

Town of Perry
Dane County, WI

Town Road Ordinance

1.01 DEFINITIONS

In this Ordinance, the following words and phrases shall have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning:

- (1) Certified Survey Map. A map of land division, not a subdivision, prepared in accordance with sec. 236.34 of the Wisconsin Statutes and in full compliance with the applicable provisions of this Ordinance. A certified survey map has the same legal force and effect as a subdivision map.
- (2) Land(s). Any real estate or interest in real estate.
- (3) Land Use Committee. The Town of Perry Land Use Committee.
- (4) Lot. A land area of 35 acres or less.
- (5) Parcel. Contiguous lands under the control of a subdivider or subdividers not separated by streets, highway or railroad rights-of-way.
- (6) Plat. A map of a subdivision prepared in conformity to the requirements of Chap. 236 of the Wisconsin Statutes.
- (7) Preliminary Plat. A map showing the salient features of a proposed subdivision or land division, as described in sec. 1.03 of this Ordinance, submitted to the Town for purposes of preliminary consideration, prior to all final plats and, when required, prior to all land divisions.
- (8) Public Way. Any public road, street, highway, walkway, drainageway, or part thereof.
- (9) Street, Road or Highway. A public way for pedestrian and vehicular traffic whether designated as a street, highway, road, land, way, avenue, or however otherwise designated.

(a) Arterial Streets and Highways. Those streets that provide rapid movement of concentrated volumes of traffic over relatively long distances. They provide principally for movement of persons and goods between high activity area.

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1. Principal Arterials. Those streets serving the major interstate corridors and corridors that connect major cities and regions. These routes provide the highest level of mobility and form a continuous system with constant operating conditions under a high degree of access control.

2. Primary Arterials. Those streets serving long trips between important cities and the major intracommunity corridors within the metropolitan area. These routes provide for a high degree of mobility under a high degree of access control.

3. Standard Arterials. Streets that more commonly provide for intermediate-length trips, thus serving through-traffic movement in trade areas, or feeding traffic to the primary and principal arterials from a lower activity area not served by such routes.

(b) Collector Streets. Those street that provide moderate speed movement of persons and goods within large areas. They are basically local streets that usually, because of more directness of routing and higher capacity than other local streets, receive higher volumes of traffic to be distributed from or collected toward nearby arterial streets.

1. Connector Streets. Those streets Chat perform a semi-arterial function as well as serving as distribution and land access streets.

2. Distributor Streets. Those streets that perform the function of gathering and distributing traffic from and to the local streets and adjacent lands.

(c) Local Streets. Those streets that are designed for low speeds and volumes and are to provide access from low-generation land activities to the collector and arterial systems.

(d) Marginal Access Streets. Those streets that arc parallel and adjacent to arterial streets and highway and that provide access to abutting properties and protection from through traffic.

(e) Alleys. Streets that provide secondary means of access for vehicular services to the back or side of property otherwise abutting a street.

(f) Cul-de-sac. Streets closed at one end with turnarounds.

(g) Dead-end Streets. Streets closed at one end without turnarounds.

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(10) Subdivision. A division of a parcel of land where the act of division creates either:

(a) Five or more lots, parcels, or building sites of 35 acres each or less in area, or

(b) Five or more lots, parcels or building sites of 35 acres each or less in area by successive divisions within a period of 5 years.

(11) Town. The Town of Perry, Dane County, Wisconsin.

(12) Town Board. The Town of Perry Board of Supervisors.

(13) Town Clerk. The Clerk of the Town of Perry.

(14) Town Engineer. A firm or individual designated by the Town Board to advise the Town Board on a particular project; if the Town Board does not designate an engineer, the term shall be defined to mean the Town Board.

(15) Town Treasurer. Treasurer of the Town of Perry.

