or industry so as to reveal the effect of the development on traffic, fire hazards or congestion of traffic and population.
  - (2) Zoning Changes. If any proposed zoning changes are contemplated, the proposed zoning plan for the area including related dimensions.
  - (3) Impact Statements. An impact statement shall be required for subdivisions. The City Plan Commission shall consider such impact statement in making its decision relative to the approval of the preliminary plat. The impact statement shall contain information relative to the following:
    - a. **Surface water.**
      1. Indicate total flow (cfs) of surface water to each point of outlet of the proposed development.
      2. Explain the effect of this water to all points affected throughout the City to a point or points at the City's boundary. Emphasis to be made on effect to all existing drainage structures.
      3. Drawings to be furnished indicating discharge for a substantial reach outside of the development.
    - b. **Traffic.** Indicate projected traffic count on all development streets.
    - c. **Points of Interest.** Indicate any points of interest within or surrounding the development such as, but not limited to, hills, swamps, water courses, lakes, quarry operations or landfills and the effect this development will have upon such items.
    - d. **Schools.** Indicate the potential school population within the development by

the following classification:

1. Elementary (Grades 1 through 6).
  2. Middle or Junior High School (Grades 7 through 8).
  3. High School (Grades 9 through 12).
- e. Sanitary Sewers.
1. If public sewers are to be available, indicate the source of treatment and disposal and a description of what improvements, if any, must be made to accommodate this development.
  2. If private disposal systems are to be used, include soil test data and approvals from the appropriate state agency.

**SEC. 14-1-31 PRELIMINARY PLAT OR CONDOMINIUM REVIEW.** (Ord. 2006-08)

- (a) Before submitting a final plat for approval, the subdivider shall prepare a preliminary subdivision plat or condominium plat if he is proposing a condominium and a letter of application. The preliminary subdivision plat or condominium plat shall be prepared in accordance with this Chapter, and the subdivider shall file fifteen (15) copies of the plat and the application with the City 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.
- (b) The City Clerk shall, within two (2) normal work days after filing, transmit four (4) copies to the County Department of Environmental Health, two (2) copies to the Wisconsin Department of Development, additional copies to the Wisconsin Department of Development for retransmission of two (2) copies each to the Wisconsin Department of Transportation, if the subdivision abuts or adjoins a state trunk highway or a connecting street, and the Wisconsin Department of Industry, Labor and Human Relations, if the subdivision is not served by a public sewer and provision for such service has not been made, and the Wisconsin Department of Natural Resources if shorelands or floodlands are contained within the proposed subdivision, and copies as required by the City Engineer to the Plan Commission. In addition, any appropriate fees paid by the subdivider for the required state agency reviews shall be forwarded by the City Clerk to the head of the planning function in the Wisconsin Department of Development. The Wisconsin Department of Development, the Wisconsin Department of Transportation, the Wisconsin Department of Industry, Labor and Human Relations, and the Ozaukee County Environmental Health Department shall hereafter be referred to as objecting agencies.
- (c) The City Clerk shall also transmit a copy of the preliminary subdivision plat or condominium plat to all affected City boards, commissions or departments, school districts and all affected local utility companies for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Plan Commission within thirty (30) days from the date the plat is filed, except that the Wisconsin Department of Development shall have forty-five (45) days. The preliminary plat shall then be reviewed by the Plan Commission for conformance with this Code and all codes, ordinances, rules, regulations, comprehensive plans and comprehensive plan components, and neighborhood plans.



**SEC. 14-1-32 PRELIMINARY PLAT APPROVAL** (Ord. 2001-41) (Ord. 2006-08)

- (a) **Review by Objecting Agencies.** The objecting agencies shall, within thirty (30) days of the date of receiving their copies of the preliminary subdivision or condominium plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the City Clerk. If an objecting agency fails to act within thirty (30) days, it shall be deemed to have no objection to the plat.
- (b) **Review and Decision by Plan Commission and Common Council.** The Plan Commission and Common Council shall, within ninety (90) days of the date of the filing of a preliminary subdivision or condominium plat with the City Clerk, approve, approve conditionally or reject such plat. One (1) copy of the plat shall thereupon be returned to the subdivider with the date and action endorsed thereon and, if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. One (1) copy each of the plat and letter shall be placed in the Plan Commission's permanent file.
- (c) **Failure to Act.** Failure of the Plan Commission and Common Council to act within ninety (90) days shall constitute an approval of the plat as filed.
- (d) **Effect of Approvals.** Approval or conditional approval of a preliminary subdivision or condominium plat shall not constitute automatic approval of the final plat or condominium declaration, except that if the final plat or condominium declaration is submitted within six (6) months of preliminary subdivision or condominium plat approval and conforms substantially to the preliminary subdivision or condominium plat layout as indicated in Sec. 236.11(1)(b) of the Wisconsin Statutes, the final subdivision plat or condominium declaration shall be entitled to approval with respect to such layout. The preliminary subdivision or condominium plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final subdivision plat or condominium declaration which will be subject to further consideration by the Plan Commission and Common Council at the time of its submission.

**SEC. 14-1-33 FINAL PLAT OR CONDOMINIUM DECLARATION REVIEW.** (Ord. 2006-08)

- (a) **Copies and Filing Time.** The subdivider shall prepare a final subdivision plat or condominium declaration document and a letter of application in accordance with this Chapter and shall file an adequate number of copies of the subdivision plat or condominium declaration document and the application with the City Clerk at least twenty-five (25) days prior to the meeting of the Plan Commission at which action is desired. In addition:
- (b) **Agency Review.**
  - (1) The City Clerk shall, within two (2) normal work days after filing, transmit four (4) copies to the Ozaukee County Environmental Health Department, two (2) copies to the Director of the Planning Function in the Wisconsin Department of Development, additional copies to the Wisconsin Department of Development for retransmission of

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two (2) copies each to the Wisconsin Department of Transportation, if the subdivision abuts or adjoins a state trunk highway or a connecting street, the Wisconsin Department of Industry, Labor and Human Relations, if the subdivision is not served by a public sewer and provision for such service has not been made, and the Wisconsin Department of Natural Resources, if shorelands or floodlands are contained within the proposed subdivision, and the original final plat and copies as required by the City Engineer to the Plan Commission.

- (2) In addition, any appropriate fees paid by the subdivider for the required state agency reviews shall be forwarded by the City Clerk to the planning function of the Wisconsin Department of Development.
- (c) **Plan Commission Review.** The Plan Commission shall examine the final subdivision plat or condominium declaration document as to its conformance with the approved preliminary subdivision or condominium plat, any conditions of approval of the preliminary plat, this Chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and recommend approval or rejection of the plat to the Common Council.
- (d) **Partial Platting.** If permitted by the Common Council, the approved preliminary subdivision or condominium plat may be final subdivision platted or the declaration of condominium be in phases with each phase encompassing only that portion of the approved preliminary subdivision or condominium plat which the subdivider proposes to record at one (1) time; however, it is required that each such phase be final platted or the declaration of condominium be designated as a "phase" of the approved preliminary subdivision or condominium plat. If a partial plat is employed, required engineering data shall be filed for the entire plat area.

**SEC. 14-1-34 FINAL SUBDIVISION PLAT CONDOMINIUM DECLARATION APPROVAL**  
(Ord. 2006-08) (Ord 2014-01)

- (a) **Review by Objecting Agencies.** The objecting agencies shall, within twenty (20) days of the date of receiving their copies of the final subdivision plat or condominium declaration, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Plan Commission. If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objection to the plat.
- (b) **Submission.** If the final subdivision plat or condominium declaration is not submitted within six (6) months of the last required approval of the preliminary subdivision or condominium plat, the Common Council may refuse to approve the final subdivision plat or condominium declaration.
- (c) **Plan Commission Review.** The Plan Commission shall, within thirty (30) days of the date of the filing of the final subdivision plat or condominium declaration with the City Clerk, recommend approval or rejection of the plat and shall transmit the final plat and application, along with its recommendations to the Common Council.
- (d) **Notification.** The Plan Commission shall, at the time it recommends approval or rejection of

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a plat to the Common Council and at least ten (10) days prior to any action of the Common Council give notice of its recommendation to the Clerk of any municipality within one thousand (1,000) feet of the plat.

(e) **Council Review.**

- (1) The Common Council shall, within sixty (60) days of the date of filing the original final subdivision plat or condominium declaration with the City Clerk, approve or reject such subdivision plat or condominium declaration unless the time is extended by agreement with the subdivider. If the subdivision plat or condominium declaration is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Common Council may not inscribe its approval of the final subdivision plat or condominium declaration unless the City Clerk certifies on the face of the subdivision plat or condominium declaration that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within twenty (20) days or, if filed, have been met.
- (2) Failure of the Common Council to take action on the plat within sixty (60) days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.

(f) **Recordation.** After the final subdivision plat or condominium declaration has been approved by the Common Council and required improvements either installed or a contract and sureties insuring their installation is filed, the City Clerk shall cause the certificate inscribed upon the subdivision plat or condominium declaration attesting to such approval to be duly executed and the subdivision plat or condominium declaration be returned to the subdivider who is responsible for recording all documents with the County Register of Deeds. Such plats shall be recorded by the County Register of Deeds within 12 months after the date of the last approval of the plat and within 36 months after the first approval. Failure to do so shall necessitate a new review and re-approval of the map by the Common Council. (Ord. 2014-01)

(g) **Copies.** The subdivider shall file fifteen (15) copies of the final plat, plus one (1) original mylar, with the City Clerk for distribution to the City Engineer, Building Inspector, Assessor and other affected departments for their files.

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

- (a) Except as provided in Sec. 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 of the Wisconsin Statutes. The subdivider, or person wishing to replat, shall then proceed as specified for preliminary and final plats.
- (b) The City Clerk shall schedule a public hearing before the Plan Commission when a preliminary plat of a replat of lands within the City or its extraterritorial jurisdiction limits 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 Plan Commission may require that such lots be arranged so as to allow resubdivision of such parcels into lots in accordance with the provisions of this Chapter.

#### **SEC. 14-1-36 MINOR LAND DIVISION (CERTIFIED SURVEY MAP).**

- (a) **Use of Certified Survey Map.** When it is proposed to divide land into at least two (2) but not more than four (4) parcels or building sites, 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, or when it is proposed to divide any number of parcels greater than one and one-half (1-1/2) acres in size (thus not constituting a "subdivision" as defined in this Chapter), the subdivider shall prepare a certified survey map in accordance with this Chapter and shall file fifteen (15) copies of the map and the letter of application with the City Clerk at least fifteen (15) days prior to the meeting of the Plan Commission at which action is desired.
- (b) **Referral to Plan Commission.** The City Clerk shall, within ten (10) normal work days after filing, transmit the copies of the map and letter of application to the Plan Commission.
- (c) **Review by Other City Agencies.** The City Clerk shall transmit a copy of the map to all affected City boards, commissions or departments for their review and recommendations concerning matters within their Jurisdiction. Their recommendations shall be transmitted to the Plan Commission within ten (10) days from the date the map is filed. The map shall be reviewed by the Plan Commission for conformance with this Chapter and all ordinances, rules, regulations, comprehensive plans, comprehensive plan components and neighborhood plans.
- (d) **Review and Approval**
  - (1) If the proposed minor land division involves the creation of new public street rights-of-way or other public utilities or facilities, as determined by the Plan Commission, the Plan Commission shall, within sixty (60) days from the date of filing of the map, recommend approval, conditional approval or rejection of the map and shall transmit the map along with its recommendations to the Common Council. The Common Council shall approve, approve conditionally and thereby require resubmission of a corrected certified survey map or reject such certified survey map within ninety (90) days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider. If the map is approved, the Common Council shall cause the City Clerk to so certify on the face of the original map and return the map to the subdivider.
  - (2) If the proposed minor land division does not involve the creation of new public street rights-of-way or other public utilities or facilities, as determined by the Plan Commission, the Plan Commission shall approve, approve conditionally and thereby require resubmission of a corrected certified survey map or reject such certified

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survey map within ninety (90) days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider. If the map is approved, the Plan Commission shall cause the City Clerk to so certify on the face of the original map and return the map to the subdivider.

- (e) **Recordation.** The subdivider shall record the map with the County Register of Deeds within thirty (30) days of the approval.
- (f) **Copies.** The subdivider shall file fifteen (15) copies of the certified survey map, one (1) original mylar, with the City Clerk for distribution to the City Engineer, Building Inspector, Assessor and other affected departments for their files.

