

ORDINANCE NO. 816

**AN ORDINANCE TO REPEAL AND RECREATE CHAPTER 70 OF THE CITY OF FORT ATKINSON  
MUNICIPAL CODE RELATING TO LAND DIVISION AND DEVELOPMENT**

**NOW, THEREFORE**, the City Council of the City of Fort Atkinson, Wisconsin, do ordain as follows:

**Section 1.** Chapter 70, known as the Platting Code Subdivision Ordinance, is hereby repealed and recreated as the Land Division and Development Ordinance, to read as follows:

**“CITY OF FORT ATKINSON, WISCONSIN  
CHAPTER 70: LAND DIVISION AND DEVELOPMENT ORDINANCE**

Article I: Introduction

Article II: Applicability and Divisions Governed

Article III: Land Suitability

Article IV: Dedication, Reservation, and Protection of Land

Article V: Land Division Procedures

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## **Article I: INTRODUCTION**

### **Section 70.01.01: Title**

This Ordinance shall be known as the "City of Fort Atkinson Land Division and Development Ordinance" or as "Chapter 70 of the City of Fort Atkinson Municipal Code of Ordinances, Jefferson County, Wisconsin" and is referred to as the "Ordinance" in this Chapter. This Ordinance was adopted on February 17, 2022 and replaces the "Platting Code Subdivision Ordinance" adopted on September 7, 1993.

### **Section 70.01.02: Statutory Authority**

These regulations are adopted under the authority granted by 236.13(1)(b), 236.45, and 703.115 of the Wisconsin Statutes and for the purposes listed in Sections 236.01 and 236.45 of the Wisconsin Statutes.

### **Section 70.01.03: Geographic Jurisdiction**

The provisions of this Ordinance apply to all lands within the corporate limits of the City of Fort Atkinson and within the extraterritorial limits of the City. The extraterritorial limits extend to the unincorporated areas within three miles of the corporate limits of the City. If a subdivision lies within the extraterritorial plat approval jurisdiction of more than one municipality, the provisions of Chapter 66.0105 Wisconsin Statutes apply.

### **Section 70.01.04: Purpose and Intent**

The purpose of this Ordinance is to regulate and control all land divisions and condominiums within the City of Fort Atkinson's geographic jurisdictional limits specified in Section 70.0103 in order to promote and protect public health, safety, prosperity, aesthetics, and general welfare of the community. The regulations are intended to encourage the most appropriate use of land, to provide the best possible environment for human habitation, and to conserve the value of buildings placed upon the land. More particularly, and without limitation, it is also the purpose of the Ordinance to:

- (1) Implement the City's comprehensive plan and components thereof and facilitate enforcement of community development standards set forth in other Chapters of the City's Municipal Code of Ordinances.
- (2) Promote the wise use, conservation, and protection or proper development of the soil, water, wetland, woodland, and wildlife resources, and to achieve a balanced relationship between land use and development and the supporting and sustaining natural resource base. Restrict buildings in areas poorly suited for development. Such areas are typically indicated by one or more of the following metrics: presence of high groundwater, presence of artesian or confined aquifers, seasonal flood inundation, historic or contemporary wetland soils, presence of critical infrastructure, natural drainageways, and presence of critical ecological habitats.
- (3) Further the orderly layout, efficiency, and appropriate use of land for the promotion of public comfort, convenience, and prosperity.
- (4) Avoid the harmful effects of premature division or development of land.
- (5) Lessen congestion in the streets and highways and accommodate street, pedestrian and bike connectivity.

- (6) Provide for proper ingress to and egress from development sites, including the proper arrangement of proposed roads and highways in relation to existing roads and highways for safe and convenient vehicular and pedestrian movement and future growth beyond City boundaries.
- (7) Secure safety and resiliency from fire, flooding, disastrous storms, water pollution, disease, and other hazards to help minimize expenditures for disaster relief and flood mitigation projects.
- (8) Prevent and control erosion, sedimentation, and other pollution of surface and subsurface waters.
- (9) Preserve native vegetation and cover to the extent practicable and protect the natural beauty of the City.
- (10) Preserve the distinct character of neighborhoods, special planning districts, and the community.
- (11) Provide adequate light, air, and water.
- (12) Prevent the overcrowding of land. Provide adequate and convenient public rights-of-way or easements for traffic, utilities, recreational paths, access for emergency response vehicles and equipment, recreation, light and air, and the avoidance of congestion of the population.
- (13) Preserve areas for future higher density City growth complete with municipal utilities.
- (14) Discourage scattered development and urban sprawl.
- (15) Preserve prime agricultural land for agricultural use where designated within the City's extraterritorial jurisdictional limits.
- (16) Plan the location and timing of new development to make it efficient, and to reduce public costs.
- (17) Facilitate the division of land into smaller parcels in accordance with the adopted comprehensive plan and zoning code. Accommodate a variety of housing types, density, and mixed uses.
- (18) Provide adequate and diverse affordable housing options.
- (19) Facilitate and ensure the adequate provision of transportation, water, sewerage, stormwater management, schools, parks, playgrounds, and other public facilities and services.
- (20) To favor land use intensities and patterns that are supportive of alternative modes of transportation.
- (21) Further the sustainability of the City by encouraging sustainable development and infrastructure, and the utilization of carbon reducing energy sources at minimum cost and maximum convenience.
- (22) Ensure uniform adequate legal description and proper survey monumentation of divided land. Ensure the accurate surveying of land, preparing and recording of plats, and other land divisions.
- (23) Provide for the administration and enforcement of this Ordinance, including the consistent processing of all formal land divisions and condominiums, by providing uniform procedures and standards for both the approving authority and developer.
- (24) Provide penalties and other remedies for violation of this Ordinance.

**Section 70.01.05: Compliance**

No approval pursuant to this code shall be issued where the applicant is in violation of this or any code administered by the City, nor for any parcel(s) of land which has an outstanding violation until the violation has been corrected.

No person, firm, or corporation shall divide or develop any land located within the jurisdictional limits of the City, as defined in Section 70.01.03, which results in a subdivision, minor land division, replat, or condominium as defined herein, unless specifically exempted under Section 70.02.02 or 70.02.03. No such subdivision, minor land division, replat, or condominium shall be entitled to record, and no road shall be laid out or improvement made, without compliance with:

- (1) All requirements of this ordinance, the City's Comprehensive Plan, any other applicable municipal ordinance of the City, and the official map.
- (2) The provisions of Chapter 236 of the Wisconsin Statutes for proposed land divisions.
- (3) The provisions of Chapter 703 of the Wisconsin Statutes for proposed condominiums.
- (4) The rules of the Wisconsin Department of Safety and Professional Services regulating lot size and lot elevation necessary for proper sanitary conditions if any existing lot or unit is not served by a public sewer and provisions for such service have not been made. All new development in the City shall be served by public sewer in accordance with Chapter 98 of the City of Fort Atkinson Code of Ordinances.
- (5) The rules of the Wisconsin Department of Transportation and the Jefferson County Highway Department relating to provisions for the safety of entrance upon and departure from County and State trunk highways or connecting highways and for the preservation of the public interest and investment in such highway systems if the land owned or controlled by the developer abuts on a County or State trunk highway or connecting highway or street.
- (6) The rules of the Wisconsin Department of Natural Resources setting water quality standards preventing and abating stormwater, pollution, and regulating development within floodplain, wetland, and shoreland areas.
- (7) The rules of the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency.
- (8) All other applicable ordinances and State and Federal regulations.

**Section 70.01.06: Responsibility**

The property owner is ultimately responsible for compliance with this Ordinance and shall sign all contractual agreements. The developer, regardless of ownership, may act as the authorized agent and apply for any necessary permits on behalf of the property owner.

**Section 70.01.07: Abrogation and Greater Restrictions**

It is not the intent of this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, permits, or approvals previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions and such restrictions do not contravene rights vested under law, the provisions of this Ordinance shall govern. This Ordinance may not modify in a more restrictive manner time limits,

deadlines, notice requirements, or other provisions of Chapter 236 of the Wisconsin Statutes that provide protections for a developer in accordance with Section 236.45(2)(ac).

**Section 70.01.08: Interpretation**

The provisions of this Ordinance shall be interpreted to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

**Section 70.01.09: Severability**

If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

**Section 70.01.10: Repeal**

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

**Section 70.01.11: Disclaimer of Liability**

This Chapter shall not be interpreted as placing any responsibility or liability on any City official, City employee or the City as a municipal corporation for the granting of approval or the denial of any approval. All approvals rendered as part of this Chapter shall be considered as being approved conditionally based on the information and circumstances apparent at that time. Approvals issued by the City shall not be construed as an assumption or expression of any responsibility, warranty or guarantee for the design or construction of any improvements within the land division.

The City does not guarantee, warrant, or represent that only those areas delineated as floodplains or wetlands on plats and certified survey maps will be subject to periodic inundation, nor does the City guarantee, warrant, or represent that the soils shown to be unsuited for a given land use from tests required by the Ordinance are the only unsuitable soils within the jurisdiction of this Ordinance; and thereby asserts that there is no liability on the part of the City Council, its agencies or agents, or employees for flooding problems, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this Ordinance.

**Section 70.01.12: Effective Date and Amendments**

This Ordinance and amendments thereto shall be effective after a public hearing, adoption by ordinance by the City Council, and posting or publication as required by law.

**Section 70.01.13: Restrictions for Public Benefit**

Pursuant to Sec. 236.293, Wis. Stats., any restriction placed on platted lands by covenant, grant of easement, land division or consolidation approval, which was required by the City and which names a public body or public utility as grantee, promisee or beneficiary, vests in the public body or utility the right to enforce the restriction by law or in equity against anyone who has interest in the land subject to the restriction. The restriction may be released or waived by resolution of the City Council.



## ARTICLE II: APPLICABILITY AND DIVISIONS GOVERNED

### Section 70.02.01: Applicability

All proposed land divisions and condominiums, except those exempted in accordance with Sections 70.02.02 and .03, shall be subject to City review and approval in which the City shall approve, approve with conditions and/or deed restrictions, or reject proposed plats, certified survey maps, or condominiums.

- (1) **Subdivisions:** Any division of land within the City or the extraterritorial land division approval jurisdiction of the City, as defined in Section 70.01.03 of this Ordinance that results in a subdivision as defined in Article XIV and as listed herein shall be surveyed and a plat thereof approved and recorded pursuant to the provisions of Section 70.05.03 and Chapter 236 of the Wisconsin Statutes. A subdivision is inclusive of the following, unless exempt under Section 70.02.01(2), 70.02.02, or 70.02.03.
  - (a) The act of division that creates five or more parcels or building sites of 1 ½ acres each or less in area, inclusive of the original remnant parcel.
  - (b) The act of division that creates five or more parcels or building sites of 1 ½ acres each or less in area that are created by successive divisions within a period of five years, inclusive of the original remnant parcel.
  - (c) Where the act of division creates six or more parcels or building sites inclusive of the original remnant parcel of any size by successive divisions or any part of the original property by any person within a period of five years.
- (2) **Minor Land Divisions (CSM's):** Any division of land within the City or the extraterritorial land division approval jurisdiction of the City that results in a minor land division as defined in Article XIV shall be surveyed and a certified survey map (CSM) of such division approved and recorded as required by Section 70.05.04 and Chapter 236 of the Wisconsin Statutes. All land divisions that are not identified as a subdivision, condominium, or otherwise exempt from this ordinance are classified as Minor Land Divisions.

In accordance with Section 236.34(1)(ar) Wisconsin Statutes, a CSM may also be used for dividing land into not more than 10 parcels, lots, or outlots if the land being divided is zoned for industrial or commercial office and business park development. Additional lots may be created in accordance with this provision with Plan Commission approval.
- (3) **Condominiums.** Any development within the City that creates a condominium as defined in Article XIV shall be surveyed and a condominium plat thereof approved and recorded pursuant to Section 70.05.07 of this Ordinance and Chapter 703 of the Wisconsin Statutes. Any condominium that also includes a new lot, parcel, or outlot shall also comply with the requirements of Chapter 236 of the Statutes and the requirements of this Ordinance as applicable to land divisions, which shall include the preparation of a CSM or Subdivision Plat. A Condominium Plat cannot be used as the instrument that creates lots, parcels, or outlots. It is

the express intent of this Ordinance to regulate condominiums having one or more principal structures on any lot or parcel. In no case shall the maximum number of units in a condominium exceed the maximum number of lots the same parcel could have accommodated under the City zoning ordinance, whether it be through conventional zoning or a Planned Unit Development.