1.02 STREETS AND ROADS REGULATED

No person, firm, corporation, partnership, or legal entity of any kind shall construct, establish, or maintain any street, highway, or road, nor shall such be laid out or Improvements made to land without compliance with all requirements of this Ordinance and with all of the following:

(1) The provisions of Chapter 79 of the Dane County Ordinances regarding county highway access.

(2) The provisions of Chapter 80 of the Wisconsin Statutes.

(3) The rules of the Wisconsin Department of Transportation and the Dane County Department of Transportation relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivider abuts on a state or County trunk highway, respectively, or a connecting street, including, but not limited to, minimum width regulations.

(4) All applicable Town land use plans, as adopted under sec. 60.61 of the Wisconsin Statutes, zoning ordinances, official maps, and any other ordinances and regulations.

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1.03 APPLICATION FOR APPROVAL OF ROAD OR STREET

(1) Every person or party proposing to construct a road or street shall submit a written application for approval of the same to the Town. No separate application shall be required if the road or street is proposed as part of a proposed plat or certified survey map, but the roads and streets in plats or certified survey maps shall conform to the requirements of this Ordinance.

(2) The application shall be accompanied by a scale map prepared by a surveyor that shows the location and design of the proposed road or street. The application shall also specify the proposed name of the road or street, the parties responsible for construction of the road or street, and the anticipated schedule of construction of the road.

(3) Before any proposed road or street is approved, the applicant shall enter into a development agreement with the Town wherein the applicant agrees to construct the road or street within 18 months of the date that the application is approved, or, if applicable, the date that the plat or certified survey map is recorded. All required improvements in the plat shall be completed prior to occupancy of any structure in the plat. The Town Board may allow phased construction of streets or roads.

(4) The Town Board shall review the proposed Street or road, the plans therefor, the proposed security for the improvements, and the development agreement. The Town may require the applicant to provide additional information necessary, in the judgment of the Town, to properly review the application.

(5) The Town Board may approve, reject, or modify the application, and shall give the applicant due notice of its action.

1.04 SECURITY FOR COMPLETION OF CONSTRUCTION

(1) At the time the development agreement is executed, the subdivider shall file a bond, certificate of deposit, irrevocable letter of credit, or certified check, in such form as is acceptable to the Town Board and approved by the Town Attorney, with the Town in an amount equal to 125 % of the estimated cost of the required improvements as determined by the Town Engineer. Such deposit shall guarantee that such improvements will be completed according to Town specifications by the subdivider or its contractors not later than 18 months from the date that the plat is recorded or, where

staging is permitted, that each stage will be completed by the date specified in the installation and completion schedule. Such security shall be held by the Town and either released or used in the manner specified in this Ordinance. The provision of security by the applicant shall not release the applicant from its obligations under the development agreement nor prejudice the right of the Town to recover the full cost of
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completion of the improvements if the applicant fails to complete the same.

(2) The State of Wisconsin, Dane County, and a City, Village or Town of Dane County may, in lieu of the bond or security provisions of this Ordinance, may file a resolution duly adopted by such governmental Unit agreeing to comply with the provisions of this section.

1.05 CONSTRUCTION IN PHASES

The applicant may elect, with the approval of the Town Board, to install the improvements in phases, provided that:

- (1) The phases are specified in the development agreement for the road or street.
- (2) Improvements constructed during the first, and each subsequent, stage of construction shall not be accepted, nor shall any occupancy permits be issued within the completed area of the subdivision or development until the security required for the next stage of construction has been posted with the Town.
- (3) The applicant shall record deed restrictions reviewed by the Town (or its designated representative) which specify that the lots included in future construction phases shall not be conveyed, transferred, or sold unless the Town's approval is obtained.
- (4) Erosion control plans and measures submitted and approved shall address the erosion problems posed by the construction of the project in phases.

