

CHAPTER 1

Subdivision Regulations

SEC. 14-1-1 INTRODUCTION AND PURPOSE.

- (a) **INTRODUCTION.** In accordance with the authority granted by Section 236.45 of the Wisconsin Statutes and for the purposes listed in Sections 236.01 and 236.45 of the Wisconsin Statutes, the Common Council of the City of Menasha does hereby ordain as follows:
- (1) The provisions of this Chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the City.
 - (2) This Chapter shall not repeal, impair or modify private covenants or public ordinances, except that it shall apply whenever it imposes stricter restrictions on land use.
 - (3) The effective date of this Chapter shall be January 3, 1989, having been adopted, following public hearing, pursuant to the provisions of Sec. 66.035 and Chapter 236, Wis. Stats.
- (b) **PURPOSE.** The purpose of this Chapter is to promote the public health, safety, convenience and general welfare. The regulations are designed to lessen congestion in the streets; to foster the orderly layout and use of land; to insure safety from fire, flooding, panic and other dangers; to provide optimum light and air; to discourage overcrowding of the land; to lessen concentration of population; to facilitate adequate provision of transportation, public water and sewerage, schools, parks, playgrounds and other public necessities; and to facilitate the further division of large tracts of land into smaller parcels. The regulations are made with the reasonable consideration of, but not limited to, the present character of the City and its environs, with the objectives of conserving the value of the land and improvements placed thereon, providing the most appropriate environment for human habitation, encouraging commerce and industry and providing for the most appropriate use of land in the City.

State Law Reference: Chapter 236, Wis. Stats.

SEC. 14-1-2 DEFINITIONS.

- (a) The following definitions shall be applicable in this Chapter.
- (1) Alley. A public right-of-way which normally affords a secondary means of vehicular access to abutting property.
 - (2) Arterial Street. A street which provides for the movement of relatively heavy traffic to, from or within the City. It has a secondary function of providing access to abutting land.
 - (3) Block. An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or water bodies.
 - (4) City. The City of Menasha, Wisconsin.

- (5) Collector Street. A street which collects and distributes internal traffic within an urban area such as a residential neighborhood, between arterial and local streets. It provides access to abutting property.
- (6) Commission. The Plan Commission created by the Common Council pursuant to Section 62.23 of the Wisconsin Statutes.
- (7) Comprehensive Development Plan. A comprehensive plan prepared by the City indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.
- (8) Cul-de-sac. A short street having but one (1) end open to traffic and the other end being permanently terminated in a vehicular turnaround.
- (9) Division of Land. Where the title or any part thereof is transferred by the execution of a land contract, an option to purchase, an offer to purchase and acceptance, a deed or a certified survey, a division which creates an additional parcel and a division occurs where any of the above transactions change the title from a joint tenancy to a tenancy in common or from tenancy in common to joint tenancy.
- (10) Easement. The area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.
- (11) Extraterritorial Plat Approval Jurisdiction. The unincorporated area within one and one-half (1-1/2) miles of a fourth-class city or a village and within three (3) miles of all other cities.
- (12) Final Plat. The final map, drawing or chart on which the subdivider's plan of subdivision is presented for approval and which, if approved, will be submitted to the County Register of Deeds. Said plat must conform to all State laws.
- (13) Frontage Street. A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.
- (14) Improvement, Public. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the City may ultimately assume the responsibility for maintenance and operation.
- (15) Local Street. A street of little or no continuity designed to provide access to abutting property and leading into collector streets.
- (16) Lot. A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this Chapter and any applicable zoning ordinance.
- (17) Lot, Area. The area contained within the exterior boundaries of a lot excluding streets, easements and land under navigable bodies of water.
- (18) Lot, Corner. A lot abutting intersecting streets at their intersection.
- (19) Lot, Reversed Corner. A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.
- (20) Lot, Through. A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a "through lot," both street lines shall be deemed front lot lines.
- (21) Lot Lines. The peripheral boundaries of a lot as defined herein.

- (22) Lot Width. The width of a parcel of land measured along the front building line.
- (23) Major Thoroughfare. A street used or intended to be used primarily for fast or heavy through traffic. Major thoroughfares shall include freeways, expressways and other highways and parkways, as well as arterial streets.
- (24) Marginal Access Street. A street which is parallel to and adjacent to major thoroughfares and which provides access to abutting properties and protection from traffic on the major street.
- (25) Minor Street. A street used, or intended to be used, primarily for access to abutting properties.
- (26) Minor Subdivision. The division of land by the owner or subdivider resulting in the creation of not more than four (4) parcels or building sites.
- (27) Owner. Includes the plural as well as the singular and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of these.
- (28) Pedestrian Pathway. A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.
- (29) Plat. The map, drawing or chart on which the subdivider's plat of subdivision is presented to the City for approval.
- (30) Preliminary Plat. The preliminary plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Plan Commission/Council for their consideration as to compliance with the Comprehensive Development Plan and these regulations along with required supporting data.
- (31) Protective Covenants. Contracts entered into between private parties which constitute a restriction on the use of all private property within a subdivision for the benefit of the property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.
- (32) Replat. The process of changing, or a map or plat which changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of said block, lot or outlot is not a replat.
- (33) Shorelands. Those lands within the following distances: one thousand (1,000) feet from the high-water elevation of navigable lakes, ponds and flowages or three hundred (300) feet from the high-water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
- (34) Subdivider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision or replat.
- (35) Subdivision. The division of a lot, outlot, parcel, or tract of land by the owner thereof or his agent for the purpose of transfer of ownership or building development where the act of division creates five (5) or more parcels or building sites of one and one-half (1-1/2) acres or less in area, or where the act of division creates five (5) or more parcels or building sites by successive division within a period of five (5) years, whether done by the original owner or a successor owner.
- (36) Wetlands. Those lands which are partially or wholly covered by marshland flora and generally covered with shallow standing water or lands which are wet and spongy due to high-water table.
- (37) Wisconsin Administrative Code. The rules of administrative agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system, as directed by Section 35.93 and Chapter 227 of the Wisconsin Statutes, including

subsequent amendments to those rules.

SEC. 14-1-3 GENERAL PROVISIONS.

- (a) **COMPLIANCE.** No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, land division or a replat as defined herein; no such subdivision, land division or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this Chapter and the following:
- (1) The provisions of Ch. 236 and Sec. 80.08, Wis. Stats.
 - (2) The rules of the Division of Health contained in Wis. Adm. Code for Subdivisions H 65 not served by public sewer.
 - (3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code for Subdivisions Highway 33, which abut a state trunk highway or connecting street.
 - (4) The rules of the Wisconsin Department of Natural Resources contained in Wis. Adm. Code for Floodplain Management Program.
 - (5) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Common Council.
 - (6) All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.
- (b) **JURISDICTION.** Jurisdiction of these regulations shall include all lands within the corporate limits of the City as well as the unincorporated area within one and one-half (1-1/2) miles of the corporate limits as provided in Sec. 236.10 and 62.32, Wis. Stats. The provisions of this Chapter, as they apply to divisions of tracts of land into less than five (5) parcels, shall not apply to:
- (1) Transfers of interests in land by will or pursuant to court order;
 - (2) Leases for a term not to exceed ten (10) years, mortgages or easements;
 - (3) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this Chapter or other applicable laws or ordinances.
- (c) **CERTIFIED SURVEY.** Any division of land other than a subdivision as defined in Sec. 236.02(8), Wis. Stats., shall be surveyed and a certified survey map prepared as provided in Sec. 236.34, Wis. Stats.
- (d) **PERMITS.** No building permit shall be issued by the City authorizing the building on or improvement of any parcel of land not on record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been met.
- (e) **FEES.** On or about November 1 of every year, the Plan Commission shall establish fees for reviewing certified survey maps and plats and shall refer the same to the Common Council for approval at its next regular meeting. Should the Common Council not object or modify the fees in any manner, then said fees shall be the prevailing rate for the calendar year November 1 to October 31.