**SEC. 14-1-37 THROUGH SEC. 14-1-39    RESERVED FOR FUTURE USE.**

**ARTICLE E** (Ord. 2006-08)

**Technical Requirements for Preliminary Subdivision or  
Condominium Plats and Certified Survey Maps**

**SEC. 14-1-40 TECHNICAL REQUIREMENTS FOR PRELIMINARY PLATS.** (Ord. 2006-08)

- (a) **General.** A Preliminary Plat shall be required for all subdivisions or condominiums and shall be based upon a survey by a registered land surveyor and the plat prepared on Mylar at a scale of not more than one hundred (100) feet to the inch and shall show correctly on its face the following information:
- (1) Title under which the proposed subdivision is to be recorded. Such title shall not be the same or similar to a previously approved and recorded plat, unless it is in addition to a previously recorded plat and is so stated on the plat.
  - (2) Location of the proposed subdivision by government lot, quarter section, township, range, county and state.
  - (3) Date, Scale, and North Point.
  - (4) Names and Addresses of the owner, subdivider and land surveyor preparing the plat.
  - (5) 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 Plan Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Chapter and undo hardship would result from strict application thereof.
  - (6) General Location Sketch showing the location of the subdivision within the U.S. Public Land Survey section.
- (b) **Plat Data.** All Preliminary Plats shall show the following:
- (1) Exact Length and Bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
  - (2) Locations of all Existing Property Boundary Lines, structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.
  - (3) Location, Right-of-Way Width and Names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
  - (4) Location and Names of any Adjacent Subdivisions, parks and cemeteries and owners of record of abutting unplatted lands.
  - (5) Type, Width and Elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations.
  - (6) Location, Size and Invert Elevation of any existing sanitary or storm sewers, culverts

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and drain pipes, the location of public and private manholes, catch basins, hydrants, electric and communication facilities, whether overhead or underground and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sanitary or storm 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, all to mean sea level (1929 datum).

- (7) Corporate Limit Lines within the exterior boundaries of the plat or immediately adjacent thereto.
- (8) Existing Zoning on and adjacent to the proposed subdivision.
- (9) Contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum (National Geodetic Datum of 1929) at vertical intervals of not more than two (2) feet. At least two (2) permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the bench marks clearly and completely described. Where, in the judgment of the City Engineer, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.
- (10) High-Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom.
- (11) Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom at the date of the survey.
- (12) Floodland and Shoreland Boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, two (2) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within one hundred (100) feet therefrom.
- (13) Soil types, Slopes and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.
- (14) Location and Results of Soil Boring Tests within the exterior boundaries of the plat conducted in accordance with Sec. H 85.06 of the Wisconsin Administrative Code and delineation of areas with three (3) foot and six (6) foot groundwater and bedrock levels where the subdivision will not be served by public sanitary sewer service. 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. The results of such tests shall be submitted along with the preliminary plat.
- (15) 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. 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. The results of such tests shall be submitted along with the preliminary plat.

- (16) Location, Width and Names of all proposed streets and public rights-of-way such as alleys and easements.
  - (17) Approximate Dimensions of All Lots together with proposed lot and block numbers. The area in square feet of each lot shall be provided.
  - (18) Location and Approximate Dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting.
  - (19) Approximate Radii of all Curves.
  - (20) Any Proposed Lake and Stream Access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.
  - (21) Any Proposed Lake and Stream improvement or relocation, and notice of application for approval by the Division of Environmental Protection, Department of Natural Resources, when applicable.
  - (22) Where the Plan Commission or Director of Engineering and Public Works 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) **Other Information.** The following additional information and data shall be submitted with the Preliminary Plat but need not be on the face of the Preliminary Plat drawing:
- (1) A feasibility plan for use of adjoining vacant lands in order to demonstrate how the proposed development fits into both existing and planned land uses for the surrounding area.
  - (2) Proposed deed restrictions or protective covenants which include architectural standards in compliance with Section 13-1-122. (Ord. 2002-09)
  - (3) Tentative cross-sections and centerline profiles for each proposed street shown on the Preliminary Plat, showing type of pavement and curb installations.
  - (4) A plan of the proposed water distribution system, showing pipe sizes and location of valves and fire hydrants or a plan showing the location of individual wells.
  - (5)
    - a. If the subdivider is a corporation, the full legal name of the corporation as it appears of record in the office of the Secretary of State shall be furnished to the City Plan Commission the time the Preliminary Plat is submitted, together with the address of the principal officer of said corporation, the name and address of its registered agent, the names and addresses of all officers and directors of said corporation and the names and addresses of all persons, firms or corporations owning stock in said corporation.
    - b. If the subdivider is a partnership, joint venture or other association, the names and addresses of all persons, firms or corporation involved shall be furnished to the City Plan Commission at the time the Preliminary Plat is submitted.
    - c. At the time of filing a Preliminary Plat with the City Plan Commission, a



verified financial statement indicating the financial condition of the person, firm or corporation filing such Preliminary Plat, as of the date of the filing thereof, shall be submitted to the City Plan Commission. Such financial statements shall be signed by the person filing such Preliminary Plat or by an authorized officer of the firm or corporation filing the same.

- (6) Grading plans shall be submitted with the Preliminary Plat indicating existing grades, building grades and landscaping.
- (d) **Additional Information.** The Plan Commission may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not planned at the time.

**SEC. 14-1-41 TECHNICAL REQUIREMENTS FOR FINAL SUBDIVISION PLAT OR CONDOMINIUM DECLARATION.** (Ord. 2006-08)

- (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. A Condominium Document and Plan prepared by registered land surveyor and licensed attorney shall be required for all condominiums. It shall comply in all respects with the requirements of Wis. Stats. Ch. 703, and this Chapter. (Ord. 2006-08)
- (b) **Additional Information** The Final Subdivision Plat or Condominium Plan shall show correctly on its face, in addition to the information required by Section 236.20 for subdivision plat and ch. 703 for condominium plan, 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, as determined by the Cedarburg Light and Water Commission.
  - (4) Railroad Rights-of-Way within and abutting the plat.
  - (5) All Lands Reserved for future public acquisition or reserved for the common use of property owners within the Plat.
  - (6) Special Restrictions required by the Plan Commission relating to access control along public ways or to the provision of planting strips.
  - (7) Setback or Building Lines required by the Plan Commission or other City codes and ordinances.
  - (8) Utility and/or Drainage easements.
- (c) **Deed Restrictions.** Restrictive covenants and deed restrictions which include Architectural Standards for the proposed subdivision or condominium shall be filed with the Final Plat or Condominium Declaration. (Ord. 2002-09)
- (d) **Property Owners Association.** The legal instruments creating a property owners or condominium association for the ownership and/or maintenance of common lands in the subdivision or condominium shall be filed with the Final Plat or Condominium Declaration.
- (e) **Survey Accuracy.**
  - (1) Examination. The City Engineer shall examine all Final Plats or Condominium Plans within the City of Cedarburg and may make, or cause to be made by a registered land surveyor under the supervision or direction of the City Engineer, field checks for the

accuracy and closure of the survey, the proper kind and location of monuments, and legibility and completeness of the drawing at the developer's cost.

- (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 field 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 City, County or Southeastern Wisconsin Regional Planning Commission, 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. The Plan Commission shall receive the results of the City Engineer's examination prior to approving the Final Plat and make a recommendation to the Council.
- (f) **Surveying and Monumenting.** All Final Plats shall meet all the surveying and monumenting requirements of Section 236.15, Wis. Stats.
- (g) **State Plane Coordinate System.** Where the plat is located within a quarter section, the corners of which have been relocated, monumented and coordinated by the City, County or the Southeastern Wisconsin Regional Planning Commission, the plat shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat. All distances and bearings shall be referenced directly to the Wisconsin Coordinate System, South Zone, and adjusted to the City's control survey.
- (h) **Certificates.** All Final Plats shall provide all the certificates required by Section 236.21, Wis. Stats.; and in addition, the surveyor shall certify that he has fully complied with all the

provisions of this Chapter.

- (i) **Recording.** The Final Plat shall only be recorded with the County Register of Deeds after the certificates of the Director of the Planning Function in the Wisconsin Department of Development, of the Common Council, of the Surveyor and those certificates required by Sec. 236.21 of the Wisconsin Statutes are placed on the face of the plat. The plat shall be recorded within thirty (30) days of its approval by the Common Council.

**SEC. 14-1-42 TECHNICAL REQUIREMENTS FOR CERTIFIED SURVEY MAP  
LAND DIVISIONS; REVIEW AND APPROVAL** (Ord. 2014-01)

- (a) **General.** A certified survey map prepared by a 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.
- (b) **Additional Information** The Certified Survey Map shall show correctly on its face, in addition to the information required by Section 236.34, Wis. Stats., the following:
  - (1) All Existing Buildings, watercourses, drainage ditches and other features pertinent to proper land division.
  - (2) Setbacks or Building Lines required by the Plan Commission or other City codes and ordinances.
  - (3) All Lands Reserved for future acquisition.
  - (4) Date of the Map.
  - (5) Graphic Scale and north arrow.
  - (6) Name and Address of the owner, subdivider and surveyor.
  - (7) Square Footage of each parcel.
  - (8) Present Zoning for the parcels.
  - (9) Utility and/or Drainage Easements.
  - (10) 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. Proposed elevations shall also include the estimated first floor elevations of the principal structure for each lot shown. 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 and no grade changes are intended.
  - (11) Entire Area 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 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.
  - (12) Location of Soil Boring Tests, where required by Section H 85.06(2) of the Wisconsin Administrative Code, made to a depth of six (6) feet, unless bedrock is at a lesser depth. The number of such tests shall be adequate to portray the character of the soil and the depths of bedrock and groundwater from the natural undisturbed

surface. To accomplish this purpose, a minimum of one (1) test per three (3) acres shall be made initially. The results of such test shall be submitted along with the certified survey map.

- (13) Location of Soil Percolation Tests. where required by Section H 85.06(3) of the Wisconsin Administrative Code, conducted in accordance with Section H 85.06(4) of the Wisconsin Administrative Code, taken at the location and depth in which soil absorption waste disposal systems are to be installed. The number of such tests initially made shall not be less than one (1) test per three (3) acres or one (1) test per lot, whichever is greater. The results of such tests shall be submitted along with the certified survey map.
- (c) **State Plane Coordinate System.** Where the map is located within a U.S. Public Land Survey quarter section, the corners of which have been relocated, monumented and coordinated by the City, County or the Southeastern Wisconsin Regional Planning Commission, the map shall be tied directly to one of the section or quarter corners so relocated, monumented and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and Wisconsin state plane coordinate of the monument marking the relocated section or quarter corner to which the map is tied shall be indicated on the map. All distances and bearings shall be referenced to the Wisconsin Coordinate System, South Zone, and adjusted to the City's control survey.
- (d) **Certificates.** The surveyor shall certify on the face of the certified survey map that he has fully complied with all the provisions of this Chapter. The Common Council, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map.
- (e) **Street Dedication.** Dedication of streets and other public areas shall require, in addition, the owner's certificate and the mortgagee's certificate in substantially the same form as required by Section 236.21(2)(a) of the Wisconsin Statutes.
- (f) **Recordation.** The subdivider shall record the map with the County Register of Deeds within 6 months after the date of the last approval of the map and within 24 months after the first approval of the map. Failure to do so shall necessitate a new review and re-approval of the map by the Common Council. (Ord. 2014-01)
- (g) **Requirements.** The certified survey map shall comply with the provisions of this Chapter relating to general requirements, design standards and required improvements. Conveyance by metes and bounds shall be prohibited where the lot(s) involved is less than one and one-half (1-1/2) acres or three hundred (300) feet in width.
- (h) **Architectural Standards.** Architectural standards in compliance with Section 13-1-122 shall be submitted with any Certified Survey Map which creates lots for residential use. Such standards may be incorporated in deed restrictions or protective covenants which shall be approved with the Certified Survey Map. (Ord. 2002-09)

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

## ARTICLE F

### Required Improvements

#### **SEC. 14-1-50 IMPROVEMENTS REQUIRED.** (Ord. 2006-08)

- (a) **Payment for Improvements.** The improvements prescribed in this Chapter are required as a condition of approval of a land division or condominium. The required improvements described in this Chapter shall be installed, furnished and financed at the sole expense of the subdivider. However, in the case of required improvements in a commercial, institutional or industrial area, the cost of such improvements shall be based upon the current City of Cedarburg Assessments Policy.
- (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 Common Council. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices, approved prior to the start of construction by the City Engineer.
- (c) **City Policy Regarding Engineering Services.** In order to ensure the construction of improvements in compliance with City and state standards for construction, engineering services for improvements shall be provided for as outlined in the current City of Cedarburg Policy/Procedure Manual and amendments thereto.

#### **SEC. 14-1-51 REQUIRED AGREEMENT PROVIDING FOR PROPER INSTALLATION OF IMPROVEMENTS.** (Ord. 2006-08)

- (a) **Contract.** Prior to installation of any required improvements and prior to approval of the Final Plat Or Condominium Declaration, the subdivider shall enter into a written contract with the City requiring the subdivider to furnish and construct said improvements at his sole cost and in accordance with plans and specifications, the City Assessments Policy and usual contract conditions, which shall include provision for inspection of construction details by the City Engineer.
- (b) **Financial Guarantees.**
  - (1) The agreement shall require the subdivider to make a letter of credit or in lieu thereof to furnish a performance bond, the amount of the deposit and the penal amount of the bond to be equal to one and one quarter (1-1/4) times the City Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of engineering services.
  - (2) On request of the subdivider, 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 deposit or bond shall be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. If the required improvements are not complete within the specified period, all amounts held under performance bond shall be turned over and delivered to the City

and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Common Council, at its option, may extend the bond period for additional periods not to exceed two (2) years each period.