1.06 RESERVATION AND DEDICATION OF LAND

All or any part of a street, an arterial street, drainageway, or other public way that has been approved by the Town shall be dedicated to the public by the applicant in the locations and dimensions indicated on the plan or map approved by the Town. The Town hereby finds that dedication of the land underlying streets or roads is a reasonable and necessary condition for the Town's agreement, by accepting said road or street, to maintain the same for the welfare of the public.

1.07 APPEALS

(1) A written Notice of Appeal must be filed with the Town Clerk within 14 calendar days of the date when notice of the action of the Land Use Committee appealed from is Town Road Ordinance, Town of Perry

mailed to the applicant.

(2) The Notice of Appeal shall state the action of the Land Use Committee appealed from, shall specify the reasons stated by the Land Use Committee for taking such actions, shall specify the reasons why the applicant believes said action was inappropriate, and shall state the names and addresses of the owners of all properties adjacent to the proposed road or street.

3) The Town Clerk shall file the Notice of Appeal with the Town Board and shall schedule the appeal for consideration by the Town Board at a meeting, open to the public, within 45 days of the filing of the Notice of Appeal. The Town Clerk shall send notice of the time scheduled for the consideration of the appeal to the applicant and to all property owners adjacent to the proposed road or street at least 10 days prior to the hearing of the appeal.

4) The provisions of Chapter 68 of the Wisconsin Statutes shall not be applicable to any determination made pursuant to the provisions of this Ordinance.

(5) Any person aggrieved by an objection to a plat or a failure to approve a plat may, after review by the Town Board, appeal therefrom, as provided in sec. 236.13(5) and 62.23(7)(5)10 to 15 of the Wisconsin Statutes.

1.08 STREET ARRANGEMENT

(1) The street layout shall conform to the arrangement, width, and location indicated on any official map, land use plan, or component neighborhood development plan of the Town. In areas for which plans have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. Each lot of the subdivision or land division shall have access to a public street that meets the standards of this Chapter.

(a) Arterial Streets shall be arranged so as to provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation, and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they connect.

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(b) Collector Streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to the mass transportation system, to special traffic generators such as schools, churches, shopping centers, and other concentrations of population, and to the major streets into which they feed.

(c) Local Streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide safe and convenient access to abutting property.

(d) 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 for the advantageous development of the adjacent tracts. Temporary turnarounds shall be required where the street ends at the boundary of the subdivision. The road right of way shall continue to the adjacent lands and connect to roads constructed on such lands if approved by the Town Board.

(e) Arterial and Highway Protection. Whenever the proposed subdivision contains or is adjacent to a major highway, adequate protection of residential properties, limitation of access, and separation of through and local traffic shall be provided by reversed frontage, with screen plantings contained in a non-access reservation along the rear property line, or by the use of frontage streets.

(f) Reserve Strips controlling access to roads or highways are prohibited except where control of such strips is placed with the Town under conditions approved by the Town Board.

1.09 STREET NAMES AND NUMBERING

- (1) Street names and building numbers shall be assigned in accordance with the provisions of Chapter 76 of the Dane County Ordinances.
- (2) The following designations shall be used only in the situations indicated.
 - (a) Lane. A street, 1 block long, not ending in a cul-de-sac.
 - (b) Circle. A cul-de-sac of 9 Lots or more.
 - (c) Court. A cul-de-sac of 8 lots or less.

1.10 LIMITED ACCESS HIGHWAYS AND RAILROAD RIGHTS-OF-WAY

Whenever the proposed subdivision or land division contains or is adjacent to a limited access highway or railroad right-of-way, the design shall provide the following treatment:

(1) In Residential Districts, a buffer strip at least 30 feet of depth, in addition to the normal lot depth required, shall be provided adjacent to a railroad right-of-way or a limited access arterial highway. As used in this section, the term "buffer strip" means an area of hedges, trees, tall grasses, or other foliage that creates a visual screen between 2 areas. The lot depth required, including such buffer strip, shall not be less than 150 feet. The strip shall be a part of the platted lots, but shall have the following restriction lettered on the face of the plat:

"This strip reserved for the planting of trees or shrubs by the owner; the building of structures hereon is prohibited, and the rear 30 feet of the strip shall not be counted as any required yard. Maintenance of this strip is a responsibility of the lot owner."