**Section 70.02.02: Exemptions applicable to land divisions**

The provisions of this Ordinance, as it applies to division of tracts of land into four or fewer lots or parcels, shall not apply to:

- (1) Transfers of interest in land by will or pursuant to court order.
- (2) Leases for a term not to exceed 10 years, mortgages, or easements.
- (3) Sale or exchange of parcels of land between owners of adjoining property, subject to City review and approval to ensure compliance with the requirements of this Ordinance and the City zoning ordinance, if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes, or otherwise create nonconforming lots or structures, required by this Ordinance, the zoning ordinance, or other applicable laws or ordinances.

**Section 70.02.03: Exemptions applicable to uses and activities**

The provisions of this Ordinance, as it applies to certain uses and activities, shall not apply to:

- (1) Cemetery plats made under Section 157.07 of the Wisconsin Statutes.
- (2) Assessors' plats made under Section 70.27 of the Wisconsin Statutes; however, assessors' plats shall comply with Sections 236.15(1)(a) through (g) and 236.20(1) and (2)(a) through (e) of the Wisconsin Statutes, unless waived under Section 236.20(2)(L).
- (3) Public transportation project plats made under Section 84.095 of the Wisconsin Statutes.
- (4) Sale or exchange of parcels of public utilities or railway rights-of-way to adjoining property owners if the City Council and the county planning agency approve such sale or exchange on the basis of applicable local ordinances or the provisions of Chapter 236 of the Wisconsin Statutes.
- (5) A CSM prepared for the purpose of monumenting existing parcels that are metes and bounds or other property descriptions if the initial parcels were legally created in accordance with the City's zoning ordinance.

**Article III: LAND SUITABILITY**

**Section 70.03.01: General purpose**

The purpose of good subdivision site design is to protect the public health, safety and general welfare of the City, to create a functional and attractive development, to minimize adverse impacts, and to ensure that a project will be an asset to the City. To promote this purpose, these subdivision regulations shall set forth requirements for the manner in which roads, lots and other elements of a proposed

subdivision, CSM, or condominium plat shall be arranged on the land. Improvements required by these subdivision regulations shall facilitate convenient and safe roads and usable lots, and shall reserve adequate space for public utilities, as well as recreational, institutional, and other public uses.

Lands shall not be divided that are held unsuitable for such use by the Plan Commission, upon recommendation of the City Engineer or other agency as determined by the Plan Commission, for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography, severe erosion potential, inadequate supply of potable water or sewage treatment capabilities, or circumstances likely to result in the imposition of unreasonable costs or to be harmful to the health, safety, or welfare of the future residents or occupants of the proposed land division, or the City, or poses an imminent harm to the environment.

#### **Section 70.03.02: Floodplains**

- (1) The floodplain boundary and elevation of all mapped floodplain as designed on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM), or as otherwise studied and reviewed and approved by the City and DNR, shall be identified on the land division document. If any portion of the land within the subdivision is subject to flooding or other hazards that may increase danger to health, life, property; due consideration shall be given to such problems in the design of the subdivision. The City's floodplain ordinance shall be complied with if any development or land disturbance is proposed within the floodplain. All new development is prohibited in the 1% annual probability floodplain unless the City grants a rezone in compliance with all DNR and FEMA standards for a rezone, including but not limited to fill and compaction.
- (2) Undeveloped lands that are or would be accessed from existing streets located within the 1-percent annual probability floodplain may not be subdivided for residential, commercial, or industrial uses unless an alternative access is provided through streets located outside of such floodplain or meets the provisions of Section 70.08.02(7) or the floodplain provisions in the City's floodplain ordinance.

#### **Section 70.03.03: Wetlands**

All wetland boundaries shall be identified on the land division document and be delineated by a qualified professional with Wisconsin Department of Natural Resources (DNR) and/or United States Army Corp of Engineers (USACE) approval. All land disturbance, impervious surfaces, and structures shall be located a minimum of ten feet from all delineated wetlands. If any wetland will be impacted as a result of infrastructure and utility improvements, the developer is responsible for meeting all standards and securing all required permits from USACE and the DNR prior to approval of the development, in addition to complying with the City's Zoning Ordinance. If any City wetland ordinances are adopted that would supersede these regulations or state or federal regulations, then the most stringent of the wetland protection and buffering regulations will apply.

#### **Section 70.03.04: Existing Vegetation**

The developer shall make every effort to protect and retain all existing native trees with a trunk diameter of six (6) inches or more. Such trees are to be protected and preserved during construction in

accordance with sound conservation practices, possibly including the preservation of trees by well islands or retaining walls whenever abutting grades are altered, pursuant to a landscaping plan filed by the developer.

**Section 70.03.05: Drainage/Erosion/Groundwater Separation**

- (1) Land which has inadequate drainage or may cause severe erosion or other detriment shall not be divided into building sites. Such lands are typically indicated by one or more of the following metrics: presence of high groundwater, presence of artesian or confined aquifers, seasonal flood inundation, historic or contemporary wetland soils, presence of critical infrastructure and natural drainageways, or land that drains directly to steep slopes. The development of lands on steep slopes requires special consideration and City Engineer review and approval.
  
- (2) Groundwater seepage is one of the most common sources of wetness in basements and lower levels in structures. Foundation drain tiles and sump pumps can work well until the power goes out, the pump fails, a tile plugs, or a downstream landowner complains about the discharge water. To avoid placing basements below groundwater, placing buildable lots in hydric soils is discouraged and may be prohibited depending on the individual site conditions. In order to ensure that each new lot is buildable and that the lowest level of a structure can be constructed at least one foot above the highest groundwater table, the following provisions shall be met at the time the lot is created:
  - (a) An on-site soil boring and profile evaluation shall be conducted on each lot within 50 ft. of the anticipated home site, unless the City Engineer determines that fewer borings are required based on the area between lots containing homogeneous soils with few limitations and elevation changes.
  - (b) The soil boring shall extend to a depth of at least 8 ft. from the surface elevation.
  - (c) All soil profile evaluations and forms submitted for review by the City Engineer must be completed in accordance with the USDA classification system, following standards described in Chapter SPS 385 Wis. Admin. Code, and using form SBD-8330.
  - (d) All soil profile evaluations and forms must be completed and signed by a Certified Soil Tester (CST) or Professional Soil Scientist (PSS) registered in the State of Wisconsin, including their CST/PSS number. Soil pits are strongly encouraged. Soil borings by split spoon are acceptable, but power augers are not allowed.
  - (e) The soil profile evaluation and forms shall be accompanied by a "Basement-Groundwater Separation Form" that identifies the highest groundwater table elevation and depth to groundwater elevation for each lot. The form shall be signed by a CST or PSS, hydrogeologist, or professional engineer, including their Wisconsin license number and stamp. The information on the form shall only be used at time of building construction if the building is located within 50 ft. of the soil boring. If the building is located greater than 50 ft. from the soil boring, an additional test may be required.
  - (f) The City Engineer has the authority to prohibit basements in hydric soils.

- (g) The City Engineer has the authority to allow an artificial drainage system in lieu of the one-foot separation requirement if the system acts to prevent basement flooding and downstream impacts from system discharges. A long-term maintenance plan shall be reviewed by the City Engineer and recorded with Jefferson County Register of Deeds.

**Section 70.03.06: Access**

All proposed land divisions and development shall have safe access to an improved public road. Said access shall be reviewed and approved by the City Engineer in accordance with this Ordinance and any other City Ordinance.

**Section 70.03.07: Drinking Water Supply and Sanitation**

All lots served by new development shall be served by City Water and Wastewater within one (1) year of land division in accordance with Chapter 98 of the City of Fort Atkinson Code of Ordinances to ensure an adequate supply of safe potable water and sanitation.

**Article IV: DEDICATION, RESERVATION, AND PROTECTION OF LAND**

**Section 70.04.01: Streets, Highways, and Drainageways**

Whenever a proposed land division encompasses all or any part of a street, highway, drainageway, other public way or public access to navigable lakes, rivers, or streams, which has been designated in the comprehensive plan or component thereof or the official map of the City, said public way shall be made a part of the plat or certified survey map and dedicated or reserved by the developer, as determined by the City, in the locations and dimensions indicated on said plan or map and as set forth in Article VIII of this Ordinance.

**Section 70.04.02: Public Access to Navigable Waters**

Subdivisions abutting on a navigable lake or stream shall, according to the provisions of Wis. Stats., 236.16(3), and this section, provide access at least 60 feet wide to the water's edge so that there will be public access, which is connected to existing public roads at least 1/2 mile intervals as measured along the lake or stream shore, except where greater intervals and wider access is agreed upon by the DNR and the Department of Administration, and excluding shore areas where public parks or open space roads on either side of a stream are provided. No public access is required for minor subdivisions.

**Section 70.04.03: Dedication or Reservation of Park and Public Lands**

- (1) Dedication Requirement. Each developer shall be required to dedicate land or pay fees in lieu of land for park or other public uses. This requirement ensures that adequate open spaces and sites for public uses may be properly located and reserved. The cost of providing public areas, such as but not limited to, parks, open space and future public uses are equitably apportioned on the basis of additional need created by the development. The location of such land to be dedicated shall be determined by the Plan Commission at the time of Preliminary Plat, Condominium Plat, or initial Certified Survey Map or development review. Where the dedication is not compatible with the comprehensive plan, official map, or for other reasons is not feasible as determined by the Plan Commission, and as approved by the City Council, the developer shall, in lieu thereof, pay to the City a fee as established by Section 70.04.04 herein and the

City's Fee Schedule, or a combination thereof. Artificial drainageways, detention basins, and areas reserved for streets shall not be considered as satisfying land dedication requirements. Naturally occurring drainageways, floodplains, and wetlands are desirable open space lands and, if appropriate, may be included in dedicated or reserved lands, but these lands may not count for more than 25% of the required total.

- (2) General 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 parks, playgrounds, trails, open spaces, and other public purposes. Such sites are to be shown on the Preliminary Plat, Final Plat, CSM, or Condominium Plat and shall comply with the Comprehensive Plan, or component of said Plan, or official map. Consideration shall be given to the preservation of scenic and historic sites, and blending open space, trails, and recreational areas with existing natural features such as stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds, ravines and woodlands, prairie and wetlands, floodplain, and plant and animal communities.
- (3) Site Reservations Required.
  - (a) Where the area proposed to be divided contains a park, playground, trail, open space or other public area which is shown upon the comprehensive plan or official map of the City of Fort Atkinson is greater in area than required for dedication based on subsection 4 below, shall be dedicated to the proper public agency, or shall be reserved for acquisition through agreement or purchase, within a two-year period, unless extended by mutual agreement. If the land is not acquired during this period, it shall be released to the subdivider.
  - (b) Land dedication options include:
    1. Reservation or dedication to the City, County, or State.
    2. Donation to a nonprofit conservation organization.
    3. Conservation easement.
  - (c) Open Space Preservation by deed restriction or restrictive covenant. Common open space to be preserved in perpetuity that is not dedicated, reserved, donated, or placed in an easement shall be protected by providing a deed restriction or restrictive covenant recorded with the Jefferson County Register of Deeds that prohibits any land division or development of said open space, except limited recreational amenities as approved by the agency or organization having jurisdiction.
  - (d) Whenever a surface drainage course unless exempted by the City Engineer, river or stream is located in the area being divided, the developer shall provide a conservation easement along each side of the river, stream or drainage course for the purpose of

protecting the river, stream or drainage course. The width shall be equal to the estimated 25-year flood event boundary.

- (4) Minimum Dedication. The developer shall dedicate sufficient land area to provide adequate park, playground, recreation and open space to meet the needs to be created by and to be provided for the land division, subdivision, condominium or comprehensive development. The minimum dedication shall be:
- (a) One thousand (1,000) square feet per residential unit for all single-family lot and duplex development;
  - (b) Seven hundred fifty (750) square feet per residential unit for all other multi-family dwelling units;
  - (c) Four percent (4%) of the total acreage intended for commercial or industrial purposes;
  - (d) Combination of Residential Uses. Where a combination of residential and/or commercial uses is intended, the minimum dedication shall be the sum obtained by adding the dedication requirements for each intended use. Where a definite commitment is made to the City by the developer with respect to those portions of the total acreage intended for single-family, duplex, multifamily and commercial development, the dedication shall be based upon the maximum dedications which the zoning classification of the parcel will permit.
  - (e) Unknown Number of Dwelling Units. Where the plat, certified survey map, or condominium plat does not specify the number of residential dwelling units to be constructed, the land dedication shall be based upon the maximum number of units permitted by the City Zoning Ordinance.
  - (f) In no case shall an area of less than one acre be reserved for recreational purposes if it will be impractical or impossible to secure additional lands to increase its area.
  - (g) Limitations: A subdivider shall not be required to dedicate more than one-third (1/3) of the total area of the plat to meet the objectives of this Section.
- (5) Access to Dedicated Land. All dedicated land shall have frontage on a public street and shall have unrestricted public access of twenty (20) feet in minimum width with a five-foot walkway and one (1) nine-foot paved entrance. This requirement may be waived by the Plan Commission if there is no need for a paved entrance or access is available from adjacent public lands or a publicly dedicated trail.
- (6) Deeded to the City. Land dedicated for public purposes shall be deeded to the City at the time the Final Plat, CSM, or Condominium Plat is approved. Land dedication can be accomplished by the Final Plat or CSM, or by separate document. Land dedication must be accomplished by

separate document relative to a Condominium Plat. Any special restrictions or provisions shall be noted on the plat, CSM, or separate document.