SEC. 14-1-4 PROCEDURE FOR SUBMITTING SUBDIVISIONS.

- (a) **PRELIMINARY MEETINGS.** Before filing a preliminary plat, or certified survey, the subdivider is encouraged to consult with the Plan Commission and/or its consulting staff for advice regarding general subdivision requirements. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. This consultation is neither formal nor mandatory but is intended to inform the subdivider of the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components and duly adopted plan implementation devices of the City and to otherwise assist the subdivider in planning his development. In so doing, both the subdivider and planning agency may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.
- (b) **PRELIMINARY PLAT REVIEW WITHIN THE CITY.**
- (1) Submission. Before submitting a Final Plat for approval, the subdivider shall prepare a Preliminary Plat and a letter of application. The Preliminary Plat shall be prepared in accordance with this Chapter, and the subdivider shall file an adequate number of copies of the Plat and the application as required by this Section with the City Clerk at least ten (10) days prior to the meeting of the Plan Commission at which action is desired. The City Clerk shall submit a copy of the preliminary plat to the Plan Commission and to the City Engineer for review and written report of his recommendations and reactions to the proposed plat.
 - (2) Public Improvements, Plans and Specifications. Simultaneously with the filing of the preliminary plat of map, the owner shall file with the City Clerk five (5) complete sets of preliminary plans and specifications for the construction of any public improvements required by this Chapter.
 - (3) Property Owners Association. The Plan Commission may require submission of a draft of the legal instruments and rules for proposed property owners associations when the subdivider proposes that common property within a subdivision would be either owned or maintained by such an organization of property owners.
 - (4) Affidavit. The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this Chapter.
 - (5) Supplementary Data to be Filed with Preliminary Plat. The following shall also be filed with the preliminary plat:
 - a. A statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population; and,
 - b. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions; and,
 - c. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Plan Commission may require that the subdivider submit a preliminary plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.
 - (6) Referral to Other Agencies. The City Clerk shall, within two (2) days after filing,

transmit four (4) copies to the County Planning Agency, two (2) copies to the Director of the Planning Function in the Wisconsin Department of Local Affairs and Development, additional copies to the Director of the Planning Function for retransmission of two (2) copies each to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street, and the Wisconsin Department of Health and Social Services if the subdivision is not served by the public sewer and provision for such service has not been made, and an adequate number of copies to the Plan Commission. The County Planning Agency, the Wisconsin Department of Local Affairs and Development, the Wisconsin Department of Transportation and the Wisconsin Department of Health and Social Services shall be hereinafter referred to as objecting agencies.

- (7) Drafting Standards. The subdivider shall submit to the City Clerk and to those agencies having the authority to object to plats under provisions in Chapter 236 of the Wisconsin Statutes copies of a preliminary plat (or certified survey) based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale of not more than one (1) inch per one hundred (100) feet having two (2) foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), easements which the subdivider proposes to make and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted.

(c) **PRELIMINARY PLAT APPROVAL WITHIN THE CITY.**

- (1) After review of the preliminary plat or survey map and negotiations with the subdivider on changes being advisable and the kind and extent of public improvements which will be required, the Plan Commission shall reject or approve conditionally the preliminary plat within twenty (20) days, as provided by statute.
- (2) If the Plan Commission rejects the plat or map, it shall return it to the owner. If it approves or conditionally approves the plat or map, it shall so notify the Common Council.
- (3) If the Plan Commission approves the preliminary plat, the Common Council shall, within forty (40) days of the date the plat was filed with the City Clerk, approve, approve conditionally or reject such plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement by the subdivider. Failure of the Common Council to act within forty (40) days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The City Clerk shall communicate to the subdivider the action of the Common Council. If the plat or map is approved, the City Clerk shall endorse it for the Common Council.
- (4) Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within six (6) months of preliminary plat approval and conforms substantially to the preliminary plat layout as indicated in Section 236.11(1)(b) of the Wisconsin Statutes, the Final Plat shall be entitled to approval with respect to such layout. The Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat which will be subject to further consideration by the Plan Commission at the time of its submission.
- (5) Should the subdivider desire to amend the preliminary plat as approved, he may

resubmit the amended plat which shall follow the same procedure, except for the hearing and fee, unless the amendment is, in the opinion of the Plan Commission, of such scope as to constitute a new plat, in which such case it shall be refiled.

(d) **FINAL PLAT REVIEW.**

- (1) The subdivider shall prepare a Final Plat and a letter of application in accordance with this Chapter and shall file copies of the Plat and the application with the City Clerk at least ten (10) days prior to the meeting of the Plan Commission at which action is desired. The owner or subdivider shall file six (6) copies of the final plat not later than twelve (12) months 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 City. The owner or subdivider shall also submit at this time a current certified abstract of title or registered property report and such other evidence as the City Attorney may require showing title or control in the applicant.
- (2) The City Clerk shall, within two (2) days after filing, transmit four (4) copies to the County Planning Agency, two (2) copies to the Director of the Planning Function in the Wisconsin Department of Local Affairs and Development, additional copies to the Director of the Planning Function for retransmission of two (2) copies each to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street, and the Wisconsin Department of Health and Social Services if the subdivision is not served by a public sewer and provision for service has not been made, and the original Final Plat and adequate copies to the Commission. The County Planning Agency, the Wisconsin Department of Local Affairs and Development, the Wisconsin Department of Transportation, and the Wisconsin Department of Health and Social Services shall be hereinafter referred to as objecting agencies.
- (3) The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Section 236.12(2).
- (4) Simultaneously with the filing of the final plat or map, the owner shall file with the City Clerk six (6) copies of the final plans and specifications of public improvements required by this Chapter.
- (5) The City Clerk shall refer two (2) copies of the final plat to the Plan Commission, one (1) copy to the Engineer, and a copy each to the telephone and power and other utility companies. The abstract of title or registered property report shall be referred to the attorney for his examination and report. The City Clerk shall also refer the final plans and specifications of public improvements to the City Engineer for review. The recommendations of the Plan Commission and City Engineer shall be made within thirty (30) days of the filing of the final plat. The City Engineer shall examine the plat or map and final plans and specifications of public improvements for technical details and, if he finds them satisfactory, shall so certify in writing to the Plan Commission. If the plat or map or the plans and specifications are not satisfactory, the City Engineer shall return them to the owner and so advise the Plan Commission.
- (6) The Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this Chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and shall recommend

approval, conditional approval or rejection of the Plat to the Common Council.

- (e) **PARTIAL PLATTING.** The Final Plat may, if permitted by the Commission, constitute only that portion of the approved Preliminary Plat which the subdivider proposes to record at the time.
- (f) **FINAL PLAT APPROVAL.**
 - (1) The objecting agencies shall, within twenty (20) days of the date of receiving their copies of the Final Plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are not objections, they shall so certify on the face of the copy of the Plat and shall return that copy to the Plan Commission. If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objection to the Plat.
 - (2) If the Final Plat is not submitted within twelve (12) months of the last-required approval of the Preliminary Plat, the Common Council may refuse to approve the Final Plat.
 - (3) The Commission shall, within thirty (30) days of the date of filing of the Final Plat with the City Clerk, recommend approval, conditional approval or rejection of the Plat and shall transmit the Final Plat and application along with its recommendations to the Common Council.
 - (4) The Commission shall, when it determines to recommend approval of a Plat, give at least ten (10) days prior written notice of its intention to the City Clerk of any municipality within one thousand (1,000) feet of the Plat.
 - (5) The Common Council shall, within sixty (60) days of the date of filing the original Final Plat with the City Clerk, 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 Common Council may not inscribe its approval on the Final Plat unless City Clerk certifies on the fact of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within twenty (20) days or, if filed, have been met.
 - (6) Failure of the Common Council to act within sixty (60) days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.
 - (7) After the Final Plat has been approved by the Common Council and required improvements either installed or a contract and sureties insuring their installation is filed, the City Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat returned to the subdivider for recording with the County Register of Deeds. The Register of Deeds cannot record the Plat unless it is offered within thirty (30) days from the date of last approval.
 - (8) The subdivider shall file ten (10) copies of the Final Plat with the City Clerk for distribution to the approving agencies and other affected agencies for their files.
- (g) **ENGINEERING FEE.** The City may require the subdivider to pay a fee equal to the actual cost to the City for all engineering work incurred by the City in connection with the plat or certified survey map.
- (h) **ADMINISTRATIVE FEE.** The subdivider shall pay an administrative review fee as established by the Common Council.

