

Ordinance 2009-02**An Ordinance To Amend Sections 26-2, 26-35, 26-36, 26-39(a), (b), (c) and (d), 26-39(e)(10), 26-40(a)(NOTE), (c) and (d), 26-42(a), (b), (c), (d) and (e), and 26-43 Of The Code Of Ordinances For The Town of Raymond, Racine County, Wisconsin Regulating Stockpiling and Land Disturbance Activities and To Repeal Section 26-44 of The Town's Code Instituting a Temporary Moratorium on the Issuance of Land Disturbance Permits**

The Town Board of the Town of Raymond, Racine County, Wisconsin, do ordain as follows:

1. That Section 26-2 of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

"Sec. 26-2 Stockpiling.

(a) *Findings and Purpose.* The Town Board finds that Stockpiles create an unsightly appearance that is a nuisance to the surrounding neighbors. The Town Board further finds that Stockpiles do cause or can eventually cause runoff that carries a significant amount of sediment, bacteria/other pathogenic organic matter, toxins and other pollutants to the waters of the State and Town and adjacent properties that adversely affects the health and welfare of the residents of the Town, the surrounding communities and property. This Section does not supersede or waive any requirements of any other ordinance of the Town including but not limited to the Town's building code and permit requirements, land disturbance ordinance, and land division/development ordinances.

(b) *Definitions.* The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Stockpile means a mound, pile or heap of soil, sand, gravel, rock, or other similar fill material in excess of 20 cubic yards that is placed upon, or left in open storage, on any premises.

(c) *Requirements.* No person, property owner or occupant may leave a Stockpile upon any premises for more than 90 days without receiving prior approval from the Town Board. The Town Board may impose conditions on any Stockpile left upon any premises for more than 90 days that it deems necessary to meet the goals of this ordinance and that are necessary to protect the public health, safety and welfare of the community, and to protect other property or improvements in the neighborhood in which the premises is located because of the particular physical surroundings, shape or

topographical conditions of the specific property involved, and to avoid significant erosion, significant degradation, destruction of wetlands or riparian habitat, an increase of ground or water pollution. The Town Board may request a review and report by the Town Engineer or other consultant of a Stockpile left on any premises in violation of this Section and any person, property owner or occupant leaving the Stockpile in violation of this Section shall be billed for any costs incurred for such review and/or report by the Town Engineer or consultant and full payment shall be made in accordance with subsection (d) below.

(d) *Enforcement; Abatement.* Any Stockpile left upon a premises for more than 90 days without approval from the Town Board is hereby declared a public nuisance and the Town Board may proceed in accordance with this subsection or Section 38-6 et seq. to abate the nuisance. It is considered a violation of this Section to move a Stockpile from place-to-place upon a premises to avoid the 90 days limitation. If a Stockpile remains on a premises longer than the approved 90 days, longer than an extended time approved by the Town Board, or the person, occupant and/or property owner are not addressing the Stockpile in accordance with any Town Board approval and imposed conditions, a notice of violation shall be sent by the Town Clerk to the person, occupant and property owner (if different from the person or occupant). The notice of violation shall require corrective action and/or, that the Stockpile be removed within 10 days of the date the notice is received from the Town, and may notify of the Town's intent to issue a citation for violation of the Town's ordinance. Such notice shall inform the person, occupant and/or property owner of the Town's intent to remove the Stockpile if the person, occupant and/or property owner does not remove and dispose of the Stockpile or take other required corrective action within the 10 day time period. If compliance does not occur within the 10 day time period, the Town may enter the premises and commence the needed work. The person, property owner and occupant shall be billed for all costs for the enforcement action and the work, including disposal fees, engineering and legal fees, and the person, property owner, and occupant shall reimburse the Town for such costs within thirty (30) days of receiving the bill. If the Town is not reimbursed for such costs, the costs plus interest at a rate of twelve (12) percent per annum, shall be billed to the property owner. Upon a failure to pay, the Town clerk shall enter the amount due on the tax rolls and collect such amount as a special charge against the property pursuant to Wis. Stats. §66.0627. Compliance with the provisions of this Section may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or issue a notice as provided above before resorting to injunction proceedings.

(e) *Penalties.* Any person violating any of the provisions of this Section shall be subject to a forfeiture of not less than \$100.00 nor more than \$200.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense."

2. That Section 26-35 of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“Sec. 26-35. Design criteria, standards and specifications.

(a) All best management practices required to comply with this Article shall meet the design criteria, standards and specifications based on design guidance and technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources (“DNR”) under Wis. Admin. Code NR ch. 151, subch. V located at the DNR Website at www.dnr.wi.gov, unless otherwise approved by the Town Board, upon recommendation of the Town Engineer.

(b) The Town Board, upon recommendation of the Town Planning Commission and/or Town Engineer, may impose additional requirements or conditions to minimize air, water and noise pollution, traffic controls and erosion controls.”

3. That Section 26-36 of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“Sec. 26-36. Exemptions.

This Article does not apply to the following:

(a) A construction project that is exempted by federal statutes or regulations from the requirement to have a National Pollutant Discharge Elimination System (NPDES) permit issued under 40 CFR 122, for land disturbing construction activity.

(b) A land disturbing construction activity affecting a surface area of less than 10,000 square feet.

(c) Installation of a new drain tile, except that the property owner or other person installing the new drain tile shall notify the Town of the location of the drain tile by filing with the Town Clerk a survey showing the exact location of the new drain tile on the property in order to qualify for this exemption.

(d) Cleaning and restoring existing drainage ditches, agricultural practices, growing and tending gardens, silviculture activities or routine maintenance for project sites that is performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

(e) A land disturbing construction activity for which a permit was obtained from both the Wisconsin Department of Natural Resources and from the Wisconsin State Farm Service Agency Office for programs of the United States Department of

Agriculture except that the property owner shall file with the Town Clerk a copy of any such permit and approved plan.

(f) Notwithstanding the applicability provisions set forth above or the exemptions listed in this Section, this ordinance applies to construction sites of any size that, in the opinion of the Town Engineer, are likely to result in runoff that exceeds the design capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that changes the direction of flow across lot lines or dams the flow of water across lot lines, that increases water pollution by scouring or the transportation of particulate matter, or that involves excavation or filling that results in a change of the surface grade of one foot or more, or that endangers property or public safety."

4. That Sections 26-39(a), (b), (c) and (d) of the Code of Ordinances for the Town of Raymond be, and hereby are, amended to read as follows:

"(a) *Application; fees and costs.* No person, landowner or occupant may commence, allow or continue a land disturbing construction activity subject to this Article without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Town Board. The person proposing the land disturbance (the "Applicant") and at least one landowner controlling or using the site and desiring to undertake a land disturbing construction activity subject to this Article shall submit an application for a permit and an erosion and sediment control plan, and pay to the Town Clerk an application fee in an amount to be set by the Town Board by resolution from time to time. The Applicant and/or landowner shall be jointly and severally liable under this Article. By submitting an application, the Applicant and landowner are authorizing the Town Engineer or his designee and other Town Officials to enter the site to obtain information required for the review of the erosion and sediment control plan. The Applicant and landowner shall be jointly and severally obligated to reimburse the Town for all engineering-related and legal costs, including costs of inspection not covered by the application fee. The Applicant and landowner shall be billed for such additional costs and shall reimburse the Town for such costs within 30 days of receiving the bill. If the Applicant and/or landowner fail to reimburse the Town for such costs, the Town may revoke the permit immediately, without advance notice to the Applicant or landowner, and/or proceed under the enforcement provisions of Section 26-42. In addition, unpaid costs incurred by the Town, shall be entered on the tax rolls and collected as a special charge against the property pursuant to Wis. Stats. Sec. 66.0627.

(b) *Duration.* Permits issued under this Article shall be valid for a period of one year, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance or as otherwise set by the Town Board. The Town Board may extend the period one time per permit. The Town Board or Town Engineer, may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this article.

(c) *Renewal.* Permit renewals must be made by application, including the application renewal fee, prior to the expiration date, unless otherwise extended by the Town Board, upon recommendation of the Town Engineer. Renewals are limited to one renewal per permit. Should the permit expire after the issuance of a renewal, a new permit shall be required and all associated fees shall be paid prior to issuance of such renewal.

(d) *Financial guaranty.* As a condition of approval and issuance of the permit, the Town Board may require the Applicant and/or landowner to deposit a cash bond or to provide an irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan, any permit conditions and any damage occurring to the public road, roads, or other public property or facility, upon which hauling will occur or cross over related to the land disturbing construction activity. Such bond or letter of credit shall be in an amount and form acceptable to the Town. The Town may consult with the Town Engineer to review the proposed land disturbing construction activity and plans required under this Section and to make a recommendation to the Town Board on the amount of the bond or letter of credit necessary. Any costs incurred by the Town for a review under this subsection shall be paid for by the Applicant and/or landowner prior to permit issuance. Any bond or letter of credit required under this subsection shall be a condition of the permit and shall be deposited or provided to the Town prior to permit issuance. If the Applicant and/or landowner fails to execute the approved erosion control plan and comply with the permit conditions or damages the road or other public property, the Town may cause such work to be completed in accord with the approved plan and/or repair the road and shall charge the bond or draw on the letter of credit for any costs incurred. After completion and acceptance of any work by the Town, any balance of a posted bond shall be refunded to the Applicant or the letter of credit shall be released. If the bond or letter of credit is inadequate to pay for such costs, the Applicant and/or landowner shall pay such amounts to the Town on demand. If the Applicant and/or landowner fails to pay such amounts, the Town may impose a special charge for the unpaid amounts against the property pursuant to Wis. Stats. Sec. 66.0703 and/or proceed under the enforcement provisions of Section 26.42."

5. That Section 26-39(e)(10) of the Code of Ordinances for the Town of Raymond be, and hereby is, created to read as follows:

"(10) Hauling or transporting of fill or materials related to the permitted land disturbing construction activity shall not occur on Town roads between February 1 and May 1 of each year without prior Town Plan Commission approval to avoid potential damage to the road that occurs when the frost is lifting from the roadway."

6. That Sections 26-40(a) (NOTE), (c) and (d) of the Code of Ordinances for the Town of Raymond be, and hereby are, amended to read as follows:

"NOTE: The plan requirements of this subsection (a) will meet the plan requirements of Wis. Admin. Code § NR 216.46, when prepared in

accordance with good engineering practices and design guidance and technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources ("DNR") under Wis. Admin. Code NR ch. 151, subch. V located at the DNR Website at www.dnr.wi.gov.

(c) *Review.* The permit application shall be reviewed in accordance with the following:

- (1) Within 31 working days of receipt of the permit application, erosion and sediment control plan or erosion and sediment control plan statement, and the application fee, the Planning Commission, with the recommendation of the Town Engineer, shall review the application and erosion and sediment control plan or erosion and sediment control plan statement to determine if the requirements of this Article are met and make a recommendation to the Town Board. Within 14 working days after the Plan Commission recommendation on the permit application, the Town Board shall review the application and recommendations of the Planning Commission and the Town Engineer. The Planning Commission or Town Board may request comments from other departments or agencies. If the Town Board determines that allowing the land disturbing construction activity will be detrimental to the public safety, health, welfare or convenience, or be injurious to other property or improvements in the neighborhood in which the property is located because of the particular physical surroundings, shape or topographical conditions of the specific property involved, or that the proposed activity will cause significant erosion, destruction of wetlands or riparian habitat, or result in or increase ground or water pollution, the Town Board may deny the permit and inform the Applicant of the Town Board's action.
- (2) If the requirements of this Article are met and the Town Board has not made a determination under subsection (c)(1) of this Section, the Town Board may approve the erosion and sediment control plan or erosion and sediment control plan statement, inform the Applicant and may issue a permit.
- (3) If the requirements of this Article are not met and the Town Board has not made a determination under subsection (c)(1) of this Section, the Town Board shall inform the Applicant in writing and may either require additional information or disapprove the erosion and sediment control plan or erosion and sediment control plan statement. Within 20 working days of receipt of any needed information, the Town Board shall again determine if the erosion and sediment control plan or erosion and sediment control plan statement meets the requirements of this Article. If the erosion and sediment control plan or erosion and sediment control plan statement is

disapproved, the Town Board shall inform the Applicant in writing of the reasons for the disapproval.

(d) *Phasing of disturbed sites greater than 30 acres.* The Town Board, upon recommendation of the Town Engineer, may require phasing on all disturbed sites greater than 30 acres, with the size of each phase to be established at plan review."

7. That Sections 26-42(a), (b), (c), (d) and (e) of the Code of Ordinances for the Town of Raymond be, and hereby are, amended to read as follows:

"(a) The Town Engineer or his designee, the Town Board, or a member of the Town Board, may order a stop work order upon the occurrence of any of the following:

- (1) Any land disturbing construction activity regulated under this Article is being undertaken without a permit.
- (2) The erosion and sediment control plan is not being implemented in a good faith manner.
- (3) The conditions of the permit are not being followed or met.
- (4) The Applicant or landowner failed to reimburse the Town for costs incurred as required by this Article.

The stop work order may be posted on the premises and served personally or by U.S. Mail by any Town official.

(b) If the Applicant and/or landowner does not cease activity as required in a stop work order posted under this Section or fails to comply with the erosion and sediment control plan or permit conditions within ten days of being notified by the Town Engineer or his designee, the Town Board may revoke the permit.

(c) If a person, landowner or occupant, where no permit has been issued, does not cease the activity within ten days of being notified by the Town Engineer or his designee, Town Board or member of the Town Board, or if a landowner violates a stop work order posted under subsection (a) of this Section, the Town Board may request the town attorney to obtain a cease and desist order in any court with jurisdiction.

(d) The Town Board may retract the stop work order issued under subsection (a) of this Section or the permit revocation under subsection (b) of this Section.

(e) Ten days after posting a stop work order under subsection (a) of this section, the Town Board may issue a notice of intent to the person, occupant, Applicant and landowner of its intent to perform work necessary to comply with this Article. The Town, through its employees or by contracted third party, may go on the land and commence the work after 14 days from issuance of the notice of intent. The costs of the work performed by the Town, plus interest at the rate authorized by the Town, shall be billed to the landowner. If a landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect such amount as a special charge against the

property pursuant to Wis. Stats. § 66.0627. Nothing herein shall be construed to prohibit the Town Board from taking immediate action to abate a public nuisance under Section 38-6 of the Town's Code of Ordinances."

8. That Section 26-43 of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

"Sec. 26-43. Appeals.

Any aggrieved person may seek review of a determination made by the Town Board under this Article in accordance with Wis. Stats. Ch. 68."

9. That Section 26-44 of the Code of Ordinances for the Town of Raymond effecting a temporary moratorium, be, and hereby is, repealed and the code shall indicate the Section is repealed.

10. The remaining Sections and subsection of the Article II of Chapter 26 not modified by the above shall remain in full force and effect.

11. That this Ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Adopted by the Town Board of the Town of Raymond, Racine County, Wisconsin this 6 day of May, 2009.

TOWN OF RAYMOND

By: Gary Kastenson
Gary Kastenson, Town Chairman

Attest: Kari Morgan
Kari Morgan, Town Clerk

1st Reading: 5-6-09
2nd Reading: 5-6-09
Adoption: 5-6-09

Ordinance No. 2008-03

AN ORDINANCE TO AMEND SECTIONS 26-186, 26-191, 26-260(o), 26-260(t)(6), 26-261, 26-300(a)(1)(c), 26-300(a)(2), 26-303(c)(2), 26-303(c)(3)(i), 26-331(3), 26-331(3)(g), 26-331(4)(h), 26-331(6), 26-402, 26-436, 26-459, 26-461(a), 26-461(c), 26-461(d)(1), 26-461(d)(2)(a), 26-461(e)(4)(c), 26-461(e)(4)(k), 26-461(f)(1)(c)(1)(xiii), AND 26-461(f)(1)(d)(2)(xii) OF THE CODE OF ORDINANCES FOR THE TOWN OF RAYMOND PERTAINING TO LAND DIVISION, SUBDIVISION, ROAD CONSTRUCTION, DRAINAGE AND STORMWATER MANAGEMENT

The Town Board of the Town of Raymond, Racine, County, Wisconsin, do ordain as follows:

1. That Section 26-186 of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“Sec. 26-186. Minor subdivisions. No person shall divide any land located within the limits of the Town which shall result in a minor subdivision without complying with the provisions of this chapter with respect to minor subdivisions, including, but not limited to required improvements, design standards and certified survey map procedures set forth below.”

2. That Section 26-191 of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“Sec. 26-191. Administration and Fees.

The Town Board may provide for forms and checklists for completion by applicants and to be utilized for the administration of this Chapter. The Town Board may, by resolution, establish reasonable fees for the administration of this Chapter.”

3. That Section 26-260(o) of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“(o) Drainage. All roads will provide drainage for land as required by Town code except that the Town Board may require more stringent measures, if, in its opinion, the situation so requires. Any natural drainage way or existing drainage tile disturbed, or adversely affected as determined by the Town Engineer, during the construction of a road shall be restored or shall be rerouted and redeveloped in a manner acceptable to the Town Engineer.”

4. That Section 26-260(r)(2) of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to repeal subsection d. of that section and e. shall be renumbered to d.

5. That Section 26-260(t)(6) of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

- “(6) No road or highway construction shall take place between November 15 and April 1 without written approval of the Town Board. In addition to utilizing BMPs on the site, no grading, roadwork, swales, waterway work, or general site balancing work, will be allowed after November 15th or prior to April 1st. All disturbed areas that are not stabilized by October 15th shall be covered and stabilized with soil erosion control fabric or other erosion control measures determined to be appropriate by the Town Engineer no later than November 15th to ensure that no winter soil erosion occurs offsite. Any work necessary to address a stabilization failure or areas visibly eroded shall be restored immediately upon notification by the Town Engineer or upon direction of the Town Board.”

6. That Section 26-261 of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“Sec. 26-261. Easements.

- (a) The Town Board may require easements of widths deemed adequate by the board for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for poles, wires, conduits, drain tiles, storm and sanitary sewers, gas, water and heat mains, or other utility lines. Wherever possible, the stormwater drainage shall be maintained by either landscaped open channels or enclosed conduits of adequate size and grade to hydraulically accommodate maximum potential volumes of flow.
- (b) Where a subdivision or minor subdivision is traversed by a watercourse, drainageway, channel or stream, an adequate drainageway or easement shall be provided as required by the Town Board. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the Town Board. Where a subdivision or minor subdivision is traversed by a public or private drainage tile line, the Town Board may require that provision be made for locating of and the reconstruction, relocation or replacement of any such tile line which may be disturbed, or adversely affected as determined by the Town Engineer, by the development of such subdivision or minor subdivision so as to provide for the continued operation of such tile line as before development of such subdivision or minor subdivision. The Town may determine the type of drain tile to be laid during any reconstruction, relocation or replacement.

- (c) Any easements required by the Town Board shall require the property owner to be liable and responsible for the proper maintenance of the drainage easements. Such maintenance shall include the control of weed and algae growth, as well as the removal of silt and sedimentation, the proper maintenance of retention or detention ponds and drain tiles. Such maintenance shall be carried out in conformity with applicable ordinances. In the event of any default in the obligations to properly repair damage caused during construction or to maintain the drainage easements, the Town may cause said maintenance to be provided and may charge the property owner for any costs incurred by it. In addition, the Town, at its option, may cause all such costs including any engineering, legal, and administrative costs with respect to the same, to be assessed against the property, all as provided in Sections 66.0627 and 66.0703, Wis. Stats. or other applicable statute.”

7. That Section 26-300(a)(1)(c) of the Code of Ordinances for the Town of Raymond, be and hereby is, amended to read as follows:

- “c. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas (using existing data from local, state and federal sources; i.e., no new field work is required), wetlands, natural swales, drainageways, known drain tiles as determined by the Town Board, and slopes of 20 percent or greater.”

8. That Section 26-300(a)(2) of the Code of Ordinances for the Town of Raymond, be and hereby is, amended to read as follows:

- “(2) *Development yield analysis.* The subdivider shall submit a development yield analysis as calculated under section 26-303(a), showing the net density calculation.”

9. That Section 26-303(c)(2) of the Code of Ordinances for the Town of Raymond, be and hereby is, amended to read as follows:

- “(2) Areas not served by public sanitary sewer shall be zoned for a C-2 conditional use development, or in accordance with another applicable zoning district, per the Racine County Zoning Code. The front-footage requirements, principal building setbacks, accessory building setbacks, rear lot line, and maximum building height shall be as established for a C-2 development, or as set forth in the applicable District regulations. Areas not served by sewer shall have a minimum net density as calculated under the definition of Net Density pursuant to Section 26-189. A lot shall have an area of not less than one acre, exclusive of areas utilized for public rights-of-way, unless a larger lot is necessary to accommodate a private on-site wastewater treatment facility.”

10. That Section 26-303(c)(3)(i)(3) of the Code of Ordinances for the Town of Raymond, be and hereby is, amended to read as follows:

- “3. Peak discharges during the two-, ten- and 100-year storm events shall meet the requirements of Sec. 26-461(d)(1).”

11. That Section 26-331(3) and (3)(g) of the Code of Ordinances for the Town of Raymond, be and hereby are, amended to read as follows:

- “3. Existing site conditions. Provide this information on a property survey map. It is the responsibility of the subdivider to verify the accuracy of information and resources relied upon to compile the following information and such information shall be verified by a topographic survey prepared and submitted to the Town along with the preliminary plat.”

AND

- “g. Significant natural resource and other features on the site, including: jurisdictional wetlands, floodplains, watercourses, existing wooded areas, slopes of 20 percent or greater, drainageways, known drain tiles, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission and official mapping on file with the county, and other natural resource features, views and other prominent visual features. Where steep slopes may be present, the town may require a survey by a registered land surveyor of the areas containing slopes. This survey shall be referenced to the proposed cross section of the adjacent road. Where drain tiles are suspected to exist, the Town Board may require Subdivider to search for and locate drain tiles on all or a portion of the property. Once all existing drain tiles are located, a report of the findings shall be prepared, including a survey and with data determined to be relevant to the site by the Town Engineer.”

12. That Section 26-331(4)(h) of the Code of Ordinances for the Town of Raymond, be and hereby is, amended to read as follows:

- “h. Location and size of all proposed and existing storms sewers (lines, drain inlets, manholes), culverts, retention ponds, swales, infiltration practices and areas, and other stormwater facilities within the plat and to a distance of 100 feet beyond the site and drain tiles that were located as required under Sec. 26-331(3)(g) or rerouted as required by any section of Chapter 26.”

13. That Section 26-331(6) of the Code of Ordinances for the Town of Raymond, be and hereby is, amended to read as follows:

“(6) *Easements.* No plat or subdivision shall be accepted by the town unless the plat or subdivision provides for an easement across the rear 12 feet of each lot abutting upon a lot in the same plat subjected to a similar easement, making it all an easement of 24 feet. The easement shall be established for the installation of all public utilities. In the event such lot does not abut upon a lot subjected to a similar easement, such nonabutting lot shall be subject to an easement of at least 24 feet in width for the same purposes as previously set forth. The requirements of Sec. 26-261 are incorporated herein by reference and are applicable to subdivisions. In the event compliance with this requirement is not practicable in the opinion of the town board, the town board may waive the requirements herein provided. The subdivider shall dedicate such other lands or grant such other easements as the town board determines to be reasonably required in accord with state statutes, to provide for public utilities and public uses and needs with respect to such subdivision development.”

14. That Section 26-402 of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“Sec. 26-402. Public improvements.

In the event public improvements are required, plans, computations and specifications, which conform to the provisions under this Chapter as required for subdivision improvements, shall be submitted to the town engineer at the time of submission of the proposed certified survey map. Such plans must be approved by the town engineer before town board approval of the certified survey map. Prior to, or as a condition of, town board approval of the certified survey map, the subdivider shall enter into a development agreement, as addressed elsewhere in this Article, and deposit the required fees. In cases where public lands or rights-of-way are reserved or dedicated for future construction of public improvements, the subdivider shall enter into an agreement with the town concerning future costs and liability prior to, or as a condition of, certified survey map approval.”

15. That Section 26-436 of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“Sec. 26-436. Surface water drainage restrictions.

(a) *Obstructions/Disruptions.* To the extent practical, no drainageway contained within a drainage easement shall be obstructed or disturbed, in accordance with the following:

- (1) All buildings and structures shall be set back at least 25 feet from the landward edge of unnavigable streams, drainageways and wetlands. Roadways, recreational trails and pedestrian walkways shall be permitted

to cross unnavigable streams and drainageways, provided, such construction allows for the free passage of waters and that runoff is controlled to prevent erosion and transport of sediment and pollutants to nearby waters.

- (2) No artificial obstruction may be constructed, planted or maintained within any manmade or natural drainageway so that such obstructions impede the natural flow of water and/or diminishes the natural aesthetic quality of the drainageway.
- (3) Lot boundaries shall be made to coincide with new and/or preexisting manmade and natural drainageways to avoid the creation of lots that can be built upon by altering such drainageways.

(b) Exceptions. Surface water shall not be regarded as unduly retained or diverted if the retention or diversion:

- (1) Results from a technique, practice or device deliberately installed as part of an approved sedimentation or stormwater management plan.
- (2) Is not substantially different in location or degree than that experienced by the development site in its predevelopment state, unless such retention or diversion is meeting the purposes of Section 26-461(d)(1) or the retention/detention presents a danger to health or safety.
- (3) Results from the actions of natural obstructions, whereby maintenance shall be performed by the property owner, as appropriate.
- (4) Has been allowed or required by the Town Planning Commission and Town Board and noted on the approved stormwater management plan.”

16. That Section 26-459 of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“Best management practice (BMP) means a structural or nonstructural practice, technique or measure, facility, system of practices or device that reduces soil, sediment or pollutants carried in runoff to waters of the state to a level compatible with the pollution control requirements of this division, based upon the technical standards identified, developed, or disseminated by the Wisconsin Department of Natural Resources under subchapter V of Chapter NR 151, Wis. Adm. Code.”

17. That Section 26-461(a) of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“(a) *Intent.* This division is intended to meet the current construction site erosion control and post-construction stormwater management regulatory requirements of Subchapter III of Chapters NR 151 and NR 216 of the Wis. Adm. Code. This division is not intended to limit activity or land divisions permitted under the applicable zoning and land division ordinances. The town board recognizes that the preferred method of addressing stormwater management problems and needs is through the preparation of comprehensive stormwater management system plans for logical subwatershed areas which are designed to meet the purpose and intent of this division. Accordingly, the standards for on-site stormwater management measures set forth in section subsections (d)(1) and (d)(2) of this section do not apply in areas where such plans have been prepared. In the areas for which stormwater management system plans have been prepared, all land development activities will include stormwater management measures set forth in the approved stormwater management system plans. It is the general intent of the town, in cooperation with the town engineer, to achieve its purpose through:

- (1) Managing longterm, postconstruction stormwater discharges from land development activities.
- (2) Providing two options for developing stormwater management requirements, including:
 - a. Application of generic requirements in this division on a site by site basis in areas for which no approved stormwater management system plan exists; and
 - b. Implementation of management practices set forth in detailed stormwater management plans in areas which are covered by a stormwater management system plan.”

18. That Section 26-461(c) of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“(c) *Design criteria, standards and specifications.* Design criteria, standards and specifications for stormwater management measures shall be made available by the town clerk in cooperation with the town engineer. Peak flow shaving components of stormwater structures shall be designed in accordance with standard engineering practice and BMPs. Stormwater discharge volumes and peak flow rates used in designing the water quantity and quality components of stormwater structures shall be based on the principles of the document entitled, Urban Hydrology for Small Watersheds (Technical Release 55: Engineering Division, United States Department of Agriculture, June 1992), or other methods approved by the town engineer. All stormwater management plans shall be prepared and sealed by a registered professional engineer in the state. All permits issued under this division shall be subject to the conditions under subsection (e)(4)

below including timeframes for completion and/or stabilization of disturbed areas if not completed by October 15th.”

19. That Section 26-461(d)(1) of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“(1) *Discharge quantity.* Unless otherwise provided for in this division, all land development or land disturbing activities subject to this division shall establish on-site management measures to control the peak flow rates of stormwater discharged from the site. Infiltration of stormwater runoff from driveways, sidewalks, rooftops and landscaped areas shall be incorporated, to the maximum extent technically practical, to provide volume control in addition to control of peak flows. On-site management measures shall be used to meet the following minimum performance standards:

- a. The peak flow rates of stormwater runoff from the development shall be calculated using the series of design storms specified in subsection (d)(1)c. of this section occurring under development conditions specified in subsection (d)(1)d. of this section. Discharge velocities must be nonerosive to discharge locations, outfall channels and receiving streams.
- b. The postdevelopment peak flow rate of stormwater runoff from a 100-year rainfall event shall not exceed the predevelopment condition peak flow rate from a ten-year rainfall event. The postdevelopment condition peak flow rate of stormwater runoff from a ten-year rainfall event shall not exceed the predevelopment condition peak flow rate from a two-year rainfall event.
- c. At a minimum, the two-year, ten-year and 100-year rainfall events shall be used in comparing peak flow discharge rates for predevelopment and postdevelopment conditions.
- d. When the natural resource conservation service (NRCS) TR-55 method is used to calculate peak flow discharge rates and runoff volumes for the predevelopment condition, NRCS curve numbers shall not exceed the following for the given soil hydrologic groups. When other methods for computing runoff are used, they shall assume a comparable predevelopment condition.

Soil Hydrologic Group	A	B	C	D
NRCS curve number for meadows	30	58	71	78
NRCS curve number for woodlands	30	55	70	77

NRCS curve number for paved agricultural lands	58	72	81	85
NRCS curve number for paved roadways with open ditches	83	89	92	93
NRCS curve number for commercial/business districts, 85% impervious	89	92	94	94
NRCS curve number for industrial districts, 72% impervious	81	88	91	93

- e. Stormwater discharges to wetlands may be appropriate when the increase or decrease in stormwater discharge volumes do not negatively change the wetland functional values. Where such changes are proposed, the impact of the proposal on wetland functional values shall be assessed using a methodology acceptable to the town engineer. Degradation to wetland functional values shall be avoided.”

20. That Section 26-461(d)(2)(a) of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

- “a. Stormwater discharges shall be designed to remove, on an average annual basis, a minimum of 80 percent of the total suspended solids load as compared to no runoff management controls.”

21. That Section 26-461(e)(4)(c) of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

- “c. The permit holder shall notify the town board at least two working days prior to commencing any work in conjunction with the stormwater management plan, and within three working days upon completion of the stormwater management measures. The permit holder shall make additional notification according to a schedule set forth by the town board, in cooperation with the town engineer, so that practice installations can be inspected during construction. As shall be outlined in the stormwater management plan, in addition to utilizing BMPs on the site, no grading, roadwork, swale, waterway work, or general site balancing work, will be allowed after November 15th or prior to April 1st. All disturbed areas that are not stabilized by October 15th shall be covered and stabilized with soil

erosion control fabric or other erosion control measures determined to be appropriate by the Town Engineer no later than November 15th to ensure that no winter soil erosion occurs offsite. Any work necessary to address a stabilization failure or areas visibly eroded shall be restored immediately upon notification by the Town Engineer or upon direction of the Town Board.”