**Section 70.04.04 Park Development Fees in Lieu of Land Dedication.**

- (1) Introduction and Purpose: Pursuant to the authority of Sec. 236.45, Wis. Stats., the local development fees enabling legislation, the purpose of this Section is to establish the mechanism for the imposition of park development fees to finance the capital costs of acquiring, establishing, upgrading, expanding, and constructing public park facilities which are necessary to accommodate future growth and land development. This Section is intended to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide public park facilities within the City and its service areas, as they are required to serve the needs arising out of land development.
- (2) Use of Park Development Fees. Funds collected from park development fees shall be used solely for the purpose of paying the proportionate costs to provide public parks that become necessary due to land development.
- (3) Park Development Fee in Lieu of Land Dedication: Where, at the sole discretion of the Plan Commission, there is no land suitable for parks, open space or trails within the proposed land division or the dedication of land would not be compatible with the City's comprehensive plan or official map, the minimum size under Section 70.04.03(4) cannot be met, or the Plan Commission determines that a cash contribution would better serve the public interest, the Plan Commission shall require the subdivider to contribute a Park and Recreation Development Fee in lieu of land. The fee shall be established by resolution by the City Council. Residential fees shall be determined by residential unit and Commercial/Industrial fees shall be determined by acreage.
- (4) Time of Payment. Park Development Fee shall be payable by the developer or property owner to the City in full upon the issuance of a building permit for a residence by the municipality, except where Section 66.0617(6)(g) of the Wisconsin Statutes applies.
- (5) Park Fund for Fees Collection: Funds paid to the City under the payment of fees in lieu of land dedication provisions are to be placed in a separate account designated for park and public land acquisition and improvement. Said account shall be a continuing account and shall not lapse at the end of a budget period.
- (6) The Park Commission may, in its sole discretion, permit the subdivider to satisfy the requirements of this Article by combining a land dedication with a fee payment. For example, if a land dedication of twenty-five percent (25%) of the required dedication is made, the subdivider shall also contribute an amount equal to seventy-five percent (75%) of the required per unit fee in lieu of land. If a land dedication of fifty percent (50%) of the required dedication is made, the subdivider shall also contribute an amount equal to fifty percent (50%) of the required per unit fee in lieu of land. If a land dedication of seventy-five percent (75%) of the required dedication is made, the subdivider shall also contribute an amount equal to twenty-five percent (25%) of the required per unit fee in lieu of land.



- (7) Exemptions. Where a lot or parcel for which payment has once been made is further divided, payment shall be required only for the additional lots or parcels created, at the time of the building permit issuance for the new dwelling unit.
- (8) Development of Parks and Public Land. The improvement requirements for developing parks and public land are specified in Section 70.11.09.

**Section 70.04.05 Reservation of lands within extraterritorial jurisdiction**

Proposed public lands lying outside the corporate limits of the City but within the extraterritorial land division approval jurisdictional area of these regulations shall be reserved for dedication to or acquisition by the Town, City, County, or State, whichever entity is most appropriate based on adopted Comprehensive Plans, Official Maps, Zoning Ordinances, and other officially adopted documents.

**Article V: LAND DIVISION PROCEDURES**

**Section 70.05.01: Pre-Application Consultation**

Prior to filing an application for approval of a preliminary subdivision plat, condominium plat, or certified survey map, the developer shall consult with the Zoning and Engineering Departments in order to obtain their advice and assistance. A scaled conceptual plan of the proposed subdivision, condominium, or certified survey map, including lot layout and size, outlots, proposed road rights-of-ways, soils, topography, existing and proposed drainage, all regulatory boundaries, natural features, and any other supporting documentation shall be submitted for their review prior to the meeting. This consultation is intended to inform the developer of the purpose and objectives of these regulations, the comprehensive plan or components thereof, and duly adopted plan implementation ordinances of the City and to otherwise assist the developer in planning the development. Consultation will provide guidance on the following:

- (1) Which entities at the City will be required to review the land division,
- (2) Whether the proposal will require county or state approvals,
- (3) Which standards of this Ordinance, as well as other applicable City Ordinances, will apply to the land division,
- (4) Whether the proposal meets the general suitability standards in Article III, and if not, an explanation why the land is not suitable for the proposed use and afford the developer the opportunity to present evidence regarding such suitability,
- (5) Procedures and application packet requirements, including the required materials and additional documentation referred to in the Preliminary and Final Plat Submittal requirements specified in this Ordinance that are necessary to submit a land division for review and consideration.

**Section 70.05.02: Preliminary Plat Submittal, Transmittal, and Review**

(1) Developer Submittal Requirements

- a. Before submitting a final plat for approval within the city limits, the developer shall prepare a preliminary plat and complete an application and Land Division Review Checklist. The Checklist is adopted by reference and represents the submittal requirements of Article VI. The preliminary plat shall be prepared in accordance with this Ordinance, and the developer shall file an electronic copy, in a digital format as determined by the City Engineer, of the plat for distribution in accordance with this Section; the completed application and checklist; and the preliminary plat review fee with the City Engineer in a timeframe that complies with the City-established deadline requirements for the meeting of the Plan Commission at which action is desired.
- b. Pursuant to Section 236.12(2) Wisconsin Statutes, the developer is also responsible for submitting an electronic or paper copy of the preliminary plat to the Director of Plat Review of the Wisconsin Department of Administration, who will prepare and forward copies of the plat at the developer's expense to the objecting agencies.

(2) City Engineer Transmittal Requirements and Required Responses

- a. The City Engineer shall transmit a paper or electronic copy of the preliminary plat to all applicable City Departments for review. The recommendations of City staff shall be transmitted to the City Engineer for transmittal to the Plan Commission for consideration.

(3) Objecting Agency Review (Jefferson County & Wisconsin Department of Transportation)

- a. The objecting agencies shall, within 20 days of the date of receiving their copies of the preliminary plat from Wisconsin Department of Administration, notify the developer and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Wisconsin Department of Administration. The Wisconsin Department of Administration shall promptly notify the City Clerk if such a certification is submitted by an objecting agency. If an objecting agency fails to act within 20 days, and the Wisconsin Department of Administration fails to act within 30 days from the date on which they received the plat, they shall be deemed to have no objection to the plat and, upon demand, the Wisconsin Department of Administration shall so certify on the face of the plat.
- b. Plan Commission approval shall be subject to compliance with objecting agency review comments. Additionally, if the subject property abuts a County Highway, comments from the Jefferson County Highway Department must be received prior to advancing the matter to the Plan Commission. If the subject property is currently served by a private

sewage system, comments from the Jefferson County Environmental Health Department must be received prior to advancing the matter to the Plan Commission. No new private sewage systems will be permitted.

(4) City Plan Commission Review

- a. The City Plan Commission shall promptly review the preliminary plat, after objections and comments have been received by the objecting and reviewing agencies and officials, for conformance with this Ordinance and all applicable laws, rules, regulations, ordinances, and comprehensive plans and components of such plans. The Plan Commission shall comment and recommend action on the preliminary plat to the City Council.
- b. The Plan Commission shall consider and make a recommendation to City Council on the Preliminary Plat in a timeframe that allows the City Council to act within 90 days of the date of filing of the preliminary plat, which is a statutory deadline established in Section 236.11(1)(a) Wisconsin State Statutes.

(5) City Council Review

- a. In accordance with Section 236.11(1)(a) Wisconsin State Statutes, the City Council shall, within 90 days of the date of filing of the preliminary plat with the City Engineer, approve, approve conditionally, or reject such plat, unless the time is extended by mutual written agreement with the developer. One copy of the plat shall thereupon be returned to the developer with the date and action endorsed thereon; and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. One copy each of the plat and letter shall be placed in the City's permanent file.
- b. Failure of the City Council to act within 90 days shall constitute an approval of the plat as filed unless the review period is extended by written mutual agreement with the developer.
- c. 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 36 months after the last required approval of the preliminary plat and conforms substantially to the preliminary plat, including any conditions of that approval, and to local plans and ordinances, the final plat shall be entitled to approval as provided in Section 236.11(1)(b) Wisconsin Statutes. An approved preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted and used as a guide to the preparation of the final plat, which will be subject to further consideration by the Plan Commission and City Council at the time of its submission. The City Council may extend the time for submission of the final plat. See Section 70.05.03(1)d pertaining to partial platting or phasing.

### **Section 70.05.03: Final Plat Submittal, Transmittal, and Review**

#### **(1) Developer Submittal Requirements**

- (a) If any changes are made to the Final Plat after Preliminary Plat approval by the City Council, the developer shall complete an updated Land Division Review Checklist. The Checklist is adopted by reference and represents the submittal requirements of Article VI. A written transmittal letter shall identify all substantial changes that have been made to the plat since the preliminary plat.
- (b) A final plat shall be prepared in accordance with this Ordinance and the developer shall file an adequate number of copies and/or an electronic copy, as determined by the City Engineer, of the plat for distribution in accordance with this Section; the completed application; and the final plat review fee with the City Engineer in a timeframe that complies with the City-established deadline requirements for the meeting of the Plan Commission at which action is desired. If no changes have been made after Preliminary Plat approval, the Final Plat can be considered by the City Council without a recommendation from the Plan Commission.
- (c) Pursuant to Section 236.12(2) Wisconsin Statutes, the developer is also responsible for submitting an electronic or paper copy of the final plat to the Director of Plat Review of the Wisconsin Department of Administration, who will prepare and forward copies of the plat at the developer's expense to the objecting agencies.
- (d) The developer may submit a final plat that constitutes only a portion of the approved preliminary plat that the developer proposes to record at that time; however, it is required that each phase be final platted and designated as a phase of the approved preliminary plat and the phasing requires approval by the Plan Commission and City Council.

#### **(2) City Engineer Transmittal Requirements and Required Responses**

- a. The City Engineer shall transmit a paper or electronic copy of the final plat to all applicable City Departments for review. The recommendations of City Staff shall be transmitted to the City Engineer for transmittal to the Plan Commission for consideration. The City Engineer has the authority to bypass the review of City Staff and the Plan Commission if no or minimal changes have been made since approval of the Preliminary Plat. In such case, the City Council will act based on the review of the Preliminary Plat and any additional information provided by the developer.

#### **(3) Objecting Agency Review (Jefferson County & Wisconsin Department of Transportation)**

- a. The objecting agencies shall, within 20 days of the date of receiving their copies of the final plat, notify the developer and all other approving and objecting agencies of any

objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Wisconsin Department of Administration. The Wisconsin Department of Administration shall promptly notify the City Clerk if such a certification is submitted by an objecting agency. If an objecting agency fails to act within 20 days, and the Wisconsin Department of Administration fails to act within 30 days from the date on which they received the plat, they shall be deemed to have no objection to the plat and, upon demand, the Wisconsin Department of Administration shall so certify on the face of the plat.

- b. City Council approval shall be subject to compliance with objecting agency review comments. If the subject property abuts a County Highway, comments from the Jefferson County Highway Department must be received prior to advancing the matter to the Plan Commission. If the subject property is currently served by a private sewage system, comments from the Jefferson County Environmental Health Department must be received prior to advancing the matter to the Plan Commission. No new private sewage systems will be permitted.

(4) City Plan Commission Review

- a. The City Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat; conditions of approval of the preliminary plat; this Ordinance and all other ordinances, laws, rules, regulations, comprehensive plans or components thereof which may affect it; and shall recommend approval or rejection of the plat to the City Council. The City Engineer, in coordination with the City Manager, has the authority to bypass Plan Commission review if no or minimal changes have been made since approval of the Preliminary Plat.
- b. The Plan Commission shall consider and make a recommendation to City Council on the Final Plat in a timeframe that allows the City Council to act within 60 days of the date of filing of the final plat, which is a statutory deadline established in Section 236.11(2)(a) Wisconsin State Statutes.
- c. The Plan Commission shall, when it determines to recommend approval or rejection of a plat to the City Council, give written notice at least 10 days prior to the City Council meeting of its recommendation to the clerk of any municipality within 1,000 feet of the plat, but failure to give such notice shall not invalidate the plat.