- (3) The time for completion of the work and the several parts thereof shall be determined by the Director of Engineering and Public Works upon recommendation of the City Engineer after consultation with the subdivider. The completion date shall be a component of the contract
- (4) The subdivider shall pay the City for all costs incurred by the City for review, construction and inspection of the subdivision. This would include review, and preparation at the Common Council's discretion, of plans and specifications by the City Engineer, City Consulting Engineer, City Planner and City Attorney, as well as other costs of a similar nature.

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

(Ord. 2006-08)

- (a) **Engineering Reports, Construction Plans and Specifications.** As required by Section 14-1-31, engineering reports and plans shall be submitted with the filing of the Preliminary Subdivision or Condominium Plat. Construction plans for the required improvements shall conform in all respects with the standards and the ordinances of the City and shall be prepared by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain his seal in conformance with the City's Engineering Services Policy. Such plans, together with the quantities of construction items, shall be submitted to the Director of Engineering and Public Works or his designee, for approval and estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Copies of the construction plans and specifications shall also be furnished for the following public improvements:
  - (1) Street Plans and Profiles showing existing and proposed grades, elevations and cross sections of required improvements
  - (2) Sanitary Sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
  - (3) Storm Sewer and Open Channel plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
  - (4) Water Main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
  - (5) Erosion and Sedimentation Control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation. Such plans shall comply with the City's Erosion Control Chapter (Building Code).
  - (6) Planting Plans showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.
  - (7) Additional special plans or information as required by City officials.

- (b) **Action by the Director of Engineering and Public Works, or His Designee.** The Director of Engineering and Public Works, or his designee, and consultant shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Chapter and other pertinent City ordinances and design standards whether prepared by City staff or the City's consultant. The Director of Engineering and Public Works, or his designee, shall approve the plans and specifications before the improvements are installed and construction commenced.
- (c) **Other Requirements.**
- (1) Contract Approval. 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 in conformance with the City of Cedarburg Engineering Services Policy.
  - (2) Governmental Units. Governmental units to which these bond and contract provisions may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf, agreeing to comply with the provisions of this Section .
  - (3) Plats Outside the Corporate Limits. Before final approval by the City of any plat located outside the corporate limits of the City but within the plat approval jurisdiction of the City, the subdivider shall give evidence that he has complied with all street and utility requirements of the town in which the land being platted is located.
  - (4) Survey Monuments. Before final approval of any plat within the City or its extraterritorial jurisdictional limits, the subdivider shall install survey monuments placed in accordance with the requirements of Chapter 236.15 of the Wisconsin Statutes and as may be required by the Director of Engineering and Public Works, or his designee.
- (d) **Construction and Inspection.**
- (1) Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the City or the City's consultant 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, except street paving, signs, sidewalks and street trees, required by this Chapter are satisfactorily completed.
  - (2) 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 Common Council, unless good cause can be shown for the Common Council to grant an extension.
  - (3) During the course of construction, the City Engineer shall make or cause to be made such inspections as required by the City of Cedarburg Engineering Services Policy to insure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the City as provided for by the executed Subdivider's Agreement. This fee shall be the actual cost to the City of inspectors, engineers and other parties necessary to insure satisfactory work.

- (e) **Record Plans.** After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made three (3) copies of record plans showing the actual location of all valves, manholes, stubs, sewers and water mains and such other facilities as the City Engineer shall require. These plans shall be prepared on the original mylars of the construction plans and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the record plans shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion.

#### **SEC. 14-1-53 STREET IMPROVEMENTS.**

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

- (a) **General Considerations.** The streets shall be designed and located in relation to existing and planned streets, to existing utilities and drainage, to topographical conditions and natural terrain features such as streams and existing tree growth, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
- (b) **Construction Standards.** Construction of all streets shall conform to the current standards as established by the Department of Engineering and Public Works and shall be subject to approval of the City Engineer before acceptance.
- (c) **Conform to Official Map.** The arrangement, width, grade and location of all streets shall conform to the adopted Official Map.
- (d) **Grading.** (Ord. 2006-08)
  - (1) With the submittal of the Final Plat or Condominium Declaration, the subdivider shall furnish drawings which indicate the existing and proposed grades of roads, streets and alleys shown on the plat.
  - (2) Proposed grades will be reviewed by the City Engineer for conformance with City standards and good engineering practice. Street grades require the approval of the Common Council after receipt of the City Engineer's recommendations. The proposed first floor grade elevation for each lot shall be indicated on the Preliminary Plat.
  - (3) After the installation of temporary block corner monuments by the subdivider and the establishment of street grades by the City Engineer, the subdivider shall grade the full width of the right-of-way of the streets and alleys proposed to be dedicated, including the vision clearance triangle on corner lots.
  - (4) In cases where an existing street right-of-way is made a part of the plat or abuts the plat, the subdivider shall grade that portion of the right-of-way between the existing pavement and the property line.
  - (5) The bed for the roadways in the street rights-of-way shall be graded to subgrade elevation.
  - (6) The City Engineer shall approve all grading within rights-of-way and said grading shall extend for a sufficient distance beyond the right-of-way to insure that the established grade will be preserved.



- (7) Where electric and other communications or utilities facilities are to be installed underground, the utility easements shall be graded to within six (6) inches of the final grade by the subdivider, prior to the installation of such facilities; earth fill piles or mounds of dirt or construction materials shall not be stored on such easement areas.
- (8) Cut and filled lands shall be graded to a maximum slope of one (1) to four (4) or the soils' angle of repose, whichever is the lesser, and covered with permanent vegetation.
- (e) **Street Construction** After sanitary sewer, storm sewer, water, and other necessary utilities have been installed, the subdivider shall construct and dedicate as part of the subdivision, streets and curbs and gutters. The subdivider shall surface roadways to the widths prescribed by City specifications. Construction shall be to City standard specifications for street improvements. All street paving shall be completed one (1) construction season after utilities installation.
- (f) **Completion of Street and Sidewalk Construction**
  - (1) Prior to any building permits being issued on lands adjacent to streets and/or sidewalks, all improvements except street paving and sidewalks shall be completed by the subdivider and approved by the City Engineer. Binder course and street paving shall be installed no sooner than the next construction season following completion of all other improvements.
  - (2) The Common Council may issue a waiver 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 Common Council.
  - (3) The subdivider requesting a waiver shall do so in writing, presenting such information and documentation as required by the Common Council. The waiver shall be in written form and shall detail which improvement requirements are temporarily waived and for what period of time.

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

In all urban subdivisions and minor land divisions as defined herein, the Plan Commission shall, and in suburban or rural subdivisions and minor land divisions may, require the subdivider to construct concrete curb and gutters in accordance with plans and standard specifications approved by the City. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts, as indicated on the Final Plat.

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

- (a) In all urban subdivisions and minor land divisions, the Common Council shall, and in rural or suburban subdivisions and minor land divisions may, require the subdivider to construct a concrete sidewalk on one (1) side of all frontage streets, and on both sides of all other through and/or continuous streets within the subdivision. The Plan Commission may also require the subdivider to construct concrete sidewalks on one (1) or both sides of all

dead-end or cul-de-sac streets which are in excess of six hundred (600) feet in length or which serve two (2) family or multiple-family development. The construction of all sidewalks shall be in accordance with plans and standard specifications approved by the Director of Engineering and Public Works.

- (b) In addition, wider-than-standard sidewalks may be required by the Plan Commission in the vicinity of schools, commercial areas and other places of public assemblage, and the Plan Commission may require the construction of sidewalks in locations other than required under the preceding provisions of this Code if such walks are necessary, in their opinion, for safe and adequate pedestrian circulation.

#### **SEC. 14-1-56 SANITARY SEWERAGE SYSTEM.**

- (a) There shall be provided a sanitary sewerage system in conformity with the master plan of sewers as approved by the Director of Engineering and Public Works.
- (b) The subdivider shall make adequate sewage disposal systems available to each lot within the subdivision, certified survey map parcel or minor land division.
- (c) Subdivisions and certified survey map parcels shall be served by public sewer facilities. The size, type, and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and specifications approved by the Director of Engineering and Public Works.
- (d) The City shall require the installation of sewer laterals to the street lot line.
- (e) The subdivider shall assume the cost of installing all sanitary sewers pursuant to the City of Cedarburg Assessments Policy.
- (f) The subdivider shall install sanitary sewers in accordance with this code and specifications of the City. Until such time as the public sewers within the subdivision or minor land division can be connected to the community public sewer system, they shall be temporarily capped. No private or public use shall be connected to the sewers within the subdivision or minor land division until such sewers are connected to the larger community system. The subdivider shall indicate on the face of the plat or certified survey map that the owner of private uses within the subdivision or minor land use division shall connect such uses to the sewers in the subdivision or minor land division at the time such sewers are connected to the community sewer system and that the City be held harmless for any damages or costs incurred to disconnect and abandon any on-site sanitary sewer disposal system then in place and any costs associated with connection to the public sewer mains. (Ord. 89-27)
- (g) The requirement to provide sanitary sewer service may be waived if all of the following conditions are met:
  - (1) The land is located within an "Area of Special Concern" for groundwater contamination as determined by the Wisconsin Department of Natural Resources.
  - (2) Sanitary sewer service will likely not be available to serve the property within the next ten (10) years, as determined by the Director of Engineering and Public Works.
  - (3) There is an overriding public health benefit realized by the installation of municipal water service even though sanitary sewer service is unavailable.
  - (4) Lands within the proposed development are deed restricted to require the

abandonment of private sewage disposal systems in use, and connection to the municipal sewerage system within one year of sanitary sewer availability.  
(Ord. 2001-33)

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

- (a) When public water supply and distribution facilities are available to the subdivision plat or minor land division, the subdivider shall cause such water supply and distribution facilities to be installed in such a manner as to make adequate water service available to each lot within the subdivision or minor land division.
- (b) The City shall require the installation of water laterals to the street lot line.
- (c) The size, type and installation of all public water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the City.
- (d) The subdivider shall assume the cost of installing all water mains, water laterals and water system appurtenances within the proposed subdivision or minor land division, pursuant to the City of Cedarburg Assessments Policy.
- (e) The subdivider shall install water mains in accordance with this Code and specifications of the City Engineer. Until such time as the public water mains within the subdivision or minor land division can be connected to the larger community water supply system, they shall be temporarily capped. No private or public use shall be connected to the water mains within the subdivision or minor land division until such water mains are connected to the larger community water supply system. The subdivider shall indicate on the face of the plat that the owner of private uses within the subdivision or minor land division shall connect such uses to the water mains within the subdivision or minor land division, and that the City is 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. (Ord. 89-27)

**SEC. 14-1-58 STORMWATER DRAINAGE FACILITIES.**

(Repealed and recreated as Title 14, Chapter 2) (Ord. 98-02)

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

- (a) The subdivider shall cause gas, electric power, cable and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision, certified survey map or minor land division. All new electrical distribution, television cables and telephone lines from which lots are individually served shall be underground unless the City specifically allows overhead poles for the following reasons:
  - (1) Topography, soil, water table, solid rock, boulders, or other physical conditions would make underground installation unreasonable or impractical; or
  - (2) The lots to be served by said facilities can be served directly from existing overhead facilities.
- (b) Plans indicating the proposed location of all gas, electrical power, cable and telephone

distribution and transmission lines required to service the plat shall be filed with the City Engineer.

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

The subdivider shall install street lamps, at his cost, along all streets proposed to be dedicated of a design compatible with the neighborhood and type of development proposed as determined by the City Engineer. Such lamps shall be placed at each street intersection and at such interior block spacing as may be required by the Plan Commission, upon the recommendation of the City.

**SEC. 14-16-61 STREET SIGNS.**

The subdivider shall install, at his cost, at the intersections of all streets proposed to be dedicated a street name sign of a design and installation specified by the City Engineer.

**SEC. 14-1-62 STREET TREES.**

- (a) In all subdivisions or minor land divisions, the subdivider shall plant at his cost trees of an approved species, two (2) inches minimum diameter at the bole, at least ten (10) feet in height as indicated on the approved Final Plat. Tree planting shall be completed in accordance with any neighborhood plan, or component thereof, and with plans and specifications approved by, and at such time as directed by, the City Forester. The placement and selection of street trees, however, should not hamper or interfere with solar access to natural light and air for nearby lots.
- (b) No person shall plant or maintain in the parkway area any tree of the species Populus Deltoides, commonly called the "Cottonwood," Black Locust, the seedbearing "Box Elder" or Acer Negundo, which may now or hereafter become infested with Box Elder bugs, White Poplar, Lombardy Poplar, any evergreen or fir tree, any fruit or nut tree, or any other species, which in the opinion of the City Forester, will constitute a nuisance to the public or adjoining property owners or interfere with the safety of the public.