22. That Section 26-461(e)(4)(k) of the Code of Ordinances for the Town of Raymond be, and hereby is, amended to read as follows:

“k. The permit holder, including successors and assigns, is subject to the enforceable actions and penalties under Section 26-464 if the permit holder fails to comply with the terms of the permit or any provision of this Division.”

23. That Section 26-461(f)(1)(c)(1)(xiii) of the Code of Ordinances for the Town of Raymond be, and hereby is, created to read as follows:

“xiii. Where drain tiles are suspected to exist, the Town Board may require Subdivider to search for and locate drain tiles on all or a portion of the property. Once all existing drain tiles are located, a report of the findings shall be prepared including a survey with data determined to be relevant to the site by the Town Engineer.”

24. That Section 26-461(f)(1)(d)(2)(xii) of the Code of Ordinances for the Town of Raymond be, and hereby is, created to read as follows:

“xii. Confirmed location of all drain tiles located and/or rerouted as required by the Town Board.”

25. That the following sections of the Code of Ordinances for the Town of Raymond, be, and hereby are amended to correct the internal cross references as noted below:

- a. Section 26-303(f)(8)(d) shall be amended to correct the internal reference to “subsection 26-303(f)(1)”;
- b. Section 26-329 shall be amended to correct the internal reference to “section 26-300”;
- c. Section 26-364(b)(9) shall be amended to correct the internal reference to “Section 26-303”;
- d. Section 26-461(e)(2)(b)(2) shall be amended to correct the internal reference to “Section 26-462”;
- e. Section 26-461(e)(4) shall be amended to correct the internal reference to “Section 26-465”;

26. That this ordinance shall take effect upon publication as provided by law.

Adopted by the Town Board of the Town of Raymond, Racine County, Wisconsin, this 27 day of May, 2008.

TOWN OF RAYMOND

By: Gary Kastenson
Gary Kastenson, Chairman

Attest: Kari D. L. Morgan
Kari D. L. Morgan, Town Clerk

Public Hearing Held: May 13, 2008

1st Reading: May 13, 2008

2nd Reading: May 27, 2008

Adoption: May 27, 2008

Published: June 6, 2008

Chapter 26

LAND DIVISION AND DEVELOPMENT CONTROL*

Article I. In General

- Sec. 26-1. Drain tile protection.
Secs. 26-2—26-30. Reserved.

Article II. Land Disturbing Construction Activities

- Sec. 26-31. Authority.
Sec. 26-32. Findings and purpose.
Sec. 26-33. Applicability and jurisdiction.
Sec. 26-34. Definitions.
Sec. 26-35. Design criteria, standards and specifications.
Sec. 26-36. Exemptions.
Sec. 26-37. Maintenance.
Sec. 26-38. Performance standards.
Sec. 26-39. Permit.
Sec. 26-40. Erosion and sediment control plan, statement and review.
Sec. 26-41. Inspection.
Sec. 26-42. Enforcement.
Sec. 26-43. Appeals.
Secs. 26-44—26-70. Reserved.

Article III. Moving Buildings

- Sec. 26-71. Permit required.
Sec. 26-72. Damaged buildings.
Sec. 26-73. Continuous movement required.
Sec. 26-74. Street inspection and repair.
Sec. 26-75. Conformance required.
Sec. 26-76. Cash deposit.
Sec. 26-77. Insurance.
Sec. 26-78. Conditions of permit issuance.
Secs. 26-79—26-110. Reserved.

Article IV. Nonmetallic Mining

- Sec. 26-111. Definitions.
Sec. 26-112. Applicability; exemption.
Sec. 26-113. Application of topsoil to resploped excavation areas or filled areas.
Sec. 26-114. Seeding, revegetation and stabilization.
Sec. 26-115. Violations; penalties.
Secs. 26-116—26-150. Reserved.

***Cross references**—Health and sanitation, ch. 22; roads and other public ways, ch. 42.

TOWN OF RAYMOND GENERAL ORDINANCES

Article V. Racine County Zoning

- Sec. 26-151. Ordinance adopted.
- Sec. 26-152. Planning commission.
- Secs. 26-153—26-180. Reserved.

Article VI. Subdivisions

Division 1. In General

- Sec. 26-181. Title.
- Sec. 26-182. Purpose.
- Sec. 26-183. Applicability and compliance.
- Sec. 26-184. Conservation subdivisions.
- Sec. 26-185. Condominium plats.
- Sec. 26-186. Minor subdivisions.
- Sec. 26-187. Land suitability.
- Sec. 26-188. Remedies; exceptions.
- Sec. 26-189. Definitions.
- Sec. 26-190. Adoption of state statutes and county ordinance.
- Sec. 26-191. Fees.
- Sec. 26-192. Penalty.
- Secs. 26-193—26-219. Reserved.

Division 2. Required Improvements

- Sec. 26-220. Water.
- Sec. 26-221. Sewer.
- Sec. 26-222. Streets.
- Sec. 26-223. Lighting.
- Sec. 26-224. Drainage.
- Sec. 26-225. Street signs.
- Sec. 26-226. Other utilities.
- Sec. 26-227. Development agreement.
- Sec. 26-228. Building permits.
- Sec. 26-229. Engineering, planning, legal and administrative costs; land division fee.
- Secs. 26-230—26-258. Reserved.

Division 3. Design Standards

- Sec. 26-259. Streets.
- Sec. 26-260. Street standards.
- Sec. 26-261. Easements.
- Sec. 26-262. Blocks.
- Sec. 26-263. Lots.
- Sec. 26-264. Reserved.
- Sec. 26-265. Sites.
- Sec. 26-266. Open space and conservation.
- Sec. 26-267. Landscape plan.
- Secs. 26-268—26-298. Reserved.

LAND DIVISION AND DEVELOPMENT CONTROL

Division 4. Condominium and Conservation Subdivision

- Sec. 26-299. Subdivision development.
- Sec. 26-300. Concept plan required.
- Sec. 26-301. Preliminary plat.
- Sec. 26-302. Final plat.
- Sec. 26-303. Conservation design and improvements.
- Secs. 26-304—26-328. Reserved.

Division 5. Preliminary Plat

- Sec. 26-329. Filing application with town.
- Sec. 26-330. Review and approval procedures.
- Sec. 26-331. Requirements.
- Secs. 26-332—26-355. Reserved.

Division 6. Final Plat

- Sec. 26-356. Compliance with article.
- Sec. 26-357. Filing of plat, letter of application; evidence of ownership.
- Sec. 26-358. Objecting agencies.
- Sec. 26-359. Final construction plans.
- Sec. 26-360. Installation, protection and management plans.
- Sec. 26-361. Referral.
- Sec. 26-362. Town planning commission review.
- Sec. 26-363. Town board review and approval.
- Sec. 26-364. Requirements.
- Secs. 26-365—26-393. Reserved.

Division 7. Certified Survey Maps

- Sec. 26-394. Compliance.
- Sec. 26-395. Application; certified survey maps.
- Sec. 26-396. Proof of ownership.
- Sec. 26-397. General requirements for certified survey map.
- Sec. 26-398. Detailed requirements.
- Sec. 26-399. Planning commission review and informational meeting.
- Sec. 26-400. Planning commission recommendation.
- Sec. 26-401. Board action.
- Sec. 26-402. Public improvements.
- Secs. 26-403—26-431. Reserved.

Division 8. Modifications or Waivers

- Sec. 26-432. Authority; application.
- Sec. 26-433. Considerations.
- Sec. 26-434. Granting by town board.
- Sec. 26-435. Past noncompliance not waived.

Division 9. Dedications and Required Improvements

- Sec. 26-436. Surface water drainage restrictions.

TOWN OF RAYMOND GENERAL ORDINANCES

- Sec. 26-437. Dedication and reservations of land.
- Sec. 26-438. Construction and installation of improvements.
- Sec. 26-439. Plans and construction specifications.
- Sec. 26-440. Inspection.
- Sec. 26-441. Public sanitary sewerage and private on-site water treatment systems.
- Sec. 26-442. Water supply facilities.
- Secs. 26-443—26-455. Reserved.

Division 10. Stormwater Management

- Sec. 26-456. Authority.
- Sec. 26-457. Findings of fact.
- Sec. 26-458. Applicability and jurisdiction.
- Sec. 26-459. Definitions.
- Sec. 26-460. Administration and enforcement.
- Sec. 26-461. Requirements.
- Sec. 26-462. Maintenance agreement.
- Sec. 26-463. Inspection; authority to enter upon land.
- Sec. 26-464. Enforcement; violations; penalties.
- Sec. 26-465. Appeals.
- Secs. 26-466—26-475. Reserved.

Article VII. Building Code

- Sec. 26-476. Authority.
- Sec. 26-477. Codes adopted.
- Sec. 26-478. Scope of Uniform Dwelling Code expanded.
- Sec. 26-479. Disclaimer and nonliability for damages.
- Sec. 26-480. Violations; penalties.
- Sec. 26-481. Office hours and creation of conditions and terms to perform duties of building inspector.
- Sec. 26-482. Building inspector generally.
- Sec. 26-483. Plan submission.
- Sec. 26-484. Permit issuance.
- Sec. 26-485. Fees.
- Sec. 26-486. Completion and road damage deposits.
- Sec. 26-487. Occupancy permits.
- Sec. 26-488. Stop work orders.
- Sec. 26-489. Variances.
- Sec. 26-490. Appeals.
- Sec. 26-491. Yard maintenance.
- Sec. 26-492. Residence size and wall requirements.
- Sec. 26-493. Minimum lot sizes.
- Sec. 26-494. Reserved.
- Sec. 26-495. Construction and function of ponds.
- Sec. 26-496. Accessory structures.
- Secs. 26-497—26-525. Reserved.

Article VIII. Unsafe Buildings, Razing and Demolition

- Sec. 26-526. Order of building inspector.

LAND DIVISION AND DEVELOPMENT CONTROL

- Sec. 26-527. Permit.
- Sec. 26-528. Conducting demolition.
- Sec. 26-529. Site clearing and leveling.
- Sec. 26-530. Removal, transportation and disposal hazardous materials.
- Sec. 26-531. Burning.

ARTICLE I. IN GENERAL**Sec. 26-1. Drain tile protection.**

Any drain tile that is or would be broken or otherwise disturbed by any project governed by this chapter shall be repaired and/or rerouted, at the expense of the person undertaking such project, so as to maintain the level of drainage that existed before such project was undertaken.

(Ord. No. 2005-10, § 1, 8-9-2005)

Secs. 26-2—26-30. Reserved.**ARTICLE II. LAND DISTURBING CONSTRUCTION ACTIVITIES****Sec. 26-31. Authority.**

(a) This article is adopted pursuant to the authority granted by Wis. Stats. chs. 60, 61, 62, 66, 88, 231 and 236.

(b) The provisions of this article are deemed not to limit any other lawful regulatory powers of the town board.

(c) The town board hereby designates the town engineer to administer and enforce the provisions of this article.

(d) The requirements of this article do not preempt more stringent erosion and sediment control requirements that may be imposed by any of the following:

(1) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.

(2) Targeted nonagricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Wis. Admin. Code § NR 151.004.

(Code 1967, § 3.12(1) ; Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-32. Findings and purpose.

(a) *Findings.* The town board finds that runoff from potential and current land disturbing construction activities carries a significant amount of sediment, nutrients, bacteria/other pathogenic organic matter, toxins and other pollutants to the waters of the state and town, and adjacent properties.

(b) *Purpose.* It is the purpose of this article to preserve the natural resources, protect the quality of the waters of the state and town, and protect and promote the health, safety, welfare and convenience of the people, to the extent practicable, by minimizing the amount of sediment and other pollutants carried by runoff or discharge from land disturbing construction activities to waters of the state and adjacent properties.

(Code 1967, § 3.12(2) ; Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-33. Applicability and jurisdiction.

This article applies to land disturbing construction activities on lands within the boundaries and jurisdiction of the town.
(Code 1967, § 3.12(3); Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-34. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural practice means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; and vegetable raising.

Best management practice (BMP) means a structural or nonstructural practice, technique or measure, facility, system of practices or device that reduces soil, sediment or pollutants carried in runoff to waters of the state to a level compatible with the pollution control requirements of this article, based upon the state construction site best management practices handbook.

Construction site means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules, but under one plan.

Erosion means the detachment and movement of soil, sediment particles or rock fragments by water, wind, ice, gravity or other forces of nature.

Erosion and sediment control plan means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil, sediment or rock fragments during construction.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and 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 employment of equivalent permanent stabilization measures.

Land disturbing construction activity means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Such term includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, but does not include cleaning and restoring existing drainage ditches, agricultural practices, growing and tending gardens, silviculture activities or routine maintenance for project sites that is performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

Landowner means any person holding fee title, an easement or other interest in property, which allows a person to undertake land disturbing construction activity on the property.

Maximum extent practicable (MEP) means a level of implementing best management practices in order to achieve a performance standard specified in this article which takes into account the best available technology, cost-effectiveness and other competing issues, such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in how performance standards are met and may vary, based on the performance standard and site conditions.

Pollutant means any dredged spoils, solid wastes, incinerator residues, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substances, heat, wrecked or discarded equipment, rocks, sand, cellar dirt and industrial, municipal and agricultural wastes discharged into water.

State law reference—Similar provisions, Wis. Stats. § 283.01(13).

Pollution means contaminating or rendering unclean or impure the waters of the state, or making such waters injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

State law reference—Similar provisions, Wis. Stats. § 281.01(10).

Runoff means water or precipitation, including rain, snowmelt or ice melt, that moves on the land surface via sheet or channelized flow.

Sediment means settleable soil, rock fragments and other solids carried in runoff.

Separate storm sewer means a conveyance or system of conveyances, including roads with drainage systems, streets, catchbasins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff;
- (2) Is not part of a combined sewer system;
- (3) Is not draining to a stormwater treatment device or system; and
- (4) Discharges directly or indirectly to waters of the state.

Site means the entire area included in the legal description of the land or easements on which the land disturbing construction activity is proposed in the permit application.

Technical standard means an established criterion for planning, performance, design, operation or maintenance for a best management practice.

Waters of the state means the portions of Lake Michigan and Lake Superior within the boundaries of the 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 the state or its jurisdiction.

(Code 1967, § 3.12(4); Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

State law reference—Similar provisions, Wis. Stats. § 281.01(18).

Cross reference—Definitions generally, § 1-2.

Sec. 26-35. Design criteria, standards and specifications.

(a) All best management practices required to comply with this article shall meet the design criteria, standards and specifications based on any of the following, unless otherwise approved by the town board, upon recommendation of the town engineer:

- (1) Accepted design criteria, standards and specifications identified in the Wisconsin Construction Site Best Management Practice Handbook, WDNR Pub. WR-222, November 1993 Revision, and as revised from time to time.
- (2) Other design guidance and technical standards identified, developed or disseminated by the state department of natural resources under Wis. Admin. Code ch. NR 151, subch. V.

(b) The planning commission, upon recommendation of the town engineer, may impose additional requirements or conditions to minimize air, water and noise pollution, traffic controls and erosion controls.

(Code 1967, § 3.12(5); Ord. No. 2005-15, § 2, 12-13-2005; Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-36. Exemptions.

This article does not apply to the following:

- (1) A construction project that is exempted by federal statutes or regulations from the requirement to have a National Pollutant Discharge Elimination System (NPDES) permit issued under 40 CFR 122, for land disturbing construction activity.
- (2) A land disturbing construction activity affecting a surface area of less than 10,000 square feet.
- (3) Notwithstanding the applicability provisions set forth above or the exemptions listed in this subsection, this article applies to construction sites of any size that, in the opinion of the town engineer, are likely to result in runoff that exceeds the design capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that changes the direction of flow access lot lines or dams the flow of water across lot lines, that increases water pollution by scouring or the transportation of particulate matter, or that involves excavation or filling that results in a change of the surface grade of one foot or more, or that endangers property or public safety.

(Code 1967, § 3.12(6); Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-37. Maintenance.

The landowner, throughout the duration of the construction and development activities, shall maintain all best management practices necessary to meet the requirements of this article.

(Code 1967, § 3.12(7); Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-38. Performance standards.

- (a) *Responsibility.* The landowner shall be responsible for complying with this section.
- (b) *Plan.* A written plan to reduce sediments and pollutants from entering waters of the state, or separate storm sewers connecting to waters of the state, shall be developed in accordance with sections 26-39 and 26-40, and implemented at each construction site.
- (c) *Erosion and other pollutant control requirements.* The plan required under subsection (b) shall include the following:
- (1) BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80 percent of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls, until the construction site has undergone final stabilization. No person shall be required to exceed an 80 percent sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activities, or other appropriate mechanism.
 - (2) Notwithstanding subsection (1), if BMPs cannot be designed and implemented to reduce the sediment load by 80 percent, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80 percent reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.
 - (3) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:
 - a. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
 - b. Prevent the discharge of sediment as part of site dewatering.
 - c. Protect the separate storm drain inlet structure from receiving sediment.
 - (4) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.
- (d) *Location.* The BMPs used to comply with this section shall be employed prior to runoff entering waters of the state at the locations designated in the approved plan.
- (e) *Alternate requirements.* The town engineer may establish storm water management requirements more stringent than those set forth in this section if the town engineer determines that an added level of protection is needed for sensitive resources.
(Code 1967, § 3.12(8); Ord. No. 2005-15, § 3, 12-13-2005; Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-39. Permit.

(a) *Application; fees and costs.* No landowner may commence, allow or continue a land disturbing construction activity subject to this article without receiving prior approval of an erosion and sediment control plan for the site and a permit from the planning commission. At least one landowner controlling or using the site and desiring to undertake a land disturbing construction activity subject to this article shall submit an application for a permit and an erosion and sediment control plan, and pay to the town clerk an application fee in an amount to be set by the town board by resolution from time to time. By submitting an application, the applicant is authorizing the town engineer or his designee to enter the site to obtain information required for the review of the erosion and sediment control plan. The applicant shall be obligated to reimburse the town for engineering-related and legal costs, including costs of inspection not covered by the application fee. The applicant shall be billed for such additional costs and the applicant shall reimburse the town for such costs within 30 days of receiving the bill. If the applicant fails to reimburse the town for such costs, the town may revoke the permit immediately, without advance notice to the applicant, and/or proceed under the enforcement provisions of section 26-42.

(b) *Duration.* Permits issued under this article shall be valid for a period of one year, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance or as otherwise set by the planning commission. The planning commission may extend the period one time per permit. The planning commission, upon recommendation of the town engineer, may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this article.

(c) *Renewal.* Permit renewals must be made by application, including the application renewal fee only, prior to the expiration date, unless otherwise extended by the planning commission, upon recommendation of the town engineer. Renewals are limited to one renewal per permit. Should the permit expire after the issuance of a renewal, a new permit shall be required and all associated fees must be paid prior to issuance of such renewal.

(d) *Financial guaranty.* As a condition of approval and issuance of the permit, the planning commission may require the applicant to provide an irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(e) *Conditions.* All permits shall require the landowner to:

- (1) Notify the town clerk within 48 hours of commencing any land disturbing construction activity or land development activity.
- (2) Notify the town engineer of completion of any BMPs within 14 days after the installation thereof.
- (3) Obtain permission in writing from the town engineer prior to modifying the erosion and sediment control plan.
- (4) Install all BMPs as identified in the approved erosion and sediment control plan.

- (5) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
 - (6) Repair any siltation or erosion damage to adjoining surfaces and drainageways/ resulting from land disturbing construction activities or land development activities and document repairs in a site erosion control log.
 - (7) Inspect the BMPs within 24 hours after each rain of five-tenths inch or more and at least once each week make needed repairs and document the findings of the inspections in a site erosion control log, with the date of inspection and the name of the person conducting the inspection.
 - (8) Allow the town engineer or his designee to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or performing any work necessary to bring the site into compliance with the erosion and sediment control plan.
 - (9) Keep a copy of the erosion and sediment control plan at the construction or development site.
- (Code 1967, § 3.12(9); Ord. No. 2005-15, § 4, 12-13-2005; Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-40. Erosion and sediment control plan, statement and review.

(a) *[Plan.]* An erosion and sediment control plan for land disturbing construction activities affecting areas of 10,000 square feet or greater shall be prepared and submitted to the town clerk. The plan shall:

- (1) Be designed to meet the performance standards, technical standards and other requirements of this article.
- (2) Address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site.
- (3) Include, at a minimum, the following:
 - a. Name of the landowner, engineer and contractor, if known, with contact information.
 - b. Description of the site and the nature of the construction activity, including representation of the limits of soil disturbance on a United States Geological Service seven and one-half-minute series topographic map.
 - c. Description of the intended sequence of major activities which disturb land for major portions of the site, such as grubbing, excavation or grading.
 - d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities and identification of the disturbed areas.
 - e. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.

- f. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
 - g. Existing data describing the surface soil as well as subsoils.
 - h. Depth to groundwater, as indicated by natural resources conservation service soil information, where available, except when permanent infiltration systems are used, the depth to groundwater shall be as outlined in subsection (a)(5) of this section.
 - i. Name of the immediate receiving water as named on the appropriate United States Geological Service seven and one-half-minute series topographic map.
- (4) If permanent infiltration systems are used, require appropriate onsite testing to be conducted to determine if seasonal high water is within five feet of the bottom of the proposed practice. If permanent infiltration structures are used and there is a municipal well within 1,200 feet or a nonpublic well within 100 feet, the groundwater flow shall be identified in accordance with the provisions specified in Wis. Admin. Code §§ NR 811.16(4) and 812.08(4).
- (5) Include a site map. The site map shall include the following items and shall be at a scale of not greater than 100 feet per inch and at a contour interval not to exceed two feet, except the United States Geological Service seven and one-half-minute series topographical maps:
- a. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year floodplains, flood fringes, shoreland zones and floodways shall also be shown.
 - b. Boundaries of the construction site.
 - c. Drainage patterns and approximate slopes anticipated after major grading activities.
 - d. Areas of soil disturbance.
 - e. Location of major structural and nonstructural controls identified in the plan.
 - f. Location of areas where stabilization practices will be employed and methods of stabilization identified.
 - g. Areas which will be vegetated following construction and a restoration schedule.
 - h. Wetlands, areas extent of wetland acreage on the site and locations where stormwater is discharged to a surface water or wetland.
 - i. Locations of all surface waters and wetlands within one mile of the construction or development site.
 - j. Locations and dimensions of utilities, structures, roads, highways and paving, drain tiles and other physical features or structures.

- k. Alphanumeric or equivalent grid overlying the entire construction site map.
 - l. Locations and dimensions of setback distances, easements, rights-of-way or other restrictions.
 - m. Maintenance responsibilities for erosion and sediment controls.
 - n. Any other information as determined by the town engineer.
- (6) Include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall be at the same scale as the site map under subsection (b)(5) of this section and shall clearly show the site changes. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:
- a. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved, where attainable, and that disturbed portions of the site are stabilized.
 - b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the town engineer, structural/ measures shall be installed on upland soils.
 - c. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
 - d. Trapping of sediment in channelized flow.
 - e. Staging construction to limit bare areas subject to erosion.
 - f. Protection of downslope drainage inlets where they occur.
 - g. Minimization of tracking at all sites.
 - h. Clean up of off-site sediment deposits.
 - i. Proper disposal of building and waste materials at all sites.
 - j. Stabilization of drainageways.
 - k. Control of soil erosion from dirt stockpiles.
 - l. Installation of permanent stabilization practices as soon as possible after final grading.
 - m. Minimization of dust to the maximum extent practicable.
- (7) Require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a nonerosive flow from the structure to a watercourse so that the natural physical and biological characteristics and functions are maintained and protected.

- (8) If BMPs cannot be designed to reduce the average annual sediment load by 80 percent, include a written and site-specific explanation as to why the 80 percent reduction goal is not attained.

Note: The plan requirements of this subsection (a) will meet the plan requirements of Wis. Admin. Code § NR 216.46, when prepared in accordance with good engineering practices and the design criteria, standards and specifications outlined in the Wisconsin Construction Site Best Management Practice Handbook, WDNR Pub. WR-222, November 1993 Revision, as amended.

(b) *Statement.* An erosion and sediment control plan statement shall be prepared for each construction site, unless exempted under section 26-36. Such statement shall be submitted to the town clerk. The erosion and sediment control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of this article, including the site development schedule.

(c) *Review.*

- (1) Within 20 working days of receipt of the permit application, erosion and sediment control plan or erosion and sediment control plan statement and application fee, the planning commission, with the recommendation of the town engineer, shall review the application and erosion and sediment control plan or erosion and sediment control plan statement to determine if the requirements of this article are met. The planning commission may request comments from other departments or agencies. If the planning commission determines that allowing the land disturbing construction activity will be detrimental to the public safety, health, welfare or convenience, or be injurious to other property or improvements in the neighborhood in which the property is located because of the particular physical surroundings, shape or topographical conditions of the specific property involved, or that the proposed activity will cause significant erosion, destruction of wetlands or riparian habitat, or result in or increase ground or water pollution, the planning commission may deny the permit and inform the applicant of the planning commission's action.
- (2) If the requirements of this article are met and the planning commission has not made a determination under subsection (c)(1) of this section, the planning commission may approve the erosion and sediment control plan or erosion and sediment control plan statement, inform the applicant and may issue a permit.
- (3) If the requirements of this article are not met and the planning commission has not made a determination under subsection (c)(1) of this section, the planning commission shall inform the applicant in writing and may either require additional information or disapprove the erosion and sediment control plan or erosion and sediment control plan statement. Within 20 working days of receipt of any needed information, the planning commission shall again determine if the erosion and sediment control plan or erosion and sediment control plan statement meets the requirements of this article. If the

erosion and sediment control plan or erosion and sediment control plan statement is disapproved, the planning commission shall inform the applicant in writing of the reasons for the disapproval.

(d) *Phasing of disturbed sites greater than 30 acres.* The planning commission, upon recommendation of the town engineer, may require phasing on all disturbed sites greater than 30 acres, with the size of each phase to be established at plan review.

(Code 1967, § 3.12(10); Ord. No. 2005-15, § 5, 12-13-2005; Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-41. Inspection.

(a) The town engineer or his designee may inspect any construction site that holds a permit under this article to ensure compliance with the approved sediment and erosion control plan.

(b) If land disturbing construction activities are being carried out without a permit as required by this article, the town engineer or his designee may enter the land pursuant to the provisions of Wis. Stats. § 66.0119.

(Code 1967, § 3.12(11); Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-42. Enforcement.

(a) The town engineer or his designee, at the direction of the planning commission, may post a stop work order upon the occurrence of any of the following:

- (1) Any land disturbing construction activity regulated under this article is being undertaken without a permit.
- (2) The erosion and sediment control plan is not being implemented in a good faith manner.
- (3) The conditions of the permit are not being met.

(b) If the landowner does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions within ten days of being notified by the town engineer or his designee, the planning commission may revoke the permit.

(c) If the landowner, where no permit has been issued, does not cease the activity within ten days of being notified by the town engineer or his designee, or if a landowner violates a stop work order posted under subsection (a) of this section, the planning commission may request the town attorney to obtain a cease and desist order in any court with jurisdiction.

(d) The planning commission may retract the stop work order issued under subsection (a) of this section or the permit revocation under subsection (b) of this section.

(e) Ten days after posting a stop work order under subsection (a) of this section, the planning commission may issue a notice of intent to the landowner of its intent to perform work necessary to comply with this article. The town may go on the land and commence the work after 14 days from issuance of the notice of intent. The costs of the work performed by the

town, plus interest at the rate authorized by the town, shall be billed to the landowner. If a landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect such amount as a special charge against the property pursuant to Wis. Stats. § 66.0627.

(f) Any person violating any of the provisions of this article shall be subject to a forfeiture of not less than \$25.00 nor more than \$500.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

(g) Compliance with the provisions of this article 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 injunction proceedings.
(Code 1967, § 3.12(12); Ord. No. 2005-15, § 6, 12-13-2005; Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Sec. 26-43. Appeals.

Any aggrieved person may seek review of a determination made by the planning commission under this article in accordance with Wis. Stats. ch. 68.
(Code 1967, § 3.12(12); Ord. No. 2005-15, § 7, 12-13-2005; Ord. No. 2007-01, §§ 1, 2(Exh. A), 2-13-2007)

Secs. 26-44—26-70. Reserved.

ARTICLE III. MOVING BUILDINGS*

Sec. 26-71. Permit required.

No person shall move any building or structure upon any of the public rights-of-way of the town without first obtaining a permit from the building inspector and upon the payment of the required fee. Every such permit issued by the building inspector for the moving of a building shall designate the route to be taken, the conditions to be complied with and limit the time during which such moving operations shall be continued.
(Ord. of 11-9-1998(4), § 5.16(1))

*Cross reference—Roads and other public ways, ch. 42.

Sec. 26-72. Damaged buildings.

No building shall be repaired, altered or moved within or into the town that has deteriorated or been damaged by any cause, including such moving and separation from its foundation and service connections in the case of moved buildings, to 50 percent or more of its equalized value. No permit shall be granted to repair, alter or move such building within or into the town. Furthermore, if the equalized assessed value of the building is not within 20 percent of the surrounding buildings within 1,000 feet of the parcel where the building is proposed to be moved to, no permit shall be granted unless the building is improved so that its equalized value is at least 80 percent of the lowest equalized value of any of the surrounding buildings. (Ord. of 11-9-1998(4), § 5.16(2))

Sec. 26-73. Continuous movement required.

The movement of buildings shall be a continuous operation during all the hours of the day and night until such movement is fully completed. All of such operations shall be performed with the least possible obstruction to thoroughfares. No building shall be allowed to remain overnight upon any street crossing or intersection, or so near thereto as to prevent easy access to a fire hydrant or any other public facility. Lighted lanterns shall be kept in conspicuous places at each end of the building during the night.

(Ord. of 11-9-1998(4), § 5.16(3))

Sec. 26-74. Street inspection and repair.

Every person receiving a permit to move a building shall, prior to moving the building, accompany the building inspector and a town department of public works representative on an inspection of the route the building will travel within the town limits. The applicant shall, within one day after such building reaches its destination, report the fact to the building inspector, who shall thereupon, in the company of the town department of public works representative, inspect the streets and highways over which such building has been moved and ascertain the condition of such streets and highways. If the removal of the building has caused any damage to any street or highway, the person to whom the permit was issued shall forthwith place any such street or highway in as good repair as such street or highway was before the permit was granted. Upon the failure of the permittee to make such repair within ten days after such damage, to the satisfaction of the town board, the town board shall cause repair of the damage done to such street or highway and hold the person obtaining such permit and the sureties on his bond responsible for payment thereof.

(Ord. of 11-9-1998(4), § 5.16(4))

Sec. 26-75. Conformance required.

No permit shall be issued to move a building within or into the town and to establish such building upon a location within such municipality until the building inspector has made an investigation of such building at the location from which it is to be moved and is satisfied from such investigation that such building is in a sound and stable condition and of such construction that it will meet the requirements of this Code in all respects. A complete plan of all further repairs, improvements and remodeling with reference to such building shall be submitted to the building inspector, and he shall make a finding of fact to the effect that all such repairs, improvements and remodeling are in conformity with the requirements of this Code and that when such repairs, improvements and remodeling are completed, the building, as such, will comply with this Code. If a building is to be moved from the town to some point outside of the boundaries thereof, the provisions, with respect to the furnishing of plans and specifications for proposed alterations to such building, may be disregarded.

(Ord. of 11-9-1998(4), § 5.16(5))

Sec. 26-76. Cash deposit.