(5) City Council Review

- a. In accordance with Section 236.11(2)(a), the City Council shall, within 60 days of the date of filing of the final plat with the City Engineer, approve, approve conditionally, or reject such plat, unless the time is extended by mutual written agreement with the developer. One copy of the plat shall thereupon be returned to the developer with the date and action endorsed thereon; and if approved conditionally or rejected, a letter

setting forth the conditions of approval or the reasons for rejection shall accompany the plat. One copy each of the plat and letter shall be placed in the City's permanent file.

- b. Failure of the City Council to act within 60 days shall constitute an approval of the plat as filed unless the review period is extended by written mutual agreement with the developer.
- c. If the final plat is not submitted within 36 months of the last required approval of the preliminary plat, the City Council may refuse to approve the final plat or may extend the time for submission of the final plat, as provided in Section 236.11(1)(b) Wisconsin Statutes. When a plat is partially submitted for final plat approval, the remainder of the preliminary plat shall remain valid for an additional 12 months from the date of approval of the partial final plat. Subsequent final plat approvals which involve only a portion of the preliminary plat shall extend the approval period for the remainder of the preliminary plat for one year from the last date of approval.
- d. The City Council shall not inscribe its approval on the final plat unless the City Clerk certifies on the face of the plat that no objections have been filed within 20 days or, if filed, that they have been satisfied, and the City Treasurer certifies that there are no unpaid taxes or special assessments on any of the lands included in the plat.
- e. Effect of approval: An approved final plat by the City Council shall serve as acceptance of dedications if specified as such by the City Council, and if a performance bond/financial assurance is provided and approved, preliminary acceptance of improvements. The final plat approval shall not be an official acceptance of improvements by the public (city or county) until such improvements are inspected and approved by the City Engineer or designated county official and a resolution is passed by the City Council, in accordance with Section 70.12.08 of this Ordinance. Once official acceptance of installed improvements has been approved by the City Engineer on an affidavit or other recordable document, the city may require a maintenance bond for said improvements, if applicable.

(6) Recordation

- a. Prior to the developer recording the final plat, the developer shall obtain all necessary signed certificates as required by Wis. Stats., 236.21 and 236.25. After the final plat has been approved by the City Council and required improvements either installed or a contract and sureties ensuring their installation is filed, the City Clerk shall cause the certificates inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the developer for recording with the County Register of Deeds at the developer's expense. The Register of Deeds shall not record the plat unless it is offered for recording within 12 months after the date of the last approval, which is the date of the last signed approval certificate, and within 36 months after the date of first

approval, which is the date of the first signed approval certificate, as required by Section 236.25(2)(b) of the Wisconsin Statutes.

- b. The developer shall file a digital copy of the recorded plat in a form acceptable to the City with the City Clerk. The City Clerk shall distribute copies of the recorded final plat to City staff.

**Section 70.05.04: Minor Land Division (CSM) Submittal, Transmittal, and Review**

**(1) Developer Submittal Requirements**

- a. A pre-application consultation as described in Section 70.05.01 of this Ordinance is required for all CSM's within the city limits with the Engineering and Zoning Departments.
- b. Before submitting a CSM, the developer shall complete an application and Land Division Review Checklist. The Checklist is adopted by reference and represents the submittal requirements of Article VI. The developer shall prepare the CSM in accordance with this Ordinance and shall file sufficient copies of the map, together with the appropriate fee, and the completed application with the City Engineer at least three weeks prior to the meeting of the Plan Commission at which action is desired. Electronic transmittals are required for review. A hard copy with original signatures is required for obtaining a City signature.
- c. The developer shall submit an electronic copy of the CSM to the Wisconsin Department of Administration for review if the provisions of Section 236.34(1m)(em) Wisconsin Statutes apply, which relates to a land division of more than four lots on lands zoned for industrial and commercial office and business park development as defined in Section 70.02.01(2) of this Ordinance.
- d. The developer shall submit an electronic copy of the CSM to the Wisconsin Department of Transportation if the provisions of Section 236.34(1m)(er) Wisconsin Statutes apply, which relates to the division of more than four lots specified above and all of the following: the external boundary of a recorded plat is changing, and the CSM shows lots that abut or adjoin a state trunk highway or connecting highway. Copies of the transmittal letters or emails to the Departments shall be provided to the City at the time the CSM is filed with the City Engineer.

**(2) City Engineer Transmittal Requirements and Required Responses**

- a. The City Engineer shall transmit a paper or electronic copy of the CSM to all applicable City Departments for review.

- b. The City Engineer, or designee, shall ensure that the City has completed its review within the statutory deadlines established by Section 236 of the Wisconsin State Statutes.
- c. The City Engineer, or designee, shall forward the CSM to any other applicable entities, such as the County Planning Agency, County Highway Department, County Environmental Health Division, Wisconsin Department of Natural Resources, or USACE. These entities must respond to the City within 20 days of receiving the CSM.

(3) City Plan Commission Review

- a. The CSM shall be reviewed by the Plan Commission for conformance to this Ordinance, and all other ordinances, laws, rules, regulations, and comprehensive plans and components thereof as may be applicable.
- b. The City Plan Commission shall review the CSM in a timeframe that allows the City Council to act within 90 days of the date of filing of the CSM, recommend approval, approval with conditions, or rejection of the map, and shall transmit the map along with its recommendations to the City Council.

(4) City Council Review

- a. In accordance with Chapter 236 Wisconsin State Statutes, the City Council shall approve, approve conditionally and thereby require resubmission of a corrected map, or reject such map within 90 days from the date of filing of the CSM unless the time is extended by mutual agreement with the developer. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the developer. If the map is approved, the City Council shall cause the City Council President and City Clerk to so certify on the face of the original map.
- b. Failure of the City Council to act within 90 days, or any extension mutually agreed to with the developer, constitutes an approval of the map and, upon demand, a certificate to that effect shall be made on the face of the map by the City Clerk.
- c. After the CSM has been approved by the City Council; the City Clerk shall cause the certifications inscribed upon the map attesting to such approval to be duly executed and the map returned to the developer for recording with the County Register of Deeds. The Register of Deeds shall not record the CSM unless it is offered for recording within 12 months after the date of the last approval, which is the date of the last signed approval certificate, and within 36 months after the first approval, which is the date of the first signed approval certificate.
- d. A CSM may be used for dedication of roads and other public areas, and for granting easements to the public or any person, society, or corporation marked or noted on the



map, when owners' certificates and mortgages' certificates which are in substantially the same form as required by Wis. Stats., 236.21 (2)(a), have been executed and the city council, village, or town board involved have approved such dedication or grant. Approval and recording of such CSMs shall have the force and effect provided by Wis. Stats., 236.29.

- e. The developer shall file a digital file in a form acceptable to the City and adequate copies of the recorded CSM with the City Clerk. The City Clerk shall distribute copies of the recorded final plat to City staff.

**Section 70.05.05: Extraterritorial Land Division Submittal, Transmittal, and Review**

No person, firm or corporation shall divide any land located within the 3-mile extraterritorial plat approval jurisdiction of the City of Fort Atkinson without first filing an application and complying with the standards of this Ordinance.

- (1) Submittal requirements for land divisions within the extraterritorial land division jurisdiction of the City shall be identical to the submittal requirements for land divisions within the city limits if the land division is located within 1.5 miles of the City limits. For all land divisions that are located greater than 1.5 miles, but within 3 miles, of the City limits, review is limited to the City Engineer and City Manager. All fees shall be paid in accordance with this Ordinance.
- (2) The developer must comply with the land division ordinances of all approval authorities, including the City, Town, and County.
- (3) The City Council shall not place their signature on a land division document unless the Town and County have acted and provided their comments to the City. As a courtesy, all land divisions shall be submitted to the Town prior to submittals to the City. The time-period within action is required shall not begin until the Town, City, and County have received all maps, drawings, and data required for plat approval.
- (4) The Plan Commission or Council may require placement of covenants or deed restrictions that are deemed necessary and appropriate by the City Plan Commission or Council to protect the purpose and intent of the City's plans and ordinances. Any such restrictions shall be placed on the face of the certified survey map, remnant parcels, or subdivision plat.
- (5) Wherever connection to any utility of the City or other future public utility district (i.e. water, sewer, lighting, etc.) is desired, permission for such connection shall be subject to review and approval by the Plan Commission and City Council when conducted as part of this Ordinance.
- (6) Improvement requirements specified by the Town Board, City Council, or any special utility district in matters over which they have jurisdiction shall be met before the final plat, condominium or, if applicable, CSM is filed for signatures. The location and right-of-way width of all roads within the City's extraterritorial jurisdiction shall comply with the City of Fort Atkinson

Official Map. If a proposed road will connect to a road within the City limits, the proposed road right-of-way shall have the same width as the road right-of-way within the City limits, if not otherwise designated on the Official Map. The road improvement and public road requirements do not apply to roads within the extraterritorial jurisdictional area. However, the City has the authority to review the configuration of the land division and require road interconnectivity where appropriate.

**Section 70.05.06: Replats and Reconfigurations**

- (1) Vacate or Alter. When it is proposed to replat a recorded subdivision, or part thereof, so as to vacate or alter areas within a plat dedicated to the public, or to change the boundaries of a recorded subdivision, or part thereof, the developer or person wishing to replat shall vacate or alter the recorded plat as provided in Sections 236.36 through 236.445 of the Wisconsin Statutes. If the replat is proposing to change the boundaries of a recorded subdivision, or part thereof, the developer or person wishing to replat shall then proceed as specified in Sections 70.05.01 through 70.05.04 of this Ordinance.
- (2) The City Engineer shall schedule a public hearing before the Plan Commission when a preliminary plat of a replat of lands within the City is filed. The City Clerk shall file a Class 2 notice of the proposed replat and public hearing to be published and mailed to the owners of record of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within 200 feet of the exterior boundaries of the proposed replat.
- (3) Reconfigure. An applicant wishing to reconfigure a recorded CSM shall create a new CSM and proceed as specified in Section 70.05.04 of this Ordinance, provided the reconfiguration does not result in a subdivision, no additional parcels are created, and no changes are made to areas previously dedicated to the public or to a restriction or easement placed on the land concerned.
- (4) Change Boundaries. A CSM may be used to change the boundaries of lots and outlots within a recorded plat or a recorded assessor's plat under Section 70.27 of the Wisconsin Statutes if the reconfiguration does not result in a subdivision. A CSM used to reconfigure lots within a recorded plat may not alter areas previously dedicated to the public or a restriction placed on the platted land by covenant, by grant of an easement, or by any other manner; or change the exterior boundaries of a plat.
- (5) Changes to Condominium Instruments, including condominium plats, shall comply with the requirements of Chapter 703 of the Wisconsin Statutes and be reviewed by the Planning Commission.

**Section 70.05.07: Condominium Submittal, Transmittal, and Review**

Condominium instruments, including condominium plats, sealed by a professional land surveyor are required to create a condominium or any amendments or expansions thereof, and are subject to City review and approval in accordance with Section 703.115 of the Wisconsin Statutes. Condominiums and associated plats shall comply with the requirements of Chapter 703 of the Statutes and the design

standards, improvements, and all other requirements, as applicable, of this Ordinance that would otherwise apply to conventional subdivision plats and CSM's with the exception of Sections 70.05.02 through 70.05.04, requirements for Subdivision Plats and CSM's, if no new lots, parcels, or outlots will be created as part of the condominium. Condominium instruments may not be used to create or alter lots, parcels, outlots, public streets, or other areas to be dedicated to the public. Changes to recorded condominium instruments to create, alter, or remove any condominium units, restrictions, or other encumbrances on the land included in a condominium shall require City review and approval of a correction instrument prepared in accordance with Section 703.095 of the Statutes. In accordance with Section 703.27 of the Statutes, condominium projects shall be subject to no more restrictive rules than non-condominium projects that are physically equivalent.