(2) Commercial and Industrial Districts shall have on each side of the limited access highway or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such highway or railroad, but not less than 150 feet.

(3) Streets Parallel to a Limited Access Highway or railroad right-of-way shall, when intersecting a major street or highway that crosses said railroad or highway, be located at a minimum distance of 250 feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.

(4) Location of Local streets immediately adjacent and parallel to railroad rights-of-way, and in residential areas immediately adjacent to arterial streets and highways and to railroad rights-of-way shall be avoided,

1.11 STREET DESIGN STANDARDS

(1) Minimum Right-Of-Way. The minimum right-of-way for all proposed streets and roads shall be 66 feet or such other width as is specified by the Town Land Use Plan, official map, or neighborhood development study; or if no width is specified therein, the minimum widths shall be 66 feet.

(2) Cul-de-Sac Streets. All new cul-de-sac streets shall conform to the following standards:

(a) Streets designed to have one end permanently closed shall not exceed 1,320 feet in length.

(b) Except as provided in Section 1.08, streets that are designed to have one end permanently closed shall terminate in a circular turnaround having a minimum right-of-way diameter of 150 feet, and a minimum paved diameter of 100 feet. The reverse curve on a cul-de-sac shall have a 100 foot minimum radius when the bulb is centered on the street and 100-foot minimum radius when the bulb is offset.

(c) In areas zoned B-1, B-2, C-1, C-2, Industrial, or other commercial zone, all streets that are designed to have one end permanently closed shall terminate in a circular turnaround having a minimum right-of-way of 175 feet and a minimum paved diameter of 120 feet.

(d) The land surrounding the cul-de-sac bulb ends shall be divided into a minimum of 4 lots. The land surrounding the bulb shall be defined as the land that fronts on the curved portion of the bulb to and including a line drawn perpendicular from the point where the curve of the bulb begins.

(3) Street Grades and Radii of Curvature. Unless necessitated by exceptional topography and subject to the approval of the Town Engineer, the street grades and radii of curvature shall conform to the Design Standard in the Dane County Subdivision Ordinance and the Town Road Ordinance. In the event of a conflict between the County and Town standards, the Town Engineer shall determine which standard shall be applied, on the basis of which standard is best suited to the estimated traffic load of the proposed road.

(4) Ditches shall be constructed whenever storm sewers are not required by the Town Board.

(a) Roadside ditches shall not exceed 10% of grade nor have less than a 1 % grade. The maximum ditch capacity for a 5-year intensity storm shall be not more than the values tabulated as follows:

<u>Ditch Grade (%)</u>	<u>Q (c.f.s.)¹</u>
1	2.34
2	3.78
3	4.14
4	4.86
5	5.22
6	5.76
7	6.30
8	6.84
9	7.20
10	7.74

(b) Ditches shall be restored with 4 inches of topsoil, fertilizing, seeding, and mulching in accordance with the current Standard Specifications for Road and Bridge Construction, State of Wisconsin Department of Transportation.

(c) Where ditches are required, streets shall be constructed as prescribed by the Town Engineer. The thickness of the pavement shall be determined and prescribed by the Town Engineer in accordance with the functional classification of the proposed street and soil sub-grade data available and this Ordinance. Any soil sub-grade data required by the Town Engineer shall be obtained by the developer's soils engineer and furnished to the Town Engineer without cost.

1.12 STREET/ROAD SIGNS COSTS

The developer shall be responsible for initial cost of the street/road name signs for new roads. The Town will order and install the signs after construction of the subdivision roads. The developer will be billed for the cost and installation. Payment will be required prior to issuing any Building Permits.