SEC. 14-1-5 TECHNICAL REQUIREMENTS FOR PRELIMINARY PLATS.

- (a) **GENERAL.** A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on tracing cloth or paper of good quality at a scale of not more than one hundred (100) feet to the inch and shall show correctly on its face the following information:
- (1) Title under which the proposed subdivision is to be recorded.
 - (2) Location of the proposed subdivision by government lot, quarter section, township, range, county and state.
 - (3) Date, Scale and North Point.
 - (4) Names and Addresses of the owner, subdivider and land surveyor preparing the plat.
 - (5) Entire Area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the preliminary plat even though only a portion of said area is proposed for immediate development. The Plan Commission or Common Council may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Chapter and undue hardship would result from strict application thereof.
- (b) **PLAT DATA.** All preliminary plats shall show the following:
- (1) Exact Length and Bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
 - (2) Locations of all Existing Property Boundary Lines, structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.
 - (3) Location, Right-of-Way Width and Names of all existing streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
 - (4) Location and Names of any Adjacent Subdivisions, parks and cemeteries and owners of record of abutting unplatted lands.
 - (5) Type, Width and Elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations.
 - (6) Location, Size and Invert Elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catchbasins, hydrants, electric and communication facilities, whether overhead or underground, and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.
 - (7) Corporate Limit Lines within the exterior boundaries of the plat or immediately adjacent thereto.
 - (8) Existing Zoning on and adjacent to the proposed subdivision.
 - (9) Contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum at vertical intervals of not more than two (2) feet. At least two (2) permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level Datum and the monumentation of the bench marks clearly and completely described. Where, in the judgment of the

Commission, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.

- (10) High-Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom.
 - (11) Water Elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within one hundred (100) feet therefrom at the date of the survey.
 - (12) Floodland and Shoreland Boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, two (2) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat or within one hundred (100) feet therefrom.
 - (13) Soil Types and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.
 - (14) Location and Results of Soil Boring Tests within the exterior boundaries of the plat conducted in accordance with Section H 65.06 of the Wisconsin Administrative Code and delineation of areas with three (3) foot and six (6) foot groundwater and bedrock levels where the subdivision will not be served by public sanitary sewer service.
 - (15) Location and Results of Percolation Tests within the exterior boundaries of the plat conducted in accordance with Section H 65.06 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service.
 - (16) Location, Width and Names of all proposed streets and public rights-of-way such as alleys and easements.
 - (17) Approximate Dimensions of All Lots together with proposed lot and block numbers.
 - (18) Location and Approximate Dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other non-public uses not requiring lotting.
 - (19) Approximate Radii of all Curves.
 - (20) Any Proposed Lake and Stream Access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.
 - (21) Any Proposed Lake and Stream improvement or relocation, and notice of application for approval by the Division of Environmental Protection, Department of Natural Resources, when applicable.
 - (22) Where the Commission finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the preliminary plat, it shall have the authority to request in writing such information from the subdivider.
- (c) **SUBMISSION.** The subdivider shall first consult with the Plan Commission regarding the requirements for minor sub-divisional certified surveys before submission of the final map. Following consultation, a copy of the final map in the form of a certified survey map shall be submitted to the City. The certified survey shall be reviewed, approved or disapproved by the Plan Commission pursuant to the procedures used for preliminary plats.
- (d) **PROPOSED LAYOUT.** The Plan Commission may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not planned at the time.
- (e) **ADDITIONAL INFORMATION.** The Plan Commission may require a proposed subdivision layout of all or part of the contiguously owned land even though division is not

planned at the time.

(f) **CERTIFIED SURVEY.**

(1) The subdivider shall cause a certified survey map to be prepared in accordance with Section 14-1-9 of this Chapter and submit ten (10) copies along with the individual lot percolation tests and soil borings (for lots not served by public sewer) to the City Clerk. The map shall be reviewed by the Plan Commission for conformance with this Chapter and all ordinances, rules, regulations, comprehensive plans and comprehensive plan components which affect it. The Commission shall approve, approve conditionally or reject such map within sixty (60) days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider.

(2) If the Plan Commission approves the certified survey, the Common Council shall, within thirty (30) days of the recommendation, approve conditionally or reject the map and shall notify the subdivider of its decision.

(g) **REQUIREMENTS.** To the extent reasonable practicable, the certified survey/minor subdivision plat shall comply with the provisions of this Chapter relating to general requirements, design standards and required improvements. Conveyance by metes and bounds shall be prohibited where the lot(s) involved is less than one and one-half (1-1/2) acres or three hundred (300) feet in width.

SEC. 14-1-6 REPLAT.

(a) When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded Plat as provided in Sections 236.40 through 236.44 of the Wisconsin Statutes. The subdivider, or person wishing to replat, shall then proceed as specified in Subsections (a) through (f) of Section 14-1-4.

(b) The City Clerk shall schedule a public hearing before the Plan Commission when a Preliminary Plat of a replat of lands within the City is filed, and shall cause notices of the proposed Replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed Replat and to the owners of all properties within two hundred (200) feet of the exterior boundaries of the proposed Replat.

SEC. 14-1-7 MINOR SUBDIVISIONS.

(a) **CERTIFIED SURVEY REQUIRED.** When it is proposed to divide land into two (2) parcels or building sites, any one (1) of which is less than five (5) acres, or when it is proposed to divide a block, lot or outlot into not more than four (4) parcels or building sites within a recorded subdivision plat without changing the exterior boundaries of the block, lot or outlot, the subdivider shall subdivide by use of a certified survey map, prepared in accordance with Section 236.34, Wis. Stats.

SEC. 14-1-8 DESIGN STANDARDS--STREETS.

(a) **COMPLIANCE WITH STATUTES.** In laying out a subdivision, the owner shall

conform to the provisions of Chapter 236, Wis. Stats., and all applicable code sections. In all cases where the requirements of this Chapter are different from the requirements of Chapter 236, the more restrictive provision shall apply.

- (b) **DEDICATION.** The subdivider shall dedicate land and improve streets as provided in this Chapter. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses and public convenience and safety. Streets shall conform to the official map of the City.
- (c) **SUFFICIENT FRONTAGE.** All lots shall have sufficient frontage on a public street to allow access by emergency and service motor vehicles.
- (d) **COMPLIANCE WITH COMPREHENSIVE PLAN.** The arrangement, character, extent, width, grade and location of all streets shall conform to the City's Comprehensive Development Plan and to this Chapter and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The arrangement of streets in new subdivisions shall make provision for the appropriate continuation at the same width of the existing streets in adjoining areas.
- (e) **AREAS NOT COVERED BY OFFICIAL MAP.** In areas not covered by the Comprehensive Plan, the layout of streets shall conform to the plan for the most advantageous development of adjoining areas of the neighborhood. Streets shall be designed and located in relation to existing and officially planned streets, topography and natural terrain, streams and lakes and existing tree growth, public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets.
- (f) **STREET CLASSIFICATIONS.** Streets shall be classified as indicated below.
 - (1) Arterial Streets. Arterial streets shall be arranged to provide through traffic for a heavy volume of vehicles.
 - (2) Collector Streets. 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 special traffic generators such as schools, churches and shopping centers and other concentrations of population and to the major streets into which they feed.
 - (3) Minor Streets. Minor streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage system and to require the minimum street area necessary to provide safe and convenient access to abutting property.
 - (4) Proposed Streets. Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions or unless, in the opinion of the Common Council, such extension is not necessary or desirable for the coordination of the layout of the subdivision or land division or for the advantageous development of the adjacent tracts.
 - (5) Reserve Strips. Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such strips is placed with the City under conditions approved by the Common Council.
 - (6) Alleys. Alleys may be provided in commercial and industrial districts for off-street loading and service access, but shall not be approved in non-multiple family residential districts. Dead-end alleys shall not be approved and alleys shall not connect to a major thoroughfare.
- (g) **EXTRATERRITORIAL STREETS.** Streets located in the extraterritorial plat jurisdiction of the City of Menasha must also comply with the minimum town road

standards of Section 86.26, Wis. Stats.