- (1) **Developer Submittal Requirements:** The developer shall submit a condominium plat and all associated documents and complete an application along with payment of the review fees. The plat shall comply with Section 703.27 Wisconsin Statutes. The developer shall file an electronic copy with the City Engineer, in a digital format as determined by the City Engineer, of the plat for distribution to City Staff and the Plan Commission at least 30 days prior to the meeting of the Plan Commission at which action is desired.
- (2) **City Engineer Transmittal Requirements and Required Responses:** The City Engineer shall transmit a paper or electronic copy of the Condominium Plat to all applicable City Departments for review. The recommendation of City staff shall be transmitted to the City Engineer within 20 days from the date the plat is received for transmittal to the Plan Commission for consideration.
- (3) **City Plan Commission Review:** The Plan Commission shall promptly review the plat, after all comments have been received by City Staff, for conformance with this Ordinance and all applicable laws, rules, regulations, ordinances, and comprehensive plans and components of such plans. The Plan Commission shall comment and recommend action to the City Council.
- (4) **City Council Review:** The City Council shall promptly review the plat, after receiving a recommendation from the Plan Commission, for conformance with this Ordinance and all applicable laws, rules, regulations, ordinances, and comprehensive plans and components of such plans.

#### **Section 70.05.08 Homeowner and Condominium Associations**

Common areas or facilities within a land division or condominium shall be held in common ownership as undivided proportionate interests, including future divisions or consolidations of subject lands, by the members of a homeowners or condominium association, subject to the provisions set forth herein. Upon additional land division or consolidation, existing proportions of interest will be adjusted accordingly. If an association dissolves or ceases to exist, each property or condominium unit owner within the development that is included in the undivided proportionate interest is responsible for compliance with the provisions of this Section. The homeowners or condominium association shall be governed according to the following:

- (1) The developer shall provide the City with a description of the homeowners or condominium association, including its bylaws, and all documents governing maintenance requirements and

use restrictions for common areas and facilities. These documents shall be subject to review by the City Council and reviewed as to form by the City Attorney.

- (2) The Association shall be established by the property owner or developer and shall be operating prior to the sale of any lots or units in the subdivision or condominium.
- (3) Membership in the association shall be mandatory for all purchasers of lots or units therein and their successors and assigns.
- (4) The Association shall meet at minimum annually. At least two officers shall be described.
- (5) The Association shall be responsible for maintenance and insurance of common areas and facilities.
- (6) A Facilities Plan outlining maintenance and performance for stormwater infrastructure, drainage areas, park areas, etc. shall be included, or separate documents referenced, in the submittal of association documents.
- (7) A Land Stewardship Plan for any common open space to be retained in a natural state shall be included, or separate document referenced, in the submittal of association documents.
- (8) The Members of the Association shall share equally the costs of maintaining, insuring, and operating common areas and facilities.
- (9) The Association shall have or hire adequate staff to administer, maintain, and operate common areas and facilities.
- (10) The Subdivider shall arrange with the City Assessor a method of assessment of any common areas and facilities, which will allocate to each lot, parcel, or unit within the land division or condominium a share of the total assessment for such common areas and facilities.
- (11) The City must receive written notice of any proposed transfer of common areas or facilities by the Association or the assumption of maintenance of common areas or facilities. Such notice shall be given to all members of the Association and to the City at least 30 days prior to such transfer. Such provision shall be included in the by-laws.
- (12) In the event that the Association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the City may serve written notice upon such Association and on each property owner within the Association, setting forth the manner in which the Association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the Association, or any successor Association, shall be considered in violation of this Ordinance, in which case the City shall have

the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the City shall be assessed on the tax roll against the properties that have the right of use of the common areas and facilities.

## **Article VI: LAND DIVISION SUBMITTAL SPECIFICATIONS**

### **Section 70.06.01 Preliminary Plat Requirements**

- (1) Preliminary Plat Document Requirements
  - (a) *Title or Name.* A name under which the proposed subdivision is to be recorded. Such title shall not be the same as a previously approved and recorded plat, unless it is an addition to a previously recorded plat and is so stated on the plat. All phased plats shall include the word "Addition" in the title.
  - (b) *Contact information.* Name, mailing address, email address, and phone number of the owner, developer, and professional land surveyor or engineer preparing the plat.
  - (c) *"Preliminary Plat" label.* The Preliminary Plat shall be clearly noted and labeled on its face "Preliminary Plat."
  - (d) *Inset Map.* An inset map of the area concerned showing the general location of the proposed subdivision in relation to U.S. Public Land Survey section and quarter-section lines and abutting and nearby public streets and highways. The inset map shall be oriented on the sheet in the same direction as the main drawing.
  - (e) *Location and Description of property.* Location of property by one-quarter section, section, township, range, name of city, county, and state.
  - (f) *Date, Graphic Scale, and North Arrow.* All revision dates shall be noted. The scale is to be no less than 1":200'. The north arrow and bearing shall be referenced to magnetic, true, or other identifiable direction related to a boundary line of the quarter section that the survey is located.
  - (g) *Sheet numbers.* At least one sheet shall show the entire development.
  - (h) *Dimensions in feet and acres.* Dimensions for plat elements shall be provided in feet and square feet. Lot and outlot sizes shall be provided in square feet and should include acres.
- (2) Preliminary Plat General Requirements (*the illustration of the below requirements shall be legible, multiple pages may be required*):

- (a) *Boundaries of the proposed subdivision.* Length and Bearing of the exterior boundaries of the proposed subdivision referenced to at least two corners established in the U. S. Public Land Survey and the total acreage encompassed thereby. The lengths of lines shall be given to the nearest 0.01 foot and bearings to the nearest one second of arc.
- (b) *Boundaries of all civil divisions.* Locations of all civil division boundary lines and U.S. Public Land Survey system section and one-quarter section lines within the plat and within 100 feet of the exterior boundaries of the plat shall be included.
- (c) *Existing and proposed easements.* True relationship between the boundary of property and pedestrian and recreational ways, existing roads, and highways upon which they may border. Identify all recording information.
- (d) *Meander lines.* Meander line bearing and distance along the bearing and distance from meander line to water's edge.
- (e) *Adjacent land.* The entire area contiguous to the proposed plat owned or controlled by the developer shall be included on the preliminary plat even if only a portion of said area is proposed for immediate development. Locations and names of any adjoining subdivisions, unplatted lands, parks, cemeteries, public lands, and watercourses, including impoundments, shall be included.
- (f) *Existing and proposed lot lines.* Dimensions and size of all lots and proposed lot and block numbers. Lots, outlots, and blocks shall be numbered consecutively.
- (g) *Setback Lines,* including those proposed to be more restrictive than the regulations of the zoning district in which the plat is located. If more restrictive setbacks are illustrated, a reference of the source and purpose shall be noted on the plat.
- (h) *Topography.* Existing contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets or highways, with preferably one-foot intervals but not more than two-foot intervals. Elevations shall be marked on such contours, referenced to a vertical datum approved by the City Engineer. Any rock outcrops, ridge lines, and hilltops shall be noted. Show existing topography with contours at 2-foot intervals, slopes, streams, springs, wetlands, ponds, buildings or other features likely to affect the subdivision on or adjoining the property. All areas that contain slopes of 20 percent or greater shall be clearly illustrated.
- (i) *Soil borings and location of soil borings for high groundwater.* In order to determine the suitability of specific areas for the construction of buildings and supporting roadways, soil borings and associated tests will be required for all new lots, unless the City Engineer determines that fewer borings are required based on the area between lots containing homogeneous soils with few limitations and elevation changes. The information will be used to ascertain subsurface soil conditions and depths to bedrock

and to the groundwater table. The provisions of Section 70.03.05(2) shall be complied with. The City Engineer may require additional soil borings and tests within the proposed road right-of-way areas for the purposes stated above. The location of the soil boring and cross-reference to the associated testing data shall be illustrated on the plat.

- (j) *Soil types.* Soil boundaries as shown on the soil survey maps prepared by the U. S. Natural Resources Conservation Service.
  - (k) *Surface drainage patterns.* The developer shall indicate the directions of drainage flows for each property line not fronting on a street on all parcels and along each street as a result from the grading of the site.
  - (l) *Zoning districts.* Show existing zoning districts, from county or city zoning maps, on and adjacent to the proposed subdivision.
  - (m) *Available and proposed utilities.* Locations and size of proposed and existing water mains, gate valves, gas mains, fuel tanks, septic tanks, well water sources, hydrants, stubs, manholes, catch basins, sewer, communication towers, and electrical utility lines, whether above or below ground. Connections should be symbolized and/or labeled in such a way that they are clearly identifiable to the City Engineer. If no sewers or water mains are located within or immediately adjacent to the plat, the nearest such sewers or water mains that will be extended to serve the proposed subdivision shall be indicated by their direction and distance from the nearest exterior boundary of the plat, and by their size and Invert elevations. All elevations shall be referenced to a vertical datum approved by the City Engineer. No new private sewage systems will be allowed within the City boundaries.
  - (n) *Streets and right of way.* Street names shall be labeled on the plat. Layouts and dimensions for proposed and existing streets, highways, alleys, or other public ways, bicycle and pedestrian/recreational ways, active and abandoned railway rights-of-way, access-control and vision corner easements, and deed restricted areas within or adjacent to the exterior boundaries of the plat. More information, including estimated traffic counts, may be required at the discretion of the City Engineer. The City Engineer has discretionary authority to request a Traffic Impact Analysis.
- (3) Additional Preliminary Plat Requirements, if Present:
- (a) *Outlots, conservation areas, and parks and open spaces, including proposed ownership.*
  - (b) *Public parks, open spaces, or common areas* within or adjacent to the proposed subdivision, potential open space connections between the proposed subdivision and adjacent lands, and any land to be dedicated as public space.

- (c) *Existing structures.* Existing buildings and structures shall be shown. Structure type, such as residence, garage, barn, or shed, shall be identified. The proposed use of existing structures to be retained shall be noted. All wells shall be shown within the exterior boundaries of the plat, and beyond the boundaries of the plat if located within 100 ft. of a proposed stormwater facility.
- (d) *Historic, cultural, and archaeological features.* The location and brief description of any historic character of buildings, structures, ruins, and burial sites shall be noted.
- (e) *Water/Wetland features.* Location and water elevations at the date of the survey of all springs, creeks, wetlands, lakes, ponds, rivers, streams, creeks, and drainage ditches within the plat and within 100 feet of the exterior boundaries of the plat. The boundaries of wetlands shall be as field delineated. The source and date of delineation shall be noted on the face of the plat.
- (f) *Ordinary High Water Mark (OHWM).* The OHWM boundary and elevation shall be shown on the plat that has been determined by the DNR or otherwise determined pursuant to law.
- (g) *Floodplain limits.* The boundaries of the 1-percent-annual-probability (100-year recurrence interval) floodplain, reflecting flood stage elevations as determined under the effective FEMA (Federal Emergency Management Agency) Flood Insurance Study or other technical document, shall be shown.
- (h) *Waterway access as required by § 236.16 Wisconsin Statutes.*
- (i) *Trees and other vegetation.* All existing non-invasive trees that are 6" diameter at breast height (dbh) or greater shall be identified by species, size, location, and health. Trees located within an area proposed to be maintained in open space do not need to be individually inventoried. The location and characteristics of any significant woodland areas, hedgerows, and prairies shall also be shown.
- (j) *Other natural features of significant public interest to be affected by the development or improvements.*
- (k) *Private Onsite Wastewater Treatment Systems (POWTS) and/or public wastewater treatment and water supply.* Identify all private onsite or public wastewater treatment and water supply existing or being proposed and to be reviewed by the City. *Note: New private wastewater treatment and water supply systems are prohibited.* All existing private sewage systems and private wells shall be abandoned within 12 months from the recording of the land division. Therefore, a plan for septic and well abandonment shall be submitted as part of the land division review process.



- (l) *Additional information and notations of any restrictions* required by the Planning Commission or other approving or objecting agency.