**SEC. 14-1-63 EROSION CONTROL.**

Pursuant to the City's Construction Site Erosion Control Chapter (Building Code), the subdivider shall cause all gradings, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded or otherwise protected so that erosion, siltation, sedimentation and washing are prevented. The subdivider shall submit an erosion control plan that specifies measures that will be taken to assure the minimization of erosion problems.

**SEC. 14-1-64 PARTITION FENCES.**

When the land included in a subdivision plat or certified survey map abuts upon or is adjacent to

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

#### **SEC. 14-1-65 EASEMENTS.**

- (a) **Utility Easements.** The Plan Commission, on the recommendation of appropriate departments and agencies serving the City, shall require utility easements for poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines. It is the intent of this Chapter to protect all established easements so as to assure proper grade, assure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prevent the planting of trees in the easement area.
- (b) **Drainage Easements.** Where a subdivision is traversed by a watercourse, drainage way, channel or stream:
  - (1) There shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or
  - (2) The watercourse, drainage way, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a stormwater easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this Section.
  - (3) 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 City Engineer, the easement will be for a major drainage swale, the easement shall be of sufficient width to contain a one hundred (100) year frequency storm. If the drainage easement is located in an established floodway or flood fringe district, the entire floodplain area shall be included within the drainage easement.
- (c) **Easement Locations.** Such easements shall be at least twenty (20) feet wide, or wider where recommended by the City Engineer, and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Plan Commission and Common Council that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

#### **SEC. 14-1-66 RURAL STREET SECTIONS.**

When permanent suburban and rural street sections have been approved by the Common Council, the subdivider 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 City.

**SEC. 14-1-67 BICYCLE PATHS AND TRAILS.**

The subdivider shall install required bicycle paths and trails in accordance with the plans and specifications approved by the City. The subdivider shall assume the entire cost of such bicycle paths and trails, except in the case of dual bicycle paths and streets. The added cost for streets wider than those required by Table 1 in order to accommodate bicycle paths and trails shall be the responsibility of the municipality charged with the maintenance of the proposed facility. In the event the subdivider wishes to install dual-lane facilities which may not be required by the City, the total cost of such improvements shall be borne by the subdivider.

**SEC. 14-1-68 IMPROVEMENTS EXTENDED TO LIMIT OF PARCEL.**

Any and all improvements or utility services required by this Chapter for the subdivision and/or minor land division of lands within the City or within the City's extraterritorial plat approval jurisdiction shall be extended to the farthest limit of the parcel or lot upon which a building permit is requested unless the owner is excused by the Common Council after referral to the Plan Commission and/or Utility Commission. In the event the improvements are required to the end of the parcel, as defined herein, the owner shall be required to post bond with the City if improvements are not made.

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

## ARTICLE G

### Design Standards

#### SEC 14-1-70 GENERAL STREET DESIGN STANDARDS. (Ord. 2006-08)

- (a) **Compliance with Statutes.** In laying out a subdivision or condominium, the owner shall conform to the provisions of Chapter 236, for a subdivision and Chapter 703 for a condominium, Wis. Stats., and all applicable City regulations. In all cases where the requirements of this Chapter are different from the requirements of Chapter 236 or Chapter 703, the more restrictive provision shall apply.
- (b) **Dedication.** The subdivider shall dedicate land and improve streets as provided in this Chapter and Section 14-1-53. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses and public convenience and safety. Streets shall conform to official maps adopted by the Common Council. The subdivision, certified survey parcel or land division shall be so designed as to provide each lot with satisfactory access to a public street or road.
- (c) **Compliance with Comprehensive Plan.** The arrangement, character, extent, width, grade and location of all streets shall conform to any City Comprehensive Development Plan and to this Chapter and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of stormwater, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The arrangement of streets in new subdivisions shall make provision for the appropriate continuation at the same width of the existing streets in adjoining areas.
- (d) **Areas Not Covered by Official Map.** In areas not covered by a City Comprehensive Plan, the layout of streets shall conform to the plan for the most advantageous development of adjoining areas of the neighborhood. Streets shall be designed and located in relation to existing and officially planned streets, topography and natural terrain, streams and lakes and existing tree growth, public convenience and safety and in their appropriate relation to the proposed use of the land to be served by such streets as determined by the Plan Commission.
- (e) **Street Classifications** Streets shall be classified as indicated below.
  - (1) Arterial Streets. Arterial streets shall be arranged to provide through traffic for a heavy volume of vehicles, 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. They shall also be properly integrated with, and related to, the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect as recommended by the City Planner and approved by the City Plan Commission.
  - (2) Collector Streets. Collector streets shall be arranged so as to provide ready collection of traffic from commercial and residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to special traffic

generators such as schools, churches and shopping centers and other concentrations of population and to the major streets into which they feed, as recommended by the City Planner and approved by the Plan Commission.

- (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 unless prevented by topography or other physical conditions or unless, as determined by the Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision or land division or for the advantageous development of the adjacent tracts.
- (f) **Reserve Strips.** Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such strips is placed with the City under conditions approved by the Plan Commission.
- (g) **Alleys.**
  - (1) Commercial and Industrial. Alleys shall be provided in all commercial and industrial districts for private off-street loading and service access, except that the Plan Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading and parking, consistent with and adequate for the uses proposed.
  - (2) Residential. Alleys shall not be approved in residential areas.
  - (3) Width. The width of alleys shall not be less than twenty-four (24) feet.
  - (4) Dead End. Dead-end alleys are prohibited, and crooked and "T" alleys shall be discouraged. Alleys shall not connect to a major thoroughfare.
- (h) **Frontage Roads.** Where a subdivision abuts or contains an existing or proposed arterial highway, 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.
- (i) **Visibility.** Streets shall afford maximum visibility and safety. As required by the Zoning Code, sufficient vision clearance triangles shall be provided at intersections.
- (j) **Street Grades.**
  - (1) Unless necessitated by exceptional topography subject to the approval of the Plan Commission, the maximum centerline grade of any street or public way shall not exceed the following:
    - Arterial streets: six percent (6%).
    - Collector streets: eight percent (8%).
    - Minor streets, alleys and frontage streets: ten percent (10%).
    - Pedestrian ways: twelve percent (12%) unless steps of acceptable design are provided.The grade of any street shall in no case exceed twelve percent (12%) or be less than one-half (1/2) of one percent (1%).
  - (2) Street grades shall be established wherever practicable so as to avoid excessive



grading, the promiscuous removal of ground cover and tree growth, and general leveling of the topography.

- (k) **Radii of Curvature.** When a continuous street centerline deflects at any one (1) point by more than ten (10) degrees, a circular curve shall be introduced having a radius of curvature on said centerline of not less than the following:
  - Arterial streets and highways: five hundred (500) feet.
  - Collector streets: three hundred (300) feet.
  - Minor streets: one hundred (100) feet. Curves should be provided when centerline deflections exceed one (1) degree in rural areas and in urban areas when deflection exceeds three (3) degrees.
- (l) **Tangents.** A tangent at least one hundred (100) feet long shall be required between reverse curves on arterial and collector streets.
- (m) **Half Streets.** Where an existing dedicated or platted half-street is adjacent to the subdivision, the other half-street shall be dedicated by the subdivider. The platting of half-streets should be avoided where possible
- (n) **Intersections.**
  - (1) Property lines at street intersections of major thoroughfares shall be rounded with a radius of fifteen (15) feet or of a greater radius where the City Engineer considers it necessary, or shall be cut off by a straight line through the points of tangency of an arc having a radius of fifteen (15) feet.
  - (2) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
  - (3) Number of streets converging at one (1) intersection shall be reduced to a minimum, preferably not more than two (2).
  - (4) 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).
- (o) **Street Names.** New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the names of the existing streets. Street names shall be subject to approval by the Plan Commission.
- (p) **Cul-de-sacs.**
  - (1) Cul-de-sacs. Cul-de-sac streets designed to have one (1) end permanently closed shall not exceed seven hundred fifty (750) feet in length. All cul-de-sac streets designed to have one (1) end permanently closed shall terminate with a turnaround of not less than one hundred twenty (120) feet in diameter of right-of-way and a roadway of not less than ninety-two (92) feet in diameter.
  - (2) Temporary Termination of Streets. 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.
- (q) **Limited Access Highway and Railroad Right-of-Way Treatment.** Whenever the proposed subdivision contains or is adjacent to a limited access highway, arterial street or railroad

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right-of-way, the design shall provide the following treatment:

- (1) Subdivision Lots. When lots within the proposed subdivision back upon the right-of-way of an existing or proposed limited access highway or a railroad, a planting strip at least thirty (30) feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be part of the platted lots but shall have the following restriction lettered on the face of the plat: "This strip reserved for the planting of trees and shrubs, the building of structures hereon prohibited."
- (2) Commercial and Industrial Districts. Commercial and industrial 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. Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street and highway or collector street which crosses said railroad or highway, shall be located at a minimum distance of two hundred fifty (250) feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.
- (4) Minor Streets. Minor streets immediately adjacent and parallel to railroad rights-of-way shall be avoided, and location of minor streets immediately adjacent to arterial streets and highways and to railroad rights-of-way shall be avoided in residential areas.

(r) **Right-of-Way and Roadway Width**

- (1) The minimum right-of-way and railroad width of all proposed streets and alleys shall be as specified by the comprehensive plan, comprehensive plan component, official map, neighborhood development study, or jurisdictional highway system plan or, if no width is specified therein, the minimum widths shall be as shown in Table 1.

**Table 1**

	<u>Right-of-Way</u>
1. Major Streets	100 feet
2. Collector Streets	80 feet
3. Local Access Streets	60 feet
4. Frontage Streets	30 feet
5. Bridge Road	66 feet
6. Sheboygan Road	49.5 feet (From
	Willowbrooke Drive south to Washington Avenue)
7. Washington Avenue	66 feet (From
	Sheboygan Road to Hamilton Road; and
8. Washington Avenue	50 feet (from

Hamilton Road to Lincoln Boulevard.

9. Columbia Road 50 feet

- (2) Street sections are for standard arterial streets only. Cross-sections for freeways, expressways and parkways shall be based upon detailed engineering studies.
- (s) **Roadway Elevations.** Elevations of roadways passing through floodplain areas shall be designed in the following manner:
  - (1) Freeways shall be designed so they will not be overtopped by the one hundred (100) year recurrence interval flood.
  - (2) Arterial highways shall be designed so they will not be overtopped by the fifty (50) year recurrence interval flood.
  - (3) Collectors and local streets shall be designed so they will not be overtopped by the ten (10) year recurrence interval flood.
- (t) **New and Replacement Bridges and Culverts.** All new and replacement bridges and culverts over perennial waterways, including pedestrian and other minor bridges, in addition to meeting other applicable requirements, shall be designed so as to accommodate the one hundred (100) year recurrence interval flood event without raising the peak stage, either upstream or downstream, more than one one-hundredth (0.01) feet above the peak stage for the one hundred (100) year recurrence interval flood, as established in the applicable federal flood insurance study. Larger permissible flood stage increases may be acceptable for reaches having topographic land use conditions which could accommodate the increased stage without creating additional flood damage potential upstream or downstream of the proposed structure. Such bridges and culverts shall be so designed and constructed as to facilitate the passage of ice flows and other debris. All new and replacement bridges shall be constructed in accordance with all applicable State Statutes and codes and shall be submitted to the Department of Natural Resources to assure compliance therewith.
- (u) **Public Access to 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 Sec. 236.16(3) of the Wisconsin Statutes.

**SEC. 14-1-71 BLOCK DESIGN STANDARDS.**

- (a) **Length; Arrangement.** The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated, but block length in residential areas shall not exceed one thousand five hundred (1,500) feet nor have less than sufficient width to provide for two (2) tiers of lots of appropriate depth between street lines. As a general rule, blocks shall not be less than six hundred (600) feet in length.
- (b) **Pedestrian Pathways.** Pedestrian pathways, not less than ten (10) feet wide, may be required by the Plan Commission, upon the recommendation of the City Planner, through the center of a block more than nine hundred (900) feet long, where deemed essential to provide circulation or access to schools, parks, playgrounds, shopping centers, churches, transportation and other community facilities.
- (c) **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) **Utility Easements.** Utility easements for electric power and telephone service shall, where practical, be placed on midblock easements along rear lot lines.