- (h) **CONTINUATION.** Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit. Provision shall be made so that all proposed streets shall have a direct connection with, or be continuous and in line with, existing, planned or platted streets with which they are to connect. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Plan Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing layout or the most advantageous future development of adjacent tracts. Dead-end streets not over five hundred (500) feet in length will be approved when necessitated by the topography.
- (i) **MINOR STREETS.** Minor streets shall be so laid out so as to discourage their use by through traffic.
- (j) **NUMBER OF INTERSECTIONS.** The number of intersections of minor streets with major streets shall be reduced to the practical minimum consistent with circulation needs and safety requirements.
- (k) **FRONTAGE ROADS.** Where a subdivision abuts or contains an existing or proposed arterial highway, the Common Council may require a frontage road, nonaccess reservation along the rear of the property contiguous to such highway, or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.
- (l) **ARTERIAL STREET AND HIGHWAY PROTECTION.** Whenever the proposed subdivision contains or is adjacent to a major street or highway, adequate protection of residential properties, limitation of access and separation of through and local traffic shall be provided by reverse frontage, with screen planting contained in a nonaccess reservation along the rear property line, or by the use of frontage streets.
- (m) **VISIBILITY.** Streets shall afford maximum visibility and safety and shall intersect at right angles where practicable.
- (n) **TANGENTS.** A tangent at least one hundred (100) feet long shall be required between reverse curves on arterial and collector streets.
- (o) **STREET GRADES.**
 - (1) Unless necessitated by exceptional topography subject to the approval of the Commission, the maximum centerline grade of any street or public way shall not exceed the following:
 - Arterial streets: six percent (6%).
 - Collector streets: eight percent (8%)
 - Minor streets, alleys and frontage streets: ten percent (10%).
 - Pedestrian ways: twelve percent (12%) unless steps of acceptable design are provided.The grade of any street shall in no case exceed twelve percent (12%) or be less than one-half (1/2) of one percent (1%).
 - (2) Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth, and general leveling of the topography. All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to fifteen (15) times the algebraic difference in the rates of grade for major streets and one-half (1/2) this minimum for all other streets.
- (p) **RADII OF CURVATURE.** When a continuous street centerline deflects at any one (1) point by more than ten (10) degrees, a circular curve shall be introduced having a radius of

curvature on said centerline of not less than the following:

Arterial streets and highways: five hundred (500) feet.

Collector streets: three hundred (300) feet.

Minor streets: one hundred (100) feet.

- (q) **VERTICAL CURVES.** All changes in street grades shall be connected by vertical curves of a minimum length in feet equivalent to thirty (30) times the algebraic difference in grade for major thoroughfares and twenty (20) times this algebraic difference for all other streets.
- (r) **HALF STREETS.** Where a half street is adjacent to the subdivision, the other half street shall be dedicated by the subdivider.
- (s) **INTERSECTIONS.**
 - (1) Property lines at street intersections of major thoroughfares shall be rounded with a radius of fifteen (15) feet or of a greater radius where the Plan Commission considers it necessary.
 - (2) Provisions of the Zoning Code with respect to Traffic Visibility at street intersections shall also apply here.
 - (3) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit.
 - (4) Number of streets converging at one (1) intersection shall be reduced to a minimum, preferably not more than two (2).
- (t) **ALLEYS.**
 - (1) Alleys shall be provided in all commercial and industrial districts, except that the Common Council, upon the recommendation of the Plan Commission, may waive this requirement where other definite and assured provisions are made for service access, such as off-street loading and parking, consistent with and adequate for the uses proposed. No alleys shall connect with a major thoroughfare. Alleys in residential areas other than those zoned for multiple-family use shall not be permitted. The width of alleys shall be no less than twenty-four (24) feet.
 - (2) Dead-end alleys are prohibited.
- (u) **STREET NAMES.** New street names shall not duplicate the names of existing streets, but streets that are continuations of others already in existence and named shall bear the names of the existing streets. Street names shall be subject to approval by the Plan Commission and Common Council.
- (v) **STREET DESIGN STANDARDS.**
 - (1) Standards. The minimum right-of-way and roadway width of all proposed streets and alleys shall be as specified in "Minimum Roadway Design Standards," available from the Director of Public Works.
 - (2) Cul-de-sacs. Cul-de-sac streets designed to have one (1) end permanently closed shall not exceed five hundred (500) feet in length. All cul-de-sac streets designed to have one (1) end permanently closed shall terminate in a circular turnaround having a minimum right-of-way radius of sixty (60) feet and a minimum inside curb radius of forty (40) feet.
 - (3) Temporary Dead-ends or Cul-de-sacs. All temporary dead-ends shall have a maximum length of eight hundred (800) feet and a temporary cul-de-sac shall have a minimum right-of-way radius of sixty (60) feet and a minimum inside curb radius of forty (40) feet.
- (w) **LIMITED ACCESS HIGHWAY AND RAILROAD RIGHT-OF-WAY TREATMENT.** Whenever the proposed subdivision contains or is adjacent to a limited access highway or railroad right-of-way, the design shall provide the following treatment:
 - (1) Subdivision Lots. When lots within the proposed subdivision back upon the right-

of-way of an existing or proposed limited access highway or a railroad, a planting strip at least thirty (30) feet in depth shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be part of the platted lots but shall have the following restriction lettered on the face of the plat: "This strip reserved for the planting of trees and shrubs, the building of structures hereon prohibited."

- (2) Commercial and Industrial Districts. Commercial and industrial districts shall have provided, 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 streets and highway or railroad, but not less than one hundred fifty (150) feet.
- (3) Streets Parallel to a Limited Access Highway. Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street and highway or collector street which crosses said railroad or highway, shall be located at a minimum distance of two hundred fifty (250) feet from said highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.
- (4) Minor Streets. Minor streets immediately adjacent and parallel to railroad rights-of-way shall be avoided, and location of minor streets immediately adjacent to arterial streets and highways and to railroad rights-of-way shall be avoided in residential areas.

SEC. 14-1-9 DESIGN STANDARDS--BLOCK DESIGN.

- (a) **LENGTH; ARRANGEMENT.** The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated, but block length in residential areas shall not exceed one thousand two hundred (1,200) feet nor have less than sufficient width to provide for two (2) tiers of lots of appropriate depth between street lines. As a general rule, blocks shall not be less than five hundred (500) feet in length. Blocks shall be so designated as to provide two (2) tiers of lots, unless it adjoins a railroad, major thoroughfare, river or park where it may have a single tier of lots.
- (b) **PEDESTRIAN PATHWAYS.** Pedestrian pathways, not less than twelve (12) feet wide, may be required by the Common Council, upon the recommendation of the Plan Commission, through the center of a block more than nine hundred (900) feet long, where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.
- (c) **TREES.** The Common Council may require that trees be planted on both sides of all streets. Street trees (when planted within the right-of-way) shall not be less than sixty (60) feet apart with a minimum of one (1) per lot. Trees on private property should be placed six (6) or more feet inside the property line. The minimum size and type of any trees to be planted shall conform to the provisions of applicable ordinances.