(4) **Additional Preliminary Plat Documents and Studies**

The Planning Commission may require that the following additional information and studies be provided when necessary for the proper review and consideration of the proposed land division (If only a portion of a preliminary plat is to be approved, construction and improvement plans only need to be prepared for such portion, but the design shall be based on the needs of the entire area):

- (a) *Street Plans and Profiles*: The City Engineer or Planning Commission may require that the developer provide street plans and profiles within or adjacent to the exterior boundaries of the plat. Plans and profiles shall show the existing ground surface and proposed and established street grades and widths, including extensions for a reasonable distance beyond the limits of the proposed subdivision when requested. The plans and profiles shall comply with the standards of Section 70.08.07. All elevations shall be referenced to a datum and the datum, plans, and profiles shall meet the approval of the City Engineer.
- (b) *Public Improvements Plan*: Simultaneously with the filing of the Preliminary Plat of map, the owner shall file with the City Engineer a concept report addressing:
  1. Existing and proposed sewer and water service including mains, laterals, gate valves, stubs, hydrants, manholes;
  2. Drainage facilities, catch basins, curb and gutter improvements;
  3. Pedestrian and Recreational facilities;
  4. Electric, internet, and telephone systems including street lighting laterals;
  5. Landscaping improvements;
  6. Centerline profiles showing streets;
  7. Park areas;
  8. Existing POWTS and well water sources and plan for replacement;
  9. Grading plan.
- (c) *Stormwater Management and Erosion and Sedimentation Control Plan*: Following approval of the preliminary plat and prior to approval of the final plat, stormwater and sedimentation control plans and specifications shall be submitted for review and approval in accordance with Chapter 18, Article V of the City of Fort Atkinson's Code of Ordinances.
- (d) *Covenants and Homeowners or Condominium Association Documents*
  1. A draft copy of any proposed Homeowners or Condominium Association declarations, covenants, or other documents shall accompany the preliminary plat. The proposed documents shall be subject to review by the City and be reviewed as to form by the City Attorney.

2. A draft copy of any proposed Land Stewardship Plan and/or documents for proper management of the common open space in condominiums or subdivisions shall accompany the preliminary plat. The proposed stewardship plan and/or documents shall be subject to review and approval by the City and be reviewed as to form by the City Attorney.
- (5) Certification: The professional land surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of the exterior boundaries of the proposed plat and all existing land divisions and features within and adjacent thereto; and that the surveyor has fully complied with the provisions of this Ordinance and Chapter 236 of the Wisconsin Statutes.

#### **Section 70.06.02 Final Plat Requirements**

(1) Final Plat Document Requirements:

- (a) All requirements of Section 70.06.01(1) for Preliminary Plats, unless modified herein.
- (b) The Preliminary Plat label shall be removed from the Final Plat and replaced with the official name of the Subdivision Plat.
- (c) *Surveyor's Certificate* signed, dated and sealed and same revision dates on all pages.

(2) Final Plat General Requirements:

- (a) All requirements of Section 70.06.01(2) for Preliminary Plats, except for subsections (h) topography, (i) soil boring locations, (j) soil types, (k) surface drainage patterns, (l) zoning districts, and (m) available and proposed utilities, unless designated through an existing or proposed easement. Applicable rezone, conditional use, planned unit development conditions shall be noted on the Final Plat.
- (b) *Survey monumentation* as required by § 236 Wisconsin Statutes.
- (c) *Length and bearing of the centerline of all streets.* The lengths shall be given to the nearest 0.01 foot and bearings to the nearest one second of arc. The arc, chord, and radius lengths and the chord bearings, tangent bearings, together with the bearings of the radii at the ends of the arcs and chords, shall be given for all curved streets. Street width shall be shown along the line of any obliquely intersecting street to the nearest 0.01 foot.
- (d) *Curve information.* Include: radius, chord length, chord bearing, central angle, arc length, and tangent bearing or direction if a nontangential curve, and show main chords as dashed or dotted lines as set forth in Wis. Stats., 236.20(2)(k).

- (3) Additional Final Plat requirements, if present:
  - (a) All requirements of Section 70.06.01(3) for Preliminary Plats, unless the City Engineer determines that the feature is not required on the Final Plat. The tree and vegetation inventory is not required to be shown on the Final Plat. However, if any of these areas are required to be protected, the protection boundary and related restrictions shall be specified on the Final Plat or a reference made to another restriction document.
- (4) Additional Final Plat Documents
  - (a) Final Street and Profile Plans and Improvement Plans
  - (b) Final Stormwater Management and Erosion and Sedimentation Control Plan
  - (c) Final Covenants and Homeowners or Condominium Association Documents
- (5) Certification: The professional land surveyor preparing the final plat shall certify on the face of the plat that it is a correct representation of the exterior boundaries of the proposed plat and all existing land divisions and features within and adjacent thereto; and that the surveyor has fully complied with the provisions of this Ordinance and Chapter 236 of the Wisconsin Statutes.

**Section 70.06.03 CSM Requirements**

The map shall show correctly on its face, in addition to the information required by Section 236.34 of the Wisconsin Statutes, the following:

- (1) *CSM Document Requirements:* All requirements of Section 70.06.02(1) for Final Plats, except that all references to Final Plat shall be replaced with Certified Survey Map, including the "Certified Survey Map" label. The Certified Survey Map shall be clearly noted and labeled on its face "Certified Survey Map".
- (2) *CSM General Requirements:* All requirements of 70.06.02(2) for Final Plat.
- (3) *Additional CSM Requirements, if present:* All requirements of Section 70.06.01(3) for Preliminary Plats, unless the City Engineer determines that the feature is not required on the CSM. A tree and vegetation inventory may be shown on a separate document and is not required to be shown on the CSM. However, if any of these areas are required to be protected, the protection boundary and related restrictions shall be specified on the CSM or a reference made to another restriction document.
- (4) *CSM Documents and Studies:* The City Engineer or Planning Commission may require that additional information and studies be provided when necessary for the proper review and consideration of the proposed land division.

- (5) *Certification:* The professional land surveyor preparing the CSM shall certify on the face of the CSM that it is a correct representation of the exterior boundaries of the proposed plat and all existing land divisions and features within and adjacent thereto; and that the surveyor has fully complied with the provisions of this Ordinance and Chapter 236 of the Wisconsin Statutes.

## **Article VII: SUBDIVISION DESIGN STANDARDS**

### **Section 70.07.01**

All plans and specifications for land divisions and condominium developments shall comply with the design standards established herein and in other adopted City ordinances and the City comprehensive plan. Plans and specifications shall also comply with design related requirements in Article XI, "Required Improvements," and Article XII, "Requirements for Construction of Improvements," of this Ordinance.

- (1) **Blocks**
- (a) *General Requirements:* The widths, lengths, shapes, and orientation of blocks shall be suited to the planned use of the land; zoning requirements; the need for convenient bicycle, pedestrian, and motor vehicle access; traffic control and safety; and the limitations and opportunities of topography and other natural resource features.
  - (b) *Length of Blocks:* Unless approved by the Plan Commission due to topography and emergency services are available, block lengths in residential areas shall not exceed 1,500 feet. As a general rule, blocks shall not be less than 600 ft. in length.
  - (c) *Width of Blocks:* Blocks shall not have less than sufficient width to provide for two tiers of lots with appropriate depth between street lines. A single tier of lots may be necessary to separate development from railroad rights-of-way or through traffic, such as double or reverse frontage lots, or to protect natural resources.
  - (d) *Pedestrian and Bicycle/Recreation Ways:*
    - 1. A sidewalk that is at least five (5) feet in width, or recreational pathway between eight (8) – ten (10) feet if bicycles are also being accommodated, shall be provided by the developer when deemed essential by the Plan Commission, near the center and entirely across any block, which may also include a midblock pathway, for the following reasons:
      - a. Provide safe and convenient pedestrian, bicycle, and other recreational circulation
      - b. Access between lots, streams, lakeshores, park lands, or other public areas.

c. Access to schools, shopping centers, churches, parks, open spaces, or transportation facilities.

2. These pathways shall be identified on the subdivision plat, CSM, or condominium plat with a special restriction and in the development agreement addressing long-term maintenance responsibilities.

(2) Lots

- (a) *General Requirements:* The size, shape, and orientation of lots shall be appropriate for the location of the land division and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site, and a proper architectural setting for the buildings contemplated. Lot lines shall follow municipal boundary lines rather than cross them.
- (b) *Side Lot Lines* shall be at right angles to straight street lines or radial to curved street lines on which the lots face, unless a non-conventional lot layout is approved by the Plan Commission.
- (c) *Double or Reverse Frontage Lots* shall be prohibited except where necessary to provide separation of residential development from arterial or collector streets or to overcome specific disadvantages of topography and orientation.
- (d) *Public Street Frontage.* Every lot shall front or abut for a distance of at least 30 feet on a public street for access or as required in the City of Fort Atkinson Zoning Ordinance (Also see Section 70.08.01).
- (e) *The Area and Dimensions of Lots* shall conform to the requirements of the City of Fort Atkinson Zoning Ordinance. Lots shall contain sufficient area to permit compliance with all required setbacks, including those set forth in the City of Fort Atkinson Zoning Ordinance and those that may be required to meet the requirements of Chapter Trans 233 of the Wisconsin Administrative Code.
- (f) *Re-divisions.* Wherever a lot, parcel, or tract is subdivided into lots or parcels that are more than twice the minimum lot area required in the zoning district in which the lot or parcel is located, the Plan Commission may require that such lots or parcels be arranged and dimensioned to allow re-division into smaller lots or parcels that will meet the provisions of this Ordinance and the zoning ordinance.
- (g) *Depth.* Lots shall have a minimum average depth as defined in the City of Fort Atkinson Zoning Ordinance. The typical lot depth in a land division should be increased relative to the width of any buffer strips required along abutting arterial streets, highways, and railways. Where applicable, the minimum lot depth shall also be increased relative to the width of any required drainage easement,

pedestrian/recreation way, or landscaped buffer strip along a front or rear lot line (also see Section 70.08.06). Excessive depth in relation to width shall be avoided and a proportion of two to one (2:1) shall be considered a desirable ratio, unless a deeper lot is needed to protect natural resources or accommodate easements and buffers.

- (h) *The Width of Lots* shall conform to the requirements of the City of Fort Atkinson Zoning Ordinance. Where applicable, the minimum width shall be increased relative to the width of any required drainage easement, pedestrian/recreation way, or landscaped buffer strip along a side lot line (also see Section 70.08.06).
- (i) *Corner Lots.* The width of corner lots shall be increased, as determined by the City Engineer, beyond the minimum lot width required in the City of Fort Atkinson Zoning Ordinance for lot widths less than 100 feet to allow adequate yards or building setbacks from two street yards and to accommodate sufficient side and rear yards for the intended use and any required buffers and easements.
- (j) *Depth and Width of Commercial/Industrial Lots.* Lot widths shall be adequate to provide for off-street parking and service (loading/unloading) areas required by the use contemplated and the City of Fort Atkinson Zoning Ordinance.
- (k) *The Shape* of lots shall be approximately square or rectangular, with the exception of lots located on a curved street or on a cul-de-sac turnaround. Flag lots or easements or other lot stacking techniques shall be prohibited, except where necessary to accommodate exceptional topography or to preserve natural resources.
- (l) *Lands Lying Between the Meander Line and the Water's Edge.* The lands lying between the meander line, established in accordance with Wis. Stats., 236.20(2)(g) and the water's edge and any otherwise unplattable lands, such as floodways, which lie between a proposed land division and the water's edge shall be included as part of lots, outlots or public dedications in any map or plat abutting a lake or stream. This requirement applies not only to lands proposed to be divided, but also to all lands under option to the developer or in which he/she holds an interest and which abut a lake or stream as provided in Wis. Stats., 236.16(4). A subdivision plat or a CSM that includes lots or outlots that extend to the water's edge shall show on its face the following statement: "Any land below the OHWM of a lake or a navigable stream is subject to the public trust in navigable waters that is established under article IX, section 1, of the state constitution". Lands located below the OHWM of any navigable water shall not be included in the total area of any parcel created under the terms of this ordinance. Newly created lots with rivers, streams, or wetlands located within the lot shall have a compliant and accessible building location in compliance with all state and federal regulations.

For the purposes of this section, a CSM that shows an approximate OHWM as determined by the surveyor shall state on the face of the map that the mark is shown for reference only per Wis. Stats., 236.025.

- (m) *Restrictions Prohibiting Development.* Whenever a lot appearing on a subdivision plat or CSM, or on a condominium unit on a condominium plat, is not intended to be buildable, or is intended to be buildable only upon certain conditions, an express restriction to that effect, running with the land and enforceable by the City, shall appear on the face of the plat or map.
- (n) *Remnants of Lots.* Remnant lots shall be included in the land division, unless the Plan Commission decides that it is unnecessary because the remnant is an excessively large area to include in the land division and the costs would be burdensome. The minimum remnant acreage shall be at least 20 acres in size. A remnant parcel waiver request shall be submitted to the City Engineer and shall include the reason for not including the acreage in the land division and the proposed use of said land. If the remnant acreage is part of a phased development, a concept neighborhood master plan of the entire acreage is required.