1.13 WAIVER

Where, in the judgment of the Town Board, it would be inappropriate to apply the provisions of this Ordinance to a proposed street or road because extraordinary or undue hardship resulting from the characteristics of the land would result, the Town Board may waive or modify any requirement of this Ordinance, but only to the extent a waiver is found to be just and proper. The Town Board shall grant such relief only



¹ Quantity (cubic feet per second)
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where it will not be detrimental to the public good, impair the intent and purpose of this Ordinance, or impair the desirable general development of the community in accordance with the Land Use Plan. Any applicant who requests a waiver of a provisions of this Ordinance shall make a written application for a waiver and file the application with the Town Clerk. The Town Board shall hold a public hearing on the application not less than 10 days nor more than 45 days after the date on which the request is filed. The Town Clerk shall mail a notice of the hearing to all adjacent landowners and to the County Highway Department. The waiver application shall state the basis for the application and the specific hardship that is claimed to exist. Any waiver, exception, or variance that is granted pursuant to this section shall be made in writing, shall state the reasons that justified it, and shall be filed with the Town Clerk.

1.14. REQUIRED IMPROVEMENTS PROCEDURE

- (1) Plans and Construction Specifications. Prior to commencing construction of any required improvement, the applicant shall prepare construction plans and specifications and submit them to the Town Engineer or designee for review and approval. The Town Engineer may require the submission of the following plans and accompanying construction specifications before authorizing construction or installation of the improvements:
 - (a) Street plans and profiles showing existing and proposed grades, elevations, and cross sections of required improvements.
 - (b) Stormwater and surface water drainage plans.
 - (c) Such additional plans or information as may be required by the Town Engineer.
 - (d) Plans and specification for all utilities and underground facilities.
- (2) Private Contracts. The developer shall engage one general contractor whose qualifications have been approved by the Town Board for each major phase of construction (grading, utilities, streets) or one general contractor for a contract that includes more than one phase of construction.
- (3) Scheduling. All scheduling of the contemplated improvements shall be approved by the Town Engineer. Construction may not be commenced on any phase of construction until all approvals and conditional requirements are

satisfied and a copy of the private contract has been tiled with and approved by the Town Board. Construction shall not proceed until all State of Wisconsin Town Road Ordinance, Town of Perry

approvals are granted.

(4) Street Grading

(a) The developer shall furnish standard drawings that indicate the existing and proposed grades of streets shown on the plat, and after review of design engineering work on the streets by the Town Engineer and approval of street grades by the Town Board, the applicant shall grade or cause to be graded the full width of the right-of-way of the streets proposed to be dedicated, including the vision clearance triangle on corner lots. In those cases where existing street right-of-way is made a part of the applicant's plat or abuts the plat, he/she shall grade or cause to be graded that portion of the right-of-way between the existing pavement and the property line. The bed for the roadways in the street right-of-way shall be graded to sub-grade elevation. The Town Engineer shall inspect the proposed street before grading and approve all grading within the right-of-way. The street grading shall extend for a sufficient distance beyond the right-of-way to ensure that the established grade will be preserved. The grading of rights-of-way for principal and primary arterials shall only be required where necessary to provide access to the streets or lots in the plat. Lots that abut principal and primary arterials shall be graded to the proposed street grade or to a grade approved by the Town Engineer prior to the sale of affected properties.

(b) The developer shall engage a licensed professional engineer to set sub-base grade in accordance with approved centerline grade and cross section; and to set grades necessary to comply with other grading requirements, including vision clearance on corner lots, centerline, and lot line grades for greenways, terrace grading for abutting streets, and other required grades. The grading program shall consist of the following elements:

1. The stripping and removal of all topsoil, debris, and vegetation within the street right-of-way.
2. Grading of the full street right-of-way to a tolerance of 0 to 0.2 feet below the proposed centerline grade. Fill sections shall be constructed of approved materials, which do not include topsoil, debris, vegetation, etc.
3. Grading beyond the right-of-way to ensure that the established grade will be preserved.
4. Grading of the vision clearance triangle on corner lots (Maximum

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embankment of 3 feet above curb elevation within a triangle formed by 2 intersecting street lines or their projections and a line joining points on such street lines located 25 feet from the street intersection).