SEC. 14-1-10 DESIGN STANDARDS--LOTS.

- (a) Size, shape and orientation of lots shall be appropriate for the location of topography of the subdivision and for the type of development contemplated, provided that no lot shall be

smaller in area than the minimum lot size for the appropriate zone as established by the Zoning Code.

- (b) Lot dimensions and setbacks shall conform to the requirements of the Zoning Code for the appropriate district in which the property is located.
- (c) Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as required by the Zoning Code.
- (d) Residential lots fronting on major streets and highways shall be platted with extra depth or design or alleviate the effect of major street traffic on residential occupancy.
- (e) Corner lots for residential use shall have extra width to permit building setback from both streets, as required by the Zoning Code.
- (f) Every lot shall abut or face a public street. Lots outside the corporate limits may abut or face a private street, if permitted by the Common Council.
- (g) Side lot lines shall be substantially at right angles to or radial to abutting street lines.
- (h) In case a tract is divided into parcels of more than one and one-half (1-1/2) acres in areas, such parcels shall be so arranged to permit redividing into parcels in accordance with this Chapter and with the Zoning Code.
- (i) Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.
- (j) In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- (k) All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels.
- (l) In the case where a proposed plat is adjacent to a limited access highway, other major highway or thoroughfare, there shall be no direct vehicular access from individual lots to such streets and roads. In the platting of small tracts of land fronting on limited access highways or thoroughfares where there is no other alternative, a temporary entrance may be granted; as neighboring land becomes subdivided and more preferable access arrangements become possible, such temporary access permits shall become void.

SEC. 14-1-11 DRAINAGE SYSTEM.

- (a) **DRAINAGE SYSTEM REQUIRED.** A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. A final plat shall not be approved until the subdivider shall submit plans, profiles and specifications as specified in this Section, which have been prepared by a registered professional engineer and approved by the City Engineer.
- (b) **DRAINAGE SYSTEM PLANS.**
- (1) The subdivider shall submit to the City Engineer and Plan Commission a report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the additional runoff which would be generated by the development of the land within the subdivision. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. The report shall also include:
 - a. Estimates of the quantity of storm water entering the subdivision naturally from areas outside the subdivision.
 - b. Quantities of flow at each inlet or culvert.
 - c. Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.
 - (2) A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area within the subdivision.
 - (3) The design criteria for storm drainage systems shall be based upon information provided by the City Engineer, which includes but is not limited to the following: open channel drainage ways with design flows exceeding 25cfs for a 10 year recurrence storm event require special consideration for an increased easement width to ensure adequate building setback from high water flows.
 - (4) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, sod, etc.) shall be in compliance with specifications provided by the Common Council or City Engineer.
- (c) **GRADING.** The subdivider shall grade each subdivision in order to establish street, block and lot grades in proper relation to each other and to topography as follows:
- (1) The subdivider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans.
 - (2) Block grading shall be completed by one (1) or more of the following methods:
 - a. A ridge may be constructed along the rear lot lines which provides for drainage onto the streets.
 - b. Parts of all lots may be graded to provide for drainage to the street or to a ditch along the rear lot line.
 - c. Draining across rear or side lot lines may be permitted provided that drainage onto adjoining properties is skillfully controlled.
- (d) **DRAINAGE SYSTEM REQUIREMENTS.** The subdivider shall install all the storm drainage facilities indicated on the plans required in Subsection (a) of this Section.
- (1) Street Drainage. All streets shall be provided with an adequate storm drainage system. The street storm system shall serve as the primary drainage system and shall be designed to carry street, adjacent land and building storm water drainage. No storm water shall be permitted to be run into the sanitary sewer system within

the proposed subdivision.

- (2) **Off-Street Drainage.** The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the subdivider shall make provisions for dedicating an easement of the City to provide for the future maintenance of said system. Easements shall be a minimum of twenty (20) feet, but the City may require larger easements if more area is needed due to topography, size of watercourse, etc.
- (e) **PROTECTION OF DRAINAGE SYSTEMS.** The subdivider shall adequately protect all ditches to the satisfaction of the Common Council and the City Engineer. Ditches and open channels shall be seeded, sodded or paved depending upon grades and soil types. (Generally ditches or channels with grades up to one percent [1%] shall be seeded; those with grades up to four percent [4%] shall be sodded and those with grades over four percent [4%] shall be paved.)

SEC. 14-1-12 EXTRA-SIZE OR OFF-SITE IMPROVEMENTS.

- (a) **DESIGN CAPACITY.** All improvements shall be installed to satisfy the service requirements for the service or drainage area in which the subdivision is located and the improvements shall be of sufficient capacity to handle the expected development of the overall service or drainage area involved.
- (b) **OFF-SITE EXTENSIONS.** When streets or utilities are not available at the boundary of the proposed subdivision, the City, or its duly authorized representative, shall require, as a prerequisite to approval of a final plat, assurances that such improvement extensions shall be provided as follows:
 - (1) Extensions of utilities onto the property involved shall be adequate to serve the total development requirements of the service or drainage area. Utilities leaving the property shall be constructed in such a manner as to make their extension practical for servicing the adjacent areas of the service or drainage area.
 - (2) If the City, or its duly authorized representative, find that extensions across undeveloped areas would not be warranted as a special assessment to the intervening properties or as a governmental expense until some future time, the developer shall be required, if he wishes to proceed with the development, to obtain necessary easements or rights-of-way and construct and pay for such extensions. Such improvements shall be available for connections by subdividers of adjoining land and the subdivider may contract with adjacent property owners and/or subdividers of adjacent land for reimbursement of the oversize and/or off-site improvements constructed.
- (c) **LIFT STATIONS.** Where sanitary sewer lift stations and force mains are required to lift sewage to the gravity system, the subdivider shall have plans, profiles and specifications prepared for the installation of such facilities. The installation, inspection, supervision and engineering fees for lift stations and/or force mains shall be paid for by the subdivider unless otherwise determined and agreed upon by the Common Council.

SEC. 14-1-13 NON-RESIDENTIAL SUBDIVISIONS.

- (a) **GENERAL.**

- (1) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provisions as the City may require.
 - (2) A non-residential subdivision shall also be subject to all the requirements of site plan approval set forth in the Zoning Code. A non-residential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the City and shall conform to the proposed land use standards established by the Comprehensive Plan, Official Map and Zoning Ordinance.
- (b) **STANDARDS.** In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the City that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
- (1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
 - (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
 - (3) Special requirements may be imposed by the City with respect to street, curb, gutter and sidewalk design and construction.
 - (4) Special requirements may be imposed by the City with respect to the installation of public utilities, including water, sewer and storm water drainage.
 - (5) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strips when necessary.
 - (6) Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

SEC. 14-1-14 REQUIREMENTS AND DESIGN STANDARDS FOR PUBLIC IMPROVEMENTS.

- (a) **GENERAL REQUIREMENTS.** The following required improvements shall be installed in accordance with the engineering standards and specifications which have been adopted by the Common Council and filed with the Director of Public Works. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices.
- (b) **GUARANTEE FOR INSTALLATION OF REQUIRED IMPROVEMENTS.**
- (1) Payment for Installation of Improvements. The required improvements to be furnished and installed by the subdivider, which are listed and described in this Chapter, are to be furnished and installed at the sole expense of the subdivider; provided, however, that in the case of an improvement, the cost of which would be general policy be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the City. If any improvement installed within the subdivision will be of substantial benefit to land beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such land, to be

assessed against the same and in such case the subdivider will be required only to pay for such portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision.

(2) Required Agreement Providing for Proper Installation of Improvements.