## **Article VIII: ROAD DESIGN & CONSTRUCTION STANDARDS**

### **Section 70.08.01 Street Principles and Arrangements**

- (1) **General:** In any new land division or condominium, the street layout shall conform to the arrangement, width, type, and location indicated on the adopted City Official Map, or as indicated in the adopted City comprehensive plan. In areas for which such plans have not been completed, or are of insufficient detail, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and existing trees, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. Road systems shall comply with the requirements of Chapter 236 Wisconsin Statutes and be designed to permit efficient drainage and utility systems and shall consist of only the minimum number of roads necessary to provide convenient and safe access to property.

Connection to Adjacent Lands. Proposed streets shall be extended to the boundary lines of the tract to be subdivided so that the entire area can be served with a coordinated public road system, unless a specific exemption is granted by the Plan Commission.

- (2) **Connection to State Highway.** All roads connecting into state highways must be designed and constructed in compliance with the WISDOT Access Management Plan, Chapter 7, Section 5 of the WDOT FDM. The width of right-of-way is to be provided so that all underground utilities can be located within the right-of-way or designated utility easement.
- (3) **Frontage.** In accordance with Section 15.04.10(2) of the Zoning Ordinance, each lot shall have satisfactory frontage on a public street, unless the land is outside of the City limits. In such case, the Town may permit private streets with a reserved right-of-way that meets City standards.

- (4) Street Classifications. Streets shall be required and classified by the City Engineer in accordance with the City's Comprehensive Plan and Official Map, and where not identified, in accordance with sound engineering standards, into the classifications indicated below:
- (b) Arterial Streets. Arterial streets shall provide ready access to centers of employment, centers of governmental activity, community shopping areas, community recreation, and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and planned system of arterial streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
  - (c) 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 arterial street and highway system and shall be properly related to the arterial streets to which they connect.
  - (d) Local/Minor Streets. These streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide safe and convenient access to abutting property.
  - (e) Half-way Streets or Alleys. Wherever there exists adjacent to the tract to be subdivided a dedicated or platted and recorded half-width street or alley, the other half-width of such street or alley shall be platted. Half-way streets in new subdivisions shall not be permitted. Alley specifications are listed in Section 70.08.03.
  - (f) Dead-end Streets and Cul-de-sacs. Dead-end streets or cul-de-sacs will be approved where necessitated by the existence of floodplain, wetland, unusual shape, size, location, or topography or where, in the opinion of the Commission, they are appropriate to the type of development contemplated. Specifications are listed in Section 70.08.04.
  - (g) Streets located in the extraterritorial plat jurisdiction of the City shall provide for the dedication of the minimum widths of right-of-way in accordance with the standards adopted by the pertinent Town government in which the project is located. Other streets within the extraterritorial plat jurisdiction of the City shall meet or exceed the town road standards of Sec. 86.26, Wis. Stats.
- (2) Arterial Street and Highway Protection. Whenever an existing or planned arterial street or highway is located adjacent to or within a proposed land division or condominium, adequate protection of residential lots, limitation of access to the arterial street or highway, and separation of through and local traffic shall be provided through the use of alleys, frontage streets, or cul-de-sac or loop streets. A restricted non-access easement along any property line



abutting an arterial street or highway may be required in accordance with the provisions of Section 70.08.06. Permanent screening or landscape plantings may be required in any restricted non-access area.

- (3) Development Control or Reserve Strips. These strips of land shall not be allowed on any plat or CSM to control access to streets or alleys, except where control of such strips is placed with the City under conditions approved by the Plan Commission, Jefferson County, or State Highway Department having jurisdiction.
- (4) Commercial and Industrial Development.
  - (a) Roads and other access ways shall be planned to coordinate with the groups of buildings and the location of rail facilities. Access ways, truck loading and maneuvering areas, including walks and parking areas, shall be provided to minimize conflict of movement between the various types of traffic, including pedestrian and recreational. Sidewalks shall be constructed in accordance with the ADA and all other applicable regulations.
  - (b) Roads serving business developments and accessory parking areas shall be planned to connect with arterial roads so as not to generate traffic on residential roads. The intersection of parking lot driveways with arterial or collector roads shall be located so as to cause the least possible interference with traffic movement on those roads.
  - (c) In industrial subdivisions, roads shall be planned to serve industrial areas exclusively and shall connect with arterial or principal collector roads so that no industrial traffic will be directed onto any residential roads.
- (13) Loading Zones: Access shall be provided in commercial, industrial, and mixed-use areas for off-street loading/unloading and service areas.
- (14) Street Names: Existing streets shall be named in accordance with Chapter 90.41. All new street names shall be approved by the City and shall not duplicate or be similar to existing street names elsewhere in the City, unless the proposed streets are extensions or continuations of others already in existence and, therefore, shall bear the names of the existing streets. The following descriptions shall be used only in the situations indicated:
  - (a) Boulevard. A street with a divided pavement, either existing or planned. If the divided pavement ends but the street continues, the same street name and suffix shall continue.
  - (b) Lane. To be limited to a street, one (1) block long, not ending in a cul-de-sac.
  - (c) Circle. To be limited to a cul-de-sac of nine (9) lots or more.
  - (d) Court. To be limited to a cul-de-sac of eight (8) lots or less.

(e) Parkway. To be limited to a street abutting a park or greenway or creek.

- (15) Drainage: Roads shall be designed so that building sites are at grades that facilitate optimum drainage patterns.
- (16) Boulevards and Roadway Islands. Boulevards and roadway islands shall meet City approval with regard to ADA compliance. No portion of the roadway island or median shall be located within county highway right-of-way unless approved by the County Highway Department.
- (17) Dedication: The developer shall dedicate land and improve streets as provided in this Ordinance and in accordance with Section 70.12.08.

**Section 70.08.02 General road design standards**

- (1) Horizontal Curves. When connecting street lines deflect from each other at any one (1) point by more than five (5) degrees, they shall be connected by a curve with a radius of not less than one hundred (100) feet on local streets, three hundred (300) feet on collector streets, and five hundred (500) feet on arterial streets.
- (2) Visibility. Streets shall afford maximum visibility and safety for motorist, bicycle, and pedestrian use and shall intersect at right angles, where practicable. A minimum sight distance with clear visibility, measured along the centerline, shall be provided of at least five hundred (500) feet on major thoroughfares, two hundred (200) feet on collector-distributor streets, and one hundred twenty (120) feet on all other streets.
- (3) Tangents. A tangent at least one hundred (100) feet long shall be required between reverse curves on arterial and collector streets.
- (4) Street Grades. Street grades shall be established wherever practicable so as to avoid excessive grading, the indiscriminate removal of ground cover and tree growth, and general leveling of the topography. The grade of all City roads shall not exceed twelve percent (12%) unless approved by the City Engineer and Fire Chief. The minimum grade of all streets shall be five-tenths percent (.5%) unless drainage is accommodated with approval by the City Engineer.
- (5) Vertical Curves. All changes in street grades for arterials and changes in street grades for collector and local streets where the algebraic difference in the rate of grade exceeds one percent (1%) shall be connected by vertical curves. All local roads shall have a minimum "K" value of 15 and all arterial and collector streets shall have a minimum "K" value of 30.
- (6) Crowns. Unless otherwise approved, roadway pavements shall be designed with a centerline crown. Offset crowns or continuous cross-slopes may be utilized upon approval of the City Engineer. Alley pavements shall be "V"-shaped, with a centerline gutter for drainage. The minimum design grade of street crowns shall be three percent.

- (7) Floodplains. New or reconstructed streets passing through floodplains shall be designed at or above the base flood elevation so they are not flooded by overflow of streams, rivers, or lakes during a 1-percent-annual-probability (100- year recurrence interval) flood event unless an alternative access is provided by streets located outside of such floodplains. All requirements of the floodplain ordinance shall be met. Arterial streets and highways under County, State, or Federal jurisdiction shall meet the floodplain requirements of the government agency having jurisdiction.
- (8) Bridges and Culverts. All new and replacement bridges and culverts over navigable waterways, including pedestrian and other minor bridges, shall be designed so as to accommodate the peak rate of discharge of a 1-percent-annual-probability (100-year recurrence interval) flood event without raising the peak stage, either upstream or downstream, established by FEMA. Flood stage increases may be acceptable for reaches having topographic or land use conditions that could accommodate the increased stages without creating additional flood damage potential upstream or downstream of the proposed structure, provided flood easements or other appropriate legal arrangements have been made with all affected units of government and property owners and local zoning ordinances affected by the increase in the flood stage are amended. Bridges and culverts shall be so designed and constructed as to facilitate the passage of ice flows and other debris.

New and replacement bridges shall be constructed in accordance with applicable State regulations and hydraulic analyses evaluating the effect, if any, of the bridge on 1-percent-annual-probability flood stages shall be submitted to the DNR, excluding ordinary maintenance repair or resurfacing of such bridges, to assure compliance with floodplain zoning requirements.

#### **Section 70.08.03 Alley standards**

- (1) Alleys are allowed in the rear of lots zoned SR-7, or as otherwise deemed appropriate as part of a Planned Unit Development in accordance with the Zoning Ordinance, or as may be amended or required by the Plan Commission.
- (2) Alleys shall be provided in all commercial and industrial districts, except that 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.
- (3) The width of alleys shall be not less than 14 feet with a 20 ft. right-of-way, including 3 ft. concrete gutters and a pan section.
- (4) Newly constructed alleys shall consist of an 8-in. Portland cement concrete pavement, or an 8-in. waterbound macadam base with a 3-in. plant mix bituminous concrete wearing surface.
- (5) Abutting property owners shall be assessed for and be responsible for making payments for any required future maintenance as deemed necessary by the City.

- (6) Dead end alleys are prohibited except under very unusual circumstances, and crooked and "T" alleys shall be discouraged. Where dead end alleys are unavoidable, they shall be provided with adequate turnaround facilities at the dead end and shall be designed and constructed per requirements established by the City Engineer.
- (7) Alleys shall be designed to discourage through traffic for the purpose of shortening a traffic route. Alleys are intended to be designed for use by the occupants of the properties adjacent to said alleys.

#### **Section 70.08.04 Cul-de-sac and dead-end street standards**

- (1) Dead-end streets must terminate with a cul-de-sac, unless excepted herein. Cul-de-sacs are discouraged, and if approved, the length shall not be longer than 500 feet unless a specific exemption is provided by the Planning Commission. In commercial/industrial parks, cul-de-sacs shall not be longer than 1,300 feet. The length shall be measured on its centerline from the connecting centerline intersection to the center of the cul-de-sac. If the Plan Commission approves a cul-de-sac that exceeds the length requirements of this section, provisions shall be made for adequate emergency access and water main configuration. Dead-end streets and cul-de-sacs shall not be used as part of a traditional neighborhood design (TND), but may be considered in a conservation subdivision to protect natural features.
- (2) The diameter of a permanent cul-de-sac shall be not less than 120 feet. It is recommended that the roadway within the turn-around should have a 100-foot diameter paved driving surface with a 10-foot shoulder.
- (3) Temporary cul-de-sacs or "T" turnarounds are required at the property line where a roadway will not be immediately completed as a through road. Temporary turnarounds must be connected and extended when the adjoining property is developed, and the cul-de-sac shall be removed and restored with vegetation at the expense of the developer of the adjoining property. All necessary improvements required as part of the road extension shall also be made at the expense of the developer of the adjoining property, including curb and gutter, driveway modifications to adjoining lots, and the accommodation of drainage. A temporary cul-de-sac with a 100 ft. diameter bulb is required if six or more lots abut the cul-de-sac. A "T" turnaround is acceptable if there are five or less lots. If the right-of-way for the temporary turnaround is wider than 60 feet, then the wider "bump-out" portion shall be a temporary easement that shall be automatically removed when the subject road is extended. All restoration and new road construction shall be completed in accordance with this section and the provisions of Section 70.11.05 of this Ordinance. Required front yards or building setbacks would be measured from the street right-of-way that is to be permanently dedicated.
- (4) If a dead-end road extends only the depth of the corner lot past a road intersection, no turnaround will be required.