(a) Before a permit is issued to move any building over any public way in the town, the party applying for such permit shall make a cash deposit to the town in a sum to be fixed by the town, which sum shall not be less than \$5,000.00. Such cash deposit shall be held for

indemnification of the town for any costs or expenses incurred by the town in connection with any claims for damages to any person or property and the payment of any judgment, together with the costs or expenses incurred by the town in connection therewith, arising out of the moving of the building for which the permit is issued. The cash deposit shall be refunded if, after the building is moved, the building inspector and supervisor of public works have found the permit was complied with and no damages were caused by the move.

(b) The cash deposit required by subsection (a) of this section shall be further conditioned upon the permittee erecting adequate barriers and, within 48 hours, filling in such excavation or adopting and employing such other means, devices or methods approved by the building inspector and reasonably adopted or calculated to prevent the occurrences set forth in this section. The building inspector may waive the time lines set forth in this subsection if, after investigation, he determines that the excavation exposed by the removal of such building from its foundation is not so close to a public thoroughfare as to constitute a hazard to persons, particularly children under 12 years of age.

(Ord. of 11-9-1998(4), § 5.16(6))

Sec. 26-77. Insurance.

In addition to the cash deposit required in section 26-76, the building inspector shall require public liability insurance covering injury to one person, in the sum of not less than \$500,000.00, and for one accident, an aggregate of not less than \$1,000,000.00, together with property damage insurance in a sum of not less than \$500,000.00, or such other coverage as deemed necessary.

(Ord. of 11-9-1998(4), § 5.16(7))

Sec. 26-78. Conditions of permit issuance.

(a) Before any permit to relocate a building may be issued, a town official shall examine the application for the permit and approve the application by a majority vote.

(b) The application shall include exterior elevations of the building at its proposed new location and accurate photographs of all sides and views thereof. In case it is proposed to alter the exterior of such building, plans and specifications of such proposed alterations and a site plan showing the location of the building on the final resting site shall be included.

(c) The town shall not grant a permit unless a town official has taken a view of the building proposed to be moved and of the site at which it is to be located.

(d) The town may not issue a permit for relocation of a building unless it finds that the exterior appearances and design of the building to be moved, or moved and altered, will be consistent with the exterior appearance and design of the buildings already constructed or in the course of construction in the immediate neighborhood, or with the character of the applicable district established by the town's zoning ordinances. No permit shall be granted if the relocation will cause a substantial depreciation of the property values of the neighborhood to which the building is proposed to be relocated.

(e) If the applicant proposes to alter the exterior of a building after moving the building, he shall submit, with his application papers, complete plans and specifications for the proposed alterations. Before a permit shall be issued for a building to be moved and altered, the applicant shall deposit with the town a cash deposit of not less than \$5,000.00 to secure the timely completion of all proposed exterior alterations to such building as set forth in the plans and specifications. The cash deposit shall be in addition to any other bond or surety which may be required by other applicable ordinances of the town. The cash deposit shall be refunded after the exterior alterations are completed and the building inspector has found the building exterior complies with the approved plans and within the time frame set by the town board. The deposit shall be forfeited if the exterior of the building does not comply with the approved plans or if the time frame for completing the work is not adhered to.

(f) No occupancy permit shall be issued for such a building until the exterior alterations proposed to be made have been completed.

(g) Whenever an application for relocation of a building is made to the building inspector, he shall request a meeting of the town board to consider the application. The building inspector shall inform the town board whether or not the application complies, in all respects, with all other town ordinances. The town board may, if it desires, hold a public hearing on the permit application.

(Ord. of 11-9-1998(4), § 5.16(8))

Secs. 26-79—26-110. Reserved.

ARTICLE IV. NONMETALLIC MINING

Sec. 26-111. Definitions.

The definitions of Wis. Stats. § 295.11, as amended from time to time, are incorporated in this article by reference. In addition, the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment of operations means the cessation of nonmetallic mining operations for more than 360 consecutive days, where the cessation is not specifically set forth in an operator's application, operation or reclamation plan or permit, but does not include the cessation of activities due to labor strikes or natural disasters.

Enlargement means any vertical or horizontal increase beyond dimensions of the original application for the project site.

Modification means any vertical or horizontal increase or decrease within the dimensions of the original application for the project site.

Nonmetallic mining and nonmetallic mining operation mean operations or activities related to nonmetallic minerals that are a byproduct of any solid waste disposal facility in the preparation of, lining, capping, covering, excavating or disposal of materials off-site, or related to soil, rock, clay, or organic or inorganic matter on a site within the town.

Permit means any permit which may be required under this article.
(Ord. of 12-14-1998(2), § 2)

Cross reference—Definitions generally, § 1-2.

Sec. 26-112. Applicability; exemption.

This article does not apply to the activities which are exempted by Wis. Stats. § 295.16, as amended from time to time. Any amounts less than 500 cubic feet shall be considered exempt under this article. Furthermore, the department of natural resources, agriculture sludge applications are exempted from this article.

(Ord. of 12-14-1998(2), § 3)

Sec. 26-113. Application of topsoil to resloped excavation areas or filled areas.

(a) All resloped excavation areas or filled areas shall be covered with three inches of topsoil.

(b) Prior to seeding, fertilizer shall be applied pursuant to Wisconsin Department of Transportation Road and Bridge Standards, section 629, and subsequent adopted provisions.
(Ord. of 12-14-1998(2), § 4(c)(iii))

Sec. 26-114. Seeding, revegetation and stabilization.

(a) Seeding shall be done in accordance with a soil conservation service critical area plan or Wisconsin Department of Transportation Road and Bridge Standards, section 630, and subsequent adopted provisions entitled, "Seeding," except that seeding rates listed in subsection 630.3.3.4.2 shall be doubled. Approval of alternative seeding mixtures shall be considered on a case-by-case basis.

(b) Planting of woody vegetation may be accepted in combination with other stabilization techniques. Tree and shrub plantings may be required by the town as a permit condition. Tree and shrub species to be used shall be adapted to the climate of the area.

(c) Sodding, when required for drainageways, ditch checks, highly erodible areas of a site as shown on the reclamation plan or as required by the town board to deter or correct a problem on the site shall be installed pursuant to Wisconsin Department of Transportation Road and Bridge Standards, section 631, and subsequent adopted provisions, entitled, "Sodding."

(d) Riprap, when required for drainageways, ditch outlets, culvert ends or bridge openings, as shown on the reclamation plan, or as required by the town board to deter or correct a problem on the site shall be installed according to Wisconsin Department of Transportation Road and Bridge Standards, section 606, and subsequent adopted provisions entitled, "Riprap."

(e) Mulch shall be applied to all seeded areas pursuant to Wisconsin Department of Transportation Road and Bridge Standards, section 627, entitled "Mulching," unless documentation is provided proving that mulch is not needed to accomplish stabilization. Additional nitrogen shall be applied in quantities sufficient to offset the nitrogen demand of mulch decomposition.

(Ord. of 12-14-1998(2), § 4(c)(iv))

Sec. 26-115. Violations; penalties.

Any person who fails to comply with the provisions of this article, or any order or field directive of the town board or its designee issued in accordance with this article, shall, upon conviction, forfeit not more than \$1,500.00 for each day of the violation for each separate offense and costs of prosecution for each violation, and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.

(Ord. of 12-14-1998(2), § 10)

Secs. 26-116—26-150. Reserved.

ARTICLE V. RACINE COUNTY ZONING

Sec. 26-151. Ordinance adopted.

The provisions of the Racine County Zoning Ordinance adopted by the county, and as amended, are adopted by reference.

(Code 1967, § 10.02)

Sec. 26-152. Planning commission.

(a) *Established; authority.* The town board hereby establishes a town planning commission. The town planning commission is authorized and empowered to act pursuant to the authority found in Wis. Stats. §§ 61.35, 60.61, 60.62, 60.627, 60.64, 60.65, 60.66, 60.74, 60.82, 60.84, 236.02 and 236.45.

(b) *Membership.* The town planning commission shall consist of five members, who shall be citizens of the town. The members shall be voted upon and appointed by the town board. The town planning commission shall also have one alternate member who shall be any town board member who is available and willing to participate in any planning commission meeting that a regular planning commission member is unable to attend. If more than one town board member is available and willing to participate, the town board member who has least recently acted as a planning commission alternate shall be selected to participate in the planning commission meeting.

(c) *Voting right.* The members of the planning commission shall have the right to vote or abstain on all matters before the planning commission.

(d) *Secretary.* During the first planning commission meeting following the induction (election, appointment and oath) of a new planning commissioner member, the planning commission members shall elect, by a majority vote, a secretary. The planning commission secretary shall conduct the business of all meetings, and act as the planning commission's parliamentarian. The secretary shall set and post all planning commission agendas, record all minutes and issue all planning commission correspondence. If the secretary is absent from a meeting, the members present shall elect a temporary secretary as the first order of business for that meeting.

(e) *Quorum.* A quorum of at least three planning commission members, or two regular planning commission members and one alternate member, shall be required for the planning commission to call any meeting to order and to conduct business.

(f) *Official oaths.* Official oaths shall be taken by all members in accordance with Wis. Stats. § 19.01, within ten days of receiving notice of their appointment.

(g) *Terms of office.* Terms of office shall commence on May 1, and each term shall be for a period of three years. The terms shall be staggered so no more than two members' terms expire during a given year. When appointed, the town clerk shall identify the term expiration date.

(h) *Powers.*

(1) The town planning commission shall have such powers as may be necessary to enable it to perform its functions and duties. Such powers shall include, but are not limited to, the following:

- a. Employ experts and a staff, and pay for their services, supplies, equipment and other expenses as may be necessary and proper. All such expenses shall not exceed the appropriations and regulations set forth by the town board.
- b. Request information, in a timely manner, on subjects placed before the planning commissioners.
- c. Create and change forms to document items before the planning commission.

(2) Upon request, petitioners of matters before the planning commission shall arrange access to land and sites for the commissioners and planning commission employees to make field observations and examinations.

(i) *Functions and duties.* The planning commission shall have the following functions and duties:

- (1) Make and recommend to the town board a master plan for the physical development of the town.
- (2) Prepare and recommend to the town board a zoning district plan and regulations.
- (3) Prepare and recommend to the town board land division regulations.
- (4) Make reports and recommendations to the town board relating to all ordinances, agencies, utilities and zoning.

- (5) Recommend to the town board public improvement programs and financing thereof.
- (6) Make reports and recommendations to the town board concerning the development, improvement, use and subdivision of both public and private land in the township.
- (7) Make reports and recommendations to the town board concerning all variances from current ordinances and standards regarding the development, improvement, use and subdivision of both public and private land in the township.

(j) *Additional powers and duties.* The planning commission shall have all additional powers and duties granted or assigned by the town board or by ordinances. All the powers and duties granted or assigned by statute to planning commissions, and any amendments thereof, are granted and assigned to the planning commission, and such statutes are hereby adopted by reference.

(k) *Referrals.* The town board and other town agencies may refer the following to the planning commission for its consideration and recommendation before final action is taken thereon:

- (1) Location and architectural design of public buildings.
- (2) Location of any statue or memorial.
- (3) Location, acceptance, extension, alternation, vacation, abandonment, change of use, sale or land lease pertaining to any street, road, alley, other public way, playground, airport, public parking area, memorial or other public land.
- (4) Authorization, location, change to or abandonment of any public or private utility.
- (5) Location, purchase or lease, or standards pertaining to lands for, public housing, slum clearance, relief of congestion and public or private recreational sites.
- (6) All annexations, incorporations or consolidations affecting the town.
- (7) All land divisions in the town.
- (8) All proposed changes to the town's master plan, official maps, and zoning and land subdivision ordinances.

(l) *Appeals.* All decisions by the planning commission are recommendations to the town board. Appeals to planning commission decisions may be presented directly to the town board. Petitioners must request that the town clerk place their petition on the town board's agenda.

(m) *Fee.* To defray the expenses related to the operation of the planning commission, all persons who wish to have an item considered by the planning commission, and all persons who have items referred to the planning commission by the town board, shall pay a fee, on file in the clerk's office and which may be revised by town board resolution, at the time said item is added to the planning commission's agenda. The fee imposed shall not be increased or decreased regardless of the nature of the request, and no more than a single fee shall be collected regardless of the number of planning commission meetings at which said request is

considered. Agenda items instigated at the request of the state, or any agency, department or political subdivision thereof, shall be exempt from the payment of a planning commission fee. (Ord. of 11-24-1997, § 10.03; Ord. No. 2004-09, § 1(10.03), 11-23-2004; Ord. No. 2005-11, §§ 1, 2, 10-11-2005)

Secs. 26-153—26-180. Reserved.

ARTICLE VI. SUBDIVISIONS*

DIVISION 1. IN GENERAL

Sec. 26-181. Title.

This chapter shall be known and cited as the "Land Division Control Ordinance of the Town of Raymond," and is enacted pursuant to Wis. Stats. Ch. 236. (Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-182. Purpose.

This chapter is adopted for the following purposes to:

- (1) Regulate and control the division of land within the town.
- (2) Promote the public health, safety and general welfare of the community.
- (3) Promote the conservation and wise use of the natural resource base and the sound physical, social, and economic development within the town to provide a pleasant and habitable environment.
- (4) Guide the future growth and development of the community in accordance with the town's adopted land use plan.
- (5) Preserve the rural character of the town through the permanent preservation of meaningful open space and sensitive natural resources, including those areas identified in the town's resource inventory maps.
- (6) Protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and manage primary and secondary environmental corridors.
- (7) Ensure that appropriate conservation lands will be identified, protected and restored during the development design process to meet future community needs for stormwater management, floodwater storage, and groundwater recharge.

***Editor's note**—Ordinance No. 2005-07(b), adopted June 28, 2005, amended Art. VI in its entirety to read as herein set out. Former Art. VI pertained to similar subject matter and derived from an ordinance of Sept. 11, 2000; Ord. No. 2003-01; and Ord. No. 2005-05, adopted June 12, 2005.

Cross references—Roads and other public ways, ch. 42; solid waste, ch. 46.

- (8) Use ecological planning principles in the design, construction and long-term management of conservation developments.
 - (9) Allow housing to be concentrated on portions of a parcel in order to protect, preserve and restore environmentally sensitive areas or agriculture-productive areas on other portions of the parcel.
 - (10) Preserve scenic views by minimizing visibility of new development from existing roads.
 - (11) Provide buffering between residential development and nonresidential uses.
 - (12) Provide commonly owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.
 - (13) Preserve significant archaeological sites, historic buildings and their settings.
 - (14) Protect and preserve an interconnected network of open space throughout the town, and to help establish effective buffers around working farms, and along boundaries of existing protected lands (such as parks).
- (Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-183. Applicability and compliance.

(a) It is the goal of the town in adopting this chapter that residential development within the town shall occur through land divisions incorporating conservation themes wherever possible.

(b) No person shall divide any land that results in a subdivision or a minor subdivision under the provisions of this chapter without compliance with all requirements of this chapter and the following:

- (1) The town's land use plan.
- (2) The provisions of Wis. Stats. Ch. 236 and Wis. Stats. § 80.08.
- (3) The rules of the state department of commerce, contained in Wis. Admin. Code Ch. COMM 83, for land divisions not served by public sewer.
- (4) The rules of the division of transportation infrastructure development, state department of transportation, contained in Wis. Admin. Code Ch. Trans 233, for subdivisions that abut a state trunk highway or connecting street.
- (5) The rules of the state department of natural resources, contained in Wis. Admin. Code Chs. NR 115, 116 and 117, for shoreland, shoreland-wetland and floodplain management.
- (6) The land use and neighborhood plans where applicable and not inconsistent with the land use plan adopted by the town.
- (7) All applicable local, county, and state regulations including zoning, subdivision, sanitary, utility, building and official mapping ordinances.
- (8) All other applicable rules contained in the Wisconsin Administrative Code.

(9) Unless otherwise excepted in this chapter, where any provision of these regulations imposes restrictions different from those imposed by any other provision of law, the provision, which is more restrictive or imposes higher standards shall control.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-184. Conservation subdivisions.

Conservation subdivisions are required for land divisions resulting in the creation of a subdivision on any parent parcel.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-185. Condominium plats.

A condominium plat prepared under Wis. Stats. Ch. 703, which divides land and meets the definition of a subdivision under this chapter, shall be reviewed by the town in the same manner as a conservation subdivision plat as set forth in this chapter and shall comply with the applicable design standards and required improvements of this chapter.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-186. Minor subdivisions.

No person shall divide any land located within the limits of the town which shall result in a minor subdivision without complying with the provisions of this chapter with respect to minor subdivisions, including, but not limited to required improvements under design standards and certified survey map procedures set forth below.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-187. Land suitability.

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

- (1) All areas mapped as floodplain by the Federal Emergency Management Agency (FEMA), state department of natural resources, or other public or private entity.
- (2) All wetlands as defined in Wis. Admin. Code § NR 103.02(5), including buffers as required under Wis. Admin. Code ch. NR 151.
- (3) All areas within 75 feet of the ordinary high-water mark of navigable streams and lakes, as identified by state department of natural resources.
- (4) All areas having slopes greater than 20 percent.
- (5) Areas that are known to provide habitat for rare, threatened or endangered species.
- (6) Burial sites and Indian mounds.
- (7) Drainageways that contain running water during spring runoff, during storm events or when it rains. A 25-foot buffer from the edge of the drainageway shall be included.

- (8) Areas otherwise held by the town board to be unsuitable for such use by reason of bad drainage, adverse earth or rock formation or topography, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the community.
- (9) Areas not designated for land divisions by the town's land use plan.

Areas determined to be environmentally sensitive may be included as common open space in a conservation subdivision. These lands shall be identified as an outlot or by other designation that indicates the land is not available for land division.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26 . Remedies; exceptions.

(a) *Remedies.* Failure to comply with the requirements of this chapter shall invalidate purported transfers of titles at the option of the purchaser in accordance with the provisions of Wis. Stats. § 236.31(3). The town may also take any action authorized under Wis. Stats. ch. 236. Building permits shall not be issued by the building inspector for construction on sites created in violation of these requirements.

(b) *Exceptions.* The provisions of this chapter shall not apply to:

- (1) Transfers of interest in land by will or pursuant to court order.
- (2) Cemetery plats under Wis. Stats. § 157.07.
- (3) Assessors' plats made under Wis. Stats. § 70.27, but such plats shall comply with Wis. Stats. § 236.15(1)(a)—(g) and Wis. Stats. § 236.20(1), (2) (a)—(e).
- (4) 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, the county zoning ordinance or other applicable laws or ordinances.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-189. Definitions.

Agriculture means beekeeping, dairying; floriculture; forestry; grazing; greenhouses; hay; livestock raising; orchards; paddocks; pasturage; plant nurseries; poultry raising; raising of cash grain crops, mint, grass, seed crops, silage, tree fruits, nuts and berries, and vegetables; stables; truck farming; and viticulture.

Applicant means the subdivider or the subdivider's agent.

Arterial street means a street used, or intended to be used, primarily for fast or heavy through traffic. Arterial streets shall include freeways and expressways, as well as standard arterial streets, highways and parkways.

Block means a group of lots existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name through which it may be identified.

Buffer yard means an area of land within the boundaries of a lot or site, generally adjacent to and parallel with the property line, consisting of either natural existing vegetation or using trees, shrubs, fences and/or berms designed to continuously limit the view and/or sound from the lot or site to adjacent lots or sites. Buffer yards are typically defined by a delineated easement graphically indicated on the face of the certified survey map or division plat.

Building means a structure having a roof supported by columns or walls. When separated by division walls from the ground up and without openings, each portion of each building shall be deemed a separate building.

Business means the development of either commercial or industrial uses commonly known as light industrial, or a mixture of these uses.

Certified survey map means as defined in Wis. Stats. § 236.34.

Channel means a natural or artificial watercourse of perceptible extent, which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. A channel has a definite bed and banks which serve to confine the water.

Collector street means a street used, or intended to be used, to carry traffic from minor streets to the major system or arterial streets, including principal entrance streets to residential developments.

Commercial means a business use or activity at a scale greater than home industry involving retail, professional or wholesale marketing of goods and services.

Common facilities means those facilities which are designated, dedicated, reserved, restricted or otherwise set aside for the use and enjoyment by residents of the development.

Common open space means undeveloped land within a conservation subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development and for the preservation, restoration and management of historical, agricultural or environmentally sensitive features. Common open space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historical structures and archeological sites and/or such recreational facilities for residents as indicated on the approved development plan. It shall be restored and managed in accordance with a stewardship plan that shall be prepared for the open space.

Condominium means a community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirement of the Condominium Ownership Act, Wis. Stats. Ch. 703. A condominium is a legal form of ownership of real estate and not a specific building type or style. All sections of this article that apply to subdivisions shall apply to a condominium.

Conservation subdivision means a subdivision in which dwelling units are concentrated and/or clustered in specific areas in order to allow other portions of the subdivision to be

preserved for common open space, including restoration and management of historical, agricultural or environmentally sensitive features. All sections of this chapter that apply to subdivisions shall apply to a conservation subdivision.

Conservation easement means a non-possessory interest in real property designed to protect natural, scenic and open space values in perpetuity as defined in Wis. Stats. § 700.40 (Uniform Conservation Easement Act) and Section 170(h) of the Internal Revenue Code.

Corner lot means a lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

County means public Racine County and shall include any agency, department or committee thereof.

Critical areas means areas of steep slopes, lakes, ponds, streams, shore buffer, floodplains, floodlands, drainageways, wetlands, shore lands and environmental corridors.

Critical watershed means a watershed in which more than 75 percent of the soil types were classified by the soil conservation service as having severe limitations to septic tank absorption fields (as depicted on the critical on the critical watershed map).

Cul-de-sac street means a minor street with only one outlet and having a turnaround for the safe and convenient reversal of traffic movement.

Deed restricted open space means deed restricted open space on platted lots that is not occupied by any principal or accessory buildings or structures, roads, road rights-of-way or parking areas, and deed restricted open space on platted outlots that is not occupied by non-recreational principal or accessory buildings or structures, roads, road rights-of-way or parking areas. The maintenance of deed restricted open space located on platted outlots is by a homeowners' association, and the maintenance of deed restricted open space located on platted lots is by the individual lot owner.

Density factor means the number of dwelling units permitted per acre according to the town's land use plan, any applicable neighborhood plans, the town's ordinances, and applicable zoning regulations.

Detention basin means a manmade or natural depression below the surrounding grade level, designed to collect surface and subsurface water so that it might impede its flow and gradually release such water at a rate not greater than that prior to the development of the property into natural or manmade outlets (i.e., storm sewer systems or streams).

Development means any manmade change to improved or unimproved real estate, including, but not limited to, construction of or additions or substantial improvements to buildings, other structures or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.

Development envelopes means areas within which pavement and buildings will be located.

Division means any division of land in the town under this article. (See minor subdivision and subdivision.)

Drainage ditch means any artificial open surface channel which serves to drain water from lands.

Drainageway means the land on either side and within 50 feet of the centerline of any intermittent or perennial stream graphically shown on a topographic survey prepared by and certified by a state registered land surveyor at a contour interval of not less than two feet, county topographic maps or the U.S. Geological Survey (USGS) 7.5-minute quadrangle topographic map of the area.

Dwelling means a detached building designed or used exclusively as a residence or sleeping place, including a manufactured home located outside of a mobile home park, but does not include boarding houses or lodging houses, motels, hotels, tenements, or cabins.

Easement means authorization by a property owner for another to use the owner's property for a specified purpose.

Environmental corridors means an area containing the highest value woodlands, wetlands and wildlife areas within southeastern Wisconsin; all of the area's major bodies of surface water and undeveloped shorelands and floodplains; important recharge areas for groundwater aquifers; and existing and potential park sites as well as areas of scenic, historic and cultural value.

Extraterritorial plat approval jurisdiction means the unincorporated area within 1.5 miles of a fourth class city or village and within three miles of all other cities over which cities and villages may exercise plat approval, provided, they have enacted an official map ordinance or division control ordinance in accordance with Wis. Stats. § 236.10.

Final plat means the map or plan of a division and any accompanying material as described in section 26-126.

Flag lots means a lot with access to the public street only by a narrow strip of land, easement, or private right-of-way and with otherwise insufficient frontage to be considered a buildable lot. Flag lots generally are not considered to conform to sound planning principles.

Flood of record, maximum, means the highest recorded elevation of a recorded flood event.

Flood protection elevation means an elevation two feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, five feet above the maximum flood of record.

Floodlands means those lands, including the channels, floodways and floodplain fringes of any given reach, which are subject to inundation by the flood within a given recurrence frequency. The 100-year recurrence interval flood, or that flood having a one percent probability of occurring in any given year, is generally used for zoning regulation. Other flood events used in this article are the 50-year recurrence interval flood, or that flood having a two percent probability of occurring in any given year, and the 10-year recurrence interval flood, or that flood having a ten percent probability of occurring in any given year. Where detailed flood data is not available, the maximum flood of record is used.

Floodplain means land that has been or may be covered by floodwater during the regional flood. The floodplain includes the floodway and the floodfringe as defined in Wisconsin Administrative Code Ch. NR 116.

Frontage means the length of the front property line of the lot or tract of land abutting the right-of-way of an accessible public street, road or highway.

Frontage street means a minor street auxiliary to and located on the side of an arterial street for control of access and service to the abutting development.

Grade means the slope of a road, street or other public way, specified in percent.

High groundwater elevation means the highest elevation to which subsurface water rises, that may be evidenced by the actual presence of water during wet periods of the year or by soil mottling during drier periods. The term "mottling" means a mixture or variation of soil colors. In soils with restricted internal drainage, gray, yellow, red and brown colors are intermingled, giving a multicolored effect.

High water elevation, ordinary, means 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 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.

Highway, limited access, means a freeway or expressway providing a traffic way for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access thereto or therefrom, except at such points and in such manner as may be determined by the public authority having jurisdiction over the trafficway.

Homeowners' association means a state nonprofit membership corporation which serves as an association of homeowners within a division, certified survey map or condominium having shared common interests, responsibilities with respect to costs and upkeep of common private property of a division, certified survey map or condominium. Such common property includes private recreation and open space areas within the division, certified survey map or condominium. For the purposes of this article, homeowners' associations include condominium associations.

Industrial means the development of industrial uses commonly known as heavy industry.

Land division means the act or process of dividing land into two or more parcels.

Landscaping means living material, such as grass, groundcover, flowers, shrubs, vines, hedges and trees, and nonliving durable material, such as rocks, pebbles, sand, mulch, wood chips or bark, walls and fences, but not including paving.

Legal lot means a unit of land existing under a single ownership, which complies with the applicable basic district standards for the county zoning district in which such lot is situated, and which also complies with the area, setback and front footage requirements set forth in the town's ordinances, which requirements are incorporated in this article by reference, and which

complies with all other applicable statutes and ordinances. Such term shall also mean a lot legally created and recorded in the county register of deeds' office prior to the enactment of the ordinance from which this article is derived. Lots recorded after the effective date of the ordinance from which this article is derived shall meet the provisions of this chapter.

Lot means a designated parcel, tract or area of land established by plat division or as otherwise permitted by this article, to be used, developed or built upon as a unit, and containing the minimum frontage, width and area sufficient to meet building, parking, setback, open space, sanitary or other requirements.

Lot area means the total square footage lying within the peripheral boundaries of a parcel of land. In any zoning jurisdiction, the area of a lot specifically excludes a right-of-way of a public or private street.

Lot averaging means a design technique for land division whereby the area of a lot may be reduced below the town's minimum area requirement, provided that the area by which it is reduced is added to another lot being created by the land division, and where the lots subject to the lot averaging plan are restricted from further land division or subdivisions.

Lot lines means the peripheral boundaries of a parcel of land.

Lot width means the mean horizontal distance between the side lot lines of a lot, measured at right angles to the depth. On irregularly (non-perpendicular) shaped lots, the width shall be the average width of the lot. Lot width shall be measured at the street setback line applicable to the zoning district the parcel is located within. In the shoreline jurisdiction, the lot width shall also be measured at the street yard setback line applicable to the zoning district the parcel is located within. At least 50 percent of the lot shall be greater than or equal to the required lot width.

Major streets means arterial and collector roads primarily intended for through traffic with a secondary function for direct access.

Manufactured home means a structure certified and labeled as a manufactured home under 42 U.S.C. §§ 5401—5426.

Minor subdivision means the creation of not more than four parcels or building sites, any one of which is forty acres in size or less, or the division of a block, lot or outlot within a recorded subdivision plat into not more than four parcels or building sites without changing the exterior boundaries of such block, lot or outlot. Minor subdivision shall be created by certified survey maps. Not more than four parcels may be created by means of minor land procedures within any five-year period from a lot, parcel, tract, or parent parcel which existed on the effective date of the ordinance from which this article is derived. The remnant parcel, if any, shall count as one of the parcels or building sites created by said land division.

Minor street means a street used, or intended to be used, primarily for access to abutting properties.

Multi-family dwelling means a building used for residential occupancy by more than two families living independently of each other.

Net density means the number of dwelling units permitted in a conservation subdivision. This number is obtained by performing the following calculation:

- (1) Divide the gross acreage for the parent parcel by six.

In the event that the net density calculation produces a fractional result, normal rounding rules shall apply (i.e., percentages of one-half and greater are rounded up to the next highest whole number, and percentages less than one-half are rounded down to the next lowest whole number).

Obstruction means the following two different types of obstructions:

- (1) *Artificial obstruction* means any obstruction, other than a natural obstruction, that is capable of reducing the carrying capacity of a stream or drainageway, or may accumulate debris and thereby reduce the carrying capacity of a stream, such as fences, dams, planted trees and shrubs, and any other obstructions instituted as a result of human activity.
- (2) *Natural obstruction* means and includes any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within the stream or drainageway by a nonhuman cause.

Open space means any site, parcel, lot, area or outlot of land or water, essentially unimproved and set aside, dedicated, designated or reserved for the public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Outlot means a remnant parcel of land not to be used for building purposes, and designated as such on the plat.

Owner means and includes the plural as well as the singular, and may mean either a natural person, division, firm, association, syndicate, partnership, private corporation, public or quasi-public corporation, or combination thereof, having legal title or sufficient proprietary interest to seek development of land. For purposes of successive division of a parcel of land by certified survey maps, such term shall be taken to include any related person, firm, partnership or corporation to whom conveyance has been made within two years of application for approval of a certified survey map. The term "related" shall mean any natural person related to a transferor by blood or marriage, any person acting in an agency or trust capacity, any partnership in which the transferor is a partner and any corporation in which the transferor is a stockholder, officer or director, or in which related persons are stockholders, officers or directors.

Parcel means a lot created by a division of land. A parcel which is owned, controlled or managed as a single entity shall be treated as a single tract, unless separated by a public road and navigable and nonnavigable waters. A parcel is created as of the date the deed, land contract, lease, etc., is recorded with the register of deeds' office.

Parent parcel means the existing parcel of record, as of the effective date of this ordinance, or the entire proposed development if combining any existing parcels.

Pedestrian pathway means a public way that is intended for the convenience of pedestrians only, and may also provide a public right-of-way for utilities.

Plat means the map, drawing or chart on which the subdivider's land division is presented to the town for approval.