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

- (a) **Size.** The size, shape and orientation of lots shall be appropriate for the location of topography of the subdivision, the type of development contemplated, provided that no lot shall be smaller in area than the minimum lot size for the appropriate zone as established by the City Zoning Code.
- (b) **Commercial Lots.** Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as required by the City Zoning Code.
- (c) **Lots Where Abutting Major Highway.** Residential lots fronting on major streets and highways shall be platted with extra depth or design or alleviate the effect of major street traffic on residential occupancy.
- (d) **Corner Lots.** Corner lots for residential use shall have extra width of ten (10) feet to permit full building setback from both streets.
- (e) **Access to Public Streets.** Every lot shall front or abut for a distance of at least thirty (30) feet on a public street. (Ord. 90-14)
- (f) **Side Lots.** Side lot lines shall be substantially at right angles to or radial to abutting street lines. Lot lines shall follow City boundary lines.
- (g) **Double and Reversed Frontage Lots.** Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
- (h) **Natural Features.** In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- (i) **Land Remnants.** All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels.
- (j) **Large Lots.** Where lots are created of a size larger than normal for the area, the Plan Commission may require that the plat be so designed as to allow for the possible future resubdivision of such lots into normal sizes compatible with the area.
- (k) **Lot Area and Dimensions.** Area and dimensions of all lots shall conform to the requirements of the City of Cedarburg Zoning Code for the subdivisions within the City and to the applicable town or county zoning ordinance within the City's extraterritorial jurisdictional limits. Those building sites not served by a public sanitary sewerage system or other approved system shall be sufficient to permit the use of an on-site soil absorption sewage disposal system designed in accordance with Chapter H 83 of the Wisconsin

Administrative Code. The width and area of lots located on soils suitable for the use of an on-site soil absorption sewage disposal system shall not be less than one hundred fifty (150) feet in width and forty thousand (40,000) square feet in area.

- (l) **Lot Depth.** Depth of lots shall be a minimum of one hundred twenty-five (125) feet. Excessive depth in relation to width shall be avoided and a proportion of two to one (2:1) shall be considered a desirable ratio under normal conditions. Depth of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for sidewalks, off-street service and parking required by the use contemplated.
- (m) **Lot Width.** Width of lots shall conform to the requirements of the City Zoning Code, or other applicable ordinance, and, in no case, shall a lot be less than sixty (60) feet in width at the building setback line
- (n) **Unplattable lands.** Lands lying between the meander line and the water's edge and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be included as part of lots, outlots or public dedications in any plat abutting a lake or stream.

#### **SEC. 14-1-73 DRAINAGE SYSTEM.**

- (a) **Drainage System Required.** As required by Section 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 shall not be approved until the subdivider shall submit plans, profiles and specifications as specified in this Section, and as required by the City Engineering Services Policy, which have been prepared by a registered professional engineer and approved by the Plan Commission, upon the recommendation of the Director of Engineering and Public Works, or his designee.
- (b) **Drainage System Plans.**
  - (1) The subdivider shall submit to the City at the time prior to 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 stormwater entering the subdivision naturally from areas outside the subdivision.
    - b. Quantities of flow at each inlet or culvert.
    - c. Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.
  - (2) A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area within the subdivision.
  - (3) The design criteria for storm drainage systems shall be based upon information provided by the City or its consultant.

- (4) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, sod, etc.) shall be in compliance with specifications provided by the City.
- (c) **Grading.** The subdivider 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 subdivider 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 subdivider shall install all the storm drainage facilities indicated on the plans required in Subsection (a) of this Section.
  - (1) Street Drainage. All streets shall be provided with an adequate storm drainage system. The street storm system shall serve as the primary drainage system and shall be designed to carry street, adjacent land and building stormwater drainage. No stormwater shall be permitted to be run into the sanitary sewer system within the proposed subdivision.
  - (2) Off-Street Drainage. The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the subdivider shall make provisions for dedicating an easement to the City to provide for the future maintenance of said system. Easements shall be a minimum of twenty (20) feet, but the City 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 Director of Engineering and Public Works. 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.)

#### SEC. 14-1-74 NON-RESIDENTIAL SUBDIVISIONS.

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

by any City Comprehensive Plan, or component thereof, or Official Map and the City Zoning Code.

- (b) **Standards.** In addition to the principles and standards in this Chapter, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Plan Commission that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
- (1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
  - (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
  - (3) Special requirements may be imposed by the Director of Engineering and Public Works with respect to street, curb, gutter and sidewalk design and construction.
  - (4) Special requirements may be imposed by the Director of Engineering and Public Works with respect to the installation of public utilities, including water, sewer and stormwater 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. 14-1-75 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. (Ord. 89-27)

- (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 subdivider shall be required to reserve land, dedicate land or fees in lieu of land for park or other public uses. Each subdivider of land in the City of Cedarburg shall, at the discretion and direction of the Plan Commission, either dedicate open space lands designated on the City Comprehensive Plan or plan component, or reserve such open space lands and pay a public site fee, or, where no open space lands are directly involved, pay a public site fee. The Plan Commission shall, at the time of reviewing the preliminary plat or certified survey map, select the land dedication option, fees in lieu of land option, or reservation of additional land option and record such selection in the minutes of the meeting at which the preliminary plat is presented for approval.
- (b) **General Design** In the design of a subdivision, land division, certified survey map, 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 City Master 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, as recommended by the City Planner and approved by the Plan Commission.

#### SEC. 14-1-81 LAND DEDICATION.

- (a) **Dedication of Site Option.** Whenever a proposed playground, park or other public open space land designated on the City's comprehensive plan, neighborhood unit development plan or other comprehensive plan component is encompassed, all or in part, within a tract of land to be subdivided, the public lands shall be made a part of the plat and shall be dedicated to the public by the subdivider at the rate of one (1) acre for each thirty (30) proposed or potential dwelling units, and any such proposed public lands in excess of the rate established herein shall be reserved for a period not to exceed three (3) years, unless extended by mutual agreement, for purchase by the public agency having jurisdiction at undeveloped land prices. If the lands in excess of the established rate are not acquired within the three (3) year period as set forth herein, the land will be released from reservation to the owner. Drainageways, wetlands or areas reserved for streets shall not be considered as satisfying land dedication requirements.



(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 corrected 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 Development, 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 City 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 City Zoning Chapter and this Chapter.
- (d) **Deeded to the City.** Land dedicated for public purposes shall be deeded to the City 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.

**SEC. 14-1-82 RESERVATION OF ADDITIONAL LAND.**

When public parks and sites for other public areas as shown on the Master Plan or Master Plan component lie within the proposed area for development and are greater in area than required by Section 14-1-81, the owner shall reserve for acquisition by the City, through agreement, purchase or condemnation, the remaining greater public area for a period of three (3) years of Final Plat approval unless extended by mutual agreement.

**SEC. 14-1-83 DEVELOPMENT OF PARK AREA**

- (a) When parklands are dedicated, the subdivider is required to:
- (1) Properly grade and contour for proper drainage;

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- (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, seed as specified by the Department of Public Works, fertilized with 16-6-6 at a rate of seven (7) pounds per one thousand (1,000) square feet, and mulched. The topsoil furnished for the park site shall consist of the natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life, and such topsoil shall be neither excessively acid nor excessively alkaline.
- (b) The Common Council may require certification of compliance by the City Engineer. The cost of such report shall be paid by the subdivider.
- (c) Grading and seeding 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 Common Council.
- (d) If the subdivider fails to satisfy the requirements of this Section, the Common Council may contract said completion and bill such costs to the subdivider, following a public hearing and written notice to the subdivider of noncompliance. Failure to pay such costs may result in the immediate withholding of all building permits until such costs are paid.

**SEC. 14-1-84 FEES IN LIEU OF LAND.** (Ord. 91-18) (Ord. 93-36) (Ord. 94-27) (Ord. 2001-55) (Ord. 2005-44)(Ord. 2012-05) (Ord. 2012-30) (Ord. 2013-35)(Ord. 2014-28)(Ord. 2015-29)(Ord. 2016-21)(Ord. 2017-34)(Ord. 2018-30)(Ord. 2019-26)

If the proposed subdivision does not encompass a proposed public park, parkway or other open space lands, or if the Plan Commission requires the reservation of land as set forth in this Section, a fee for the acquisition of public sites to serve the future inhabitants of the proposed subdivision or certified survey map shall be paid to the City Clerk at the time of first application for approval of a final plat of said subdivision, or certified survey map, or part thereof, in the amount of ~~\$889.35~~\$904.91 for each proposed single-family dwelling unit within the plat and ~~\$590.70~~\$601.04 for each proposed multi-family dwelling unit. For Community Based Residential Facilities (CBRFs) the fee for acquisition of public sites shall be \$601.04 ~~\$590.70~~ per unit. Public site fees collected by the City Treasurer under the provisions of this Article shall be placed in nonlapsing special funds for City parks and shall be separate from the General Fund of the City, and said special fund shall be used exclusively for the acquisition and development of park, recreation and other open space areas.

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

## ARTICLE I

### Variances; Penalties and Violations

#### **SEC 14-1-90 VARIANCES AND EXCEPTIONS.**

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

#### **SEC. 14-1-91 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, firm or corporation shall

be issued a building permit by the City authorizing the building on, or improvement of, any subdivision, minor land division or replat with the jurisdiction of this Chapter not of record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been fully met. The City may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin.

(b) **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 One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) and the costs of prosecution 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 six (6) months. Each day a violation exists or continues shall constitute a separate offense.
- (2) Recordation improperly made has penalties provided in Sec. 236.30, for subdivisions or Chapter 703 for Condominiums, Wis. Stats.
- (3) Conveyance of lots in unrecorded plats has penalties provided for in Sec. 236.31, Wis. Stats.
- (4) Monuments disturbed or not placed have penalties as provided for in Sec. 236.32, Wis. Stats.
- (5) Assessor's plat made under Sec. 70.27 of the Wisconsin Statutes may be ordered by the City as a remedy at the expense of the subdivider when a subdivision is created by successive divisions.

(c) **Appeals.** Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in Sections 236.13(5) and 62.23(7)(e)10, 14 and 15 of the Wisconsin Statutes, within thirty (30) days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.

**SEC. 14-1-92 EXISTING SUBSTANDARD LOTS.**

(a) **Conveyance Restricted.** In the case of a lot of record on April 30, 1959, which does not conform to the zoning regulations of the City and which adjoins along a side lot line property held in the same ownership, no such lot shall be conveyed to another owner nor shall a building permit be issued for a structure on such a lot except in conformity with the following:

- (1) Petition for Determination. The owner of such substandard lot may, at any time prior to the proposed conveyance of such lot or request for building permit, petition the City for determination as to the status of such lot.
- (2) Referral to Plan Commission. Such petition shall be referred to the Plan Commission for study to determine the practical possibility of a redivision of such ownership to provide lots which will be in conformity to the zoning regulations of the City.
- (3) Time Limit. The Plan Commission shall make its recommendation to the Common

Council within forty (40) days of the date the petition was received and the Common council shall act within twenty (20) days to give the petitioner a determination.

- (4) Criteria. The Plan Commission in making its recommendations and the Common Council in making its determination shall give consideration among others to the following factors:

- a. Compatibility. The size, quality and character of existing lots and development in the immediate area with a view to maintaining and protecting existing values.
- b. Sewage Disposal. Where public sewer is not available, the lot size necessary to insure safe sewage disposal. "Available" is defined as public sewer facilities fronting the lot.
- c. Practicability. The economic and engineering practicability of any possible redivision.
- d. Hardship. The degree of practical hardship which may be imposed upon the owner.

- (5) Method of Redivision. Such redivision may be accomplished as is most appropriate by:

- a. Vacation and replatting of all or part of a recorded plat.
- b. Combining of lots or parts of lots.
- c. Redefining of lot lines by a plat of "other divisions."

- (b) **Determination of Ownership.** For the purposes of this Section, lots and property shall be considered in the same ownership when owned by: the same individual or corporation; an individual and another in joint tenancy, or as tenants in common, and either of said joint or common tenant or tenants owns other lots individually or as joint tenant or tenant in common with another; an individual and other lots are owned by his spouse, parents, grandparents, children, grandchildren or the spouse of any child or grandchild, or a brother or sister or spouse of a brother or sister of such person; and when any of said lots are owned by an individual and other lots are owned by a corporation in which said individual is an officer or director or controlling stockholder.