5. Where the public greenway is included in the plat, the developer is responsible for an acceptable continuous drainageway in the greenway as determined by the Town Engineer.

6. All additional plat grading, where applicable, lot-abutting greenways, terraces of streets abutting plat, public easements for sanitary sewer and sidewalk, and other requirements of ordinances and special conditions of plat approval. There shall be a plan for disposal of any surplus soil or earth.

7. Where a natural drainageway exists that has acceptable hydraulic capacities including alignment and grade as determined by the Town Engineer, construction will not be required, and the existing natural growth shall be preserved. When such natural growth is not preserved by action of the applicant or his agent, he/she shall be responsible for repairing the disturbed areas by sodding. However, in certain locations, as determined by the Town Engineer, where the hydraulic capacities including alignment and grade are not acceptable, then such alignment, grade, and slopes shall be improved by the applicant to the interim minimum requirements of a 10-foot-wide ditch bottom with 4-to-1 side slopes, all to be seeded.

(c) The applicant shall install permanent pipes or culverts at a grade designated by the Town Engineer under all streets crossing a greenway or drainageway. Said installation shall be in accordance with the Standard Specifications for Road and Bridge Construction of the Department of Transportation of the State of Wisconsin. All costs of the installation shall be the responsibility of the applicant. The permanent pipe or culvert shall not be installed prior to the installation of a street crossing a greenway unless done pursuant to written agreement between the Town Engineer and the applicant. Culverts required across intersections for temporary street drainage shall be furnished and installed by the developer at his/her expense. All temporary culverts installed by the developer shall be completely removed when the streets are constructed to standards and the area restored to as-near-to-original condition as possible as determined by the Town Engineer.

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(d) All ditching and culvert installation shall be done in strict accordance with grades approved by the Town Engineer. The applicant's engineer shall be responsible for setting all required grades in the field for construction purposes.

(5) Street Construction

(a) General. After completion of the underground utilities and approval thereof, the streets shall be constructed.

(b) Standard Street Improvements

1. Standard street improvements shall include a roadbed at least 24 feet wide and a surface of 18 feet wide and covered with 4 to 6 inches of crushed rock or shale and 6 inches of gravel, properly compacted, and surface covered by a bituminous covering.

2. Standard street improvements may include, in the sole discretion of the Town Board, concrete curb and gutter, and ornamental streetlights.

3. The developer shall prepare final plans and specifications for the standard street improvements and submit them, together with all soil sub-grade data obtained by its soils engineer, to the Town Engineer.

4. Upon written approval by the Town Engineer, the developer may proceed to construct the standard street improvements. Standard street improvements shall be installed to the boundary line of the subdivision unless the street culminates in a cul-de-sac, the topography or other physical conditions make it impossible to do so, or unless this requirement is waived, in writing, by the Town Board.

5. The street/road shall be constructed to Town Specifications as described in this Ordinance and are subject to the approval of the Town Engineer.

(c) Inspection of Street Improvements. The Town Engineer shall inspect all street improvements before the same are accepted by the Town.

(6) Change Orders. When extra work not specified in the contract is required to complete the project, the Town will notify the developer or his/her engineering representative. No extra work shall proceed until the developer or his/her representative has entered into a written agreement for the additional work.

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(7) Erosion Control. The applicant shall take all steps necessary to prevent the erosion, siltation, sedimentation, washing, and blowing of dirt and debris caused by grading, excavations, open cuts, side slopes, and other activities by the applicant or his/her contractors. Reasonable methods of control shall include, but not be limited to, seeding and mulching, sodding, berm construction, ponding construction, and watering. In such cases where the method of control has failed, the subdivider shall clean up the materials that have been displaced prior to construction of additional improvements. Plans for erosion control shall be submitted to the Town Engineer for review and approval before any land surface disturbances are made. The Town Engineer's decision may be appealed to the Town Board.