Primary environmental corridor means a concentration of significant natural resources at least 400 acres in area, at least two miles in length, and at least 200 feet in width, as delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

Professional ecological services means an individual or firm with professional qualifications to prepare and implement an ecological Stewardship Plan for upland, wetland areas, and aquatic resource areas, including specific remedial and management activities for sustainable management of each of these areas and the planting of those variety of plants that are indigenous to the area.

Protective covenants means contracts entered into between private parties, or private parties and public bodies pursuant to Wis. Stats. § 236.293, which constitute a restriction on the use of all private or platted property within a minor land division or division for the benefit of the public or property owners and to provide mutual protection against undesirable aspects of development that would tend to impair the stability of values.

Public improvement means any sanitary sewer, storm sewer, drainage ditch, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip, off-street parking area or other facility, for which the county or town may ultimately assume the responsibility for maintenance and operation.

Public open space means an open space conveyed or otherwise dedicated to a municipality, municipal agency, public school district, state or county agency, or other public body for recreational or conservation uses.

Public way means any public road, street, highway, walkway, drainageway or part thereof.

Replat means the process of changing, or the map or plat which changes, the boundaries of a recorded division plat, certified survey map or part thereof. The division of a large block, lot or outlot within a recorded division plat or certified survey map without changing the exterior boundaries of such block, lot or outlot is not a replat.

Retention basin means a manmade or natural body of water of a depth of not less than three feet, designed to contain water at all times, the level of which will be increased as a result of the flow into it of surface and subsurface water, collected therein and released gradually into natural and manmade outlets.

Rural character means the view of open space and vistas, and a quiet setting with natural appearance with continued agricultural viability.

Secondary environmental corridor means a concentration of significant natural resources at least 100 acres in area and at least one mile in length. Where such corridors serve to link

primary environmental corridors, no minimum area or length criteria apply. Secondary environmental corridors are delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

Setback means the minimum street, front, rear and/or side yards and shore yards required by the zoning ordinance of the county.

Shoreland jurisdiction means the area within 1,000 feet of the ordinary high water mark of a navigable lake, pond or flowage, or within 300 feet of the ordinary high water mark of a river or stream, or to the landward side of a floodplain, whichever distance is greater.

Shoreland wetland means a "wetland," as defined by this section, which is located within a shoreland jurisdictional area.

Single-family dwelling means a building designed and/or used exclusively for residential purposes for one family and containing not more than one dwelling unit.

Slope means the degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

Stewardship plan means a comprehensive management plan for the long term enhancement and sustainability of natural ecosystems (uplands - including farmlands, woodlands, prairies, meadows, wetlands, shorelands, lakes, river systems and similar ecosystems). Such plans shall include but not be limited to management goals, implementation and monitoring schedules, identification and description of measures to be taken should degradation of the system(s) be noted, and programs for the removal and control of invasive vegetation species.

Stream means a course of running water, either perennial or intermittent, flowing in a channel.

Street means the right-of-way of any street, road, highway, lane, etc., dedicated to the public, which generally provides access to abutting properties.

Subdivider means a person undertaking a land division, whether major or minor, that is controlled by this article.

Subdivision means the division of a lot, parcel or tract of land by the owners thereof or their agents for the purpose of transfer of ownership or building development where:

- (a) The act of division of a parent parcel creates five or more parcels or building sites; or
- (b) The act of division creates five or more parcels or building sites by successive divisions within a period of five years. The term includes resubdivision, and when appropriate to the context, shall relate to the process of subdividing or to the land as subdivided.
- (c) In determining the number of parcels or building sites created by the division of land, the remnant parcel, if any, shall count as one of the parcels or building sites created by said division.

Through lot means a lot which has a pair of opposite lot lines between two streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

Town means the Town of Raymond, including the town board, town clerk, town planning commission or any other designated town commission.

Town planning commission means the Town of Raymond Planning Commission, as authorized by Wis. Stats. § 62.23.

Tract means a contiguous area of land which exists or has existed in single ownership.

Two-family dwelling means a building used for residential occupancy by two families living independently of each other.

Watercourse means a permanent or intermittent stream channel.

Wetland means 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.

Woodlands means upland areas of one acre or more, which are covered with deciduous or coniferous trees as delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

All other pertinent terms shall be as defined in Wis. Stat. Ch. 236.
(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-190. Adoption of state statutes and county ordinance.

Except as otherwise properly provided in this chapter, and subject to subsection 26-183(b)(9), the provisions of Wis. Stats. Ch. 236 and the county subdivision control ordinance are hereby adopted by reference and made a part of this chapter.
(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-191. Fees.

The town board may, by resolution, establish reasonable fees for the administration of this chapter.
(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-192. Penalty.

Any person who shall violate any provision of this chapter or any order, rule or regulation made under this chapter shall be subject to a penalty as provided in section 1-16 as well as any other penalties as provided under Wis. Stats. Ch. 236.
(Ord. No. 2005-07(b), 6-28-2005)

Secs. 26-193—26-219. Reserved.

DIVISION 2. REQUIRED IMPROVEMENTS

All land divisions must comply with the following improvement:

Sec. 26-220. Water.

Where public water service is available to the subdivision, the subdivider shall install water facilities for connection with such public water facilities, including mains and laterals to the street water main lines. Such facilities shall be installed in accord with and subject to the specifications and inspection of the governmental body with jurisdiction over such public water utility. Water for a conservation subdivision shall be provided by a municipal water system where feasible, or by individual on-site wells or by one or more community wells meeting the permit requirements of the state and the town. Where municipal water is not available, the use of shared or community wells are encouraged. Plans for shared or community wells shall include a wellhead protection plan with separation distances for the zone of influence and sources of pollution. The town may, in its discretion, require the subdivider and/or the homeowners' association to have the wells tested on an annual basis by a qualified consultant with a written report being delivered to the homeowners' association and the town.
(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-221. Sewer.

Where public sanitary or storm sewer service is available to the subdivision, the subdivider shall install adequate sanitary or storm sewer facilities, including mains and appurtenances thereto and laterals to the street sewer lines. Such facilities shall be installed in accord with and subject to the specifications and inspections of the governmental body with jurisdiction over such public sewer utility. If the public sanitary sewer facilities are not available to the subdivision, lot sizes shall be such that effective private disposal systems can be determined on the basis of recommendations of the agency or agencies of the state with jurisdiction over private sewage disposal systems. When a common sewage treatment and disposal unit is used, it should be jointly owned and maintained by the lot owners of the lots serviced. The town shall have no ownership interest in this type of sanitary sewer system. The subdivider, or its successors and assigns, shall be responsible for all maintenance of the system at its cost, and shall bear the costs of alterations to the system necessitated by any improvements to the streets under which any of the sewer lines run. The subdivider, or its successors and assigns, shall have the mound systems inspected annually by a qualified consultant with a written report being delivered to the homeowners' association and the town.
(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-222. Streets.

The subdivider shall construct and install all streets dedicated or provided for in such subdivision in accord with the standards for such streets as specified in the town ordinances or as otherwise specified by the governmental unit with jurisdiction over such streets. The obligation of the subdivider shall include the responsibility for construction of portions of streets dedicated by such plat as well as making improvements to existing streets where

additional street right-of-way dedications are made to existing streets by the plat. All such street construction shall be completed only after installation of sewer and water mains, laterals and appurtenances, if the same are required to be installed per the terms of the development agreement.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-223. Lighting.

As a condition of approval of a subdivision, the subdivider shall be liable for all costs of procurement and installation of streetlights to service the subdivision. The number and placement of the streetlights shall be at the discretion of the town board. Lighting design shall take into account surrounding properties and shall minimize the visual impact of the lighting on those properties to the extent possible.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-224. Drainage.

In addition to any storm sewer improvements which may be required to be made by the subdivider, the subdivider shall make such improvements for the drainage of surface waters from, through and within such subdivision as the town board may require to properly provide for such drainage. The subdivider must also relocate, repair or replace any drainage tiles that are, or would be, disturbed by any construction undertaken pursuant to this article. In determining what kinds of drainage improvements shall be made by the subdivider, the town board shall consider the drainage problems, both within and without the boundaries of such plat, resulting from the development of such subdivision. If deemed necessary for the resolution of such drainage problems, the town board may require that the subdivider obtain necessary easements outside the boundaries of the plat and require that the subdivider construct such required improvements even though the same may be outside the boundaries of the plat. A registered engineer shall prepare drainage plans, which shall conform to the requirements of this Code.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-225. Street signs.

The subdivider shall install at the intersection of all streets proposed to be dedicated a street sign of a design specified by the town engineer. The town may require additional signs to be installed within the subdivision as it deems necessary. The subdivider shall be liable for all costs associated with the procurement and installation of street signs within or adjacent to the subdivision; however, the town shall procure and install the street signs.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-226. Other utilities.

(a) The subdivider shall cause gas, electrical power, and telephone and other communication facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision.

(b) Plans indicating the proposed location of all gas, electrical power, telephone, and other communications, distribution and transmission lines required to serve the subdivision shall be submitted to the town engineer.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-227. Development agreement.

(a) As a condition of final approval of any plat, the subdivider shall enter into an agreement with the town, whereby the subdivider shall agree to install all such improvements required to be installed under the terms of this chapter. Such agreement shall be guaranteed by cash, surety bond or letter of credit running to the town in such amount as the town board shall determine to be required to ensure performance by the subdivider in accord with such development agreement within a reasonable period of time. The development agreement shall include, but is not limited to, the following terms and conditions:

- (1) The roads and highways and appurtenances thereto shall be constructed at the expense of subdivider in accordance with the provisions of the code which are in effect at the time of such construction.
- (2) In such cases where the subdivider shall own the land adjoining the roads and highways, the subdivider shall agree to prohibit the planting of shrubs or trees or the installation of fences of such construction as would obstruct vision on curves and intersections within such distances from the edge of the highway as is prescribed by the town board.
- (3) Sanitary and water mains and laterals, and storm water drainage facilities shall be installed by the subdivider prior to submission of the roads to the town for acceptance.
- (4) The subdivider shall agree to indemnify and hold the town and its agents harmless from and against claims related to the performance of work at or for the construction site.
- (5) The subdivider's principals shall be personally responsible for reimbursement of costs to the town in the event the subdivider does not proceed with the actual installation of the subdivision improvements.
- (6) The subdivider shall be responsible for payment of the town's costs, disbursements and attorney's fees in the event the town brings legal action to enforce compliance with the agreement and a final determination is made in favor of the town.
- (7) The subdivider shall convey all necessary easements, including a conservation easement, as required under the Town Code.
- (8) Other terms that the town and subdivider shall deem appropriate.

(b) The terms and conditions of the agreement of subsection (a) of this section shall extend to the heirs, administrators, successors in title and assigns of the subdivider, including personal liability. However, the subdivider may not assign its rights, duties and responsibilities under this agreement to any other third party without first obtaining the prior written consent of the town.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-228. Building permits.

Until all improvements are installed as required by this article and the development agreement in section 26-227, including the binder course of asphalt, the building inspector shall issue no building permits for construction in such subdivision. However, upon written consent of the town board, the subdivider may develop the subdivision in such stages as approved by the town board, in which case the town board may provide that building permits may issue as to such portions of the subdivision wherein all such improvements have been installed.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-229. Engineering, planning, legal and administrative costs; land division fee.

(a) The subdivider and town shall enter into a predevelopment agreement requiring the subdivider to pay to the town all reasonable costs for engineering, planning, legal and administrative expenses incurred by the town in:

- (1) Processing, reviewing, revising, and approving conceptual, preliminary or final development plans, including certified survey maps, preliminary and final plats; and
- (2) Processing, reviewing, revising, drafting and approving any agreements, easements, deed restrictions or other documents associated with the proposed subdivision or development.

(b) Such costs shall include the costs of the town's own engineers, attorneys, inspectors, agents, subcontractors and employees. The cost for town employees' time shall be based upon the classification of the employee and the rates established by the town board, from time to time, for each such classification.

(c) At the time of the submission or review of a conceptual plan, certified survey map, or preliminary plat, the subdivider shall execute a predevelopment agreement and deposit with the clerk the sum of \$3,000.00 in the form of cash for a subdivision plat. At the direction of the town board, a cash deposit may also be required at the time of submission of a certified survey map. The town shall apply such funds toward payment of the above costs. If at any time such deposit becomes insufficient to pay expenses incurred by the town for the above costs, the subdivider shall deposit required additional amounts within 15 days of written demand by the town engineer. Until the required funds are received, the town as to the development plan under consideration will perform no additional work or review. The town may also reject any pending certified survey map, preliminary or final plat for nonpayment of the costs under this

section. Within 60 days after final approval of the plat or certified survey map, and execution of any documents by all parties, or upon abandonment of the conceptual plan, certified survey map or plat and prior to final approval, including abandonment due to rejection by any reviewing agency, the town shall furnish the subdivider with a statement of all such costs incurred by it with respect to such conceptual plan, certified survey map or plat. Any excess funds shall be remitted to the subdivider, and any costs in excess of such deposit shall be paid by the subdivider. Any interest earned on such deposit shall remain the property of the town to partially offset administrative expenses associated with planning and development.

(d) In addition to reimbursement of the above costs, the subdivider shall be responsible for payment to the town of a land division fee in the amount of \$100.00 per parcel created. Such fee shall be submitted at the time of execution by the subdivider of the development agreement required in section 26-227.

(e) In addition to any discretionary deposit required by the town board to cover expected costs associated with the submission of a certified survey map, any person submitting a CSM shall pay, at the time of submission, a nonrefundable land division fee in the amount of \$100.00 per parcel created by the proposed certified survey map.
(Ord. No. 2005-07(b), 6-28-2005)

Secs. 26-230—26-258. Reserved.

DIVISION 3. DESIGN STANDARDS

All subdivisions and minor subdivisions must comply with the following design standards:

Sec. 26-259. Streets.

(a) *General.* Streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. The subdivision or minor subdivision shall be such as to provide each lot by means of a public street satisfactory access to any existing public street.

(b) *Arrangement.*

- (1) Major streets and highways shall be properly integrated with the existing and proposed system of major streets and highways and insofar as practicable shall be continuous in alignment with existing, planned or platted streets with which they are to connect.
- (2) Collector streets shall be properly located to the mass transportation system, to special traffic generators such as schools, churches and shopping centers, to concentrations of population and to the major streets into which they feed.

- (3) Minor streets shall be designed 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 shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions, or unless in the opinion of the town board such extension is not necessary or desirable for the coordination of the layout of the subdivision or minor subdivision for the advantageous development of the adjacent tracts.

(c) *Intersections.*

- (1) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
- (2) The number of streets converging at one intersection shall be reduced to a minimum, preferably not more than two.
- (3) The number of intersections along major streets shall be held to a minimum. Wherever practicable, the distance between such intersections shall not be less than 1,000 feet.

(d) *Minor streets.* Minor streets shall not necessarily continue across major or collector streets, but if the centerlines of such minor streets approach the major from opposite sides thereof, within 300 feet of each other measured along the centerline of the major or collector street, their location shall be adjusted so that the alignment across the major or collector street is continuous and a jog is avoided.

(e) *Widths of streets and pavements.*

- (1) The minimum right-of-way of all proposed streets shall be 66 feet.
- (2) All cul-de-sac streets shall terminate in a circular turn around having a minimum right-of-way diameter of 160 feet.

(f) *Half streets.* Where an existing dedicated or platted half street is adjacent to the tract being subdivided, the other half of the street shall be dedicated by the subdivider. Plats with half streets less than 33 feet in width on the borders of the subdivision shall not be approved unless the owner places on record an agreement running with the land which shall state in effect that lots which are dependent upon the half street of less than 33 feet for ingress and egress purposes shall not be sold, and stating further that no structures shall be erected on such lots with ingress and egress facilities facing the half street until the full width of the street of at least 66 feet shall have been opened, constructed, improved and accepted by the town.

(g) *Street names.* New street names shall not duplicate or be similar to existing street names, and existing street names shall be projected wherever possible.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-260. Street standards.(a) *Right-of-way.*

- (1) No road or highway right-of-way shall be accepted by the town unless such road or highway right-of-way is at least 66 feet in width, depending upon the subdivision plat approved by the town, and is built in accordance with the specifications contained in this section. A narrower road or highway right-of-way may be approved for good cause, on such terms and conditions, as the town board deems fit, on a majority vote of the town board, and with the approval of the Wisconsin Department of Transportation where the width of the right-of-way falls below the minimum requirements set forth in Wis. Stats. § 86.26, or Wis. Stats. Ch. 236, as applicable. If deemed necessary by the town board, a wider right-of-way may be required.
- (2) All dead end roads shall be provided with a cul-de-sac with a minimum right-of-way radius of 80 feet.
- (3) Where roads may be extended in the future, the town board may authorize the construction of a "T" at the end of a road, provided that the right-of-way for the cross members of the "T" shall not be less than 132 feet in length by 33 feet in width.

(b) *Subgrade.*

- (1) All work under this subsection shall be carried out per the requirements of Section 205, Section 207, and Section 211 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest Edition, as amended by Supplemental Specifications, latest Edition.
- (2) All black dirt and other topsoil shall be removed from the right-of-way and no such black dirt or topsoil shall be used in the roadbed within 19 feet of the centerline of the right-of-way.
- (3) The finish subgrade shall be a total of six feet wider than the finished road surface width. The finish subgrade crown shall be 0.30 feet higher than the baseline of the subgrade at the center of the roadbed. The finish subgrade shall not be covered until it is inspected and approved by the town engineer.
- (4) Before the granular base material is placed, the subgrade shall be compacted to such a degree as to pass the compaction test outlined in paragraph (5) of this subsection. If necessary, the subgrade may be stabilized by the construction of a coarse stone or gravel-working platform to achieve this purpose.
- (5) The compaction test shall be carried out by the town engineer. A tandem axle dump truck shall be slowly driven over the subgrade.
 - a. The truck shall have a gross weight of no less than 56,000 pounds and no more than 60,000 pounds.
 - b. The truck's tires shall exert a pressure of no less than 45 pounds per square inch.

- c. The subgrade and granular base course shall be compacted to such a degree that it will not excessively rut, deflect or creep beneath the tires of the truck
- d. A depth of greater than 1½ inches shall be used as a guideline in determining if rutting or deflection is excessive, provided, however, the town engineer's judgment shall govern in any event in determining whether it has passed or failed the compaction test.

(c) *Granular base course.*

- (1) All work under this subsection shall be carried out per the requirements of Section 304 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest edition, as amended by Supplemental Specifications, latest Edition.
- (2) Gradation requirements:
 - a. If the aggregates shall consist of hard, durable particles of crushed stone or crushed gravel and shall conform to the following gradation requirements:

Percentage by Weight Passing

Sieve Size	Gradation No. 1		Gradation No. 2		Gradation No. 3	
	Crushed Gravel	Crushed Stone	Crushed Gravel	Crushed Stone	Crushed Gravel	Crushed Stone
1½ inch	100	100				
1 inch	75—100		100	100	100	100
¾ inch					95—100	95—100
3/8 inch	40—75	30—65	50—85	40—75	50—90	50—90
No. 4	30—60	25—55	35—65	25—60	35—70	35—70
No. 10	20—45	15—40	25—50	15—45	20—55	15—55
No. 40	10—30		10—30		10—35	
No. 200	3—10	2—12	3—10	3—12	8—15	5—15

- b. Aggregates for the top layer of base course shall be Gradation No. 2 and either Gradation No. 1 or Gradation No. 2 may be used in the lower layers.
 - c. Aggregates used in the construction of the top 3 inches of unpaved or unstabilized shoulders abutting live traffic lanes shall conform to Gradation No. 3 and other shoulder aggregate shall conform either to Gradation No. 2 or No. 2.
- (3) Cross-section.
- a. The granular base course shall be a minimum of ten inches thick for a distance of 16 feet either side of the centerline.
 - b. The granular base course shall be tapered from a thickness of ten inches at 16 feet either side of the centerline to a zero thickness at distance of 19 feet either side of the centerline.

- c. The top of the base course shall have a finish crown of 0.25 feet.
 - d. The road cross-section shall be determined by the town engineer.
- (4) Construction methods and compaction.
- a. The granular base course shall be constructed in two lifts of five inches each.
 - b. The granular base course shall be compacted with a minimum of a ten ton rubber tire roller to a degree as to pass the compaction test as outlined herein.
 - c. When satisfactory compaction cannot be achieved due to lack of moisture water shall be added by sprinkling with equipment suitable for this purpose.
- (d) *Drainage ditches.*
- (1) *Side slope.*
- a. The road ditches shall have a side slope of at least four feet for every foot of depth on the roadside of the ditch.
 - b. The ditch side slope shall be at least three feet for every foot of depth on the lot side of the ditch.
- (2) *Depth.* The minimum depth of road ditches below the finished grade of the centerline shall be 2.4 feet deep, except that at the high point of the ditch, the depth may be a minimum of 18 inches.
- (3) *Location.* Ditches shall be a minimum of 13 feet from the edge of the roadway surface.
- (4) *Grade.*
- a. The minimum grade of ditch inverts in the direction of flow shall be 1.0 percent.
 - b. Where the grade of a drainage ditch in a development or along a road is 1.0 percent or less, the developer shall install a paved invert, trench drain, or similar facility acceptable to the town engineer to insure proper drainage.
 - c. Whenever the longitudinal centerline of the ditch shall exceed two percent in grade, there shall be a six-foot wide sod base every 50 feet on the base of the drain. Whenever the longitudinal centerline of the ditch shall exceed three percent in grade, the ditch must be entirely sodded.
- (5) *Topsoil and grading.*
- a. Topsoil 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.
 - b. The ditch slopes shall be dressed with a minimum of three inches of topsoil and carefully graded to the lines and elevations given on the plans.
- (6) *Seeding.*
- a. The seedbed shall be prepared by raking to remove lumps, stones, rocks and debris.
 - b. The seed shall then be sowed during a time approved by the town engineer.

- c. The seed shall be composed of seeds of the purity, germination and proportions, by weight, as given below in the Table of Seed Mixtures:

Species	Seeds		Mixtures	
	Min. % Purity	Min. % Germination	No. 1 %	No. 2 %
Kentucky Bluegrass	85	80	45	20
Creeping Red-Fescue	97	80	35	55
Perennial Ryegrass	95	90	5	10
White Clover	95	90	15	
Empire Birdsfoot Trefoil	95	80		15

Seed Mixture No. 1 is intended for use on projects where average loam, heavy clay or moist soils predominate. Seed Mixture No. 1 shall be sown at a rate of 1½ pounds per 1,000 square feet.

Seed mixture No. 2 is intended for use on projects where light, dry, sandy or gravelly soils predominate. Seed Mixture No. 2 shall be sown at a rate of two pounds per 1,000 square feet.

- d. In areas where the soils are potentially highly erosive the town board may require a specially designed seed mixture and seeding rate as recommended in [Section] 630.2.1.5.1.2 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest edition, as amended by Supplemental Specifications, latest edition.

(7) *Mulching.*

- a. All seeded areas must be mulched.
- b. Mulching-material shall consist of any straw or hay in an air-dry condition or wood excelsior fiber, wood chips or other suitable material of a similar nature which is substantially free of noxious weed seeds and objectionable foreign matter.
- c. Mulch shall be placed on a given area within three days after the seeding has been completed.
- d. The mulching material shall be uniformly spread over the seeded areas to a loose depth of no less than one inch.
- e. Instead of mulch, the contractor may at his option substitute jute netting, excelsior mat or a material of a similar nature.
- f. In ditches which will be especially susceptible to erosion, the town engineer may order the use of excelsior-mat or jute netting over sodded or seeded areas.

(8) *Sodding.*

- a. The sod shall consist of a dense, well-rooted growth of permanent and desirable grasses, indigenous to this area, and shall be practically free from weeds or undesirable grasses.

- b. At the time the sod is cut, the grass on the sod shall have a length of approximately two inches.
 - c. The areas to be sodded shall be free from stones, roots or other undesirable foreign material.
 - d. The sod shall be staked or pegged with pieces of lath or stakes spaced from 18 inches to 36 inches apart along the longitudinal axis of the sod strip.
 - e. After staking and clean up, the sod shall be thoroughly moistened by sprinkling or watering, when rainfall is deficient for a period of ten days.
- (9) *Fertilizer.*
- a. Fertilizer shall meet the following minimum requirements: Nitrogen, not less than 16 percent; phosphorus free unless soil test indicates phosphoric acid is necessary and then phosphoric acid, not greater than three percent; potash, not less than six percent.
 - b. Fertilizer shall be applied at the rate of seven pounds per 1,000 square feet of area for seeded or sodded areas.
 - c. Fertilizer shall be incorporated into the soil by raking or discing.
- (10) *Hydroseeding.* Hydroseeding may be used in lieu of regular seeding and mulching.
- (e) *Culverts.*
- (1) *Culvert pipe shall be one of the following materials:*
- a. Culvert pipe under any roadway or intersection shall be reinforced concrete culvert pipe (RCCP), AASHTO designation; M170.
 - b. Corrugated steel pipe and pipe arch for driveways which shall conform to the requirements of the specification for metallic coated corrugated iron or steel culverts and under drains, AASHTO Designation; M36.
 - c. Reinforced concrete pipe which shall conform to the requirements of the specification for reinforced concrete culvert, storm drain and sewer pipe, AASHTO Designation; M170.
 - d. Corrugated aluminum pipe which shall conform to the requirements of the specification for corrugated aluminum alloy culverts and under-drains, AASHTO Designation; M196.
 - e. Structural plate pipe and pipe arches which shall conform to requirements of the specification for structural plate for pipe, pipe arches, AASHTO Designation; M167.
- (2) *End sections and end treatment.*
- a. Galvanized steel end sections shall be used at the ends of all steel and aluminum road culverts. Insulating gaskets shall be used between the steel end section and aluminum pipe. Reinforced concrete road culverts shall be used at the ends of reinforced concrete road.

- b. In lieu of end sections the town engineer may allow for good cause, the ends of steel and aluminum pipe greater than 48 inches in width, to be mitered provided it can be verified that such miter cut will not substantially weaken the pipe. The miter cut shall be smooth and free of all sharp and jagged edges.
 - c. In the cases of a large pipe or a high susceptibility of erosion to the embankment at the ends of the culverts, the town engineer may order the use of rip-rap, headwall or slope paving at the ends of the culvert.
- (3) *Minimum length and minimum size.*
- a. Culverts shall be a minimum of 40 feet in length. The culvert length shall be increased as is necessary to provide a stable embankment slope of no steeper than two (horizontal) to one (vertical).
 - b. Culverts shall have a minimum diameter of 12 inches.
- (4) *Gage or class of pipe.* The minimum gage of steel or aluminum pipe or minimum class of reinforced concrete pipe shall be that specified in the Fill Height Tables of Section 13-1-25 of the latest publication of the Wisconsin Department of Transportation Facilities Development Manual.
- (5) *Minimum and maximum cover.* The minimum and maximum cover for culverts shall be that specified in Section 13-1-25 of the latest publication of the Wisconsin Department of Transportation Facilities Development Manual.
- (6) *Bedding.* Culvert pipe shall be bedded per Section 13-1-25 of the latest publication of the Wisconsin Department of Transportation Facilities Development Manual and per Section 520.3.2.1 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest edition, as amended by Supplemental Specifications, latest edition.
- (7) *Backfill.*
- a. Culvert pipe shall be backfilled per Section 520.3.4.1 and per Section 207.4 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest edition, as amended by Supplemental Specifications, latest edition.
 - b. Material used for backfill shall be of a quality acceptable to the town engineer and shall be free from frozen lumps, wood or other extraneous or perishable materials.
 - c. If acceptable backfill material is not available the town engineer may require granular backfill conforming to Section 209 of the State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest edition, as amended by Supplemental Specifications, latest edition.

(f) *Storm sewers.*

- (1) Storm sewers shall be constructed per the requirements as set forth in the Standard Specifications for Sewer and Water Construction in Wisconsin, 5th Edition, March 1, 1988 with Addendum No. 1 (January 2, 1992) and Addendum No. 2 (March 1, 1999).
- (2) Storm sewer pipe shall be one of the following materials:
 - a. Non-reinforced concrete pipe intended for use for storm sewers shall conform to the requirements of the Specification for Concrete Sewer, Storm Drain and Culvert Pipe, AASHTO Designation; M86, for the class of pipe specified.
 - b. Reinforced concrete pipe which shall conform to the requirements of the specification for reinforced concrete culvert, storm drain and sewer pipe, AASHTO Designation; M170, for the class of pipe specified.

(g) *Road profile.* The minimum grade for the road surface shall be 0.5 percent. The grade of an intersection shall be no more than two percent for a minimum distance of 50 feet from said intersection. The maximum grade for all other cases shall be eight percent.

(h) *Sight easements.* As a condition of acceptance of a road the dedicatory shall agree that no one shall plant shrubs or trees or install fences of such construction as would obstruct vision in intersections within the imaginary triangle with legs 25 feet long, measured from the point of intersection of the road right-of-way lines and measured along the road right-of-way lines.

(i) *Sight distance.* Minimum stopping sight distance shall be 150 feet.

(j) *Horizontal curvature.* The minimum radius of curvature shall be 150 feet.

(k) *Cul-de-sac.*

- (1) The roadbed in a cul-de-sac shall be at least 63 feet in radius.
- (2) The paved portion of a cul-de-sac shall have an outside radius of 58 feet, whether curb and gutter or open ditch.
- (3) Culs-de-sac in residential developments shall have a maximum length of 800 feet or shall be designed to accommodate a maximum of 64 residential units, whichever is more restrictive.

(l) *Temporary tee.*

- (1) In a tee, the roadbed shall be 26 feet in width and at least 100 feet in length.
- (2) The wings of the tee shall be surfaced with the ten-inch granular course and not paved with bituminous concrete.

(m) *Bituminous concrete paving.*

- (1) All bituminous concrete paving work on new roads shall be done under contract by the town with the contractor who is awarded the town's paving contract for the year during which the paving work is done.

- (2) Primer coat.
 - a. The day before the bituminous concrete base course is to be placed upon a previously untreated foundation layer, such as the granular base course, a primer coat shall be applied.
 - b. The material used as a prime coat shall be grade MC-30 liquid asphalt or equal material.
 - c. The primer coat shall be applied at a rate of no less than 0.25 gallon per square yard.
 - d. The primer application shall be equal to the width of the roadway.
- (3) Tack coat.
 - a. Before the installation of a bituminous surface course upon a previously prepared or existing surface, such as bituminous concrete or Portland cement concrete, a tack coat shall be applied.
 - b. The material used as a tack coat shall be grade MS-2 emulsified asphalt.
 - c. The tack coat shall be applied at a rate of no less than 0.10 gallons per square yard.
- (4) Bituminous concrete.
 - a. The bituminous concrete binder course and surface course pavement shall conform to State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest edition, as amended by Supplemental Specifications, latest edition, Section 407.
 1. All bottom course or binder aggregate shall conform to Wisconsin Highway Commission Bituminous Gradation No. 1. All surface or wearing courses aggregate shall conform to Wisconsin Highway Commission Bituminous Gradation No. 3.
 2. The aggregates for the binder and surface course shall have at least 95 percent of the aggregate particles which are retained on the No. 4 sieve produced by the fracture of larger particles.
 3. The asphalt cement shall conform to State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, latest edition, as amended by Supplemental Specifications, latest edition and shall be in the 120—150 penetration range.
 - b. The town board may, at its option, allow the use of up to 35 percent recycled asphalt pavement in the binder course and up to 25 percent recycled asphalt pavement in the surface course. If recycled asphalt pavement is used all mixes produced shall conform to the same current acceptable specifications required of all bituminous concrete mixtures.
 - c. The specifications for transportation and placing the bituminous pavements shall conform to Section 405, State of Wisconsin Department of Transportation

Standard Specifications for Highway and Structure Construction, latest edition, as amended by Supplemental Specifications, latest edition. The contractor, at its expense, shall submit samples of bituminous concrete pavement, which it has placed, to a certified materials testing laboratory approved by the town board for analysis if desired by the town engineer. All costs incurred in sampling, shipping, and testing pavement samples shall be borne by the contractor.