**SEC. 14-1-93 THROUGH SEC 14-1-99 RESERVED FOR FUTURE USE.**

## ARTICLE J

### Fees

- SEC. 14-1-100 ADMINISTRATIVE AND OTHER FEES.** (Ord. 92-54) (Ord. 93-43) (Ord. 94-27)  
(Ord. 98-39) (Ord. 2001-55)  
(Ord. 2005-44) (Ord. 2006-08) (Ord. 2008-26)  
(Ord. 2012-05) (Ord. 2012-30) (Ord. 2013-35)  
(Ord. 2014-28)(Ord. 2015-29)(Ord. 2016-21)  
(Ord. 2017-34)(Ord. 2018-30)
- (a) **General.** The subdivider shall pay the City all fees as hereinafter required and at the times specified before being entitled to recording of a plat or certified survey map or condominium document.
  - (b) **Engineering Fee.** The subdivider shall pay a fee equal to the actual cost to the City for all engineering work incurred by the City in connection with the subdivision plat or certified survey map, or condominium plat, including inspections required by the City. The subdivider shall pay a fee equal to the actual cost to the City for such engineering work and inspection as the Director of Engineering and Public Works deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the City or any other governmental authority. Engineering work shall include the preparation of construction plans, standard specifications, inspections and administration of the engineering work, in conformance with the City's Engineering Services Policy.
  - (c) **Administrative Fee.** The subdivider shall pay a fee equal to the cost of any legal, administrative or fiscal work which may be undertaken by the City in connection with the plat or certified survey map, or condominium plat, per the City Engineering Services Policy.
  - (d) **Preliminary Subdivision or Condominium Plat Review Fee.**
    - (1) The subdivider shall pay a concept plan review fee of One Hundred Dollars (\$100.00) to the City Treasurer at the time of filing a request for concept plan consultations. (Ord. 2008-26)
    - (2) The subdivider shall pay a fee of One Hundred Fifty Dollars (\$150.00) plus Six Dollars (\$6.00) for each dwelling unit within the preliminary plat to the City Treasurer at the time of first application for approval of any preliminary plats to assist in the cost of review.
    - (3) A reapplication fee of Seventy-Five Dollars (\$75.00) shall be paid to the City Treasurer at the time of reapplication for approval of any preliminary plat which has previously been reviewed.
    - (4) The subdivider shall pay a fee of Three Hundred Dollars (\$300) to the City Treasurer at the time of application for approval of a Certified Survey Map without right-of-way dedication. (Ord. 2008-26)
    - (5) The subdivider shall pay a fee of Three Hundred Twenty Five Dollars (\$325) to the City Treasurer at the time of application for approval of a Certified Survey Map with right-of-way dedication. (Ord. 2008-26)
  - (e) **Final Subdivision Plat or Condominium Declaration Fee.**

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- (1) The subdivider shall pay a fee of One-Hundred Dollars (\$100.00) plus Three Dollars (\$3.00) for each dwelling unit within the final plat to the City Treasurer at the time of first application for final plat approval of said plat to assist in the cost of review. (Ord. 2008-26)
  - (2) A reapplication fee of Fifty Dollars (\$50.00) shall be paid to the City Treasurer at the time of a reapplication for approval of any final plat which has previously been reviewed.
- (f) **Objecting Agency Review Fees.** The subdivider shall transmit all fees required for state agency review to the City Clerk at the time of application. Said review fees shall be retransmitted to the proper state review agency by the City Clerk. Said fees shall be applicable, where appropriate, to review fees required by the Wisconsin Department of Development, Wisconsin Department of Transportation, Wisconsin Department of Industry, Labor and Human Relations and the Wisconsin Department of Natural Resources.
- (g) **Public Site Fee.** If the subdivision does not contain lands to be dedicated as required in this Chapter, the Common Council shall require a fee for the acquisition and development of public sites to serve the future inhabitants of the proposed subdivision. Said fee shall be paid to the City Clerk at the time of first application for approval of a final plat of said subdivision in the amount of \$889.35 for each single-family dwelling unit within the plat and \$590.70 for each multi-family dwelling unit. For Community Based Residential Facilities (CBRFs) the fee for acquisition and development of public sites shall be \$590.70 per unit. Public site fees shall be placed in a separate Service District Fund by the City Clerk to be used only for the acquisition and development of park sites which will serve the proposed subdivision. Said fund shall be established on the basis of the service area of existing or proposed park facilities. (Ord. 2012-05) (Ord. 2012-30) (Ord. 2013-35) (Ord. 2014-28) (Ord. 2015-29)(Ord. 2016-21)(Ord. 2017-34)
- (h) **Tree Fee.** If the subdivider does not plant street trees in the subdivision or minor land division as set forth in this Chapter, the Common Council shall require a fee for the acquisition and planting of trees in the subdivision. Said fee shall be Paid to the City Clerk at the time of first application for approval of a final plat of said subdivision in the amount of Two Hundred Dollars (\$200.00) for each tree that is required under this Chapter.
- (i) **Topographic Map.** A fee of Six Dollars (\$6.00) per acre shall be paid for each topographic map.

**TITLE 14**

**CHAPTER 2**

Stormwater Management  
(Ord. No. 2017-35) (Ord. 2019-03)

- S. 14-2-01 Authority**
- S. 14-2-02 Purpose and Intent**
  - (1) Purpose
  - (2) Intent
- S. 14-2-03 Applicability and Jurisdiction**
  - (1) Applicability
  - (2) Jurisdiction
  - (3) Exclusions
- S. 14-2-04 Definitions**
- S. 14-2-05 Applicability of Maximum Extent Practicable**
- S. 14-2-06 Technical Standards**
- S. 14-2-07 Performance Standards**
  - (1) Responsible Party
  - (2) Storm Water Management Plan
  - (3) Maintenance of Effort
  - (4) Requirements
    - (a) Total Suspended Solids
    - (b) Peak Discharge
    - (c) Infiltration
    - (d) Protective Areas
    - (e) Fueling and Maintenance Areas
  - (5) General Consideration for Storm Water Management Measures
  - (6) BMP Location
  - (7) Additional Requirements
- S. 14-2-08 Permitting Requirements, Procedures and Fees**
  - (1) Permit Required
  - (2) Permit Application and Fees
  - (3) Permit Application Review and Approval
  - (4) Permit Requirements
  - (5) Permit Conditions
  - (6) Permit Duration
- S. 14-2-09 Storm Water Management Plan**
  - (1) Storm Water Management Plan Requirements
  - (2) Alternate Requirements
- S. 14-2-10 Maintenance Agreement**
  - (1) Maintenance Agreement Required



- (2) Agreement Provisions
- S. 14-2-11 Financial Guarantee**
  - (1) Establishment of the Guarantee
  - (2) Conditions for Release
- S. 14-2-12 Illicit Discharge Prohibition and Disconnection**
  - (1) Intent
  - (2) Applicability
  - (3) Responsibility for Administration
  - (4) Illicit Discharge Properties
  - (5) Illicit Connection Prohibitions
  - (6) Suspension of MS4 Access
  - (7) Monitoring of Discharges
  - (8) Requirements
  - (9) Watercourse Protection
  - (10) Notification of Spills
  - (11) Enforcement
- S. 14-2-13 Fee Schedule**
- S. 14-2-14 Enforcement**
- S. 14-2-15 Appeals**
  - (1) Department of Public Works and Sewerage Commission
  - (2) Who May Appeal
- S. 14-2-16 Severability**
- S. 14-2-17 Effective Date**

## **POST-CONSTRUCTION STORMWATER MANAGEMENT**

### **S. 14-2-01 AUTHORITY.**

- (1) This ordinance is adopted by the City of Cedarburg under the authority granted by s. 62.234 Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 62.23, Wis. Stats., that relate to storm water management regulations. Except as otherwise specified in s. 62.234 Wis. Stats., s. 62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The City of Cedarburg hereby designates the City of Cedarburg Department of Engineering and Public Works to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
  - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.

- (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

**S. 14-2-02 PURPOSE AND INTENT.**

- (1) **PURPOSE.** The purpose of this ordinance is to establish long-term, post-construction runoff management requirements and criteria that will prevent and control water pollution, diminish the threats to public health, safety, welfare and the aquatic environment due to runoff of stormwater from development and redevelopment. Specific purposes are to:
  - (a) Further the maintenance of safe and healthful conditions.
  - (b) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
  - (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; and control increases in the scouring and transportation of particulate matter.
  - (d) Minimize the amount of pollutants discharged from the separate storm sewer to protect the waters of the state.
- (2) **INTENT.** It is the intent of the City of Cedarburg that this ordinance regulates post-construction storm water discharges to waters of the state. This ordinance may be applied on a site-by-site basis. The City of Cedarburg recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the City of Cedarburg, it is the intent of this ordinance that the approved storm water management plan be used to identify post-construction management measures acceptable for the community.

**S. 14-2-03 APPLICABILITY AND JURISDICTION.**

- (1) **APPLICABILITY.**
  - (a) Except as provided under par. (b), this ordinance applies to a post-construction site whereupon one acre or more of land disturbing construction activity occurs during construction. The ordinance also applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development or sale that meets the following applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

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1. Residential land development with a gross aggregate area of 1 acre or more;
  2. Residential land development with a gross aggregate area less than 1 acre, if there are at least 0.5 acres of impervious surfaces;
  3. Land development, other than a residential land development, with a gross aggregate area of 0.5 acres or more;
  4. Any land development, which in the opinion of the City of Cedarburg Department of Engineering and Public Works, is likely to result in stormwater runoff that exceeds the safe capacity of existing drainage facilities or receiving body of water, that causes undue channel erosion, increases water pollution or which endangers downstream property or public safety.
- (b) A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance:
1. A post-construction site with less than ten percent connected imperviousness, based on the area of land disturbance, provided the cumulative area of all impervious surfaces is less than one acre. However, the exemption of this paragraph does not include exemption from the protective area standard of this ordinance.
  2. Agricultural facilities and practices.
  3. Underground utility construction, but not including the construction of any above ground structures associated with utility construction.
- (c) Notwithstanding the applicability requirements in par. (a), this ordinance applies to post-construction sites of any size that, as determined by the City of Cedarburg Department of Engineering and Public Works, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, causes undue channel erosion, or increases water pollution by scouring or the transportation of particulate matter.
- (2) **JURISDICTION.**  
This ordinance applies to post construction sites within the boundaries and jurisdiction of the City of Cedarburg, as well as all lands located within the extraterritorial plat approval jurisdiction of the City of Cedarburg, even if plat approval is not involved.
- (3) **EXCLUSIONS.**  
This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats.

**S. 14-2-04 DEFINITIONS.**

- (1) “Adequate sod, or self-sustaining vegetative cover” means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

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- (2) “Administering authority” means a governmental employee, or a regional planning commission empowered under s. 62.234, Wis. Stats., that is designated by the Common Council to administer this ordinance.
- (3) “Agricultural facilities and practices” has the meaning given in s. 281.16 (1), Wis. Stats.
- (4) “Atlas 14” means the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation-Frequency Atlas of the United States, Volume 8 (Midwestern States), published in 2013.
- (5) “Average annual rainfall” means a typical calendar year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. The average annual rainfall is chosen from a department publication for the location closest to the municipality.
- (6) “Best management practice” or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.
- (7) “Business day” means a day the office of the City of Cedarburg Department of Engineering and Public Works is routinely and customarily open for business.
- (8) “Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the City of Cedarburg Department of Engineering and Public Works.
- (9) “Combined sewer system” means a system for conveying both sanitary sewage and storm water runoff.
- (10) “Connected imperviousness” means an impervious surface connected to the waters of the state via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.
- (11) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.
- (12) “Development” means residential, commercial, industrial or institutional land uses and associated roads.
- (13) “Direct conduits to groundwater” means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depression groundwater recharge areas over shallow fractured bedrock.
- (14)\* “Division of land” means the creation from one parcel of four or more parcels or building sites of **one and one-half (1.5)** or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5-year period.
- (15) “Effective infiltration area” means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (16) “Erosion” means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.
- (17) “Exceptional resource waters” means waters listed in s. NR 102.11, Wis. Adm. Code.
- (18)\* “Extraterritorial” means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within one and a half miles of a fourth class city or village.

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- (19) "Filtering layer" means soil that has at least a 3-foot deep layer with at least 20 percent fines; or at least a 5-foot deep layer with at least 10 percent fines; or an engineered soil with an equivalent level of protection as determined by the regulatory authority for the site.
- (20) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.
- (21) "Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Cedarburg Department of Engineering and Public Works by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (22) "Governing body" means the City of Cedarburg Common Council.
- (23) "Impervious surface" means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, gravel or paved parking lots and streets are examples of areas that typically are impervious.
- (24) "In-fill" means an undeveloped area of land located within an existing urban sewer service area, surrounded by development or development and natural or man-made features where development cannot occur.
- (25) "Infiltration" means the entry of precipitation or runoff into or through the soil.
- (26) "Infiltration system" means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (27) "Karst feature" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.
- (28) "Land disturbing construction activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (29) "Landowner" means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.
- (30) "Maintenance agreement" means a legal document that provides for long-term maintenance of storm water management practices.
- (31) "Maximum extent practicable" means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with S. 14-2-05 of this ordinance.
- (32) "New development" means development resulting from the conversion of previously undeveloped land or agricultural land uses.

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- (33) “NRCS MSE3 or MSE4 distribution” means a specific precipitation distribution developed by the United States Department of Agriculture, Natural Resources Conservation Service, using precipitation data from Atlas 14.
- (34) “Off-site” means located outside the property boundary described in the permit application.
- (35) “On-site” means located within the property boundary described in the permit application.
- (36) "Ordinary high-water mark" has the meaning given in s. NR 115.03 (6), Wis. Adm. Code.
- (37) “Outstanding resource waters” means waters listed in s. NR 102.10, Wis. Adm. Code.
- (38) "Percent fines" means the percentage of a given sample of soil, which passes through a # 200 sieve.
- (39) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (40) “Permit” means a written authorization made by the City of Cedarburg Department of Engineering and Public Works to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (41) “Permit administration fee” means a sum of money paid to the City of Cedarburg Department of Engineering and Public Works by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (42) “Pervious surface” means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.
- (43) “Pollutant” has the meaning given in s. 283.01 (13), Wis. Stats.
- (44) “Pollution” has the meaning given in s. 281.01 (10), Wis. Stats.
- (45) “Post-construction site” means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (46) “Pre-development condition” means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.
- (47) “Preventive action limit” has the meaning given in s. NR 140.05 (17), Wis. Adm. Code.
- (48) “Protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.
- (49) "Redevelopment" means areas where development is replacing older development.
- (50) “Responsible party” means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement. “Runoff” means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (51) “Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
  - (a) Is designed or used for collecting water or conveying runoff.
  - (b) Is not part of a combined sewer system.