- a. Prior to installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a written contract with the City requiring the subdivider to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for supervision of details of construction by the City Engineer and grant to the Engineer authority to correlate the work to be done under said contract by any subcontractors authorized to proceed thereunder and with any other work being done or contracted by the City in the vicinity.
- b. The agreement shall require the subdivider to make an escrow deposit or in lieu thereof to furnish a performance bond, the amount of the deposit and the penal amount of the bond to be equal to one and one quarter (1-1/4) times the Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection.
- c. On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event the amount of the deposit or bond shall be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. If the required improvements are not complete within the specified period, all amounts held under performance bond shall be turned over and delivered to the City and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Common Council, at its option, may extend the bond period for an additional period not to exceed two (2) years.
- d. The time for completion of the work and the several parts thereof shall be determined by the Common Council upon recommendation of the Engineer after consultation with the subdivider.
- e. The subdivider shall pay the City for all costs incurred by the City for review and inspection of the subdivision. This would include preparation and review of plans and specifications by the Engineer, Planner and Attorney, as well as other costs of a similar nature.

(c) **PROCEDURE.**

(1) Construction Plans and Specifications. Construction plans for the required improvements conforming in all respects with the standards of the City Engineer and the ordinances of the City shall be prepared at the subdivider's expense by professional engineer who is registered in the State of Wisconsin, and said plans shall contain his seal. Such plans, together with the quantities of construction items, shall be submitted to the City Engineer for his approval and for his estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Simultaneously with the filing of the preliminary plat with the City Clerk or as soon thereafter as practicable, copies of the construction plans and specifications shall be furnished for the following public improvements:

- a. Street Plans and Profiles showing existing and proposed grades, elevations and cross sections of required improvements.

- b. Sanitary Sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.
 - c. Storm Sewer and Open Channel plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.
 - d. Water Main plans and profiles showing the locations, sizes, elevations and materials of required facilities.
 - e. Erosion and Sedimentation Control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation.
 - f. Planting Plans showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.
 - g. Additional special plans or information as required by City officials.
- (2) Action by the City Engineer. The City Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Code of Ordinances and other pertinent City design standards recommended by the City Engineer and approved by the Common Council. If he rejects the plans and specifications, he shall notify the owner, who shall modify the plans or specifications or both accordingly. When the plans and specifications are corrected, the City Engineer shall approve the plans and specifications for transmittal to the Common Council. The Common Council shall approve the plans and specifications before the improvements are installed.
- (3) Construction and Inspection.
- a. Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the City Engineer upon receipt of all necessary permits and in accordance with the construction methods of this Chapter.
 - b. Construction of all improvements required by this Chapter shall be completed within two (2) years from the date of approval of the preliminary plat by the Common Council, unless good cause can be shown for the Mayor and Common Council to grant an extension.
 - c. During the course of construction, the City Engineer shall make such inspections as he deems necessary to insure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the City for such inspections. This fee shall be the actual cost to the City of inspectors, engineers and other parties necessary to insure satisfactory work.
- (4) "As-Built" Plans. After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made a map showing the actual location of all valves, manholes, stubs, sewers and water mains and such other facilities as the City Engineer shall require. This map shall be in black pencil on tracing paper and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the map shall be a condition of final acceptance of the improvements and release of the surety bond assuring their completion.
- (d) **STREET, ALLEY AND SIDEWALK IMPROVEMENTS.** The developer shall construct streets and sidewalks as outlined on the approved plans based on the requirements of this Code of Ordinances:
- (1) Grading. With the submittal of the final plat, the subdivider shall furnish drawings which indicate the existing and proposed grades of streets and alleys shown on the plat. Proposed grades will be reviewed by the City Engineer for conformance with

City standards and good engineering practice. Street grades require the approval of the Common Council after receipt of the City Engineer's recommendations. After approval of the street grades, the subdivider shall grade the full width of the right-of-way of the streets and alleys proposed to be dedicated, including the vision clearance triangle on corner lots. In cases where an existing street right-of-way is make a part of the plat or abuts the plat, the subdivider shall grade that portion of the right-of-way between the existing pavement and the property line. The bed for the roadways in the street rights-of-way shall be graded to subgrade elevation. The City Engineer shall approve all grading within rights-of-way and said grading shall extend for a sufficient distance beyond the right-of-way to insure that the established grade will be preserved. Where electric and other communications or utilities facilities are to be installed underground, the utility easements shall be graded to within six (6) inches of the final grade by the subdivider, prior to the installation of such facilities; earth fill piles or mounds of dirt or construction materials shall not be stored on such easement areas.

(2) Street and Sidewalk Construction.

- a. After sanitary sewer, storm sewer and water utilities have been installed, the subdivider shall construct as part of the subdivision, streets, curbs and gutters and sidewalks including those adjacent to platted lots in existing street rights-of-way abutting the plat. The subdivider shall surface roadways to the widths prescribed by the Common Council on recommendation of the Plan Commission and the City Engineer. Construction shall be to City standard specifications for street improvements.
- b. The Common Council shall have the option of not requiring the construction of sidewalks within street rights-of-way in cases where it determines, after consultation with the Plan Commission and the City Engineer, that sidewalks are not necessary because of low density land use and low pedestrian volumes or for access to schools and bus routes or for continuity of existing sidewalk or bicycle route systems or because of cul-de-sac or loop street pattern. Consideration shall also be given to the pattern of development of adjoining lands and to the possibility of damage to trees.
- c. Dedicated walkways shall be improved by the subdivider to a grade and width approved by the City Engineer and with surfacing as required by the Common Council based on the location and the amount and character of use. The subdivider shall submit standard drawings indicating the existing and proposed grades.

(3) Curb and Gutter. After the installation of all utility and storm water drainage improvements, the subdivider shall construct concrete curbs and gutters in accordance with plans and standard specifications approved by the Common Council or its designee. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts.

- (e) **SANITARY SEWERAGE SYSTEM DESIGN STANDARDS.** There shall be provided a sanitary sewerage system in conformity with the master plan of sewers as approved by the Common Council and/or sewerage district. The subdivider shall install adequate sanitary sewer facilities and connect them to sewer mains subject to specifications and inspection of the City Engineer. The subdivider shall pay all the costs of all sanitary sewer work including the bringing of the sanitary sewer from where it exists to the subdivision in question as well as providing all sanitary sewer work within the subdivision. The cost of providing and installing sewer pipe of sizes larger or at a greater depth than required to

serve the area shall be borne by the City, as agreed upon between the land owner and the Common Council prior to approval of the preliminary plat or certified survey map, pursuant to this Chapter. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and standard specifications approved by the City.

- (f) **WATER SUPPLY SYSTEM DESIGN STANDARDS.** There shall be provided a water supply system in conformity with the master plan of the water system as approved by the Common Council. The subdivider shall construct water mains in such a manner as to make adequate water service available to each lot within the subdivision. If municipal water service is not available, the subdivider shall make provision for adequate private water systems as specified in applicable ordinances. The City may require the installation of water laterals to the street lot line. The size, type and installation of all public water mains proposed to be constructed shall be in accordance with plans and standard specifications approved by the City.
- (g) **STORM WATER DRAINAGE FACILITIES.** Pursuant to Sec. 14-1-10, the subdivider shall provide storm water drainage facilities which may include curb and gutter, catch basins and inlets, storm sewers, road ditches and open channels, as may be required. All such facilities are to be of adequate size and grade to hydraulically accommodate the twenty-five (25) year storm for open drainage systems and ten (10) year storm for conduit systems. Storm drainage facilities shall be so designed as to present no hazard to life or property, and the size, type and installation of all storm water drains and sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the City Engineer. The subdivider shall pay all costs of all storm sewer work, except that the subdivider shall not be required to pay for any storm sewers that are required to bring the storm sewers to the subdivision nor shall they be required to install any storm sewers that are more than twenty-four (24) inches in diameter.
- (h) **OTHER UTILITIES.** The subdividers shall cause gas, electrical power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision. No such electrical or telephone service shall be located on overhead poles along the front lot lines unless otherwise allowed due to exceptional topography or other physical barrier. Plans indicating the proposed location of all gas, electrical power and telephone distribution and transmission lines required to service the plat shall be approved by the Common Council and such map shall be filed with the City Clerk.
- (i) **MATERIAL STANDARDS.** All improvements constructed under this Chapter shall be of the standards, where applicable, established by the State Highway Commission's "Standard Specifications for Roads and Bridges." Where the Highway Commission's specifications do not apply, the standards shall be as approved by the City Engineer.
- (j) **IMPROVEMENTS COMPLETE PRIOR TO APPROVAL OF FINAL PLAT.** Improvements within a subdivision which have been completed prior to application for approval of the final plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements only if the City Engineer shall certify that he is satisfied that the existing improvements conform to applicable standards.