- d. After the primer coat has been applied and allowed to set to the satisfaction of the town engineer, new roads shall be surfaced with a 4½ inch thick pad of bituminous concrete binder course. All road widths and travel lanes shall comply with the street standards herein.
- e. When development along the road or in the subdivision is 95 percent completed, or at such other time as the town engineer may in his or her discretion determines to be appropriate, a tack coat and a 1½ inch bituminous concrete surface course shall be applied.

(n) *Final shouldering.*

- (1) After the bituminous concrete binder course is installed, town personnel and equipment will perform the final shouldering work at the cost of the subdivider or developer.
- (2) The aggregate used for final shouldering shall conform to the requirements of this section.
- (3) Unless an alternate final shouldering plan is approved by the town board, the crushed stone or gravel shoulder shall have a minimum width of five feet.

(o) *Drainage.* All roads will provide drainage for land as required by Town Code except that the town board may require more stringent measures, if, in its opinion, the situation so requires. Any natural drainage way or existing drainage tile disturbed during the construction of a road shall be restored or shall be rerouted and redeveloped in a manner acceptable to the town engineer.

(p) *Backfill and compaction of utility trenches.* All sanitary sewer, storm sewer and water main trenches, both mainline and laterals, that are excavated within the street right-of-way shall be backfilled and compacted as follows:

- (1) Except as provided in paragraph (5) of this subsection, excavated material conforming to Section 6.43.5 of the Standard Specifications for Sewer and Water Construction in Wisconsin, latest edition and any Addendums thereto, may be used, provided that the material is not frozen. Material shall be placed in lifts not to exceed two feet in depth and compacted in place with a boom mounted hydraulic compactor.
- (2) Excavated material that is frozen or does not conform to the "standard specifications" shall be disposed of and a granular backfill material conforming to Section 6.43.4 of the "Standard Specifications" shall be placed in lifts not to exceed two feet in depth and compacted in place with a boom mounted hydraulic compactor.

- (3) If a contractor wishes to vary the requirements of this section so as to employ an equal or more effective method of compaction, he shall first obtain the written permission of the town engineer. If such permission is granted and it later appears that the alternate method being employed is not, in the judgment of the town engineer, equally or more effective than the provisions of this section, the contractor shall revert to the means specified in this section.
 - (4) In no case will flooding of the trenches be allowed as a compaction method.
 - (5) In all cases, granular backfill material, conforming to Section 6.43.4 of the "Standard Specifications" shall be placed, in sanitary sewer trenches for a distance of 25 feet either side of all sanitary sewer manholes. No excavated material will be allowed in this area.
- (q) *Developer's liability, costs and bonding.*
- (1) The developer requesting acceptance of the road or highway shall be liable for all costs relating to construction and approval of the road or highway, including but not limited to, materials, labor, engineering inspections, permit fees plan review, adjustment or relocation of utilities and drainageways, insurance, legal review and sureties.
 - (2) Bituminous concrete binder course liability.
 - a. The developer shall be liable for the cost of the binder course pavement in an amount necessary to achieve an average of 4½ inches of binder course for the width of the roadway and a diameter of 116 feet in the culs-de-sac, provided that if the approved road plans provide for a wider width roadway the developer shall be liable for such wider width.
 - b. The per ton price of the binder course material shall be the cost at the time of application.
 - c. Concurrent with the execution of the contract with the town, the developer shall pay to the town the estimated cost of installing the bituminous concrete binder course, along with a ten percent contingency. In lieu of a cash payment, the developer may furnish a letter of credit, provided that such letter is acceptable to the town. Interest that accumulates on any cash deposit remains the property of the town.
 - (3) Final shoulder liability.
 - a. The developer shall be liable for the cost of town equipment, labor and material which is necessary for the final shouldering subsequent to the installation of the bituminous concrete binder course.
 - b. The developer shall be liable for the necessary final shouldering subsequent to the installation of the bituminous concrete surface course.
 - c. Concurrent with the execution of the agreement, as required by this section, the developer shall pay to the town the estimated cost of installing the final shoulder for the binder course, along with an additional ten percent contingency. Interest

that accumulates on any cash deposit remains the property of the town. In lieu of a cash payment, the developer may furnish a letter of credit, provided that such letter is acceptable to the town.

- (4) Bituminous concrete surface course cost.
- a. The developer's liability for the cost of the surface course pavement shall be that cost which is necessary to install 1½ inch thickness of surface course pavement for the width of the roadway and a diameter of one hundred and 116 feet in the culs-de-sac, provided that if the approved road plans provide for a wider width roadway the developer shall be liable for such wider width.
 - b. The surface course cost shall be calculated by the town engineer using the following formula:
 1. The area in square feet of pavement shall be calculated by the use of analytical methods from approved road plans.
 2. The area of pavement shall be divided by the figure 104 to obtain the number of tons necessary.
 3. The tonnage shall be multiplied by the per ton paving contract price of surface course material which is in effect at the time of the execution of the road construction agreement, as required by this section. The answer shall be the amount due to the town.
 - c. The developer shall be liable for the cost of the tack coat which is used immediately prior to the surface course paving.
 - d. Concurrent with the execution of the road construction agreement with the town, the developer shall pay in cash to the town the cost of the surface course installation as calculated above, along with a ten percent contingency. Interest that accumulates on any cash deposit remains the property of the town.

[(5) Reserved.]

(6) Performance bond.

- a. The town board, as a condition precedent to the execution of the road construction agreement, shall require the developer to file cash, letter of credit or a performance bond with the town guaranteeing compliance with the town ordinances and the provisions of such road construction agreement. Such security shall be in such amount as to cover 100 percent of the estimated costs of storm water drainage, lot grading, and road construction work, exclusive of the road construction costs for paving and final shouldering. Such estimated costs shall be provided by the developer or his engineer and shall be subject to the approval of the town board.
- b. From time to time, during the course of the above-described construction work, the town may release at the request of the developer pro rata portions of the cash bond, surety bond or letter of credit. The amount of the principal sum released

shall roughly equate to the percentage completion of the stormwater drainage, lot grading, and road construction work, as determined by the town engineer, less a ten percent retainage. The amount retained by the town shall remain with the town until all obligations under the road construction agreement have been fully performed, after which any portion not used by the town as therein provided shall be paid to the developer.

(7) Costs of review for non-subdivision roads. The petitioner who requests that the town accept a road outside a subdivision shall pay to the town all engineering, planning, legal and administrative expenses incurred by the town in reviewing, approving, preparing, or drafting any road plans or contracts required by virtue of such plans or by the provisions of this section. Such expenses shall include the cost of engineers, attorneys, inspectors, subcontractors and other employees computed on a pro rata hourly basis. This obligation shall not be affected by denial or withdrawal of the petition for acceptance. At the time of submission of preliminary plans, the petitioner shall deposit with the town treasurer the sum of \$1,000.00 dollars, either in the form of cash or an irrevocable letter of credit acceptable to the town board. The town shall apply such funds toward payment of the above costs. Upon final approval and acceptance of the road, the town shall furnish the petitioner with a statement of all such costs incurred by it with respect to such road. Any excess funds or credit shall be remitted to petitioner or shall be released by the town, and any costs in excess of such deposit shall be paid by the petitioner.

(8) Costs of review for subdivision roads. The subdivider shall pay all reasonable costs as required by this ordinance.

(r) *Engineering plans, computations and specifications.*

(1) Final plans and specifications of roads and grades shall be approved by the town engineer before the execution of the road construction agreement or development agreement by the town board. Approval of the plans and specifications shall not bind the town to acceptance of the completed construction nor relieve the person constructing the same from complying with the provisions of this section or any other ordinances, or of providing for conditions not represented on the plans in accord with the dictates of good engineering practices. The plans shall include:

a. A plan view or views of the proposed road drawn to scale on a standard sheet 36 inches by 24 inches and showing thereon:

1. A profile of the road centerline drawn on the same sheet or sheets at the same horizontal scale and arranged so that any station on the profile is represented, as nearly as practicable, directly above or below the same station on the plan view. The vertical scale shall be ten times that of the horizontal scale. Such profile shall show the existing and proposed profile.
2. The horizontal alignment of the road centerline showing station marks at each 100-foot station.

3. Cross-sections at minimum stationing of 100 feet.
 4. Centerline curve data including radius of curvature, central angles of curves, tangent distances, stationing of points of intersection of tangents, points of curvature, points of reversed or compound curvature and points of tangency.
 5. Stationing of centerline intersections and beginning and end of construction.
 6. The horizontal alignment of the edges of the proposed pavement including radii at intersections and the junction with existing construction.
 7. Location, size, length, material and direction of flow of culverts, subdrains and intercepting ditches and direction of flow of ditches, points where direction of flow changes, points of disposal of drainage and sufficient information on existing drainage facilities used for disposal to accurately depict the adequacy of the drainage system.
 8. Proposed ditch profile, high point of ditch, ditches requiring sodding, and ditches requiring sod checks.
 9. Elevations of road at intersections.
 10. Typical cross section of road showing right-of-way width, gravel road bed width, asphalt width, crown of road, and road ditches.
 11. Location and dimensions of street, right-of-way, and other easements provided for drainage and construction.
 12. Such other dimensions, notes or pictorial data as may be necessary to present a clear representation of the proposed construction.
 13. Location and elevation of benchmarks used as control.
 14. The name, address and seal of the engineers responsible for the design and the supervision of construction. Such engineers must be registered professional civil engineers.
 15. The size of driveway culvert for each lot. The relevant drainage area shall be that area lying upstream from each downstream lot line.
- b. A grading and drainage plan showing the following information:
1. Existing and proposed contour lines throughout the development. (If Racine County Topographic Maps are used to determine the location of existing contour lines, such contour lines shall be spot checked in the field by the developer's engineer.)
 2. Proposed lot corner elevations.
 3. Proposed drainage easement lines, lot lines and right-of-way lines.
 4. Flow arrows for the drainage paths of all ditches and swales.

5. Proposed yard elevation shown within the block defined by the normal set back lines. The yard elevation shall be that elevation around the immediate perimeter of a future structure. The final yard elevation shall be set at the discretion of the town engineer.
 6. Cross-sections of major off road drainage ditches at no greater than 100-foot intervals if such ditches have a 100-year design flow of at least 30 cubic feet per second.
 7. Proposed top of pavement elevations along the centerline of road at even stations.
 8. Proposed flow line elevations of major off road drainage ditches at even stations.
- c. Written road construction and site grading specifications which reflect the requirements of this section.
- d. If a stormwater detention or retention basin is deemed necessary by the town engineer and, if applicable, the appropriate drainage commission stormwater detention and retention plans, which shall include:
1. A plan view reflecting such information as is required on the grading plan.
 2. Subsurface drain tile if deemed necessary by the town engineer.
 3. Pertinent cross-sections which are necessary to describe the lines and grades of the holding pond profile and boundaries.
- (2) Stormwater drainage computations shall be submitted to the town engineer for his approval.
- a. The computations shall be accompanied by a drainage area plan showing all major drainage basin and sub-basins within the development and contributing areas outside of the development.
 - b. Rate of run off computations shall be made for the use of sizing road culverts, drainage structures, holding ponds and ditches. The rational method shall be used in all run off computations. In cases where a drainage area exceeds 50 acres, a run off computation using the soil conservation service method will also be required. Use of other methods of runoff computations will require written permission of the town engineer.
 - c. Road culverts shall be designed using the standard procedures and graphs shown in the Hydraulic Engineering Circulars published by the Federal Highway Administration.
 - d. Detention and retention basins shall be designed using the flood routing procedure conforming to the storage equation of $\bar{I}t - \Delta S = \bar{O}t$ (\bar{I} = inflow in cfs; S = storage in ft.³; \bar{O} = outflow in cfs; t = time).

- e. Drainage ditches and storm sewers shall be designed using the Manning equation and the methods outlined in the State of Wisconsin Department of Transportation Facilities Development Manual.

(s) *Alternate urban road cross-section.* Should the standard rural road cross-section, as detailed in the preceding sections, be impossible to construct pursuant to the ordinances set forth herein or should good cause be shown, the town board may allow the developer to utilize an urban road cross-section. The alternate urban cross-section shall be determined by the town board at the time of the preliminary plat approval.

(t) *General requirements.*

- (1) The owner shall agree in writing to be liable for the maintenance and repair of such road for a minimum period of two years after acceptance of the base course of asphalt or until the subdivision is at least 95 percent developed, whichever period of time is greater. The town board may require a longer guaranty period based upon the site conditions, time when construction is to be carried on, and any other factors affecting the road or its stability.
- (2) No owner of any land abutting upon any road accepted by the town board under the terms of this Code shall offer for sale any of such lands so abutting unless such proposed road has been constructed according to the terms and provisions hereof.
- (3) No non-subdivision road shall be accepted by the Town of Raymond unless the petitioner, at his own expense, furnishes the town board with a plat of such roadway and drainage easements, together with the deed granting title to such land to the town or a document dedicating said land for highway purposes or granting an easement therefore to the town. Such deed or document shall contain an accurate legal description of the realty affected, shall be executed in recordable form, and shall be certified by a registered land surveyor.
- (4) All such work shall be subject to the inspection of the town engineer, town road inspectors and the town board or its designated agents, officers, or employees.
- (5) The provisions of this chapter are intended as minimum standards. The town board may, if in its judgment the circumstances warrant set additional requirements or restrictions for construction and acceptance of any road.
- (6) No road or highway construction shall take place between November 15 and April 15 without written approval of the town board.
- (7) The naming of streets and town roads and highways within the Town of Raymond shall be subject to the discretion of the town board and the Racine County Planning and Development Division.

(u) *Road construction agreement.* Prior to the acceptance by the town board of engineering plans and specifications as required herein, the developer shall enter into a road construction agreement with the town.

- (1) Such road construction agreement shall guarantee that the roads, highways and appurtenances thereto shall be constructed at the expense of sub-divider in accordance with the provisions of this Code which are in effect at the time of such construction.

- (2) Sewer and/or water service laterals to each lot will be installed by the developer prior to submission of the roads to the town for acceptance, provided sewer and/or water mains are available for connection in said roads.
- (3) In the case of subdivision roads, such road construction agreement as required herein may be substituted with the required subdivision development agreement.

(v) *References.* The references contained within this subsection shall be consulted for detailed information not given herein. In the event that one of the following references is updated, revised or replaced the developer shall comply with the latest edition.

<i>Subsection</i>	<i>Reference</i>
2, 3, 4, 5, 13, 14	State of Wisconsin Department of Transportation Standard Specifications for Highway and Structure Construction, 1996 Edition, as amended by Supplemental Specifications, 2000 Edition
4, 5, 18	State of Wisconsin Department of Transportation Facilities Development Manual
6, 16	Standard Specifications for Sewer and Water Construction in Wisconsin, 5th Edition, March 1, 1988 with Addendum No. 1 (January 2, 1992) and Addendum No. 2 (March 1, 1999)
18	Urban Hydrology for Small Watersheds Technical Release No. 55 Soil Conservation Service, 1975 Edition

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-261. Easements.

(a) The town board may require easements of widths deemed adequate by the board for the intended purpose on each side of all rear lot lines and on side lot lines or across lots where necessary or advisable for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, or other utility lines. Wherever possible, the stormwater drainage shall be maintained by either landscaped open channels or enclosed conduits of adequate size and grade to hydraulically accommodate maximum potential volumes of flow.

(b) Where a subdivision or minor subdivision is traversed by a watercourse, drainageway, channel or stream, an adequate drainageway or easement shall be provided as required by the town board. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the town board. Where a subdivision or minor subdivision is traversed by a public or private drainage tile line, the town board may require that provision be made for the reconstruction, relocation or replacement of any such tile line which may be disturbed by the development of such subdivision or minor subdivision so as to provide for the continued operation of such tile line as before development of such subdivision or minor subdivision.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-262. Blocks.

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

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-263. Lots.

(a) In addition to complying with applicable provisions of this section, a lot created by subdivision or condominium plat shall comply with the additional lot requirements set forth in section 26-303.

(b) The size, shape and orientation of the lots shall be appropriate for the location of the subdivision or minor subdivision and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing building site, and a proper architectural setting for the buildings contemplated.

(1) *Shape.* Lots shall be approximately rectangular, with the exception of lots located on a curved street or on a cul-de-sac turnabout.

(2) *Flag lots.* Flag lots shall not be approved.

(c) Every lot shall front or abut on a public street, or other officially approved means of access.

(d) Except as otherwise provided in this section, lot dimensions shall conform to the minimum requirements of the county zoning ordinance and the county subdivision control ordinance, as amended from time to time and any applicable statutes and regulations, provided:

(e) A non-subdivision lot shall have an area of not less than five acres, exclusive of areas utilized for public rights-of-way, and at least 250 feet of frontage on a public street and at the setback line.

(f) A non-subdivision lot for a two-family or multi-family dwelling shall have an area of not less than ten acres, exclusive of areas utilized for public rights-of-way, and at least 500 feet of frontage on a public street and at the setback line.

(g) A lot on a cul-de-sac street must satisfy the above front footage requirements on the right-of-way or at the setback line.

(h) If the above density, area or front footage requirements conflict with the town's land use plan or other town or county ordinances, the provision which is more restrictive or imposes higher standards shall control.

(i) Side lot lines shall be at right angles to straight street lines or radial to curved street lines on which the lots face.

(j) *Lot averaging.*

- (1) *Purpose.* The purpose of this subsection is to provide an alternative design technique for minor land divisions through the use of lot averaging where the purposes set forth in section 26-182 are furthered. The use of lot averaging shall be permitted at the discretion of the town board, subject to the provisions set forth below.
 - (2) *Lot area.* When using lot averaging, the area of a lot may be reduced below the five-acre minimum, provided that the area by which it is reduced is added to another lot being created by the land division. The area of a lot shall not be reduced to less than one acre, excluding any public rights-of-way.
 - (3) *Restrictions.* Each lot or portion of a lot that is part of a lot averaging plan shall be permanently restricted from any further land division or subdivision by restriction, conservation easement, or other agreement in a form acceptable to the town board and duly recorded in the Racine County Register of Deeds Office.
- (Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-264. Reserved.**Sec. 26-265. Sites.**

(a) *Public reservation.* In the design of the plat, due consideration shall be given to the reservation of suitable sites of adequate area for future schools, parks, playgrounds, drainage ways and other public purposes.

(b) *Scenic and historic preservation.* In the design of the subdivision or minor subdivision, consideration shall be given to the preservation of scenic, historic and archaeological sites, including historic buildings and their settings.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-266. Open space and conservation.

(a) *Consideration.* Every subdivider shall consider the creation, preservation, and restoration of open and natural spaces within a subdivision and a minor subdivision, including farmland and agricultural soils, natural habitats for rare, threatened and endangered species, wildlife habitat areas, parklands, prairies, stands of trees and woodlands, marshes, lakes, streams, ponds, watercourses, watersheds and other wetland areas, ravines, and outdoor recreation areas.

(b) *Required.* Subdividers proposing to subdivide land on parent parcels shall create a conservation subdivision and comply with division 4 of this article in addition to all other applicable provisions of this article.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-267. Landscape plan.

(a) A landscape plan shall be required for all subdivisions and, at the town board's discretion, for minor subdivisions. Eighteen full-size copies of a landscape plan shall be submitted with the final certified survey map or the final plat. The landscape plan shall be prepared on paper of good quality at a map scale of not more than 100 feet to one inch and shall show correctly the following information:

- (1) The proposed name of the certified survey map or subdivision.
- (2) The location of the proposed certified survey map or subdivision.
- (3) The names, addresses, and telephone numbers of the owners and/or subdividers and of the designer of the plan.
- (4) The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.
- (5) The boundary lines of all proposed lot lines and open space areas.
- (6) The location, extent, type (common name and scientific name in the case of plant materials), and sizes of all existing trees and natural resource features in all areas of subdivision or minor subdivision to be maintained and credited toward the landscaping requirements of this chapter. If any existing vegetation or other natural resource features are to be demolished or mitigated, the extent of such demolition or area to be mitigated shall also be clearly delineated and so noted on the plan.
- (7) The location, extent, type (common name and scientific name in the case of plant materials), and sizes of proposed landscaping and landscape planting in all areas, including any landscaped entrances or other special landscaped features of the subdivision or minor subdivision.

(b) All new landscape plant material shall be grown in a nursery located in plant hardiness zone 4 and shall conform to the applicable requirements as specified in the current edition of American Standard for Nursery Stock as approved by the American National Standards Institute, Inc., and sponsored by the American Association of Nurserymen, Inc. The American Joint Committee on Horticultural Nomenclature shall in accordance with the current edition of Standardized Plant Names prepare botanical plant names.

(c) Areas of a subdivision or minor subdivision designated as landscape easement areas shall be maintained and kept free of all debris, rubbish, and noxious weeds by the property owner.

(Ord. No. 2005-07(b), 6-28-2005)

Secs. 26-268—26-298. Reserved.

DIVISION 4. CONDOMINIUM AND CONSERVATION SUBDIVISION

Sec. 26-299. Subdivision development.

All proposed subdivisions, whether by condominium or subdivision plat, are required to be developed as a conservation subdivision. A condominium or conservation subdivision plat must comply with the requirements of this article in addition to all other applicable sections of this chapter.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-300. Concept plan required.

(a) *Submission.* The subdivider shall submit a series of maps and descriptive information, development yield analysis, and concept plan according to the criteria set forth in this section. Mapping can be done in any combination of features as long as individual map components can be distinguished and the relationship between map components can be determined.

(1) *Inventory and mapping of existing resources.* The subdivider shall include the following mapped at a scale of no less than one inch equals 50 feet:

- a. Topographic contours at two-foot intervals.
- b. United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems. Identification of hydric soils (wetland soils). Type and stability of bedrock should also be noted, particularly in Karst areas and areas with high potential for groundwater contamination due to fractured bedrock or the presence of arsenic and mercury.
- c. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas (using existing data from local, state and federal sources; i.e., no new field work is required), wetlands, natural swales, drainageways, and slopes of 20 percent or greater.
- d. Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a caliper of more than 24 inches measured four feet off the ground. The inventory shall include comments on the health and condition of the vegetation. Woodlands shall be classified as deciduous, coniferous, or mixed. Use state land or comparable cover type classifications and do on-site cover type analysis.
- e. Known critical habitat areas for rare, threatened or endangered species.
- f. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.
- g. Mapping of offsite adjacent ecological, hydrological, recreational and cultural resources.

- h. Unique geological resources, such as rock outcrops and glacial features.
- (2) *Development yield analysis.* The subdivider shall submit a development yield analysis as calculated under subsection 26-125(a), showing the net density calculation.
 - (3) *Site analysis and concept plan.* The subdivider shall submit a concept plan including at least the information set forth below at a scale of no less than one inch equals 50 feet. The concept plan shall be submitted as an overlay to the inventory map.
 - a. Open space areas indicating which areas are to remain undeveloped, areas for interior open space, and trail location.
 - b. Boundaries of areas to be developed and proposed general street and lot layout.
 - c. Number and type (i.e., single-family, multifamily) of housing units proposed.
 - d. Proposed methods for and location of water supply, stormwater management (e.g., best management practices) and sewage treatment.
 - e. Inventory of preserved and disturbed natural features and prominent views.
 - f. Preliminary development envelopes showing areas for lawns, pavement, buildings, and grading.
 - g. Proposed methods for ownership and management of open space.
 - h. Formal open spaces indicating parks, easements, trail routing and drainage easements.
 - i. Integration of ecological restoration, buffers, and stormwater treatment train.
 - (4) *General location map.* The subdivider shall submit a map showing the general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than one inch: 400 feet.
 - (5) *Evidence of ownership and survey required.* The subdivider shall submit a report of title from a title company acceptable to the town showing current ownership of the property proposed to be developed and all encumbrances, together with copies of all easements, covenants, liens and any other encumbrances, defects or clouds on the title appearing in the public record or known to the subdivider or owner of record and shall provide a land survey by a registered land surveyor showing encumbrances of record including the requirements as specified in this section. A copy of the report of title and survey shall be delivered to the town attorney and the proposed conservation easement holder at the same time it is delivered to the town engineer.
 - (6) *Phase I environmental site assessment.* The subdivider shall have a phase I environmental site assessment in compliance with ASTM Standard E1527-00 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" and shall provide a copy of the assessment to the town and to the proposed conservation easement holder. All costs incurred for this assessment shall be the responsibility of the subdivider.

(b) *Review of concept plan.*

- (1) The town engineer shall make the determination of whether the entire submittal is complete within 30 days following the filing of a submittal. If it is incomplete, the town engineer will contact the subdivider regarding the additional information required. No action will be taken by the town on incomplete submittals.
- (2) Within 30 days of the determination of a complete submittal, the clerk shall place the submittal on the agenda of the next regularly scheduled planning commission meeting.
- (3) Prior to the planning commission meeting, the town engineer and any other municipal officers may schedule a site visit with the subdivider to review the existing features of the site and the concept plan. As a condition of further review of the concept plan, the subdivider shall and hereby does grant permission for town officers, employees and agents to enter upon the subject property in furtherance of their official duties. The town engineer shall provide a written report informing the subdivider and the planning commission of his evaluation of the submittal and any additions, changes, or corrections to the concept plan.
- (4) Staff from appropriate county and state agencies may also be requested by the town to review the submittal under this section.
- (5) The subdivider is required to provide written notice of the planning commission meeting to all adjacent landowners to the parent parcel at least seven days in advance of the meeting to permit members of the public an opportunity to speak as to the proposed concept plan. Such notice must be by certified mail, return receipt requested. The subdivider shall provide copies of the mailings and return receipts to the clerk prior to the planning commission meeting. Failure of the subdivider to provide such notice may, at the option of the planning commission, result in all discussions concerning the submittal being deferred to the next regularly scheduled planning commission meeting.
- (6) The planning commission shall review the concept plan and other documents submitted and request adjustments, if deemed necessary, based upon the town engineer's report, consideration of the natural features of the site, the town's land use plan, available neighborhood plans, available or anticipated infrastructure, and the density of the surrounding areas. The town board is not bound by the planning commission review and any requested adjustments.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-301. Preliminary plat.

The preliminary plat shall be submitted and reviewed pursuant to division 5 of this article.
(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-302. Final plat.

The final plat shall be submitted and reviewed pursuant to division 6 of this article. (Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-303. Conservation design and improvements.

(a) *Development yield.* The number of residential units for a parent parcel shall equal the net density of the parent parcel.

(b) *Standards.*

- (1) Conservation subdivisions shall identify a conservation theme or themes. Their themes shall be identified at the time of the concept plan. Conservation themes may include, but are not limited to, forest stewardship, water quality preservation and enhancement, farmland preservation, natural habitat restoration, viewshed preservation, archaeological and historic properties preservation, integration of ecological resources, or passive recreational uses. The town board, upon recommendation of the planning commission, shall have the authority to specify which areas shall be preserved.
- (2) Conservation subdivisions shall preserve, restore, if needed, and/or create environmentally sensitive areas such as wetlands, natural habitats for rare, threatened and endangered species, woodlands, shorelands, rain gardens, prairies, meadows, primary or secondary environmental corridors, parklands and viewsheds and establish plans and the means to restore, if needed, manage and maintain such areas.
- (3) Common open space shall, to the extent practicable, include open space areas in addition to water bodies, ponds, or mapped wetlands that have been identified.

(c) *Residential lot requirements.*

- (1) Areas to be served by public sanitary sewer shall be zoned for a planned unit development (PUD) or other applicable zoning district per the Racine County Zoning Code. The principal building setbacks, front-footage requirements, accessory building setbacks, rear lot line, and maximum building height shall be as established for a PUD, or as set forth in the applicable district regulations. A lot shall have an area of not less than one acre, exclusive of areas utilized for public rights-of-way.
- (2) Areas not served by public sanitary sewer shall be zoned for a C-2 conditional use development, or in accordance with another applicable zoning district, per the Racine County Zoning Code. The front-footage requirements, principal building setbacks, accessory building setbacks, rear lot line, and maximum building height shall be as established for a C-2 development, or as set forth in the applicable district regulations. Areas not served by sewer shall have a minimum net density of one dwelling unit per five acres. A lot shall have an area of not less than one acre, exclusive of areas utilized for public rights-of-way, unless a larger lot is necessary to accommodate a private on-site wastewater treatment facility.

- (3) All areas shall comply with the following:
- a. Most lots shall have access from interior local streets. However, any existing farmstead that is to be preserved that has a driveway, as part of the historic landscape and that does not access a local street, should also be preserved; and a farmstead that requires a driveway that does not access a local street should be allowed.
 - b. Lots shall be configured to minimize the amount of impervious surface including street length and width required for the subdivision.
 - c. Development envelopes shall be configured to minimize loss of woodlands. However, when the objective is to preserve prime farmland soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than 20 percent of a single lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and private on-site waste treatment system.
 - d. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate buffers between agricultural uses and residential structures.
 - e. At least 75 percent of the lots within a neighborhood shall abut common open space on at least one side. A local street may separate lots from the common open space.
 - f. Lots shall be adjacent to or around one or more of the following:
 1. A central green or square; and/or
 2. A physical amenity such as a meadow, a stand of trees, a stream or other water body, or some other natural or restored feature.
 - g. To the greatest extent possible, development envelopes should be screened from peripheral public streets or other visually prominent areas and should not be located on ridges or hilltops.
 - h. A 30-foot area of native vegetation shall be maintained around open water areas, unless a specific common beach or grassed area is identified.
 - i. Stormwater management.
 1. Minimize the use of curb and gutter and maximize the use of open swales.
 2. Roof down spouts should drain to porous surfaces.
 3. Peak discharges during the two-, ten- and 100-year storm events shall be no more than the corresponding discharges under predeveloped conditions.
 4. The development should have stormwater management practices and facilities designed to capture at least 80 percent of the postdevelopment sediment load on an annual basis.

5. Landscape plantings should be used to increase infiltration and decrease runoff where soil conditions are suitable and building foundation problems or sanitary sewer infiltration problems will not be created.
6. Preserve natural open drainage systems and incorporate them into the stormwater management system of the subdivision where permitted by the department of natural resources guidelines.

If the density, area or front-footage requirements of this subsection conflict with the town's land use plan, or other town or county ordinances, the provision which is more restrictive or imposes higher standards shall control.

(d) *Residential dwellings siting standards.* The siting standards for residential dwellings shall be as follows:

- (1) Residential dwellings shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
- (2) Residential dwellings shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the department of natural resources.
- (3) House design should minimize the visible obtrusiveness of the garage from the street view, including, but not limited, to the use of setback or side-entry design garages, where possible.
- (4) Whenever possible, common open space shall connect internally and with existing or potential common open space lands on adjoining parcels and local or regional recreational trails, public parks or public open spaces.
- (5) Residential dwellings should be sited to achieve the following goals, to the extent practicable:
 - a. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
 - b. Minimize disturbance to woodlands, wetlands, grasslands, primary or secondary environmental corridors, mature trees or other significant native vegetation.
 - c. Prevent downstream impacts due to runoff through adequate on-site stormwater management practices.
 - d. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
 - e. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
- (6) Landscaping around the proposed residential dwellings may be necessary to reduce off site views of residences.