- (c) Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
- (d) Discharges directly or indirectly to waters of the state.
- (52) "Silviculture activity" means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.
- (53) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (54) "Stop work order" means an order issued by the City of Cedarburg Department of Engineering and Public Works which requires that all construction activity on the site be stopped.
- (55) "Storm water management plan" means a comprehensive plan designed to reduce the discharge of pollutants from storm water, after the site has undergone final stabilization, following completion of the construction activity.
- (56) "Storm water management system plan" is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (57) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (58) "Top of the channel" means an edge, or point on the landscape landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12 percent continually for at least 50 feet. If the slope of the land is 12 percent or less continually for the initial 50 feet landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (59) "Total maximum daily load" or "TMDL" means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still ensure attainment of the applicable water quality standard.
- (60) "TP-40" means Technical Paper No. 40, Rainfall Frequency Atlas of the United States, published in 1961.
- (61) "TR-55" means the United States department of agriculture, natural resources conservation service (previously soil conservation service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986, which is incorporated by reference for this chapter.
- (62) "Transportation facility" means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095 (1)(b), Wis. Stats. "Transportation facility" does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.
- (63) "TSS" means total suspended solids.
- (64) "Type II distribution" means a rainfall type curve as established in the "United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published in 1973".
- (65) "Waters of the state" includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells,

impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

**S. 14-2-05      APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE.**

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City of Cedarburg Department of Engineering and Public Works's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, protection of wetlands, and preservation of historic properties.

**S. 14-2-06      TECHNICAL STANDARDS.**

The following methods shall be used in designing the water quality, peak discharge, and infiltration components of storm water practices needed to meet the water quality standards of this ordinance:

- (1) Consistent with the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the City of Cedarburg Department of Engineering and Public Works.

**S. 14-2-07      PERFORMANCE STANDARDS.**

- (1) RESPONSIBLE PARTY. The responsible party shall comply with this section.
- (2) STORM WATER MANAGEMENT PLAN. A written storm water management plan in accordance with S. 14-2-09 shall be developed and implemented for each post-construction site.
- (3) MAINTENANCE OF EFFORT. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of this ordinance, whichever is more stringent.
- (4) REQUIREMENTS. The storm water management plan required under sub. (2) shall include the following:
  - (a) TOTAL SUSPENDED SOLIDS. BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:



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1. BMPs shall be designed in accordance with Table 1. or to the maximum extent practicable as provided in subd. 2. The design shall be based on an average annual rainfall, as compared to no runoff management controls.

<b>Table 1. TSS Reduction Standards</b>	
<b>Development Type</b>	<b>TSS Reduction</b>
New Development	80 percent
In-fill development	80 percent
Redevelopment	40 percent of load from parking areas and roads

2. **Maximum Extent Practicable.** If the design cannot meet a total suspended solids reduction performance standard of Table 1., the storm water management plan shall include a written, site-specific explanation of why the total suspended solids reduction performance standard cannot be met and why the total suspended solids load will be reduced only to the maximum extent practicable.
  3. **Off-Site Drainage.** When designing BMPs, runoff draining to the BMP from off-site shall be taken into account in determining the treatment efficiency of the practice. Any impact on the efficiency shall be compensated for by increasing the size of the BMP accordingly.
- (b) **PEAK DISCHARGE.**

1. By design, BMPs shall be employed to:
  - a. For the 1-year, 24-hour; and the 2-year, 24-hour design storms, BMPs shall be designed so that post-construction peak runoff discharge rates are maintained or reduced compared to the 1-year, 24-hour; and the 2-year, 24-hour pre-development peak runoff discharge rates respectively, or to the maximum extent practicable.
  - b. The post-development storm water runoff rate associated with the 100-year, 24-hour design storm, shall not exceed the pre-development 10-year 24-hour design storm runoff rate, for new development sites.

The runoff curve numbers in Table 2. shall be used to represent the actual pre-development conditions. Peak discharges shall be calculated using TR-55 runoff curve number methodology, Atlas 14 precipitation depths, and the appropriate NRCS Wisconsin MSE3 or MSE4 precipitation distribution. On a case-by-case basis, City of Cedarburg Department of Engineering and Public Works may allow the use of TP-40 precipitation depths and the Type II distribution.

Table 2. Maximum Pre-Development Runoff Curve Numbers				
Runoff Curve Number	Hydrologic Soil Group			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	55	69	78	83

2. This subsection of the ordinance does not apply to any of the following:
  - a. Except as provided under S. 14-2-07 (3), a redevelopment post-construction site.
  - b. An in-fill development area less than 5 acres.
3. All stormwater conveyance systems within the proposed development, and receiving surface runoff from the proposed development, shall be designed to completely contain the following peak storm flows:
  - a. For open channel conveyance systems, the peak flow from the 100-year, 24-hour storm shall be completely contained within the channel bottom and banks.
  - b. For storm sewer pipes the peak flow from the 10-year, 24-hour storm shall be completely contained within the pipes with no surcharging or pressurized flow.

(c) INFILTRATION.

1. Best Management Practices. BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following or to the maximum extent practicable:
  - a. *Low imperviousness.* For development up to 40 percent connected imperviousness, such as parks, cemeteries, and low density residential development, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than one percent of the post-construction site is required as an effective infiltration area.
  - b. *Moderate imperviousness.* For development with more than 40 percent and up to 80 percent connected imperviousness, such as

medium and high density residential, multi-family development, industrial and institutional development, and office parks, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 75 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.

- c. *High imperviousness.* For development with more than 80 percent connected imperviousness, such as commercial strip malls, shopping centers, and commercial downtowns, infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60 percent of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2 percent of the post-construction site is required as an effective infiltration area.
- 2. Pre-development. The pre-development condition shall be the same as specified in Table 2 of the Peak Discharge section of this ordinance.
- 3. Source Areas.
  - a. *Prohibitions.* Runoff from the following areas may not be infiltrated and may not qualify as contributing to meeting the requirements of this section unless demonstrated to meet the conditions identified in S. 14-2-07 (4)(c)6.:
    - i. Areas associated with a tier 1 industrial facility identified in s. NR 216.21 (2)(a), including storage, loading and parking. Rooftops may be infiltrated with the concurrence of the regulatory authority.
    - ii. Storage and loading areas of a tier 2 industrial facility identified in s. NR 216.21 (2)(b).
    - iii. Fueling and vehicle maintenance areas. Runoff from rooftops of fueling and vehicle maintenance areas may be infiltrated with the concurrence of the regulatory authority.
  - b. *Exemptions.* Runoff from the following areas may be credited toward meeting the requirement when infiltrated, but the decision to infiltrate runoff from these source areas is optional:
    - i. Parking areas and access roads less than 5,000 square feet for commercial development.
    - ii. Parking areas and access roads less than 5,000 square feet for industrial development not subject to the Prohibitions under par a.
    - iii. Except as provided under S. 14-2-07 (3), redevelopment post-construction sites.

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- iv. In-fill development areas less than 5 acres.
  - v. Roads on commercial, industrial and institutional land uses, and arterial residential roads.
4. Location of Practices.
- a. *Prohibitions.* Infiltration practices may not be located in the following areas:
    - i. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
    - ii. Areas within 400 feet of a community water system well as specified in s. NR 811.16 (4) or within the separation distances listed in s. NR 812.08 for any private well or non-community well for runoff infiltrated from commercial, including multi-family residential, industrial and institutional land uses or regional devices for one- and two-family residential development.
    - iii. Areas where contaminants of concern, as defined in s. NR 720.03 (2), are present in the soil through which infiltration will occur.
  - b. *Separation distances.*
    - i. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or the top of bedrock are in accordance with Table 3:

<b>Table 3. Separation Distances and Soil Characteristics</b>		
<b>Source Area</b>	<b>Separation Distance</b>	<b>Soil Characteristics</b>
Industrial, Commercial, Institutional Parking Lots and Roads	5 feet or more	Filtering Layer
Residential Arterial Roads	5 feet or more	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 foot or more	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 feet or more	Filtering Layer

- ii. Notwithstanding par. b., applicable requirements for injection wells classified under ch. NR 815 shall be followed.

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- c. *Infiltration rate exemptions.* Infiltration practices located in the following areas may be credited toward meeting the requirements under the following conditions, but the decision to infiltrate under these conditions is optional:
      - i. Where the infiltration rate of the soil measured at the proposed bottom of the infiltration system is less than 0.6 inches per hour using a scientifically credible field test method.
      - ii. Where the least permeable soil horizon to 5 feet below the proposed bottom of the infiltration system using the U.S. Department of Agriculture method of soils analysis is one of the following: sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay, or clay.
  - 5. Alternate Use. Where alternate uses of runoff are employed, such as for toilet flushing, laundry, or irrigation or storage on green roofs where an equivalent portion of the runoff is captured permanently by rooftop vegetation, such alternate use shall be given equal credit toward the infiltration volume required by this section.
  - 6. Groundwater Standards.
    - a. Infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with Ch. NR 140. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
    - b. Notwithstanding par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
  - 7. Pretreatment. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 6. Pretreatment options may include, but are not limited to, oil and grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
  - 8. Maximum Extent Practicable. Where the conditions of subd. 3. and 4. limit or restrict the use of infiltration practices, the performance standard of S. 14-2-07 (4)(c) shall be met to the maximum extent practicable.
- (d) PROTECTIVE AREAS.
- 1. Definition. In this section, “protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the

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delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this section, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.

- a. For outstanding resource waters and exceptional resource waters, 75 feet.
  - b. For perennial and intermittent streams identified on a U.S. Geological Survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
  - c. For lakes, 50 feet.
  - d. For wetlands not subject to par. e. or f., 50 feet.
  - e. For highly susceptible wetlands, 75 feet. Highly susceptible wetlands include the following types: calcareous fens, sedge meadows, open and coniferous bogs, low prairies, coniferous swamps, lowland hardwood swamps, and ephemeral ponds.
  - f. For less susceptible wetlands, 25 feet. Less susceptible wetlands include: degraded wetland dominated by invasive species such as reed canary grass; cultivated hydric soils; and any gravel pits, or dredged material or fill material disposal sites that take on the attributes of a wetland.
  - g. In pars. d. to f., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.
  - h. Wetland boundary delineation shall be made in accordance with s. NR 103.08 (1m). This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after a fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.
  - i. For concentrated flow channels with drainage areas greater than 130 acres, 25 feet.
  - j. Notwithstanding pars. a. to i., the greatest protective area width shall apply where rivers, streams, lakes and wetlands are contiguous.
2. Applicability. This section applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 4.
  3. Requirements. The following requirements shall be met:

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- a. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the storm water management plan shall contain a written, site-specific explanation.
  - b. Where land disturbing construction activity occurs within a protective area, adequate sod or self-sustaining vegetative cover of 70 percent or greater shall be established and maintained where no impervious surface is present. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat, and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.
  - c. BMPs such as filter strips, swales, or wet detention ponds, that are designed to control pollutants from non-point sources, may be located in the protective area.
- 4. Exemptions. This section does not apply to any of the following:
  - a. Except as provided under S. 14-2-07 (3), redevelopment post-construction sites.
  - b. In-fill development areas less than 5 acres.
  - c. Structures that cross or access surface water such as boat landings, bridges, and culverts.
  - d. Structures constructed in accordance with s. 59.692 (1v), Stats.
  - e. Areas of post-construction sites from which the runoff does not enter the surface water, including wetlands, without first being treated by a BMP to meet the local ordinance requirements for total suspended solids and peak flow reduction, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- (e) FUELING AND MAINTENANCE AREAS. Fueling and vehicle maintenance areas shall have BMPs designed, installed, and maintained to reduce petroleum within runoff, so that the runoff that enters waters of the state contains no visible petroleum sheen, or to the maximum extent practicable.
- (5) GENERAL CONSIDERATIONS FOR STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in on-site and off-site runoff management:
  - (a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
  - (b) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (6) BMP LOCATION.

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- (a) To comply with the performance standards required under S. 14-2-07 of this ordinance, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003, Wis. Adm. Code.
- (b) The City of Cedarburg Department of Engineering and Public Works may approve off-site management measures provided that all of the following conditions are met:
  - 1. The City of Cedarburg Department of Engineering and Public Works determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City of Cedarburg and that contains management requirements consistent with the purpose and intent of this ordinance.
  - 2. The off-site facility meets all of the following conditions:
    - a. The facility is in place.
    - b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
    - c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
- (c) Where a regional treatment option exists such that the City of Cedarburg Department of Engineering and Public Works exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the City of Cedarburg Department of Engineering and Public Works. In determining the fee for post-construction runoff, the City of Cedarburg Department of Engineering and Public Works shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option. Fee in Lieu of Costs in effect at the time of publishing this ordinance are as shown in the following table and subject to modification pursuant to section 14-2-13 herein.