SEC. 14-1-15 EASEMENTS.

- (a) **UTILITY EASEMENTS.** The Common Council, on the recommendation of the Plan Commission and other appropriate agencies of the City shall require utility easements for

poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines. It is the interest of this Chapter to protect all established easements so as to assure proper grade, assure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prevent the planting of trees in the easement area.

- (b) **EASEMENT LOCATIONS.** Such easements shall be at least ten (10) feet wide and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished to the Plan Commission that easements and any easement provisions to be incorporated in the plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.
- (c) **DRAINAGE EASEMENTS.** Where a subdivision is traversed by a watercourse, drainageway, channel or stream:
 - (1) There shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or
 - (2) The watercourse, drainageway, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a storm water easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this Section.
 - (3) Wherever possible, it is desirable that drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such water course shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than thirty (30) feet.

SEC. 14-1-16 PUBLIC SITES AND OPEN SPACES.

- (a) **PURPOSE.** The requirements of this Section are established to insure that adequate parks, open spaces and sites for other public uses are properly located and preserved as the City grows. It has also been established to insure that the cost of providing the park and recreation sites and facilities necessary to serve the additional people brought into the community by land development may be equitably apportioned on the basis of the additional needs created by the development. The requirements shall apply to all lands proposed for all residential development.
- (b) **DESIGN.** In the design of a subdivision, land division, planned unit development or development project, provision shall be made for suitable sites of adequate area for schools, parks, playgrounds, open spaces, drainageways and other public purposes. Such sites as are shown on the Official Map, Master Plan or Parks and Open Space Plan shall be made a part of the design. Consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds and ravines and woodland, prairie and wetland plant and animal communities.
- (c) **DEDICATION OF LANDS FOR STREETS AND PUBLIC WAYS.** Whenever a tract of land to be subdivided embraces all or any part of an arterial street, drainageway or other public way which has been designated in the comprehensive plan, comprehensive plan component or on the official map of the City, said public way shall be made a part of the plat and dedicated or reserved by the subdivider in the locations and dimensions indicated

on said plan or map and as set forth in this Chapter.

(d) **DEDICATION OF SITES.**

- (1) Where feasible and compatible with the comprehensive or master plan of the City, the developer shall provide and dedicate to the public adequate land to provide for park, recreation and open space needs of the land development within the City of Menasha. The Park and Recreation Board may make its recommendation to the Planning Commission as to site location or acceptance of fees in lieu of dedication or a combination of land and fees. The location of such land to be dedicated shall be determined by the Plan Commission. Where the dedication is not compatible with the comprehensive or master plan, or for other reasons is not feasible as determined by the Plan Commission and as approved by the Common Council, the developer shall, in lieu thereof, pay to the City a fee in accordance with Sec. 14-1-16(d)(2)c and d.
- (2) The amount of land to be provided shall be determined on the following basis:
 - a. The amount of land to be dedicated shall be determined by the Common Council with the recommendations of the Planning Commission in accordance with the zoning classification for each intended residential lot in the subdivision based on the formula in Sec. 14-1-16(d)(2)b.
 - b. R-1: Eight percent (8%) of gross residential acreage.
R-2: Ten percent (10%) of gross residential acreage.
R-3, R-4, or Planned Unit Development:
Twelve percent (12%) of gross residential acreage.
 - c. The amount of the fee in lieu of dedication shall be in accordance with the zoning classification for each intended residential lot in the subdivision based on the formula in Sec. 14-1-16(d)(2)d.
 - d. R-1, R-2, R-3, R-4: Five hundred and fifty Dollars (\$550.00) per dwelling unit.
 - e. The developer shall pay a lump sum of fifty percent (50%) at the time of final plat approval, with the balance to be paid within one (1) year, on condition that a performance bond in the amount of the unpaid balance, has been executed by a surety company authorized to do business in Wisconsin and approved by the City Attorney and is simultaneously filed with the City Clerk. Any fee that remains unpaid after one year shall constitute a special charge pursuant to sec. 3-2-12.
 - f. All fees received by the City as a result of this Section shall be deposited in a nonlapsing park development fund, separate from the general fund of the City. This special fund shall be used exclusively for park and recreation area development, including site acquisition and related capital improvements. Upon taking effect of this Chapter, the City Comptroller shall make an accounting to the Common Council of all moneys previously received for park purposes and the balance remaining of said moneys shall be deposited in the above-mentioned park development fund. Disbursements from said special fund are to be made only upon specific approval of the Common Council.
 - g. Notwithstanding sec. 14-1-16(d)(2)f, the Park and Recreation Director is authorized to expend amounts less than \$5,000 without the specific approval of the Common Council.
- (3) Where the lot or parcel for which payment has been once made is further divided, payment shall be required only for the additional residential units.

- (4) No payment shall be required for a parcel on which a permanent residential structure has existed for at least one (1) year prior to the date of the division.
 - (5) For property zoned R-1, R-2, R-3, or R-4, or classified as a Planned Unit Development, or for any lands annexed to the City, where a final plat has already been approved, the fee in lieu of dedication shall be made at the time of applying for a building permit. If the land has not been platted, land dedication or fee in lieu of dedication will be borne by the developer. If park land has been previously dedicated or fees paid to another municipality, no additional land shall be dedicated or fees charged.
- (e) **DEVELOPMENT OF AREA.**
- (1) When park land is dedicated, the subdivider is required to bring the dedicated land up to the contours established in the approved street and utility plans, topsoiled with a minimum of four (4) inches of quality topsoil, seeded as specified by City officials, fertilized with a 16-6-6 fertilizer at the rate of seven (7) pounds per one thousand (1,000) square feet and mulched as specified in the Standard Specifications for Road and Bridge Construction Sections 627 and 629. The topsoil furnished for the park site shall consist of the natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life, and such topsoil shall be neither excessively acid nor excessively alkaline. Fine grading and seeding must occur within one (1) year following issuance of the first building permit within that subdivision unless otherwise authorized by the Common Council.
 - (2) It shall be the duty of the City to maintain the dedicated areas and the owner who dedicated said land shall in no way be responsible for its maintenance or liability thereon except that said owner shall not develop the surrounding area in a manner which would unduly depreciate the purpose, use or value of the dedicated property and except if such owner shall reside on one (1) of the subdivided parcels, in which case he shall be responsible for the maintenance of adjacent public property as may be required in other laws of the City.

SEC. 14-1-17 NOISE ABATEMENT ALONG HIGHWAYS.