(e) *Open space design.*

- (1) Common open space shall be designated as part of the subdivision. The minimum required common open space is 60 percent of the gross acreage for subdivisions not served by municipal sewer; 40 percent if served by municipal sewer.
- (2) The minimum common open space required shall be owned and managed under one of the alternatives listed in subsection (f) of this section, as approved by the town. The uses within the common open space shall be accessible to the residents of the subdivision. These uses may also be available to the general public providing the proper approvals are received. The required common open space shall be undivided and restricted from further development, as specified in subsection (f) of this section.
- (3) Common open space conservation ranking (in order of significance). The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enlarge the best quality natural features of each particular site.
 - a. First priority will be given to farmland preservation, intact natural communities, rare, threatened and endangered species, primary or secondary environmental corridors, natural and restored prairies, significant historic and archaeological properties, and slopes of 20 percent or greater.
 - b. Second priority will be given to areas providing some plant and wildlife habitat and common open space values.
 - c. Third priority will be given to areas providing little habitat but providing viewshed, recreation, or a sense of common open space.
- (4) The following areas or structures may be located within the common open space area and shall be counted toward the overall common open space percentage required:
 - a. Parking areas for access to and use of the common open space developed at a scale limited to the potential users of the common open space.
 - b. Privately held buildings or structures provided they are accessory to the use of the common open space.
 - c. Shared septic systems and shared potable water systems located on common open space.
- (5) Road rights-of-way shall not be counted towards the required minimum common open space, except that common open space within landscaped cul-de-sac islands and medians of boulevards may be counted upon recommendation by the planning commission and approval of the town board.
- (6) That portion of common open space designed to provide plant and animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
- (7) Accessible common open space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archaeological sites.

- (8) A pathway system connecting common open space areas accessible to neighborhood residents and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall, if applicable, be identified in the plan.
 - (9) The design shall provide for the connection of internal open spaces, whenever possible and connection with existing or potential open space lands or adjoining parcels outside of the development.
 - (10) Common open space in single-family condominium plats. In condominium plats where the subdivider proposes a condominium in which the unit will encompass only the building pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, the side, back and front yards shall not be counted toward the required minimum common open space.
 - a. *Purpose.* The purpose of this section is to exclude side, back and front yards as common open space because inclusion of these areas does not fulfill the definitional requirement of common open space or meet the purposes of this ordinance.
 - b. *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection:
 1. *Building pod.* The area of a lot including the house, garage, patio, deck, air conditioning unit and other similar improvements attached or abutting the house.
 2. *Building envelope.* The area of a lot including a building pod in addition to setbacks of 7.5 feet for each side of the building pod and 25 feet each for the front and back yards.
 3. *Calculation.* If the subdivider is proposing a condominium in which the lot will encompass only the building pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, then one of the following shall not be counted toward the minimum common open space requirements:
 - i. If the actual square footage of the building pod and building envelope are not known, subtract 4,000 square feet for each proposed unit, the calculation being: # of units multiplied by 4,000 square feet for the total amount of square feet not to be included in common open space.
 - ii. If the actual square footage of the building pod is known, then perform the following: (1) Calculate the total area of setbacks around the building pod of 7.5 feet for each side yard and 25 feet each for the front and back yards for each proposed unit; and (2) Add together the total area encompassing the setbacks for each unit for the total amount of square feet to be excluded from the common open space.
- (f) *Common open space and common facilities, ownership and maintenance.*
- (1) *Alternatives.* The designated common open space and/or common facilities may be owned and managed by one or a combination of the following:
 - a. A homeowners' association.

- b. A condominium association established in accordance with the Condominium Ownership Act, Wis. Stats. ch. 703.
 - c. A nonprofit conservation organization.
 - d. The town or another governmental body empowered to hold an interest in real property.
 - e. An individual who will use the land for common open space purposes as provided by a conservation easement.
- (2) *Conservation easement.* Common open space and/or common facilities shall be subject to a conservation easement conveyed to a qualified holder.
- (3) *Homeowners' association.* A homeowners' association shall be established if the common open space and/or common facilities are proposed to be owned by a homeowners' association. Membership in the association is mandatory for all purchasers of homes in the development and their successors. The homeowners' association bylaws, guaranteeing continuing management of the common open space and/or other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners' association shall be submitted for approval to the town as part of the information required for the preliminary plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions of the homeowners' association shall contain the following information:
- a. The legal description of the proposed common open space;
 - b. A description of common facilities;
 - c. The restrictions placed upon the use and enjoyment of the common open space and/or common facilities;
 - d. Persons or entities entitled to enforce the restrictions;
 - e. A mechanism to assess and enforce the common expenses for the common open space and/or common facilities including upkeep and management expenses, real estate taxes and insurance premiums;
 - f. A mechanism to implement restoration, maintenance and management of the common open space and/or common facilities;
 - g. A mechanism for resolving disputes among the owners or association members;
 - h. The conditions and timing of the transfer of ownership and control of common open space and/or common facilities to the association;
 - i. Any other matter the subdivider or town deems appropriate.
- (4) *Condominium association.* If the common open space and/or common facilities are to be held under the Condominium Ownership Act, Wis. Stats. ch. 703, the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the common open space and/or common facilities. The condominium instruments shall be submitted for approval to the town as part of the information required for the

preliminary plat and shall comply with subsection (3) of this section. All common open space and common facilities shall be held as a "common element" as defined in Wis. Stats. § 703.02(2).

- (5) *Nonprofit conservation organization.* If the common open space and/or common facilities are to be held by a nonprofit conservation organization, the organization must be acceptable to the town. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion or succession to a subsequent nonprofit conservation organization or other acceptable entity in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.
- (6) *Public dedication of common open space.* The town may accept the dedication of a conservation easement or fee title to the common open space and/or common facilities; provided:
 - a. The common open space and/or common facilities are as accessible to the residents of the town as they are to members of the general public.
 - b. The town agrees to and has access to maintain and manage the common open space and/or common facilities.
- (7) *Separate ownership.* An individual may hold fee title to the land while a nonprofit conservation organization or other qualified organization holds a conservation easement prescribing the acceptable uses and obligations for the common open space and/or common facilities.
- (8) *Stewardship plan.* Every conservation subdivision must include a plan that provides a means to properly manage the common open space in perpetuity, and the longterm means to properly manage and maintain all common facilities. The town shall approve the plan in conjunction with the development agreement prior to or as a condition of final plat approval.
 - a. The plan shall do the following:
 1. Designate the ownership of the common open space and/or common facilities in accordance with subsection (f)(1) of this section.
 2. Establish necessary regular and periodic operation and management responsibilities.
 3. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
 4. Include a land stewardship plan specifically focusing on the longterm management of common open space lands. The land stewardship plan shall include a narrative, based on the site analysis required in section 26-122(a)(3) describing:
 - i. Existing conditions including all natural, cultural, historic, and scenic elements in the landscape. This baseline documentation of existing site conditions shall be agreed upon at the time of execution of the conservation easement.

- ii. The proposed end state for each common open space area; and the measures proposed for achieving the end state.
 - iii. Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion; and measures for restoring historic features and habitats or ecosystems.
 - iv. The operations needed for managing the stability of the resources for five years, including but not limited to: mowing schedules; weed control; planting schedules; assessment schedule; and clearing and cleanup. At the town's discretion, the applicant may be required to place in escrow sufficient funds for the management and operation costs of the common open space and/or common facilities for a maximum of five years.
 - v. Education component for educating the homeowners on the stewardship plan and status of the common open space. The holder of the conservation easement shall determine the content of the educational component; however, the holder shall hold an educational meeting with the homeowners at least annually after the annual assessment is conducted.
 - vi. Any stewardship plan of an abutting subdivision that has a stewardship plan in place and addressing any impact that stewardship plan may have on the proposed subdivision.
5. If ownership is vested in a homeowners' association or a condominium association, then the association must contract with a competent contractor, such as a professional ecological service, as approved by the town to oversee and sustain the plan. The town's approval shall not be unreasonably withheld.
- b. In the event that the organization established to own and manage the common open space and/or common facilities, or any successor organization, fails to manage all or any portion of the common open space and/or common facilities in reasonable order and condition in accordance with the stewardship plan and all applicable laws, rules, and regulations, the town may serve written notice upon such organization and upon the residents and owners of the common open space and/or common facilities, setting forth the manner in which the organization has failed to manage the common open space and/or common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this chapter, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The town may enter the premises and take corrective action.
 - c. The costs of corrective action by the town shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of

the common open space and/or common facilities and shall become a lien on said properties. The town, at the time of entering upon such common open space and/or common facilities for the purpose of management, shall file a notice of such lien in the office of the county register of deeds upon the properties affected by such lien.

- d. Stewardship plans may be amended by the owner identified under subsection 26-125(f)(1) of this section with the approval of the town board.
- e. The town may require the common open space to be inspected and assessed annually by the holder of the conservation easement or an independent professional ecologist, or may contract with an independent individual, organization, or business, for a periodic assessment of the common open spaces and/or common facilities of the development to ensure compliance with the stewardship plans. The cost for this periodic assessment of the common open spaces and/or common facilities shall be specially assessed, equally against the properties that have the right of enjoyment of the common open spaces and/or common facilities and shall become a lien on such properties if not paid.

(Ord. No. 2005-07(b), 6-28-2005)

Secs. 26-304—26-328. Reserved.

DIVISION 5. PRELIMINARY PLAT

Sec. 26-329. Filing application with town.

The subdivider shall file with the town an application for review and approval of a preliminary plat prepared in accordance with this chapter along with a completed checklist and 18 copies of the preliminary plat for review by the town. Additional copies of the preliminary plat shall be provided to the town attorney and to the proposed conservation easement holder. The town engineer may require in his/her discretion, the submittal of complete road, grading and/or drainage plans at the time of submission of the preliminary plat. No preliminary plat shall be accepted for review unless the subdivider has completed the concept plan requirements set forth in section 26-122. If the preliminary plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-330. Review and approval procedures.

(a) *Referral; administrative staff and utility commission reviews.* The clerk shall provide copies of the preliminary plat to the town department heads, to the appropriate objecting agencies under Wis. Stats. § 236.12, and to the appropriate utilities for their review and comment. The town staff and utility comments will be forwarded to the town planning commission and town board for consideration during the review process.

(b) *Town planning commission review; informational meeting.* The clerk shall give notice of the planning commission's review of the preliminary plat by listing it as an agenda item in the planning commission's meeting notice. The notice shall include the name of the subdivider, the address of the parent parcel, and the requested action. The clerk may schedule an informational meeting on the preliminary plat prior to planning commission review. The subdivider shall provide written notice of the planning commission review and/or the informational meeting to all property owners within 300 feet of the parent parcel at least seven days in advance of such meeting. The cost for such written notice shall be borne by the subdivider. Such notice must be by certified mail, return receipt requested. The subdivider shall provide copies of the mailings and return receipts to the clerk prior to the planning commission meeting. Failure of the subdivider to provide such notice may, at the option of the planning commission, result in all discussions concerning the submittal being deferred to the next regularly scheduled planning commission meeting.

(c) *Plan commission recommendation.* After review of the preliminary plat and discussions with the subdivider on changes and the kind and extent of public improvements that will be required, the planning commission shall recommend to the town board disapproval, approval, or conditional approval of the preliminary plat within 60 days of the filing date. Any preliminary plat recommended for approval shall be deemed to include conditions, to the extent applicable, of a development agreement, conservation easement, and stewardship plan in forms acceptable to the town board and in compliance with the town ordinances.

(d) *Board action.* After receipt of the town planning commission's recommendation, the town board shall, within 90 days of the date the preliminary plat was filed with the town, approve, approve conditionally, or reject such preliminary plat and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the subdivider, failure of the town board to act within 90 days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The clerk shall communicate to the subdivider the action of the town board. If the preliminary plat is approved, the town chairperson shall endorse it for the town board. Any preliminary plat recommended for approval shall be deemed to include conditions, to the extent applicable, of a development agreement, conservation easement, and stewardship plan in forms acceptable to the town board and in compliance with the town ordinances.

(e) *Effect of approval.* Approval of a preliminary plat shall be valid for 24 months from the date of approval or conditional approval. Subject to Wis. Stats. § 236.11(1)(b), approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the planning commission and town board at the time of its submission.

(f) *Amendment.* If the subdivider desires to amend the preliminary plat as approved, the subdivider may resubmit the amended plat, unless the amendment is, in the opinion of the town board, of such scope as to constitute a new plat, in which case it shall be refiled. The town reserves the right to require an additional fee where, in the opinion of the town board, such amendment requires significant additional town resources.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-331. Requirements.

A licensed land surveyor or engineer shall prepare the preliminary plat at a convenient scale not less than one inch equals 100 feet. A preliminary plat shall be prepared in accordance with applicable state statutes, the county code and this chapter. More than one sheet may be used to present the following required information:

- (1) *Name of the proposed subdivision.* The proposed name of the subdivision shall not duplicate or be alike in pronunciation of the name of any plat previously recorded in the county.
- (2) *Project ownership and development information.*
 - a. Name, address, and telephone number of the legal owner of the parent parcel and, if applicable, agent of the property.
 - b. Name, address, and telephone number of the professional persons responsible for subdivision design, for the design of public improvements, and for surveys.
 - c. Date of preparation.
- (3) *Existing site conditions.* Provide this information on a property survey map. It is the responsibility of the subdivider to verify the accuracy of information and resources relied upon to compile the following information:
 - a. Boundary line of the proposed site and all property to be subdivided. Include all contiguous land owned or controlled by the subdivider.
 - b. Location, width, and names of all existing platted streets and rights-of-way to a distance of 300 feet beyond the site.
 - c. Show the type, width and condition of street improvements; railroad or major utility rights-of-way, parks and other public open spaces, location and widths of existing snowmobile or other recreation trails; location of existing drain tiles; and permanent buildings and structures to a distance of 300 feet beyond the site, if any.
 - d. Location, widths, and names of all existing public and private easements to a distance of 300 feet beyond the site.
 - e. Identify by name and ownership boundary lines of all adjoining lands within 100 feet of the proposed plat.
 - f. Topographic data including contours at vertical intervals of not more than two feet. Elevation values shall be based on the National Geodetic Vertical Datum of

1929 (NGVD 29) or the North American Vertical Datum of 1988 (NAVD 88) or future adjustments to NAVD 88 as defined by the National Geodetic Survey, if applicable for that parcel, and should also be so noted on the plat.

- g. Significant natural resource features on the site, including: jurisdictional wetlands, floodplains, watercourses, existing wooded areas, slopes of 20 percent or greater, drainageways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission and official mapping on file with the county, and other natural resource features, views and other prominent visual features. Where steep slopes may be present, the town may require a survey by a registered land surveyor of the areas containing slopes. This survey shall be referenced to the proposed cross section of the adjacent road.
 - h. Burial sites categorized under Wis. Stats. § 157.70, Indian mounds, national and state register listed properties, and locally designated historic properties.
 - i. Existing soil classifications including identification of poor, hydric soils.
 - j. Legal description of the property.
 - k. Existing zoning classifications for land in and abutting the subdivision.
 - l. Total acreage of the proposed site.
 - m. Provide graphic scale, north arrow, and date.
 - n. Conservation easements.
 - o. Restoration zones, including association land included in native landscaping, buffers, and drainage easements.
- (4) *Subdivision design features.* Provide the following information on the preliminary plat:
- a. Layout of proposed streets, showing right-of-way widths, pedestrian walkways, types of improvements, street surface widths, and proposed street names.
 - b. Locations and type of proposed public easements (i.e., drainage, utility, pedestrian, public access to waterways, etc.); and all conservation easements.
 - c. Layout of proposed blocks and lots within the plat.
 - d. Basic data regarding proposed and existing (if applicable) lots and blocks, including numbers, dimensions, area.
 - e. Minimum front, side and rear yard building setback lines for all lots.
 - f. Indication of the use of any lot.
 - g. Location and size of all proposed and existing sanitary sewer lines and water mains, proposed community sewer and water system, or individual on-site septic systems and potable water sources.

- h. Location and size of all proposed and existing storms sewers (lines, drain inlets, manholes), culverts, retention ponds, swales, infiltration practices and areas, and other stormwater facilities within the plat and to a distance of 100 feet beyond the site.
 - i. Common open space areas, other than pedestrian ways and utility easements, intended to be dedicated or reserved for use by the residents of the development, including the size of such area or areas in acres. Provide information on the conditions, if any, of the dedication or reservation.
 - j. Proposed preservation, if any, of historical buildings and structures.
 - k. Development envelopes showing areas for grading, lawns, pavement and buildings.
 - l. Stewardship plan for restoration and long-term management of the open space areas.
- (5) *Preliminary construction plans.* Provide the following information on one or more sheets:
- a. Plan and profile. Proposed street centerline profile grades, showing the existing and proposed profile grade lines.
 - b. Grading and erosion control plan. A plan showing existing and proposed grades, drainage patterns, and stormwater facilities. The plan shall show the location and extent of grading activities in and adjacent to the plat, overall area of the site in acres, total impervious surface area of project, total pervious area, stockpile locations, erosion and sediment control facilities, and a schedule for erosion and sediment control practices, including site specific requirements to prevent erosion at the source. Major trees to be preserved, with a diameter of four inches or more measured 12 inches above ground level, shall be shown on the preliminary grading and erosion control plan. Adequate measures for protecting major trees shall be shown on the plan.
 - c. Disposal, management and flood control. Provisions for sewage disposal, water supply, stormwater management, and flood control.
- (6) *Easements.* No plat or subdivision shall be accepted by the town unless the plat or subdivision provides for an easement across the rear 12 feet of each lot abutting upon a lot in the same plat subjected to a similar easement, making it all an easement of 24 feet. The easement shall be established for the installation of all public utilities. In the event such lot does not abut upon a lot subjected to a similar easement, such nonabutting lot shall be subject to an easement of at least 12 feet in width for the same purposes as hereinbefore set forth. In the event compliance with this requirement is not practicable in the opinion of the town board, the town board may waive the requirements herein provided. The subdivider shall dedicate such other lands or grant

such other easements as the town board determines to be reasonably required in accord with state statutes, to provide for public utilities and public uses and needs with respect to such subdivision development.

(Ord. No. 2005-07(b), 6-28-2005)

Secs. 26-332—26-355. Reserved.

DIVISION 6. FINAL PLAT

Sec. 26-356. Compliance with article.

A final subdivision plat shall be filed in accordance with the requirements of this article.
(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-357. Filing of plat, letter of application; evidence of ownership.

The subdivider shall prepare a final plat, a checklist, and a letter of application in accordance with this chapter and shall file 18 copies of the plat and the application with the clerk at least 21 days prior to the meeting of the planning commission at which action is desired. Copies of the final plat shall also be filed with the town attorney, the proposed conservation easement holder, and with the county planning and development department in accordance with the county code. The owner or subdivider shall file the final plat not later than two years after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the town. The subdivider shall also submit at this time a current certified abstract of title or such other evidence as the town may require showing ownership or control in the applicant. Preparation of the final plat shall be in accordance with applicable state statutes, the county code and this chapter. If the final plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-358. Objecting agencies.

The subdivider shall submit the original plat to the plat review section, state department of administration, which shall forward two copies to each of the agencies authorized to object under Wis. Stats. § 236.12(2). The department shall have the required number of copies made at the subdivider's expense.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-359. Final construction plans.

Simultaneously with the filing of the final plat, the subdivider shall file with the town four copies of the final plans and specifications of public improvements required by the town.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-360. Installation, protection and management plans.

The subdivider shall also submit stewardship plans prepared by a professional ecological service for areas to be protected and/or into which native vegetation will be introduced or in the alternative a landscape plan as addressed in this article. The town may provide information to guide the subdivider and the town will set minimum standards which may be amended from time to time by resolution of the town board. Town approval shall be required of the professional ecological service to be used; the town's approval shall not be unreasonably withheld. The stewardship plan shall be reviewed by the proposed easement holder if it has a qualified ecologist on staff and acceptable to the town. If the proposed easement holder does not have a qualified staff person, then a qualified professional ecologist acceptable to the town and unaffiliated shall review the plan with the drafter of the stewardship plan. The reviewer shall provide a written report and any recommended revisions to the town engineer at the time the final plat is submitted for approval. The plan shall be revised, if deemed necessary by the town board prior to consideration of the final plat. Any costs incurred for the review of the stewardship plan by the easement holder or a qualified professional ecologist shall be the responsibility of the subdivider. The final stewardship plan shall be submitted to the planning commission, along with the written report, for its information and reference, when it reviews the final plat.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-361. Referral.

The clerk shall provide copies of the final plat to town department heads and to the appropriate utilities for their review and comment. The town staff and utility comments will be forwarded to the town planning commission and town board for their consideration during the review process. Prior to the referral of the final plat by the clerk, the final drainage plans must have received their necessary approvals.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-362. Town planning commission review.

(a) *Examination of conformance; condition of approval.* The planning commission shall examine the final plat as to its conformance with the preliminary plat; any conditions of approval of the preliminary plat; this chapter; and all applicable ordinances, rules, regulations, the stewardship plan, and the town's land use plan elements that may affect it and shall recommend approval or rejection of the plat to the town board.

(b) *Recommendation of approval or rejection; review period extension request.* The planning commission shall, within 30 days of the date of filing of the final plat, recommend approval or rejection of the plat and shall transmit the final plat and application along with its recommendations to the town board. Any condition of approval of the preliminary plat that has not been complied with shall remain a condition if the town board approves the final plat. Plats with incomplete or inadequate information shall be rejected unless an extension of the review period is requested by the subdivider and agreed to in writing by the planning commission.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-363. Town board review and approval.

The clerk shall provide a copy of the final plat, the recommendation of the planning commission, a draft of the proposed conservation easement and the stewardship plan to the town board for its review, consideration and possible approval. The town board shall, within 60 days of the date of filing the original final plat, approve or reject such plat unless the time is extended by agreement with the subdivider. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The town board may not inscribe its approval on the final plat unless the clerk certifies on the face of the plat that the copies were forwarded to objecting agencies as required in section 28-183, the date thereof, and that no objections have been filed within 20 days or, if filed, have been met.

- (1) The town board shall, when it determines to approve a final plat, give at least ten days prior written notice of its intention to the municipal clerk of any municipality within 1,000 feet of the final plat.
- (2) If the town board fails to act within 60 days, without a time extension and no unsatisfied objections having been filed, the plat shall be deemed approved.
- (3) After the final plat has been approved by the town board and required improvements either installed or a contract and sureties ensuring their installation is filed, the clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the county register of deeds, along with all conservation easements and deed restrictions. The final plat can be recorded when it has received all required approvals pursuant to applicable state statutes, the county code and this chapter. The register of deeds cannot record the plat unless it is offered within six months from the date of the town board's final approval and within 24 months after the first approval.
- (4) The subdivider shall file eight copies of the final plat with the clerk for distribution to the approving agencies, affected utility districts, and other affected agencies for their files. The subdivider shall also provide a copy of the recorded final plat to the conservation easement holder and town attorney.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-364. Requirements.

(a) A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply with the requirements of Wis. Stats. § 236.20, with the county code and this chapter.

(b) In addition to the information required by Wis. Stats. § 236.20, the final plat shall show correctly on its face, have attached to it, or submitted with it, the following:

- (1) Exact length and bearing of the centerline of all streets.
- (2) Exact street width along the line of any obliquely intersecting street.

- (3) Exact location and description of utility and drainage easements and any existing drain tiles.
- (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, including public access to waterways.
- (6) Restrictions relating to access control along public ways.
- (7) Setback or building lines.
- (8) Any restrictive covenants, deed restrictions, or conservation easements for the proposed subdivision.
- (9) The legal instruments detailing the ownership of the common open space, as required in section 28-125(sic).
- (10) All the surveying and monumenting requirements of Wis. Stats. § 236.15.
- (11) 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 town, the plat shall be tied directly to two 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 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.
- (12) Certificates. All final plats shall provide all the certificates required by Wis. Stats. § 236.21. In addition, the surveyor shall certify that the surveyor has fully complied with all sections of this chapter.

The final plat shall be recorded as required by Wis. Stats. § 236.25.
(Ord. No. 2005-07(b), 6-28-2005)

Secs. 26-365—26-393. Reserved.

DIVISION 7. CERTIFIED SURVEY MAPS

Sec. 26-394. Compliance.

A certified survey map is required for all minor subdivisions. Certified survey maps shall incorporate conservation values, themes, and goals into their design to meet the purposes of the chapter as indicated under section 26-182.

(Ord. No. 2005-07(b), 6-28-2005; Ord. No. 2005-14, § 1, 11-29-2005)

Sec. 26-395. Application; certified survey maps.

The subdivider shall submit an executed predevelopment agreement, the requisite fees, the checklist for certified survey maps and three copies of the certified survey map to the town

clerk. As a condition of further review of the certified survey map, the subdivider shall and hereby does grant permission for town officers, employees and agents to enter upon the subject property in furtherance of their official duties.

(Ord. No. 2005-07(b), 6-28-2005; Ord. No. 2005-14, § 1, 11-29-2005)

Sec. 26-396. Proof of ownership.

The subdivider shall submit a report of title from a title company acceptable to the town showing current ownership of the property proposed to be divided and all encumbrances shall be detailed on the certified survey map when submitted.

(Ord. No. 2005-07(b), 6-28-2005; Ord. No. 2005-14, § 1, 11-29-2005)

Sec. 26-397. General requirements for certified survey map.

(a) The certified survey map shall comply with the provisions of Wis. Stats. § 236.34, and shall describe all new lots created by the division. Following planning commission recommendation, and with prior town board approval, remnant parcels larger than forty acres need not be shown on the certified survey map but may instead be depicted by a plat of survey. The town board may, in its discretion and upon recommendation of the planning commission, require that all lands that are owned or controlled by the subdivider that are contiguous to the land to be divided also be described on the certified survey map.

(b) If any lots in the certified survey map are not served by municipal sanitary sewer, soil and site evaluations shall be submitted for approval to the county code administration office and/or the department of commerce according to the procedure and standards established under the applicable rules of Wis. Admin. Code Ch. Comm 83.

(c) At the discretion of the planning commission, where the subdivider owns or controls land that is contiguous to the land being divided, a conceptual development plan shall be submitted along with the certified survey map. The plan shall be drawn to scale, and shall identify proposed future development of the parcels, including approximate street, driveway and building locations.

(Ord. No. 2005-07(b), 6-28-2005; Ord. No. 2005-14, § 1, 11-29-2005)

Sec. 26-398. Detailed requirements.

A certified survey map shall comply with the provisions of Wis. Stats. § 236.34, applicable sections of this chapter, and shall set forth the following:

- (1) Date of map.
- (2) Graphic scale, location map and north point.
- (3) Name and address of the owner, subdivider, and surveyor.
- (4) All existing buildings, watercourses, drainage ditches, drain tiles, existing and required easements, and other features pertinent to proper division.

- (5) Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages and wetlands.
- (6) Soil boring locations on sites to be served with a private on-site wastewater treatment system.
- (7) All lands reserved for future public acquisition or dedication.
- (8) Floodland and shoreland boundaries and the contour line lying at a vertical distance of two feet above the elevation of the 100-year recurrence interval flood.
- (9) Significant natural resource features on the site, including wetlands, floodplains, watercourses, shoreland boundaries, existing wooded areas, slopes of 20 percent or greater, drainageways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission ("SEWRPC") and the county, and other natural resource features, views and other prominent visual features.
- (10) Where the map is located within a quarter section, the corners of which have been relocated, monumented and placed on the Wisconsin State Plan Coordinate System by the state department of transportation, Southeastern Wisconsin Regional Planning Commission, the county or any city, village or town, the map shall be tied directly to one of the section or quarter corners so coordinated. The exact grid bearings and distance of such tie shall be determined by field measurements, and the material and Wisconsin State Plan Coordinate System, south zone, and adjusted to the county control survey.
- (11) The surveyor shall certify on the face of the map that it fully complies with all the provisions of this chapter.
- (12) Any additional information required by the planning commission or town board.
(Ord. No. 2005-07(b), 6-28-2005; Ord. No. 2005-14, § 1, 11-28-2005)

Sec. 26-399. Planning commission review and informational meeting.

The clerk shall give notice of the planning commission's review of the certified survey map by listing it as an agenda item in the planning commission's meeting notice. The notice shall include the name of the applicant, the address of the property in question, and the requested action. The clerk may schedule an informational meeting. Notice of the planning commission review and informational meeting shall be sent to neighboring property owners in accordance with the procedures set forth in article V of this chapter. The cost for such written notice shall be borne by the subdivider. The planning commission may submit the certified survey map to the town engineer or town attorney for review and comment.

(Ord. No. 2005-07(b), 6-28-2005; Ord. No. 2005-14, § 1, 11-28-2005)

Sec. 26-400. Planning commission recommendation.

After review of the certified survey map and discussions with the subdivider on changes and the type and extent of public improvements that will be required, if any, the planning

commission shall recommend to the town board disapproval, approval, or conditional approval of the certified survey map within 45 days of the filing date of the proposed final certified survey map.

(Ord. No. 2005-07(b), 6-28-2005; Ord. No. 2005-14, § 1, 11-28-2005)

Sec. 26-401. Board action.

After receipt of the town planning commission's recommendation, the town board shall, within 90 days of the date the proposed final certified survey map was filed with the town engineer, approve, approve conditionally, or reject such certified survey map and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the subdivider, failure of the town board to act within 90 days or extension thereof shall constitute an approval of the proposed final certified survey map. The clerk-treasurer shall communicate to the subdivider the action of the town board. If the certified survey map is approved, the town clerk shall endorse it for the town board. The certified survey map shall be recorded with the register of deeds office for the county within six months after final town board approval and within 24 months after the first approval of the map.

(Ord. No. 2005-07(b), 6-28-2005; Ord. No. 2005-14, § 1, 11-28-2005)

Sec. 26-402. Public improvements.

In the event public improvements are required plans, computations and specifications, which conform to the provisions, required for subdivision improvements shall be submitted to the town engineer at the time of submission of the proposed certified survey map. Such plans must be approved by the town engineer before town board approval of the certified survey map. Prior to, or as a condition of, town board approval of the certified survey map, the subdivider shall enter into a development agreement, as addressed elsewhere in this article, and deposit the required fees. In cases where public lands or rights-of-way are reserved or dedicated for future construction of public improvements, the subdivider shall enter into an agreement with the town concerning future costs and liability prior to, or as a condition of, certified survey map approval.

(Ord. No. 2005-07(b), 6-28-2005; Ord. No. 2005-14, § 1, 11-28-2005)

Secs. 26-403—26-431. Reserved.

DIVISION 8. MODIFICATIONS OR WAIVERS

Sec. 26-432. Authority; application.

(a) Where, in the judgment of the town board, it would be inappropriate to apply literally the provisions of this chapter because an exceptional circumstance exists, the town board may waive or modify any requirements to the extent deemed just and proper.