(8) Flood Plain/Shoreland. All provisions of Dane County Ordinances relating to flood plain and shoreland zoning are incorporated herein and adopted by reference,

(9) Inspection. Prior to commencing any work within the subdivision, the applicant shall make arrangements with the Town Engineer to provide for adequate inspection. The Town Engineer shall inspect and approve all completed work prior to approval of the final plat or any release of the securities deposited pursuant to Section 1.04.

1.15 ACCEPTANCE OF IMPROVEMENTS

(1) After the applicant has installed all required improvements, he/she shall notify the Town Engineer in writing that the work is complete and ready for final inspection. The Town Engineer shall inspect the improvements and forward a letter to the applicant indicating his/she approval or disapproval. When the improvements have been approved by the Town Engineer, the Town Clerk will prepare a final billing for engineering, inspection, and legal fees and submit it to the applicant for payment. In addition, the applicant and all general contractors shall file lien waivers or affidavits, in a form acceptable to the Town and approved by the Town Attorney, evidencing that there are no claims, actions, or demands for damages, based upon contract or tort arising out of or in any way related to the project and that no monies are owed to any surveyor, mechanic, sub-contractor, materialman, or laborer.

(2) Resolution. When the engineering, inspection, and legal fees have been paid and when the necessary lien waivers and affidavits have been filed, a resolution

accepting the project will be prepared and presented to the Town Board.

(3) Security Release. The security furnished pursuant to Section 1.04 shall remain in full force for a period of 1 year after the completion of the project and acceptance by the Town Board unless partially released as hereinafter provided. The security shall be held to guarantee the work performed pursuant to private
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contracts against defects in workmanship and materials. If any defect appears during the period of the guarantee, the applicant or his/her contractor shall, at his/her expense, install replacements or perform acceptable repairs. In the event that the applicant fails to install the replacement or perform the repairs, the Town may do so and deduct the cost thereof from the security deposit. Unless defects have appeared and have not been repaired, the Town shall release the security to the applicant upon expiration of the 1 year guarantee period.

(4) Engineering, Inspection and Attorney Fees

(a) The applicant shall pay all engineering, inspection, consulting, and legal fees incurred by the Town for services performed by or on behalf of the Town in conjunction with the design, inspection, and review of any preliminary plat, certified survey, final plat, comprehensive development plan, or contract, with the drafting of legal documents, and with such inspections as the Town Engineer deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications, and ordinances of the Town or any other governmental authority. Consulting, engineering, inspection, and legal fees shall be actual costs to the Town (based on submitted invoices) plus twice the actual payroll costs for time spent by any employees of the Town. Such fees may be billed monthly or on completion of the project as determined by the Town Board.

(b) To guarantee payment of the engineering, inspection, and attorneys fees, the applicant shall deposit the sum of \$1,000.00 plus \$100.00 for each lot or parcel within the preliminary plat or certified survey with the Town Clerk at the time that the application for approval is first filed. If such fees are paid timely, the deposit will be refunded at the time that the final plat or certified survey is approved by the Town Board or 30 days after the preliminary plat, certified survey, or final plat is rejected. In the event that the applicant fails to pay such fees within 14 days of the time when the Town submits its bill therefore, the Town may deduct the amount of such fees from the security deposit.

1.16 PENALTIES

Adopted April 15, 1996

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$100 nor more than \$1,000 plus all applicable assessments and the costs of prosecution of each violation. Each day a violation exists or continues shall constitute a separate offense.

1.17 Effective Date

This Ordinance shall take affect and be in force from and after the day after passage and publication as required by law.

(1) **Town Board Approval.** This Ordinance was adopted by the Town Board on 15th day of April 1996.

(signed original in file.)