All plats or subdivisions of land adjacent to any expressway, freeway, or other four-lane highway shall be approved only if such complies with the following:

- (a) **CONSTRUCTION RESTRICTIONS FOR HABITABLE AND INSTITUTIONAL STRUCTURES.**
 - (1) No new single family residential structure shall be approved for construction (excluding substantial repair or alteration) if any exterior hourly traffic sound level Leq(h), any where within a proposed outdoor living area is projected to be equal to or in excess of 67 dBA upon completion of the structure or anytime thereafter.
 - (2) No new multiple-family residence, dormitory, mobile home park, transient lodging, school, hospital, nursing home or similar structure, or substantial modification of such existing structure, shall be approved for construction if any exterior hourly traffic sound level Leq(H), anywhere within a proposed outdoor living area on the site is projected to be equal to or in excess of 67 dBA upon completion of the structure or modification or anytime thereafter.
 - (3) Construction otherwise prohibited shall be allowed if there are no outdoor use areas on the site of the proposed structure projected to be exposed to an hourly traffic

sound level $Leq(h)$, equal to or in excess of 67 dBA and provided that there is incorporated into the design and construction of the structure such sound attenuation measures as are necessary to reduce the maximum interior hourly traffic induced sound level, $Leq(h)$, in a habitable room to 52 dBA upon completion of the structure or modification, or anytime thereafter.

- (4) Prior to issuance of any building permit for any structure regulated pursuant to Section (c), the owner of the structure shall submit to the Plan Commission and Building Inspector, plans and specifications identifying the sound attenuation measures to be incorporated into the design and construction of the structure to meet the interior $Leq(h)$ criteria.
- (5) The Plan Commission and the Building Inspector may conduct such inspections and measurements as are necessary to ensure the proper implementation of the sound attenuation measures proposed pursuant to Subsection (d) and to ascertain compliance with this section.

(b) **RECREATIONAL AREA RESTRICTIONS.**

- (1) No land shall be designated or approved for construction or use as a public or private exterior recreational area, including, but not limited to, children's playgrounds, outdoor theaters and amphitheaters, picnic grounds, tennis courts and swimming pools, if any exterior hourly traffic sound level, $Leq(h)$, anywhere on the site of the proposed recreational areas is projected to be equal to or in the excess of 67 dBA upon completion of the construction or designation of the site or anytime thereafter.
- (2) This section shall not apply to the designation or approval of any green belt or open space in any area in which the noise level exceeds the level specified in Subsection (a) regardless of whether such green belt or open space is open to public use, provided that no recreational improvement or facility is constructed thereon.
- (3) Designation or approval of exterior recreational area otherwise prohibited under Subsection (1) shall be allowed if the noise level specified in that subsection can be achieved by appropriate means of sound attenuation, such as berms, barriers, or buildings, at the perimeter of or elsewhere on the site.
- (4) No new interior recreational facility, including, but not limited to, gymnasiums, ice or roller skating rinks, indoor swimming pools, and tennis courts, shall be approved for construction if the hourly traffic sound level, $Leq(h)$, anywhere on the site is projected to be equal to or in excess of 67 dBA upon completion of the structure or anytime thereafter, unless there is incorporated into the design and construction of the structure such sound attenuation measures as are necessary to reduce the maximum hourly traffic induced sound level, $Leq(h)$, to 52 dBA.

(c) **SITE STUDY REQUIREMENT.**

- (1) The Plan Commission has reason to believe that a full report is necessary to determine whether a proposed project is prohibited, such report shall be made by the applicant prior to approval of any subdivision, zoning or building permit application. (If a full report has not been presented and the applicant believes the project was wrongfully prohibited, he may file a full report within 21 days of the Plan Commission decision and request reconsideration.) A full report shall contain the following information and any other information which the Plan Commission may reasonably require:
 - a. the existing maximum hourly traffic sound level, $Leq(h)$, for a representative sample of locations, measured in accordance with guidelines presented in "Sound Procedures for Measuring Highway Noise: Final Report", August

1981, U.S. Department of Transportation, Federal Highway Administration, Arlington, VA, or modeled according to a methodology consistent with the methodology in the FHWA Highway Traffic Noise Prediction Model (Report No. FHWA-RD-77-108;

- b. the projected future Leq(h) at the site resulting from future traffic increases; and,
 - c. where applicable, plans for sound attenuation measures on the site and/or of the structure proposed to be built and the amount of sound attenuation anticipated as a result of these measures.
- (2) In determining whether an applicant should be required to submit a full report pursuant to Subsection (1), the Plan Commission shall consider the Wisconsin Department of Transportation's Administrative Code TRANS 405 and the Federal Highway Administration's Procedures for Abatement of Highway Traffic Noise and Construction Noise, Title 23, CFR, Chapter I, Subchapter J, Part 772.
- (d) **ZONING ORDINANCE OR COMPREHENSIVE PLAN.**
- (1) No proposed zoning ordinance or comprehensive plan for land adjacent to an existing county, state or federal highway or planned transportation corridor shall be approved unless such plan includes a sound analysis which:
 - a. identifies existing and projected traffic noise levels, dBA, Leq(h) for 20 years in and around the area under consideration; and,
 - b. ensures usage of adequate measure to avoid violation of any provision of this ordinance.
 - (2) No zoning change application shall be approved unless the site feasibility study submitted, as required by the Plan Commission, contains an analysis which shows:
 - a. the impact of existing and projected traffic noise levels, dBA, Leq(h) for 20 years on the intended use; and,
 - b. ensures the use of adequate measures to avoid violation of any provision of this ordinance.
- (e) **TRUTH AND SELLING OR RENTING.** No person shall sell or rent, or cause to be sold or rented, any structure constructed after May 7, 1991 or property to be used for human habitation, where the structure or property as defined in subsection (a) is exposed to sound levels regularly equal to or in excess of 67 dBA, leq(h), without making full written disclosure to all potential buyers or renters of the existence of sound levels and of the nature of the sources.

SEC. 14-1-18 VARIATIONS AND EXCEPTIONS.

- (a) Where, in the judgment of the Common Council, on the recommendation of the Plan Commission, it would be inappropriate to apply literally the provisions of this Chapter because of the proposed subdivision being located outside of the corporate limits or because exceptional or undue hardship would result, the Council may waive or modify any requirements to the extent deemed just and proper. Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Plan Commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

- (b) The Plan Commission shall not recommend nor shall the Common Council grant variations or exceptions to the regulations of this Chapter unless it shall make findings based upon the evidence presented to it in each specific case that:
 - (1) The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
 - (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property;
 - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
- (c) Any recommendations by the Plan Commission shall be so endorsed by the Secretary and transmitted to the Common Council. The Common Council, if it approves, shall do so by motion or resolution and instruct the City Clerk to notify the Plan Commission and the owner.
- (d) Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Chapter or the desirable general development of the community in accordance with the Comprehensive Plan or Zoning Code of the City. A majority vote of the entire membership of the Common Council shall be required to grant any modification of this Chapter, and the reasons shall be entered in the minutes of the Council.
- (e) The Common Council may waive the placing of monuments, required under Section 236.15(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the subdivider execute a surety bond to insure the placing of such monuments within the time required.

SEC. 14-1-19 ENFORCEMENT, PENALTIES AND REMEDIES.

- (a) **VIOLATIONS.** It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Chapter or the Wisconsin Statutes and no person shall be issued a building permit by the City authorizing the building on, or improvement of, any subdivision, land division or replat with the jurisdiction of this Chapter not of record as of the effective date of this Code until the provisions and requirements of this Chapter have been fully met. The City may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin Statutes.
- (b)
 - (1) Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit no less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) and the costs of prosecution for each violation, and in default of payment of such forfeiture costs shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.
 - (2) Recordation improperly made has penalties provided in Sec. 236.30, Wis. Stats.
 - (3) Conveyance of lots in unrecorded plats has penalties provided for in Sec. 236.31, Wis. Stats.
 - (4) Monuments disturbed or not placed have penalties as provided for in Sec. 236.32, Wis. Stats.
 - (5) Assessor's plat made under Section 70.27 of the Wisconsin Statutes may be ordered by the City at the expense of the subdivider when a subdivision is created by

successive divisions.

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