(b) Application for any such modification or waiver shall be made in writing by the subdivider at the time when the concept plan or preliminary plat is filed for consideration whichever occurs first, stating fully all facts relied upon by the subdivider, and shall be supplemented with maps, plans, or other additional data that may aid the town board in the analysis of the proposed project.

(c) Before the town board may act on a request for modification or waiver, the application and all supporting material must first be presented to the planning commission for its review and recommendation based upon the factors set forth in section 26-433. The clerk shall, within 45 days of receipt of the application for a modification or waiver, place the matter on a town planning commission agenda for review and action.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-433. Considerations.

The town board shall consider the following factors, in addition to any other factors deemed relevant by it:

- (1) Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the chapter.
- (2) Whether the request for a waiver or modification, if granted, would adversely affect property owners in the surrounding area.
- (3) Whether the request for waiver or modification, if granted, would benefit the subdivider's project in a way that is not consistent with the town's interests.
- (4) Whether the subdivider is in full compliance with other applicable ordinances and agreements with the town.
- (5) Whether, instead of granting the request for a waiver or modification, the chapter itself should be changed to accommodate the kind of situation presented by the subdivider.
- (6) Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.
- (7) Whether the request for modification or waiver, if granted, would 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.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-434. Granting by town board.

(a) The town board, if it approves of the modification or waiver of the application of this chapter or any portion of it, shall do so by motion or resolution and shall instruct the clerk to notify the subdivider.

(b) A majority vote of the town board shall be required to grant any modification or waiver to this chapter. The reasons why such modification or waiver was granted shall be entered in the minutes.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-435. Past noncompliance not waived.

A waiver or modification that is granted pursuant to a written request as described in this article shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of this chapter that took place prior to the date of the request being granted, unless specifically stated otherwise in the decision of the town board.

(Ord. No. 2005-07(b), 6-28-2005)

DIVISION 9. DEDICATIONS AND REQUIRED IMPROVEMENTS

Sec. 26-436. Surface water drainage restrictions.

(a) To the extent practical, no drainageway contained within a drainage easement shall be disturbed, in accordance with the following:

- (1) All buildings and structures shall be set back at least 25 feet from the landward edge of unnavigable streams, drainageways and wetlands. Roadways, recreational trails and pedestrian walkways shall be permitted to cross unnavigable streams and drainageways, provided, such construction allows for the free passage of waters and that runoff is controlled to prevent erosion and transport of sediment and pollutants to nearby waters.
- (2) No artificial obstruction may be constructed, planted or maintained within any manmade or natural drainageway so that such obstructions impede the natural flow of water and/or diminishes the natural aesthetic quality of the drainageway.
- (3) Lot boundaries shall be made to coincide with new and/or preexisting manmade and natural drainageways to avoid the creation of lots that can be built upon by altering such drainageways.

(b) Surface water shall not be regarded as unduly retained or diverted if the retention or diversion:

- (1) Results from a technique, practice or device deliberately installed as part of an approved sedimentation or stormwater runoff control plan.
- (2) Is not substantially different in location or degree than that experienced by the development site in its predevelopment state, unless such retention presents a danger to health or safety.
- (3) Results from the actions of natural obstructions, whereby maintenance shall be performed by the property owner, as appropriate.

- (4) Has been allowed or required by the town planning commission and noted on the approved drainage plan.
(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-437. Dedication and reservations of land.

Whenever a tract of land to be divided embraces all or any part of a future street shown on the adopted regional, county and town land use master plan and/or comprehensive plan, or adopted plan components, such public way shall be made a part of the plat and either dedicated or reserved by the applicant in the locations and dimensions indicated on such plan.
(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-438. Construction and installation of improvements.

(a) No construction or installation of improvements shall commence in a proposed division, certified survey map, conservation subdivision or condominium division until the construction plans and final plat have been approved by the town planning commission, town board and all other approving agencies. Copies of all applicable permits, letters of nonobjection or approval must be filed with the town clerk.

(b) Before recording the final plat with the county register of deeds, the applicant shall enter into a contract, or other arrangement agreeable with the town, agreeing to install all required public improvements and shall file with such contract a surety bond or other satisfactory security meeting the approval of the town board as a guarantee that such improvements will be completed by the subdivider or his subcontractors within the time limit established by the town board.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-439. Plans and construction specifications.

The following plans and accompanying construction specifications may be required by the town board before authorization of construction or installation of improvements:

- (1) Street plans and profiles, showing existing and proposed grades, elevations and cross sections of required improvements.
- (2) Installation of street signs, meeting the approval of the town board, at all intersections.
- (3) Sanitary sewer plans and profiles, showing the locations, grades, sizes, elevations and materials or required facilities.
- (4) Surface water drainage facilities, which may include curbs and gutters, catchbasins and inlets, road ditches and open channels, as may be required to provide adequate surface drainage for the division.
- (5) Erosion control plan.

- (6) Water supply and distribution plans and profiles, showing the locations, grades, sizes, elevations and materials, or required facilities.
 - (7) Landscape plan.
 - (8) Critical areas protection plan.
- (Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-440. Inspection.

The applicant, prior to commencement of any work within the land division, shall make arrangements with the town board to provide for an adequate inspection. The town engineer shall inspect and approve all completed work prior to the acceptance of improvements or the release of the sureties by the town board. The applicant shall be responsible for all costs for the inspection.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-441. Public sanitary sewerage and private on-site water treatment systems.

When public sanitary sewer facilities are available, the applicant shall construct sanitary sewer facilities in such a manner as to make adequate public sanitary sewer service available to each lot within the division, conservation subdivision, condominium division or certified survey map. In addition, the subdivider shall extend all public sanitary sewers to the adjoining property which is tributary to the sewer system, unless otherwise approved by the town board. Where public sanitary sewer facilities are not available, private systems shall be constructed pursuant to applicable regulations of the town, the county, the state commerce department and any applicable sanitary district requirements.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-442. Water supply facilities.

When public water supply facilities are available or it is proposed to establish a private water supply distribution system to serve two or more lots or dwelling units, the applicant shall construct water supply facilities in such a manner as to make adequate water service available to each lot within the division. Private water supply systems shall conform to all applicable regulations of the state department of commerce.

(Ord. No. 2005-07(b), 6-28-2005)

Secs. 26-443—26-455. Reserved.

DIVISION 10. STORMWATER MANAGEMENT

Sec. 26-456. Authority.

This division applies to land disturbing and land development activities on lands within the jurisdiction of the town and is adopted under the authority granted by Wis. Stats. §§ 62.234

and 281.33. The requirements of this division do not preempt more stringent stormwater management requirements that may be imposed by stormwater permits issued by the state department of natural resources (WDNR) under Wis. Stats. § 283.33.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-457. Findings of fact.

The town board finds that uncontrolled stormwater runoff from land development and land disturbing activity has a significant impact upon water resources, the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled stormwater runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge and diminishing stream base flows;
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing loadings of nutrients and other urban pollutants;
- (3) Alter wetland communities by changing wetland hydrology and increasing pollutant loads;
- (4) Reduce the quality of groundwater by increasing pollutant loading;
- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainageways and other minor drainage facilities;
- (6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes;
- (7) Undermine floodplain management efforts by increasing the incidence and levels of floodings.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-458. Applicability and jurisdiction.

This division applies to land disturbing construction activities and land development activities on lands within the boundaries and jurisdiction of the town and divisions requiring a subdivision or condominium plat. This division further applies to minor land divisions occurring by certified survey maps where, in the opinion of the planning commission and/or town engineer, the land division proposed is likely to result in additional stormwater runoff.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-459. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural land use means the use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries.

Applicant means any landowner, his agent or contractor responsible for submitting and carrying out the requirements of this division, and any subsequent landowner to whom this division applies.

Approved stormwater management system plan means a regional stormwater management system plan certified by the town engineer and adopted by the town board.

Best management practice (BMP) means a structural or nonstructural practice, technique or measure, facility, system of practices or device that reduces soil, sediment or pollutants carried in runoff to waters of the state to a level compatible with the pollution control requirements of this division, based upon the Wisconsin Construction Site Best Management Practices Handbook.

Common plan of development or sale means all lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where integrated multiple separate and distinct land developing activity may take place at different times and on different schedules.

Design storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

Discharge volume means the quantity of runoff discharged from the land surface as the result of a rainfall event.

Erosion means the detachment and movement of soil, sediment particles or rock fragments by water, wind, ice, gravity or other forces of nature.

Erosion and sediment control plan means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil, sediment or rock fragments during construction.

Groundwater enforcement standard means a numerical value expressing the concentration of a substance in groundwater, which is adopted under Wis. Stats. § 160.07, Wis. Admin. Code § NR 140.10 or 160.09, and Wis. Admin. Code § NR 140.12.

Groundwater preventive action limit means a numerical value expressing the concentration of a substance in groundwater, which is adopted under Wis. Stats. § 160.15 and Wis. Admin. Code § NR 140.10, 140.12 or 140.20.

Impervious surface means a surface through which rainfall does not infiltrate. Rooftops, sidewalks, parking lots and street surfaces are examples of impervious surfaces.

Infiltration means the process by which rainfall or surface runoff percolates or penetrates into the underlying soil.

Land development activity means the construction of buildings or accessory structures with an area greater than 10,000 square feet, roads, parking lots, paved and unpaved storage areas and similar facilities, but not including general maintenance of parking lots and drives.

Land disturbing activity means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative 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, but does not include cleaning and restoring existing drainage ditches, agricultural land uses, such as planting, growing, cultivating and harvesting crops, growing and tending gardens, silviculture activities or routine maintenance for project sites that is performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility. This definition is subject to the exemptions set forth in section 26-36, which is incorporated in this definition by reference.

Landowner means any person holding fee title, an easement or other interest in property, which allows a person to undertake land disturbing construction activity on the property.

Local municipality means a town, village or city.

Maintenance agreement means a legal document that is filed with the county register of deeds and which provides for long-term maintenance of stormwater management practices.

Nonresidential development means all development, excluding residential developments and agricultural uses.

Nonstorm discharge means a discharge to the storm sewer system created by some process other than the runoff of rain.

Peak flow means the maximum rate at which a unit volume of stormwater is discharged.

Pervious surface means a surface that infiltrates rainfall during a large portion of the design rainfall event. Well managed lawns, fields and woodlands are examples of pervious surfaces.

Postconstruction stormwater discharge means any stormwater discharged from a site following the completion of land disturbing construction activity and final site stabilization.

Postdevelopment condition means the extent and distribution of land cover types, anticipated to occur under conditions of full development, that will influence rainfall runoff and infiltration.

Predevelopment condition means the extent and distribution of land cover types present before the initiation of land development activity.

Pretreatment means the treatment of stormwater prior to its discharge to the primary stormwater treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary practice.

Residential development means that which is created to house people, including residential dwellings, as well as all attendant portions of the development, including lawns, driveways, sidewalks, garages and access streets. Such type of development includes single-family, multifamily and apartment developments, and trailer parks.

Runoff means the rainfall, snowmelt, dewatering or irrigation water flowing over the ground surface.

Site means the entire area included in the legal description of the land or easements on which the land disturbing construction activity or land development activity is proposed in the permit application.

Stabilize means that vegetation is well established or other surfacing material is in place and the risk of further soil erosion is minimal.

Stormwater management measure means a practice, technique or measure to reduce the discharge volume, peak flow rate or pollutants in stormwater, including, but not limited to, structural stormwater measures.

Stormwater management plan means a document that identifies what actions will be taken to reduce stormwater discharge volume, peak flow rates and pollutant loads from land development activity to levels meeting the purpose and intent of this division.

Stormwater management system plan means a comprehensive plan developed to address stormwater drainage and nonpoint source water pollution control problems under both existing and planned conditions within a logical planning area, such as a watershed or subwatershed. Such a system plan is intended to establish objectives, standards and design criteria which can be used to evaluate alternatives and select a recommended plan. The system plan shall be certified by the town engineer and adopted by the town board.

Stormwater runoff means that portion of the precipitation falling during a rainfall event that runs off the surface of the land and into the natural or artificial conveyance or drainage network.

Structural stormwater management measure means a practice that is designed to control stormwater runoff pollutant loads, discharge volumes and peak flow discharge rates.

Waters of the state means the portions of Lake Michigan and Lake Superior within the boundaries of the 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 the state or its jurisdiction.

State law reference—Similar provisions, Wis. Stats. § 281.01(18).

Wetland functional value means the type, quality and significance of the ecological benefits provided by wetland resources, such as, flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, and floral diversity.

Working day means a calendar day, except Saturdays, Sundays, and state and town recognized legal holidays.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-460. Administration and enforcement.

The town engineer or his designee, at the direction of the town board, is designated to administer and enforce the provisions of this division. The town engineer or his designee, at the direction of the town board, shall oversee the administration of this division, and issue permits and review stormwater management plans as provided in this division, and make recommendations, where appropriate, to the town board relative to matters related to stormwater management.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-461. Requirements.

(a) *Intent.* This division is not intended to limit activity or land divisions permitted under the applicable zoning and land division ordinances. The town board recognizes that the preferred method of addressing stormwater management problems and needs is through the preparation of comprehensive stormwater management system plans for logical subwatershed areas which are designed to meet the purpose and intent of this division. Accordingly, the standards for on-site stormwater management measures set forth in section subsections (d)(1) and (d)(2) of this section do not apply in areas where such plans have been prepared. In the areas for which stormwater management system plans have been prepared, all land development activities will include stormwater management measures set forth in the approved stormwater management system plans. It is the general intent of the town, in cooperation with the town engineer, to achieve its purpose through:

- (1) Managing long-term, postconstruction stormwater discharges from land development activities.
- (2) Providing two options for developing stormwater management requirements, including:
 - a. Application of generic requirements in this division on a site by site basis in areas for which no approved stormwater management system plan exists; and
 - b. Implementation of management practices set forth in detailed stormwater management plans in areas which are covered by a stormwater management system plan.

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

- (1) Residential land development with a gross aggregate area of five acres or more;
- (2) Residential land development with a gross aggregate area of at least three acres, but less than five acres, if there are at least 1.5 acres of impervious surfaces;

- (3) Nonresidential land development, with a gross aggregate area of 1.5 acres or more, or any nonresidential land development which creates an impervious area of 0.5 acre or more;
- (4) Land development or land disturbing activities regardless of the size of the development, which, in the written opinion of the local municipal engineer, are likely to result in stormwater runoff which exceeds the safe capacity of the existing drainage facilities or receiving body of water, causes undue channel erosion, increases water pollution by scouring or causes the transportation of particulate matter, or may significantly harm downstream property or public safety.

(c) *Design criteria, standards and specifications.* Design criteria, standards and specifications for stormwater management measures shall be made available by the town clerk in cooperation with the town engineer. Peak flow shaving components of stormwater structures shall be designed in accordance with standard engineering practice. Stormwater discharge volumes and peak flow rates used in designing the water quantity and quality components of stormwater structures shall be based on the principles of the document entitled, Urban Hydrology for Small Watersheds (Technical Release 55: Engineering Division, United States Department of Agriculture, June 1992), or other methods approved by the town engineer. All stormwater management plans shall be prepared and sealed by a registered professional engineer in the state.

(d) *Standards.*

- (1) *Discharge quantity.* Unless otherwise provided for in this division, all land development or land disturbing activities subject to this division shall establish on-site management measures to control the peak flow rates of stormwater discharged from the site. Infiltration of stormwater runoff from driveways, sidewalks, rooftops and landscaped areas shall be incorporated, to the maximum extent technically practical, to provide volume control in addition to control of peak flows. On-site management measures shall be used to meet the following minimum performance standards:
 - a. The peak flow rates of stormwater runoff from the development shall not exceed those calculated for the series of design storms specified in subsection (d)(1)b. of this section occurring under development conditions specified in subsection (d)(1)c. of this section. Discharge velocities must be nonerosive to discharge locations, outfall channels and receiving streams.
 - b. At a minimum, the two-year, ten-year and 100-year rainfall events shall be used in comparing peak flow discharge rates for predevelopment and postdevelopment conditions.
 - c. When the natural resource conservation service (NRCS) TR-55 method is used to calculate peak flow discharge rates and runoff volumes for the predevelopment condition, NRCS curve numbers shall not exceed the following for the given soil hydrologic groups. When other methods for computing runoff are used, they shall assume a comparable predevelopment condition.

<i>Soil Hydrologic Group</i>	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>
NRCS curve number for meadows	30	58	71	78
NRCS curve number for woodlands	30	55	70	77
NRCS curve number for paved agricultural lands	58	72	81	85
NRCS curve number for paved roadways with open ditches	83	89	92	93
NRCS curve number for commercial/business districts, 85% impervious	89	92	94	94
NRCS curve number for industrial districts, 72% impervious	81	88	91	93

- d. Stormwater discharges to wetlands may be appropriate when the increase or decrease in stormwater discharge volumes do not negatively change the wetland functional values. Where such changes are proposed, the impact of the proposal on wetland functional values shall be assessed using a methodology acceptable to the town engineer. Degradation to wetland functional values shall be avoided.
- (2) *Discharge quality.* Unless otherwise provided for in this division, all land development or land disturbing activities subject to this division shall establish on-site management measures to control the quality of stormwater discharged from the site. On-site management measures shall be used to meet the following minimum standards:
- a. Stormwater discharges shall be designed to remove, on an average annual basis, a minimum of 80 percent of the total suspended solids load. To achieve such level of control, stormwater practices shall be designed to accommodate, at a minimum, the stormwater discharge volume resulting from 1.5 inches of rainfall over a four-hour period and control of particulates which are five microns or larger in size.
 - b. Discharge of urban stormwater pollutants to natural wetlands may be appropriate when the discharge does not negatively change the wetland functional value. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the local town engineer. Degradation to wetland functional values shall be avoided.
 - c. Stormwater discharges shall be treated, as necessary, prior to infiltration to prolong the life of the infiltration practice and prevent discharge of stormwater pollutants at concentrations that will result in exceedances of groundwater preventive action limits or enforcement standards established by the department of natural resources in Wis. Admin. Code ch. NR 140.
 - d. Stormwater ponds and infiltration devices shall not be located closer than the following to water supply wells, as set forth in Wis. Admin. Code § NR 811.16 and Wis. Admin. Code ch. NR 812, without first notifying the department of natural resources:
 1. One hundred feet from a well serving a private water system or a transient, noncommunity public water system;

- 2. One thousand two hundred feet from a well serving a municipal public water system or a nontransient noncommunity public water system;
 - 3. The boundary of a recharge area to a wellhead identified in a wellhead area protection plan.
- e. Land development activities with stormwater runoff reaching outstanding or exceptional resource waters as identified in Wis. Admin. Code ch. NR 102 may require use of additional on-site management measures.
- (3) *Exceptions.* The requirements for on-site stormwater management measures established in subsections (d)(1) and (2) of this section are not applicable in areas which are determined by the town board to be covered by an approved stormwater management system plan which was developed and approved as an alternative stormwater management planning approach to carrying out on-site measures consistent with the purpose and intent of this division. In such cases, the recommendations of the approved stormwater management system plan shall be applied either through the installation of stormwater management provisions recommended to be included on the development site being considered and/or the payment of a fee as set forth in subsection (d)(4) of this section. Such minimum requirements may also be waived in whole or in part by the town board, in cooperation with the town engineer, upon the written request of the applicant, provided that at least one of the following conditions applies:
- a. Provisions are made to manage stormwater by an off-site facility. This requires that the off-site facility is in place and is designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by application of the standards of this division.
 - b. The town board, in cooperation with the town engineer, finds that meeting the minimum on-site management requirements is infeasible due to space or site restrictions.
- (4) *Land development project fee.* Where the town board, in cooperation with the town engineer, waives all or part of the minimum on-site stormwater management requirements, or where the waiver is based on the provision of adequate stormwater facilities provided by the local municipality downstream of the proposed development, the applicant may be required to pay a fee set by the town board by separate resolution, which may be amended at any time. In setting the fee for land development projects, the local municipality shall consider an equitable distribution of the cost of land, engineering design, construction and maintenance, as set forth in Wis. Stats. § 66.0617.
- (5) *Runoff general considerations.* The following considerations shall be observed in managing stormwater runoff:
- a. Natural topography and land cover features, such as natural swales, natural depressions, native soil infiltrating capacity and natural groundwater recharge

areas, shall be preserved and used for stormwater infiltration and conveyance, to the extent practical and reasonably feasible, to meet the requirements of this division.

- b. Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(e) *Permit.*

- (1) *Required.* No landowner or land operator may undertake a land development or land disturbing activity subject to this article without receiving a permit from the town board prior to commencing the proposed activity.

(2) *Application and fee.*

- a. Unless specifically excluded by this article, any landowner or operator desiring a permit shall submit a permit application to the town board on a form provided by the town for such purpose.
- b. Unless otherwise excepted by this article, a permit application must be accompanied by the following, in order that the permit application be considered by the town board:
 1. A stormwater management plan under subsection (f) of this section;
 2. A maintenance agreement under section 26-452;
 3. Any payment of fees in lieu, prior to permit issuance, as provided for under subsection (d)(4) of this section and a nonrefundable permit application fee.
- c. The stormwater management plan shall be prepared to meet the requirements of subsection (f) of this section, the maintenance agreement shall be prepared to meet the requirements of section 26-452 and fees shall be as established by the town board as set forth in subsection (d)(4) of this section.

- (3) *Application review and approval.* The town board, in cooperation with the town engineer, shall review any permit application that is submitted with a stormwater management plan, maintenance agreement and the required fee. The following approval procedure shall be used:

- a. Within 60 working business days of the receipt of a complete permit application, including all items as required by subsection (e)(2) of this section, the town board shall inform the applicant, in writing, whether the application, plan and maintenance agreement are approved or disapproved. The town board, in cooperation with the town engineer, shall base the decision on requirements set forth in this subsection (e) and subsections (d) and (f) of this section.
- b. If the stormwater permit application, plan and maintenance agreement are approved, the town board shall issue the permit.
- c. If the stormwater permit application, plan or maintenance agreement are disapproved, the town board shall detail, in writing, the reasons for disapproval.

- d. If additional information is submitted, the town board shall have 60 working days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
 - e. Failure by the town board to inform the permit applicant of a decision within 60 working days of a required submittal, unless such time is extended by the agreement of the applicant or by the applicant's later submission of additional material as described in subsection (e)(3)d. of this section, shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) *Conditions.* All permits issued under this division shall be subject to the following conditions, and holders of permits issued under this division shall be deemed to have accepted such conditions. The town board may suspend or revoke a permit for violation of a permit condition, following written notification of the permittee. An action by the town board to suspend or revoke the permit may be appealed in accordance with section 26-455.
- a. Compliance with the permit does not relieve the permit holder of the responsibility to comply with other applicable federal, state, and local laws and regulations.
 - b. The permit holder shall design, install and maintain all structural and nonstructural stormwater management measures in accordance with the approved stormwater management plan, maintenance agreement and the permit.
 - c. The permit holder shall notify the town board at least two working days prior to commencing any work in conjunction with the stormwater management plan, and within three working days upon completion of the stormwater management measures. If required as a special condition, the permit holder shall make additional notification according to a schedule set forth by the town board, in cooperation with the town engineer, so that practice installations can be inspected during construction.
 - d. Completed structural water management measures must pass a final inspection to determine if such measures are in accordance with the approved stormwater management plan and this division. The town board, in cooperation with the town engineer, shall notify the permit holder, in writing, of any changes required in such practices to bring the practices into compliance with the conditions of the permit. The practice installation required as part of this division shall be certified as designated by a licensed professional engineer in the state representing the landowner and/or permittee.
 - e. The permit holder shall notify the town board and town engineer of any significant modifications the permit holder intends to make to an approved stormwater management plan. The town board, in cooperation with the town engineer, may require that the proposed modifications be submitted for approval prior to incorporation into the stormwater management plan and execution.

- f. The permit holder shall maintain all stormwater management measures specified in the approved stormwater management plan until the measures either become the responsibility of the local municipality or are transferred to subsequent private owners as specified in the approved maintenance agreement.
 - g. The permit holder authorizes the town board, following written notification, to perform, contract or otherwise arrange for the performance of any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to placing associated costs upon the tax roll as a special charge pursuant to Wis. Stats. § 66.0627, which, if not paid, shall become a lien against the property, or to charge such cost against the financial guarantee posted for the project.
 - h. If so directed by the town board in cooperation with the town engineer, the permit holder shall repair, at the permit holder's own expense, all damage to adjoining municipal facilities and public drainageways caused by stormwater runoff from the permit holder's permit site, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
 - i. The permit holder shall permit property access to the town board and town engineer for the purpose of inspecting the property for compliance with the approved stormwater management plan and the permit.
 - j. Where a stormwater management plan involves changes in direction, increases in peak rate and/or total volume of runoff of a site, the town board, in cooperation with the town engineer, may require the permittee to make appropriate legal arrangements with adjacent property owners concerning the prevention of endangerment to downstream property or public safety.
 - k. The permit holder is subject to the enforceable actions detailed in section 26-454, if the permit holder fails to comply with the terms of the permit.
- (5) *Duration.* Permits and stormwater management plan approvals shall be valid for a period of 180 days, or the length of the building permit or other relevant construction authorizations, or until release of the financial guarantee as set forth in this section, whichever is longer from the date of issuance. The town board may extend the period one time or more for up to an additional period of 12 months.
- (f) *Plans.*
- (1) *Requirements.* The stormwater management plan required under subsection (e)(2)b.1. of this section shall contain the following information:
- a. Name, address and telephone number of the following persons or their designees:
 - 1. Landowner;
 - 2. Developer;
 - 3. Project engineer for practice design and certification;
 - 4. Persons responsible for installation of stormwater management measures;

5. Persons responsible for maintenance of stormwater management measures prior to the transfer, if any, of maintenance responsibility to another party.
- b. A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey System or the block and lot numbers within a recorded land subdivision plat.
- c. Predevelopment site conditions, including:
 1. A site map, at a scale of not less than one inch equals 100 feet or as requested by the town board or town engineer. The site map shall show the following:
 - i. Site location and legal property description;
 - ii. Predominant soil types and hydrologic soil groups;
 - iii. Existing cover type and condition;
 - iv. Topographic contours of the site, not to exceed two-foot contour intervals;
 - v. Topography and drainage network, including enough of the contiguous properties to show runoff patterns onto, through and from the site;
 - vi. Watercourses that may affect, or be affected by, runoff from the site;
 - vii. Flow path and direction for all stormwater conveyance sections, including time of travel and concentration applicable thereto;
 - viii. Watershed boundaries used in determinations of peak flow discharge rates and volumes from the site;
 - ix. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site;
 - x. Limits of the 100-year floodplain;
 - xi. Location of wells located within 1,200 feet of stormwater detention ponds, infiltration basins or infiltration trenches;
 - xii. Delineation of wellhead protection areas delineated pursuant to Wis. Admin. Code § NR 811.16.
 2. Computations of the peak flow discharge rates and volumes from each discharge point in the development. At a minimum, computations must be made for two-year, ten-year and 100-year storms. All major assumptions used in developing input parameters shall be clearly stated. The areas used in making the calculations shall be clearly cross referenced to the required maps.
- d. Postdevelopment site conditions, including:
 1. Explanation of any restrictions on stormwater management measures in the development area imposed by wellhead protection plans and ordinances.

2. A site map, at a scale of not less than one inch equals 100 feet or as requested by the town board or town engineer, showing:
 - i. Revised pervious land use, including vegetative cover type and condition;
 - ii. Impervious land use, including all buildings, structures and pavement;
 - iii. Revised topographic contours of the site, not to exceed two feet;
 - iv. Revised drainage network, including enough of the contiguous properties to show runoff patterns onto, through and from the site;
 - v. Locations and dimensions of drainage easements;
 - vi. Locations of maintenance easements specified in the maintenance agreement;
 - vii. Flow path and direction for all stormwater conveyance sections, including time of travel and concentration applicable to each;
 - viii. Location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area;
 - ix. 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 drainageway;
 - x. Watershed boundaries used in determinations of peak flow discharge rates and volumes;
 - xi. Any changes to lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site.
3. Computations of the peak flow discharge rates and volumes from each discharge point in the development, including analysis of the capacity of downstream drainage conveyance systems. At a minimum, computations must be made for the two-year, ten-year and 100-year storms. All major assumptions used in developing input parameters shall be clearly stated. The areas used in making the calculations shall be clearly cross referenced to the required maps.
4. Investigations of soils and groundwater required for the placement and design of stormwater management measures.
5. Results of impact assessments on wetland functional values.
6. Design computations and all applicable assumptions for stormwater conveyance (i.e., open channel, closed pipe) and stormwater treatment measures (i.e., sedimentation type, filtration type and infiltration type), as needed to show that practices are appropriately sized and capable of meeting the discharge performance standards of this division.
7. Detailed drawings, including cross sections and profiles of all permanent stormwater conveyance and treatment measures.

- e. A stormwater measure installation schedule.
 - f. A maintenance plan developed for the life of each stormwater management measure, including the required maintenance activities, estimated maintenance costs and maintenance activity schedule.
 - g. Outlined in the stormwater management plan in addition to BMP no grading, roadwork, swale, or waterway work, or general site balancing work, will be allowed after November 15th or prior to April 1st.
 - h. All disturbed areas that are not stabilized by October 15th, shall be covered and stabilized with soil erosion control fabric at the time of completion no later than November 15th to ensure there is no winter soil erosion.
 - i. Any person failing to perform any of the provisions of this article shall be subject to a forfeiture of not less than \$25.00 nor more than \$500.00 as set by the Town of Raymond Planning Commission and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
 - j. Any work deemed necessary by stabilization failure or visual erosion, shall be repaired immediately upon notification.
- (2) *Exceptions.* The town board, in cooperation with the town engineer, may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under subsection (d)(3) of this section.
- (3) *Waiver.* The town board, in cooperation with the town engineer, may waive some of the requirements of subsection (d)(1) of this section to accommodate smaller scale projects. (Ord. No. 2005-07(b), 6-28-2005; Ord. No. 2008-03, § 1, 5-27-2008)

Sec. 26-462. Maintenance agreement.

(a) *Required.* The maintenance agreement required for stormwater management measures under this section shall be an agreement between the town and the permittee. The agreement or recordable document shall be recorded with the county register of deeds so that it is binding upon all subsequent owners of land served by the stormwater management measures.

(b) *Contents.* The following language, when recorded with the county register of deeds' office as part of the development proposal, satisfies the requirements of this section:

- (1) The property owners (referred to herein as the "responsible parties") (insert responsible party (i.e., town, lot owners in the subdivision)) shall be responsible for maintenance of the stormwater management measures.
- (2) The responsible parties shall maintain the stormwater management measures in accordance with the approved stormwater management plan (insert date) on file in the offices of the town board as required hereunder.

- (3) The town is authorized to access the property to conduct inspections of stormwater practices, as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan.
- (4) The responsible party, on an annual basis, shall provide maintenance of each stormwater management measure, including, but not limited to, removal of debris, maintenance of vegetative areas, maintenance of structural stormwater management measures and sediment removal.
- (5) Upon notification of the responsible parties, by the town, of maintenance problems which require correction, the specified corrective actions shall be taken within a reasonable time frame as set by the town.
- (6) The town is authorized to perform the corrected actions identified in the inspection report, if the responsible parties do not make the required corrections in the specified

time period. The costs and expenses shall be entered on the tax roll as a special assessment against the property and collected with any other taxes levied thereon for the year in which the work is completed.