<b>Fee in Lieu of Costs – City of Cedarburg Stormwater Ordinance</b>	
<b>Land Use</b>	<b>Fee/Acre of Land Developed</b>
Residential (1&2 Family)	\$4,000
Commercial, Industrial and Multi-Family	\$10,000

- (7) **ADDITIONAL REQUIREMENTS.** The City of Cedarburg Department of Engineering and Public Works may establish storm water management requirements more stringent than those set forth in this ordinance if the City of Cedarburg Department of Engineering and



Public Works determines that the requirements are needed to control storm water quantity or control flooding, comply with federally approved total maximum daily load requirements, or control pollutants associated with existing development or redevelopment.

**S. 14-2-08 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.**

- (1) **PERMIT REQUIRED.** No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the City of Cedarburg Department of Engineering and Public Works prior to commencing the proposed activity.
- (2) **PERMIT APPLICATION AND FEES.** Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the City of Cedarburg Department of Engineering and Public Works a permit application on a form provided by the City of Cedarburg Department of Engineering and Public Works for that purpose.
  - (a) Unless otherwise excluded by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.
  - (b) The storm water management plan shall be prepared to meet the requirements of S. 14-2-07 and S. 14-2-09, the maintenance agreement shall be prepared to meet the requirements of S. 14-2-10, the financial guarantee shall meet the requirements of S. 14-2-11, and fees shall be those established by the City of Cedarburg as set forth in S. 14-2-13.
- (3) **PERMIT APPLICATION REVIEW AND APPROVAL.** The City of Cedarburg Department of Engineering and Public Works shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
  - (a) Within 30 business days of the receipt of a complete permit application, including all items as required by sub. (2), the City of Cedarburg Department of Engineering and Public Works shall inform the applicant whether the application, storm water management plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.
  - (b) If the storm water permit application, storm water management plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the City of Cedarburg Department of Engineering and Public Works shall issue the permit.
  - (c) If the storm water permit application, storm water management plan or maintenance agreement is disapproved, the City of Cedarburg Department of Engineering and Public Works shall detail in writing the reasons for disapproval.
  - (d) The City of Cedarburg Department of Engineering and Public Works may request additional information from the applicant. If additional information is submitted, the City of Cedarburg Department of Engineering and Public Works shall have 30 business days from the date the additional information is received to inform the applicant that the storm water management plan and maintenance agreement are either approved or disapproved.

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- (e) Failure by the City of Cedarburg Department of Engineering and Public Works to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed an approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) **PERMIT REQUIREMENTS.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The City of Cedarburg Department of Engineering and Public Works may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the City of Cedarburg Department of Engineering and Public Works to suspend or revoke this permit may be appealed in accordance with S. 14-2-15.
- (a) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
  - (b) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
  - (c) The responsible party shall notify the City of Cedarburg Department of Engineering and Public Works at least 10 business days before commencing any work in conjunction with the storm water management plan, and within 10 business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the City of Cedarburg Department of Engineering and Public Works so that practice installations can be inspected during construction.
  - (d) Practice installations required as part of this ordinance shall be certified "as built" or "record" drawings by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the City of Cedarburg Department of Engineering and Public Works or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The City of Cedarburg Department of Engineering and Public Works or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.
  - (e) The responsible party shall notify the City of Cedarburg Department of Engineering and Public Works of any significant modifications it intends to make to an approved storm water management plan. The City of Cedarburg Department of Engineering and Public Works may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.
  - (f) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the City of Cedarburg, or are transferred to subsequent private owners as specified in the approved maintenance agreement.

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- (g) The responsible party authorizes the City of Cedarburg Department of Engineering and Public Works, or its designee, to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of Ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under S. 14-2-11.
- (h) If so directed by the City of Cedarburg Department of Engineering and Public Works, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
- (i) The responsible party shall permit property access to the City of Cedarburg Department of Engineering and Public Works or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit or for work performed pursuant to subsection 14-2-08(4)(g) above.
- (j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the City of Cedarburg Department of Engineering and Public Works may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
- (k) The responsible party is subject to the enforcement actions and penalties detailed in S. 14-2-14, if the responsible party fails to comply with the terms of this permit.
- (5) **PERMIT CONDITIONS.** Permits issued under this subsection may include conditions established by City of Cedarburg Department of Engineering and Public Works in addition to the requirements needed to meet the performance standards in S. 14-2-07 or a financial guarantee as provided for in S. 14-2-11.
- (6) **PERMIT DURATION.** Permits issued under this section shall be valid from the date of issuance through the date the City of Cedarburg Department of Engineering and Public Works notifies the responsible party that all storm water management practices have passed the final inspection required under sub. (4)(d).

**S. 14-2-09 STORM WATER MANAGEMENT PLAN.**

- (1) **STORM WATER MANAGEMENT PLAN REQUIREMENTS.** The storm water management plan required under S. 14-2-07 (2) shall contain at a minimum the following information:
  - (a) Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.

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- (b) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
- (c) Pre-development site conditions, including:
  - 1. One or more site maps at a scale of not less than 1 inch equals 50 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 1 foot; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811.16, Wis. Adm. Code.
  - 2. Hydrology and pollutant loading computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- (d) Post-development site conditions, including:
  - 1. Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands.
  - 2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
  - 3. One or more site maps at a scale of not less than 1 inch equals 50 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed 1 foot; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

4. Hydrology and pollutant loading computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
  5. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
- (e) A description and installation schedule for the storm water management practices needed to meet the performance standards in S. 14-2-07.
  - (f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.
  - (g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
  - (h) Other information requested in writing by the [administering authority] to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
  - (i) All site investigations, plans, designs, computations, and drawings shall be certified by a [licensed professional engineer] to be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (2) **ALTERNATE REQUIREMENTS.** The City of Cedarburg Department of Engineering and Public Works may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under S. 14-2-07 (5).

**S. 14-2-10 MAINTENANCE AGREEMENT.**

- (1) **MAINTENANCE AGREEMENT REQUIRED.** The maintenance agreement required under S. 14-2-08 (2) for storm water management practices shall be an agreement between the City of Cedarburg Department of Engineering and Public Works and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be recorded with the County Register of Deeds as a property deed restriction and shall be binding upon all subsequent owners of the land served by the storm water management practices.
- (2) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by S. 14-2-09 (1)(f):
  - (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.
  - (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under S. 14-2-08 (2).

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- (c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under S. 14-2-08 (2).
- (d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).
- (e) Authorization for the City of Cedarburg Department of Engineering and Public Works to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement and perform corrective actions pursuant to subsection 14-2-10(2)(h), below.
- (f) A requirement of the City of Cedarburg Department of Engineering and Public Works to maintain public records of the results of the site inspections for the period specified in the Maintenance Agreement, but in no event longer than 7 years, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
- (g) Agreement that the party designated under par. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the City of Cedarburg Department of Engineering and Public Works of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the City of Cedarburg Department of Engineering and Public Works.
- (h) Authorization of the City of Cedarburg Department of Engineering and Public Works to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. If the costs of the corrective actions are not timely paid, the City of Cedarburg shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of Ch. 66, Wis. Stats.
- (i) The maintenance agreement shall be terminated at such time that responsibility for maintenance of the stormwater management practice is legally transferred to the City of Cedarburg Department of Engineering and Public Works or agency acceptable to the City of Cedarburg Department of Engineering and Public Works, through a written, binding agreement. The termination date of the maintenance agreement required under Sec. 8(a) shall be the date upon which the legal transfer of maintenance responsibility to the City of Cedarburg Department of Engineering and Public Works or agency is made effective.

**S. 14-2-11 FINANCIAL GUARANTEE.**

- (1) **ESTABLISHMENT OF THE GUARANTEE.** The City of Cedarburg Department of Engineering and Public Works may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the City of Cedarburg Department of Engineering

and Public Works. The financial guarantee shall be in an amount determined by the City of Cedarburg Department of Engineering and Public Works to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility, but not to exceed the estimated construction cost plus 25%. The financial guarantee shall give the City of Cedarburg Department of Engineering and Public Works the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the City of Cedarburg Department of Engineering and Public Works that the requirements of this ordinance have not been met.

- (2) **CONDITIONS FOR RELEASE.** Conditions for the release of the financial guarantee are as follows:
- (a) The City of Cedarburg Department of Engineering and Public Works shall release the portion of the financial guarantee established under this section to assure installation of the storm water management practices, less any costs incurred by the City of Cedarburg Department of Engineering and Public Works to complete installation of practices, upon submission of "as built plans" or "record" drawings by a licensed professional engineer and confirmation that the practices comply fully with the Permit. The City of Cedarburg Department of Engineering and Public Works may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
  - (b) The City of Cedarburg Department of Engineering and Public Works shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the City of Cedarburg Department of Engineering and Public Works, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

#### **S. 14-2-12 ILLICIT DISCHARGE PROHIBITION AND DISCONNECTION.**

- (1) **INTENT.** This section establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.
- (2) **APPLICABILITY.** This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.
- (3) **RESPONSIBILITY FOR ADMINISTRATION.** The City of Cedarburg Department of Engineering and Public Works shall be deemed the authorized enforcement agency, as that term is used herein, for purposes of administering, implementing, and enforcing the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated by that agency to persons or entities acting in the beneficial interest of or in the employ of the City.

(4) **ILLCIT DISCHARGE PROHIBITIONS**

- (a) No person shall discharge or cause to be discharged into the municipal storm sewer system or watercourses any materials, including but not limited, to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.
- (b) Exemptions. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
  - 1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities, and any other water source not containing Pollutants.
  - 2. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
  - 3. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
  - 4. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(5) **ILLCIT CONNECTION PROHIBITIONS.** The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(6) **SUSPENSION OF MS4 ACCESS**

- (a) Suspension due to Illicit Discharges in Emergency Situations. The authorized enforcement agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent



or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

- (b) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

(7) **MONITORING OF DISCHARGES**

- (a) The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.
- (b) Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (c) Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (d) If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant or special inspection warrant from any court of competent jurisdiction.

- (8) **REQUIREMENTS. Requirement to Prevent, Control, and Reduce Stormwater Pollutants by the Use of Best Management Practices.** The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system.

- (9) **WATERCOURSE PROTECTION.** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other

obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use function, or physical integrity of the watercourse.

- (10) **NOTIFICATION OF SPILLS.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S. said person, shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized enforcement agency within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**S. 14-2-13 FEE SCHEDULE.**

The fees referred to in other sections of this ordinance shall be established by the City of Cedarburg Department of Engineering and Public Works and may from time to time be modified by resolution of the Common Council of the City of Cedarburg. A schedule of the fees established by the City of Cedarburg Department of Engineering and Public Works shall be available for review in City Hall.

**S. 14-2-14 ENFORCEMENT.**

- (1) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (2) The City of Cedarburg Department of Engineering and Public Works shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (3) Upon receipt of written notification from the City of Cedarburg Department of Engineering and Public Works under sub. (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit within 30 days. The responsible party shall make corrections as necessary to meet the specifications

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and schedule set forth by the City of Cedarburg Department of Engineering and Public Works in the notice.

- (4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City of Cedarburg Department of Engineering and Public Works may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of Cedarburg Department of Engineering and Public Works plus interest and legal costs shall be billed to the responsible party.
- (5) The City of Cedarburg Department of Engineering and Public Works is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the City of Cedarburg Attorney to obtain a cease and desist order in any court with jurisdiction.
- (6) The City of Cedarburg Department of Engineering and Public Works may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the City of Cedarburg Department of Engineering and Public Works or by a court with jurisdiction.
- (8) The City of Cedarburg Department of Engineering and Public Works is authorized to refer any violation of this ordinance, or a stop work order or cease and desist order issued pursuant to this ordinance, to the City of Cedarburg Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (9) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than 100 dollars or more than 500 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (10) Every violation of this ordinance is a public nuisance. Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (11) When the City of Cedarburg Department of Engineering and Public Works determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with any other terms of said storm water management plan, the City of Cedarburg Department of Engineering and Public Works or a party designated by the City of Cedarburg Department of Engineering and Public Works may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved storm water management plan. The City of Cedarburg Department of Engineering and Public Works shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to S. 14-2-11 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

**S. 14-2-15 APPEALS.**

- (1) **PUBLIC WORKS AND SEWERAGE COMMISSION.** The Public Works and Sewerage Commission, created pursuant to section 2-4-2 of the City of Cedarburg zoning ordinances pursuant to s. 62.23 (7)(e), Wis. Stats., shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City of Cedarburg Department of Engineering and Public Works in administering this ordinance. The Public Works and Sewerage Commission shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the Public Works and Sewerage Commission may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.
- (2) **WHO MAY APPEAL.** Appeals to the Public Works and Sewerage Commission may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Cedarburg affected by any decision of the City of Cedarburg Department of Engineering and Public Works.

**S. 14-2-16 SEVERABILITY.**

If any section, clause, provision or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgment.

**S. 14-2-17 EFFECTIVE DATE.**

This ordinance shall be in force and effect from and after its adoption and publication.