(c) *Provisions.* The maintenance agreement shall contain the following provisions:

- (1) Identification of the landowner, organization or municipality responsible for maintenance of the stormwater management measures.
- (2) The landowners, organization or municipality shall maintain stormwater management practices in accordance with the stormwater practice maintenance provisions contained in the approved stormwater management plan submitted hereunder.
- (3) The town is authorized to access the property to conduct inspections of stormwater practices, as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan.
- (4) A schedule and estimated cost for regular maintenance of each aspect of the property's stormwater management system.
- (5) If the town notifies the party designated under the maintenance agreement of maintenance problems which require correction, the specified corrective actions shall be taken within a reasonable time-frame as set by the town.
- (6) The town is authorized to perform the corrective actions identified in the inspection report, if the landowner does not make the required corrections in the specified time period. The costs and expenses shall be entered on the tax roll as a special assessment against the property and collected with any other taxes levied thereon for the year in which the work is completed.
- (7) Identification of the structural stormwater measures design components and designation of the drainage area served by the measures.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-463. Inspection; authority to enter upon land.

(a) The town engineer or his designee may inspect any construction or development site that holds a permit under this division to ensure compliance with the approved sediment and erosion control plan.

(b) If land disturbing construction or land development activities are being carried out without a permit as required by this division, the town engineer or his designee may enter upon the land pursuant to the provisions of Wis. Stats. § 66.0119.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-464. Enforcement; violations; penalties.

(a) The town engineer or his designee, at the direction of the town board, may post a stop work order if any of the following occur:

- (1) Any land disturbing construction activity or land development activity regulated under this division is being undertaken without a permit.

(2) The plan is not being implemented in a good faith manner.

(3) The conditions of the permit are not being met.

(b) If the landowner does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions within ten days of being notified by the town engineer or his designee, the town board may revoke the permit.

(c) If the landowner, where no permit has been issued, does not cease the activity within ten days of being notified to cease the activity by the town engineer or his designee, or if a landowner violates a stop work order posted under subsection (a) of this section, the town board may request the town attorney to obtain a cease and desist order in any court with jurisdiction.

(d) The town board may retract the stop work order issued under subsection (a) of this section or the permit revocation issued under subsection (b) of this section.

(e) Ten days after posting a stop work order under subsection (a) of this section, the town board may issue to the landowner a notice of intent to perform work necessary to comply with this division. The town may go on the land and commence the work after 14 days from issuing the notice of intent. The costs of the work performed by the town, plus interest at the rate authorized by the town, shall be billed to the landowner. If a landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect such amount as a special charge against the property pursuant to Wis. Stats. § 66.0627.

(f) Any person violating any of the provisions of this division shall be subject to a forfeiture of not less than \$100.00, nor more than \$1,000.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

(g) Compliance with the provisions of this division may also be enforced by injunction in any court with jurisdiction.

(Ord. No. 2005-07(b), 6-28-2005)

Sec. 26-465. Appeals.

Any aggrieved person may seek review of a determination made by the town board under this division in accordance with Wis. Stats. ch. 68.

(Ord. No. 2005-07(b), 6-28-2005)

Secs. 26-466—26-475. Reserved.

ARTICLE VII. BUILDING CODE***Sec. 26-476. Authority.**

The town adopts this article under statutory authority granted pursuant to Wis. Stats. §§ 60.10(2)(c), 60.22(3), 61.34(1), 101.65, 101.651, 101.76 and 101.761. (Ord. of 11-9-1998(1), § 1(5.02))

Sec. 26-477. Codes adopted.

The following chapters of the Wisconsin Administrative Codes, as well as all subsequent revisions, are hereby adopted by the town:

- (1) Wis. Admin. Code ch. Comm 5, Credentials.
 - (2) Wis. Admin. Code ch. Comm 16, Electrical Code.
 - (3) Wis. Admin. Code chs. Comm 20—25, Uniform Dwelling Code.
 - (4) Wis. Admin. Code chs. Comm 61—65, Wisconsin Commercial Building Code.
 - (5) Wis. Admin. Code ch. Comm 70, Historic Building Code.
 - (6) Wis. Admin. Code chs. Comm 75—79, Existing Building Code.
 - (7) Wis. Admin. Code chs. Comm 81—87, Uniform Plumbing Code.
- (Ord. of 11-9-1998(1), § 1(5.04))

Sec. 26-478. Scope of Uniform Dwelling Code expanded.

For the purposes of this Code, the standards contained in the state Uniform Dwelling Code shall be expanded to apply as the standards for construction of the following:

- (1) Additions, alterations and major equipment replacements for one-family and two-family dwellings built prior to June 1, 1980.
 - (2) Detached garages greater than 200 square feet, serving one-family and two-family dwellings. Grade beam slabs are required for private, residential garages, with a continuous floating slab of reinforced concrete or other approved materials and shall not be less than four inches thick. Reinforcement shall be a minimum of six-inch by six-inch, number ten wire mesh. The slab shall be provided with a thickened edge all around, eight inches wide and eight inches below the top of the slab, except frost-free footings for detached residential accessory buildings are exempt from such requirement. Wis. Admin. Code ch. Comm 22 shall not apply.
 - (3) With respect to other detached accessory buildings, concrete slabs, frost-free footings, etc., are not required, but if they are installed, they shall conform to the requirements of subsection (2) of this section and/or Wis. Admin. Code ch. Comm 21.
- (Ord. of 11-9-1998(2), § 1(5.05))

***Editor's note**—As per city instructions, §§ 26-351—26-400, have been redesignated as §§ 26-476—26-525. Original history notes have been maintained.

Sec. 26-479. Disclaimer and nonliability for damages.

This article shall not be construed as an assumption of liability by the town or the building inspector for damages because of injuries sustained or property destroyed by any defect in any dwelling or equipment.

(Ord. of 11-9-1998(13), § 1(5.24))

Sec. 26-480. Violations; penalties.

(a) No person may construct, remodel, demolish or repair any building in a manner which violates any provision of this article.

(b) Every person who violates this article shall, upon conviction, be subject to section 1-16.

(c) Violations discovered by the building inspector shall be corrected within 30 days, or more if allowed by the building inspector, after written notice is given. Violations involving life safety issues shall be corrected in a reasonable time frame established by the building inspector.

(d) Compliance with the requirements of this article is necessary to promote the safety, health and well-being of the community and the owners, occupants and frequenters of buildings. Therefore, violations of this article shall constitute a public nuisance that may be enjoined in a civil action.

(Ord. of 11-9-1998(9), § 1(5.20))

Sec. 26-481. Office hours and creation of conditions and terms to perform duties of building inspector.

The building inspector shall set office hours and create conditions and terms to perform his duties.

(Ord. of 4-23-2001, § 5.13(4))

Sec. 26-482. Building inspector generally.

(a) *Creation and appointment.* There is created the office of the building inspector. The building inspector shall be appointed by the town. The building inspector shall be certified for inspection purposes in the required categories specified under Wis. Admin. Code ch. Comm 5.

(b) *Subordinates.* The building inspector may employ, assign or appoint, as necessary, subordinate mechanical inspectors. Any subordinate hired to inspect buildings shall be certified, as defined in Wis. Admin. Code ch. Comm 5, by the department.

(c) *Duties.* The building inspector shall administer and enforce all provisions of this article.

(d) *Powers.* The building inspector or authorized certified agent of the building inspector may, at all reasonable hours, enter upon any public or private premises for inspection purposes. The building inspector may require the production of the permit for any building, plumbing, electrical or heating work. No person shall interfere with or refuse to permit access to any such premises to the building inspector or his agent while in the performance of his

duties. In the event that the inspector is refused access to any such premises, then the building inspector after town board approval is authorized to apply a special inspection warrant pursuant to Wis. Stats. § 66.0119.

(e) *Inspections.*

- (1) In order to permit inspection of a building project at all necessary phases without causing delay for the owner, the owner and/or contractor shall request all of the following inspections in conformity with appropriate time frame as defined in the Wisconsin Administrative Code or at least 48 hours in advance by the applicant/contractor or property owner as applicable.
 - a. Footing.
 - b. Foundation.
 - c. Rough carpentry, HVAC, electrical and plumbing.
 - d. Drain tile/basement floor.
 - e. Under floor plumbing.
 - f. Electrical service.
 - g. Insulation.
 - h. Final carpentry, HVAC, electrical and plumbing.
 - i. Erosion control.
 - j. Field tile disturbance.
- (2) Failure to request any inspection will be the responsibility of the contractor and/or property owner. No construction shall be deemed approved by default or lack of inspection by the building inspector.
- (3) The expense of uncovering or exposing any work which must be inspected, where such uncovering or exposing is required by the failure of the owner to request any inspection, will be the responsibility of the contractor and/or property owner.

(f) *Records.* The building inspector shall perform all administrative tasks required under all codes covered in section 26-352. In addition, the building inspector shall keep a record of all applications for permits and shall number each permit in the order of its issuance.

Cross reference—Officers and employees, § 2-71 et seq.

Sec. 26-483. Plan submission.

(a) The owner or contractor shall, with respect to any proposed construction or demolition, submit two sets of building plans to the building inspector for any work which expands the size of a building, any new building or as required by the building inspector. If a new building addition is proposed, excluding second floor additions that comply with setback ordinances, a plat of survey drawn to scale showing such proposed work and existing buildings and property lines shall be submitted as well as a stake-out drawing and footing certification. A third set of plans may be requested at the discretion of the building inspector for the assessor. The

building inspector may require the owner or contractor to submit plans for any construction or demolition project when the building inspector determines that it is necessary to review such plans to assure that the proposed project will comply with all applicable codes.

(b) The plat of survey shall show clearly the following information:

- (1) All existing buildings, all proposed buildings and structures, building setbacks from the property line, septic/holding tanks, sanitary mound systems, absorption fields and the like, navigable streams or water courses, drainage ditches, apparent wetlands or inventoried wetlands, and other features pertinent to the property shall be shown.
- (2) Date of work, north arrow and graphic scale.
- (3) Name and address of the person for whom the survey was made.
- (4) Spot elevations at the corners of existing buildings, spot elevations at the corners of proposed building, spot elevations and annual mean high water mark of all navigable water.
- (5) Plat of survey shall include the following: suggested yard grade elevation, suggested top of foundation wall elevation, suggested garage slab elevation, proposed slopes of all proposed driveway.
- (6) Large sites, greater than five acres, will allow the incorporation of the county topographic information to reflect existing drainage patterns.

(c) The contractor and/or property owner shall complete a checklist provided by the Town of Raymond Clerk prior to approval of the issuance of permit. The checklist and building plans shall be sent to the Raymond Planning Commission for approval.

(d) The Town of Raymond Planning Commission may submit the plat of survey to the town engineer for approval or modification prior to the action of the planning commission. The applicant shall bear all cost of the review by the town engineer.

(e) The building inspector, prior to the inspection of the excavation for placement of the footing shall be in receipt of a footing recertification prepared by a registered land surveyor in the State of Wisconsin reflecting actual elevation of the proposed footing and verification of the building setbacks per the approval building permit.

(f) The Town of Raymond Planning Commission, shall review and approve all plans before any building permits therefore are issued.

(Ord. No. 2005-03, § 1, 7-12-2005)

Sec. 26-484. Permit issuance.

(a) The building inspector shall issue the requested permit if the owner or contractor demonstrates that all state, county and local requirements are satisfied without town planning commission review, unless the building inspector determines that input from the town planning commission is needed before permit issuance. When input from the town planning commission is sought, the building permit shall be placed on the next planning

commission meeting agenda or a special meeting shall be called to address the building permit and the town planning commission may impose conditions upon the building permit to be included in any permit issuance. The building inspector may request the town engineer to review a building permit application submittal and make recommendations on conditions to be included upon any permit and/or revisions to the plans. Any costs incurred for the planning commission and town engineer reviews shall be paid by the applicant or property owner prior to permit issuance. If a permit card is issued, it shall be posted at the job site in a visible location from the street. Permits are valid for two years. Permits may be extended for 30, 90 or up to 180 days with the building inspector's approval and payment of permit fees.

(b) By accepting a permit, the applicant, owner or contractor grants the building inspector the right of access to the real estate on which the permitted construction or demolition will occur.

(c) Permits are issued on the condition that the owner and/or contractor shall conform to the requirements of all applicable codes, zoning ordinances and setback requirements in constructing the building.

(d) No building permit shall be issued for, nor shall any person place or use any motor vehicle as a place of habitation or storage. This shall specifically include any motor home (motorized or not motorized), motor vehicle, motor vehicle pat (cab, body, box or trailer) with another vehicle, including any size trailer, truck, or semitrailer. The town board may issue a special temporary permit to use a vehicle or trailer (as defined above) due to hardship circumstances for habitation or storage for a period of one year or less. Permits may be subject to an assessed fee determined by the town board.

(e) Any person who shall violate any of the provisions of the this section shall on conviction thereof be subject to a fine of not more than \$100.00 for each day which shall be a separate violation with separate fine, together with the costs of prosecution, and in default in the payment of the fine and costs, shall be committed to the county jail for a period not to exceed 60 days, or until such time as the total fine and costs are paid.

(f) No truck body of any type, with or without wheels, licensed or unlicensed, shall be used for storage or shelter. (Reference: section 46-1 et seq.)

(g) No building or occupancy permit shall be issued if the town becomes aware that the boundaries of the lot for which such permit is requested have been shown on any official or professionally prepared plat, survey, plat of survey or CSM to encroach upon the boundaries of any neighboring lot. In such circumstances, the town shall withhold any building or occupancy permit for either of the lots in question until such time as (1) the town board determines or the nonapplicant property owner(s) provide(s) the town with a written statement that, notwithstanding the boundary line discrepancy, the contemplated structure would not encroach upon any other lot; (2) the discrepancy is resolved by the property owners and a new survey is prepared showing no such encroachment; or (3) the applicant's ownership of the land upon which the contemplated structure is to be built is adjudicated by a court of competent jurisdiction. The board may agree to waive the requirements of this section if the

board deems that the circumstances warrant such a waiver and the applicant agrees to indemnify and provide adequate security to protect the town against any possible liability resulting from the permits issuance.

(Ord. No. 2005-12, § 1(26-359), 9-13-2005; Ord. No. 2005-15, § 1(26-359), 12-13-2005; Ord. No. 2008-07, § 1, 12-9-2008)

Sec. 26-485. Fees.

At the time of building permit application issuance, the applicant shall pay fees as established periodically by the town. If work commences prior to permit issuance, the permit fee shall be doubled.

(Ord. of 11-9-1998(8), § 1(5.19))

Sec. 26-486. Completion and road damage deposits.

(a) A deposit, on file in the clerk's office and which may be revised by town board resolution, is required for all projects which have a total cost, including labor, materials and supplies, that will equal or exceed \$5,000.00.

(b) Deposits shall be refunded after the project is completed and the building inspector has found that the building complies with all applicable codes and no road damage has occurred as a result of the project listed in the permit.

(c) The deposit shall be forfeited if occupancy occurs before final inspection or extends after a temporary occupancy permit expires.

(d) The deposit shall be forfeited if the exterior is not finished within two years of the date the permit is issued.

(e) Nothing in this section limits the town from seeking additional monies for road damage which exceed the deposit.

(Ord. of 9-11-2000, § 1(5.10))

Sec. 26-487. Occupancy permits.

If the building inspector, after completing all required inspections, finds that a building has been constructed in accordance with the applicable codes, he shall issue an occupancy permit. If the building fails to comply with the codes, in minor respects which do not threaten the safety, health or welfare of the building's occupants, the building inspector may issue a temporary occupancy permit for 30 days or a specified period of time. No person may have occupancy of a building until an occupancy permit is issued.

(Ord. of 11-9-1998(3), § 1(5.11))

Sec. 26-488. Stop work orders.

The building inspector may issue a stop work order for a project to prevent further noncomplying work. No person may continue a construction project after a stop work order has been issued. The person receives such a stop work order may contest the validity of the stop

work order by requesting a hearing before the town, and such appeal shall be heard within seven days. The town shall affirm the stop work order unless the owner or contractor shows that the building inspector erred in determining that the construction project violated a provision of the state building codes.

(Ord. of 11-9-1998(10), § 1(5.21))

Sec. 26-489. Variances.

The town shall hear requests for variances from this article to the extent that the town has authority to hear and grant variances. The town shall approve, conditionally approve or deny a requested variance. The town may grant a variance from a requirement of this article only if the variance is permitted by law and if the performance of the proposed variance is equal to or greater than this article requires.

(Ord. of 11-9-1998(1), § 1(5.22))

Sec. 26-490. Appeals.

Any person aggrieved by an order of the building inspector may, within 20 days thereafter, appeal from such order to the town board. The town will follow procedures in Wis. Stats. ch. 68 to arrive at a final determination. Final determinations may be reviewed as provided in Wis. Admin. Code § Comm 20.21.

(Ord. of 11-9-1998(12), § 1(5.23))

Sec. 26-491. Yard maintenance.

During construction or demolition, yards shall be kept free of weeds, construction debris and trash. Open storage of nonlicensed or disabled vehicles shall not be allowed unless approved by the town. Contractors and owners shall use their best efforts to prevent soil erosion, diversion of surface water or damage to adjoining property.

(Ord. of 11-9-1998(7), § 1(5.18))

Sec. 26-492. Residence size and wall requirements.

(a) No residence with a basement shall be erected which shall have a total floor area of less than 1,200 square feet in the case of a one-story residence, or less than 1,600 square feet in the case of a residence of more than one story with 1,000 square feet on the ground level. All such measurements shall exclude basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating and sleeping purposes. For the purpose of this subsection, a basement shall contain at least 400 square feet of area and shall be at least seven feet high, when measured from the surface of the floor to the bottom of the joists.

(b) No residence without a basement which meets the requirements of subsection (a) of this section shall be erected with a total floor area of less than 1,200 square feet, excluding utility rooms, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes.

(c) The minimum height of the first story of a residence shall be seven feet, nine inches, when measured from the surface of the floor to the bottom of the ceiling joists.

(d) The minimum height of the second story of a residence shall be seven feet, six inches, when measured from the surface of the floor to the bottom of the ceiling joists or collar beams. This shall not preclude the use of rafters for lathing and plastering, if approved by the building inspector.

(e) All exterior walls of residences shall be of brick, stone, concrete, sound wood, aluminum siding, gypsum, wood shingles or other approved material.

(Ord. of 11-9-1998(4), § 1(5.12))

Sec. 26-493. Minimum lot sizes.

(a) No building permit to construct any building from which sewage wastes will be produced shall be issued unless the area upon which such building is to be built shall have 250 feet of frontage, with a minimum of 25 feet for the side yards.

(b) No building permit to construct two-family or multifamily dwellings from which sewage wastes are produced shall be issued unless the lot size is ten acres, with a minimum of 500 feet of frontage.

(c) Minimum lot size shall be as follows, and all land survey measurements shall include the road rights-of-way:

- (1) Agricultural and residential land, five acres;
- (2) Land with municipal sewage systems available, three-fourths acre.

(d) Site restrictions shall be as follows:

- (1) All lots must abut upon a public street.
- (2) Principal structures must be present or under construction before accessory structures are permitted.
- (3) Agriculture districts may permit an accessory structure prior to the principal structure for ten-acre or greater parcels. Agriculture use and setback conditions must be met.

(e) Residential and agricultural zoning setbacks shall be as follows:

- (1) R-1 districts shall have:
 - a. Two hundred fifty feet of frontage;
 - b. Lot width of 200 feet;
 - c. An area of five acres;
 - d. Restricted building height of 35 feet;
 - e. Street yard setback of 100 feet;
 - f. Rear yard setback of 100 feet; and
 - g. Side yard setback of 50 feet.
- (2) R-2 districts shall have:
 - a. Two hundred fifty feet of frontage;

- b. Lot width of 175 feet;
 - c. A minimum area of five acres;
 - d. Building height of 35 feet;
 - e. Street yard setback of 50 feet;
 - f. Rear yard setback of 50 feet; and
 - g. Side yard setback of 25 feet.
- (3) A-1 district shall have:
- a. Two hundred fifty feet of frontage;
 - b. Lot area of 35 acres;
 - c. Building height of 35 feet;
 - d. Street yard setback of 100 feet;
 - e. Rear yard setback of 100 feet; and
 - f. Side yard setback of 100 feet.
- (4) A-2 and A-3 districts shall have:
- a. Two hundred fifty feet of frontage;
 - b. Lot width of 200 feet;
 - c. An area of five acres;
 - d. Building height of 28 feet;
 - e. Street yard setback of 75 feet;
 - f. Rear yard setback of 25 feet; and
 - g. Side yard setback of 25 feet.

(f) Measurements under applicable town ordinances shall be from the edge of the right-of-way.

(Ord. of 4-23-2001, § 5.13; Ord. No. 2003-2, § 5.13, 2-14-2003)

Sec. 26-494. Reserved.

Editor's note—Section 1 of Ord. No. 2005-08, adopted Aug. 9, 2005, repealed § 26-369, which had been redesignated as § 26-494. Former § 26-494 pertained to land division temporary moratorium and derived from Ord. No. 2003-04; Ord. No. 2004-10(b), adopted Dec. 12, 2004 and Ord. No. 2005-06, adopted June 8, 2005.

Sec. 26-495. Construction and function of ponds.

(a) *Permit.*

- (1) *Required.* No person shall construct or make improvements to any pond located within the Town of Raymond without first obtaining a permit from the planning commission.

Except as set forth in this article, the provisions of this article apply to all ponds including, but not limited to, those ponds utilized for drainage, recreation, aesthetics, sediment control, and fish management.

- (2) *Exceptions.* The following ponds are excluded from the provisions of this section: Ponds with a depth of less than 24 inches, ponds with a diameter less than 16 feet or an area less than 200 square feet, stormwater drainage ponds created by or for a town drainage utility district, and ponds which have been previously reviewed and approved as part of an erosion control plan. Existing ponds are also excluded from the provisions of this section, but any enlargement, dredgings or modifications to such ponds makes them subject to this section.
 - (3) *Site plan required.* Before a permit may be issued, the applicant shall provide the town with a detailed site plan of the proposed pond excavation showing cross section, depth, area and location of the pond as well as addressing disposition and storage of spoils from the excavation. The plan shall contain measures to protect against overflow and shall address drainage into and surrounding the pond area. The plan shall detail the flow of drainage in the event of overflow and demonstrate that adjacent properties will be adequately protected in the event of overflow. A restoration plan for the excavation is also required. Additional information shall be supplied to the town, as requested by the town engineer.
 - (4) *Engineering report required.* Each applicant must submit an engineer's report to the town at the applicant's expense.
 - (5) *Conditions to permit.* The planning commission may attach conditions to the issuance of a pond permit to address such things (without limitation) as maintenance, weed control, depth of pond, landscaping and aesthetics, and measures to secure the pond to avoid personal injury to trespassers. Other conditions appropriate to the area under consideration may be added to the permit by the planning commission, after consultation with the town engineer.
 - (6) *Additional permits.* Before proceeding with excavation, the applicant, in addition to obtaining a permit from the town, must secure all necessary permits from pertinent county, state and federal government agencies.
 - (7) *Permit fee.* There shall be a \$50.00 permit fee to cover the cost of site plan review, inspection and enforcement by the building inspector.
- (b) *Standards for construction.*
- (1) *Technical requirements.* Side slopes shall not exceed a 4:1 ratio. The boundaries of the pond, as shown on the approved site plan, shall be set back a minimum of 30 feet from all property lines. In addition, ponds shall be constructed in conformance with the standards of the Soil Conservation Service Technical Guide and, where applicable, the Wet Detention Basin of the Wisconsin Department of Natural Resources Conservation Practice Standards.

- (2) *Excavated material.* To the maximum extent possible, all excavated material shall remain on-site and shall be integrated into the restoration of the pond area.
 - (3) *Rezoning.* If the excavated material from the project site is sold, given away, or is otherwise removed from the site in a manner in which the principal use appears to be soil removal, and pond construction appears to be a secondary result, the parcel shall be rezoned to M-4 quarrying district and a mineral extraction conditional use permit shall be obtained prior to any excavation or grading on the parcel.
- (c) *Penalty.*
- (1) *Forfeiture.* Any person who violates any provision of this chapter or who shall construct or make improvements to any pond located within the Town of Raymond without first obtaining a permit as required herein shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$500.00 together with the cost of prosecution. Further, each such day of continued violation of the provisions of this chapter shall be considered a separate offense.
 - (2) *Injunction.* In case any premises are used in violation of this chapter, an action in the name of the town may be instituted to enjoin such violation or intended violation, and this remedy shall be in addition to other remedies set forth in this section.
 - (3) *Abatement.*
 - a. *Notice to owner.* In the event that any person shall construct or make improvements to any pond located within the Town of Raymond without first obtaining a permit as required herein or who shall construct or make improvements to any pond located within the Town of Raymond contrary to this chapter, the town may serve notice on the person causing, permitting or maintaining such a violation and upon the owner or the occupant of the premises on which such a violation is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct that the person causing, permitting or maintaining such a violation or the owner or the occupant of the premises to abate or remove each such violation or to obtain the necessary permits required hereby within seven days from the date of posting and shall state that unless such action is taken, that the town will cause the same to be abated, removed or otherwise brought into compliance and will charge the costs thereof to the owner, occupant or person causing, permitting or maintaining the violation, as the case may be.
 - b. *Abatement or restoration by the town.* If the action required by the notice issued pursuant to this section is not taken within the time provided or if the owner, occupant or person causing, permitting or maintaining the violation cannot be found, the town shall cause the abatement or removal of such violation, and if necessary to bring the premises into compliance, the town shall take action to restore the property to a state consistent with the condition of the property prior to the construction of the pond or the improvements made to the pond which were made in violation of the chapter.

- c. *Cost of abatement or restoration.* In addition to any other penalty imposed for this section, the cost of abating a violation of the chapter by the town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the violation, an if notice to abate and/or remedy the violation has been given to the owner, such costs shall be assessed against the real estate as a special charge.

(Ord. No. 2005-04, 7-12-2005; Ord. No. 2005-15, § 8(26-370), 12-13-2005)

Sec. 26-496. Accessory structures.

(a) Minimum size for a structure with a basement shall be 400 square feet and seven feet high. One or two story structures—1,200 square feet without a basement shall have a minimum of 1,200 square feet, excluding utility rooms, open porches, garages, and similar portions of the structures.

(b) Garages, secondary buildings and accessory buildings shall have the following maximum square footage for all such buildings on a single lot: lot size of 0—50,000 square feet shall have a maximum combined building size of 800 square feet; 50,000 [square feet]—2.99 acres shall have a maximum combined building size of 1,600 square feet; 3.0 acres to 4.99 acres shall have a maximum combined building size of 3,200 square feet; and 5.0 or more acres shall have no maximum combined building size.

(c) Accessory structures shall be subject to such setback requirements as are contained in the Racine County Zoning Code.

(Ord. No. 2005-16, § 1(26-371), 12-13-2005)

Secs. 26-497—26-525. Reserved.

ARTICLE VIII. UNSAFE BUILDINGS, RAZING AND DEMOLITION*

Sec. 26-526. Order of building inspector.

Whenever the building inspector determines that any building or structure is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the building or structure, the building inspector shall order the owner to raze and remove all or part of such building or structure. If any such building or structure is deemed by the building inspector to be made safe and sanitary by repairs, it is at the owner's option to effect such repairs or raze such building or structure in its entirety. Such orders and proceedings shall be as provided in section Wis. Stats. § 66.0413(1).

(Ord. of 11-9-1998(5), § 1(5.14))

***Editor's note**—Per city instructions, §§ 26-401—26-406 have been redesignated as §§ 26-526—26-531. Original history notes have been maintained.

Sec. 26-527. Permit.

(a) *Required.* No person may cause the demolition of any structure, or part thereof, greater than 400 square feet in area without having first applying for and obtaining a demolition permit from the building inspector. No person may undertake any steps to demolish a structure prior to receiving a permit.

(b) *Application.*

(1) An application for a permit to demolish all or part of a building shall include the following information:

- a. Name and address of the owner of the building on the date of application and, if different, on the date of demolition;
- b. Name, address and telephone number of the contractor performing the demolition work;
- c. Date upon which demolition is to commence;
- d. Date by which demolition shall be completed;
- e. A list of all hazardous waste and hazardous and toxic substances, as defined by Wis. Admin. Code § NR 605.04, as amended from time-to-time, contained in the building, a statement as to whether the building contains asbestos, as defined by Wis. Admin. Code § NR 445.02(2), and a detailed description of the method to be used in removing, transporting and disposing of any hazardous wastes, hazardous and toxic substances, and asbestos;
- f. A detailed description of how and where the waste materials resulting from the demolition will be transported and disposed of, including the description of the route to be used by trucks in hauling the wastes;
- g. A description of the method of demolition to be used; and
- h. A description, in detail, of all methods to be used to prevent water runoff and soil erosion from the site to neighboring properties and to prevent releasing unreasonable amounts of dust from the site.

(2) Along with the application for a permit for demolition, the applicant shall present a release from all utilities serving the property, stating that their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

(Ord. of 11-9-1998(4), § 5.15(1), (2))

Sec. 26-528. Conducting demolition.

The demolition of an unsafe building or structure shall be conducted in a manner that is safe and that does not adversely affect the environment.

(Ord. of 11-9-1998(4), § 5.15(3))

Sec. 26-529. Site clearing and leveling.

(a) The site of any demolition shall be properly cleared of debris, rubbish and pavement, and shall be properly graded and leveled to conform with the adjoining grade of the neighboring property; and when so graded and leveled, the site shall be seeded, sodded or treated in some other manner acceptable to the building inspector so as to prevent blowing of dust, dirt or sand. Excavations remaining after demolition shall be filled, graded and leveled off, not later than 30 consecutive days after the demolition is completed.

(b) Excavations from demolished buildings or structures shall not be filled with any material subject to deterioration. The building inspector, upon notification by the permit holder, owner or his agent, in writing, and upon forms provided by the building inspector for such purpose, shall within 72 hours, inspect each excavation, or part thereof, before any filling of any excavation.

(c) It shall be unlawful to fill any such excavation without prior inspection and approval of the building inspector. Voids in filled excavations shall not be permitted. In the event of the unavailability of the building inspector to conduct an inspection within 72 hours after written notice, the permit holder, owner or his agent may retain the services of a certified, qualified municipal inspection service to obtain an opinion that approves the filling of the excavation. Such opinion shall be deemed a sufficient approval by the town, provided that a written copy of the opinion is delivered to the town clerk at least 48 hours before any filling of the excavation commences.

(Ord. of 11-9-1998(4), § 5.15(4))

Sec. 26-530. Removal, transportation and disposal hazardous materials.

Removal, transportation and disposal of all hazardous wastes, hazardous and toxic substances, and asbestos shall be conducted in compliance with all applicable state, federal and local statutes, ordinances and regulations. The permit holder shall give the building inspector 72 hours' written notice prior to any removal, transportation or disposal of hazardous and toxic substances, and asbestos.

(Ord. of 11-9-1998(4), § 5.15(5))

Cross reference—Solid waste, ch. 46.

Sec. 26-531. Burning.

Burning any building or structure shall be under the exclusive discretion of the town fire and rescue department, which may set terms and conditions, if allowed.

(Ord. of 11-9-1998(4), § 5.15(6))

Chapters 27—29

RESERVED