#### **Section 70.08.05 Intersection standards**

- (1) There shall be a minimum separation of 300 ft. on local roads and 500 ft. on collector roads between centerlines of collector streets between intersections on city roads. Jefferson County will dictate intersection separation requirements on County Highways and Wisconsin Department of Transportation will dictate intersection separation requirements on State Highways.
- (2) Roads shall be laid out to intersect at 90 degrees. A proposed intersection to two new roads at an angle of less than 70 degrees shall not be acceptable. Not more than 2 roads shall intersect at any one point unless specifically approved by the Plan Commission.
- (3) Proposed new intersections along one side of an existing road shall coincide with any existing intersections on the opposite side of such road. Road jogs with centerline offsets of less than 125 feet shall not be permitted. Where roads intersect major roads, their alignment shall be continuous.
- (4) Intersections shall be approached on all sides by grades not to exceed three percent for a distance of no less than 100 feet from the property or right-of-way lines of said intersection, unless exceptional topography would prohibit these grades. The location of street intersections immediately below the crest of hills shall be avoided.
- (5) Where any road intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer at the direction of the city, shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide adequate sight distance as required in Section 15.06.05 of the Zoning Ordinance.
- (6) Property lines at street intersections shall be rounded with a minimum radius of fifteen (15) feet, except that with all intersections with arterial and collector streets the radius shall be increased to twenty-five (25) feet or of a greater radius when required by the City Engineer. This provision may be waived by the City Engineer if deemed unnecessary.
- (7) Vision Corner Easement. At any intersection determined by the City Engineer, restricted development easements or additional street right-of-way shall be platted to provide for adequate sight distances in every direction of travel. The provisions of Section 15.06.05 of the Zoning Ordinance shall be met. The restrictions shall be noted on the face of the land division map.

#### **Section 70.08.06 Limited Access Highway and Railroad Right-of-Way Treatments**

- (1) Non-Access Easement and Planting Area. When lots within a proposed land division or condominium back upon the right-of-way of an existing or planned limited access highway or railroad, a non-access easement and planting area (sometimes called a landscaped buffer yard or strip) at least 30 feet in depth and/or width shall be provided adjacent to the highway or railroad right-of-way. The minimum lot depth and/or width required by the

zoning ordinance shall be increased where applicable by 30 feet to accommodate the non-access easement and planting area. The design of the planting area, including fences and walls, shall be similar or compatible with the character of adjacent properties. This non-access easement and planting area shall be a part of all lots adjacent to applicable rights-of-way and shall have the following restriction lettered on the face of the plat or certified survey map: "This area is reserved for the planting of trees and shrubs. Pedestrian, bicycle, and other recreation trail facilities and access may be allowed. No motor vehicle access shall be permitted across this area, except those for personal assistance mobility devices for individuals with mobility disabilities. The building of structures, except fences or walls for screening or buffering purposes and public or private utility structures, is prohibited hereon." The landscape requirements of Section 15.08.30(3) of the Zoning Ordinance shall be met.

- (2) Streets Parallel to a Limited Access Highway or railroad right-of-way, when intersecting an arterial or collector street which crosses said highway, shall be located at a minimum distance of 250 feet from said street or railroad right-of-way or at a distance as determined by the City Engineer. 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 desirable approach gradients.
- (3) Land Access Streets immediately adjacent and parallel to arterial streets and railroad rights-of-way shall be avoided in residential areas.

#### **Section 70.08.07 Preparation, Construction and Dedication of Public Streets and Roads**

- (1) General Requirements
  - (b) Construction and Materials. All roadway construction and materials used shall be performed in accordance with the construction methods as listed in the appropriate sections of the "State of Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction" and its supplements, and this Chapter, whichever is more restrictive. The design requirements of this Ordinance and the City of Fort Atkinson Standard Specifications for Construction of City-owned Infrastructure shall be applicable to all streets and roads that are to be dedicated to the City, regardless of whether such streets or roads are part of a new subdivision or land division. Design requirements for the pavement shall be adequate for the zoning classification of the area served by the subject street. A street which divides areas with different zoning classifications shall be constructed in accordance with the requirements of the area requiring the higher quality pavement. Any variation of this must have prior approval of the City Engineer.
  - (b) Project Costs. All roadway surveys, dedications, plans and specifications and construction will be at the expense of the applicant or applicants. This includes any

expense incurred by the City in the preparation of plans and review and inspection of plans and construction.

- (c) Preliminary Consultation. Prior to the design, preparation and construction of any roadway to be dedicated to the City of Ft. Atkinson, the applicant shall notify the City Engineer. An on-site meeting will then be arranged to be attended by the City Engineer and the applicant. Plans must be provided in order for the City Engineer to check the design and drainage.
  - (d) Material Slips. Copies of material slips for all materials furnished for the road construction projects shall be delivered to the City before the City approves the final construction.
  - (e) Required Inspections. Prior to the commencement of any street construction, the developer shall notify the City Engineer, at least three (3) workdays in advance, as to the nature of the work being done. The City Engineer shall be contacted for required inspections during the following phases of construction. Any deficiencies found by the City Engineer shall be corrected before proceeding to the next phase of construction.
    - 1. Sub-base grading;
    - 2. Crushed aggregate base course;
    - 3. Concrete gutter, curb, sidewalks, recreational paths;
    - 4. Bituminous surface course; and
    - 5. Shouldering.
  - (f) Tests of Materials. The City shall be provided with copies of test reports performed by an independent testing lab indicating test results for material gradation, compaction and soundness.
  - (g) Pavement Samples. Samples of bituminous concrete may be taken by the City during pavement construction operations for purposes of determining that the material meets specifications.
- (2) Construction Standards: All streets and highways constructed in the City or to be dedicated to the City shall fully comply with the following construction standards, and shall be adequate for the zoning classification or projected use of the area served by the street:
- (a) General. After completion of the underground utilities and approval thereof, the streets shall be constructed. Unless excepted, building permits shall not be issued prior to the installation of the street improvements and the approval of an individual lot grading plan that conforms to the guidelines of the Master Grading Plan, as determined by the City Engineer, or his designee.
  - (b) Temporary Streets. Construction of temporary streets shall require authorization of the Plan Commission.

(c) Standard Street Improvements.

1. Standard street improvements shall include street lights, crushed stone base course, concrete curb and gutter, bituminous binder, surface course and walkways.
2. The construction of standard street improvements can begin only when the construction of underground utilities has been completed and mechanical compaction test reports have been approved by the City Engineer.
3. Upon obtaining the written approval of the City Engineer the developer can proceed with the construction of the standard street improvements. Standard street improvements shall be installed to the boundary line of the subdivision unless the street culminates in a cul-de-sac, the topography or other physical conditions make it impossible to do so, or unless this requirement is waived, in writing, by the Plan Commission.

(d) Roadway Base Standards.

1. The developer must bring all streets and alleys to a grade established by the City Engineer. All site work by City employees in determining grade shall be billed at the City rate and paid by the developer.
2. Residential streets shall have a minimum ten (10) inch thick, compacted in-place, crushed stone roadway base conforming to requirements of Gradation No. 2 of Section 305 – Dense-Graded Base of "State of Wisconsin, Standard Specifications For Road and Bridge Construction," latest edition.
3. On commercial, arterial or other heavy-use streets, as determined by the City Engineer, a twelve (12) inch minimum depth base course shall be constructed upon an inspected and approved subgrade, per City Standard Specifications and WDOT Section 305.
4. In the case of commercial, arterial or other heavy-use roads, the City Council may, in the alternative to the above standards, have the City Engineer provide specifications for such roads after researching the site(s) and conducting a soil analysis for separate pavement design analysis.
5. In any case, the City Council shall have the sole discretion in determining the use and construction classification to be adhered to.
6. In all cases, the base course shall be compacted to the extent necessary to produce a condition so that there will be no appreciable displacement of material laterally and longitudinally under traffic and shall conform to line, grades and shape shown on the approved plans, profiles and cross sections. Compaction shall be to ninety-five percent (95%) modified Proctor ASTM D1557. Testing shall be conducted by nuclear density meter or as otherwise approved by the City Engineer.



7. The developer shall furnish drawings which indicate the proposed grades of streets shown on the plat and, after approval of those grades by the City Engineer and adoption by the City Council, the streets shall be graded to full width of the right-of-way of the proposed street to the subgrade elevations shown on the typical cross-section. The grading is to be completed prior to installation of utilities. All stumps and trees which cannot be saved, boulders and other similar items shall be removed by the developer.

(e) Roadway Subgrade Quality.

1. Contractor shall contact the City upon completion of the grading of the subgrade of the roads and again upon completion of the gravel base course for review and approval.
2. Contractor shall provide the equipment and perform a roll test of the subgrade and again for the gravel base course as directed by the City. The City Engineer shall inspect and witness proof roll test by a fully loaded dump truck. Reconstruction shall occur where deflection is greater than 1/2 inch. All reconstruction areas shall be tested again tests in the presence of the City Engineer.

(f) Roadway Sub-Base. Stable and nonorganic sub-base material is required. Unstable and organic material must be sub-cut, removed and replaced with a suitable granular or breaker-run material approved by the City Engineer.

(g) Street Right-of-Way Dedication & Pavement Width. The minimum right-of-way and roadway width of all proposed streets and alleys shall be as specified by the comprehensive plan or component thereof, Official Map, neighborhood development plan, and in accordance with plans and specifications approved by the City and, if applicable, County. If no dimensions are specified therein, the minimum right-of-way and roadway dimensions for arterial, collector, and local streets shall be as shown on Table 1. A greater or lesser roadway width may be required by the City Engineer where necessary to assure uniformity along the entire length of any street or to accommodate a well-designed Planned Unit Development if approved in accordance with the Zoning Ordinance. Narrow streets shall be reviewed carefully for safety, pedestrian accessibility, and stormwater management. The thickness of the pavement shall be as prescribed by the City Engineer, or minimum 4 inches bituminous asphalt or 8 inches concrete.

**Table 1: Required Cross-sections for City Streets and other Public Ways**

Type of Street or Public Way	Right-of-Way Width to be Dedicated	Roadway Width Requirement
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Arterial Streets	100 feet	As determined by the City Engineer
Collector Streets	80 feet	2-lanes: 36-foot pavement (face of curb to face of curb) 4-lanes: 48-foot pavement (face of curb to face of curb) 6 to 9-foot terraces 5 to 10-foot sidewalks/recreational paths 1-foot sidewalk buffers
Local Streets	60 feet	30-foot pavement (face of curb to face of curb)* *see subsection (g) above for reduced width 8 to 10-foot terraces 5 to 10-foot sidewalks/recreational paths 1-foot sidewalk buffers
Alley	20 feet	14-foot pavement 3-foot buffers
Cul-de-Sac without Island*  *(Cul-de-Sac islands are prohibited)	60 to 65-foot outside radius	45-foot outside curb radius 10 to 14-foot terraces 5 to 10-foot sidewalks/recreational paths 1-foot sidewalk buffers

- (h) Topsoil, Grass, Seed, Fertilizer and Mat. All disturbed areas (ditches, backslopes) within the road right-of-way not provided with pavement and shouldering material shall be restored utilizing six (6) inches of topsoil and good quality grass seed, and non-woven, non-plastic straw mat.
- (i) Drainage Improvements. All new roads and streets shall be provided with storm water retention areas and storm sewers to provide for proper drainage.

- (k) Continuity and Transitions.
  - 1. All street pavement widths on streets continued from previously developed or platted streets shall, wherever practical, provide for the greater of either the existing or required pavement type, width, grade and cross slope.
  - 2. Where it is necessary to provide for a transition of pavement width and/or type between new and existing streets, the transition shall occur in a safe manner at an intersection. In width transitions, the ratio of the transition length to width shall not be less than forty to one (40:1) unless the City Engineer determines that special circumstances prevent use of such ratio, in which case the minimum transition ratio shall be twenty to one (20:1).
- (l) Curb and Gutter. Combination concrete curb and gutter is required on all streets. Refer to Section 70.11.06 describing requirements for curbs and gutters.
- (m) Post-Construction Traffic Limited. No vehicular traffic shall be permitted on the pavement for a minimum period of between twenty-four (24) and seventy-two (72) hours following paving, as determined necessary by the City Engineer to protect the new pavement.

**Section 70.08.08 Private Streets**

New private streets are prohibited in the City of Fort Atkinson, unless through a well-designed Planned Unit Development if approved in accordance with the Zoning Ordinance. All new streets that will serve a proposed land division, condominium, or other development shall meet the public street standards of this Ordinance and be dedicated to the City. If a private street is proposed within the extraterritorial limits of the City, the standards of Section 70.08.01(4) apply though the Planning Commission and City Engineer may exercise discretion under 70.08.07(2)(g) in extreme circumstances.

**Section 70.08.09 Private Driveways**

- (1) Along state and county highways, an access permit is required from the regulating agency.
- (2) Curbs shall not be interrupted by openings for driveways or other access ways to private property unless the number and location of such interruptions have been approved by the City Engineer with consideration given to traffic safety, drainage, and site distance. Curbs and openings shall be in compliance with Chapter 90 of the City of Fort Atkinson Code of Ordinances.
- (3) The width of any driveway opening intended to afford access to commercial property shall not be more than twenty-four (24) feet, unless otherwise prescribed by the City Engineer.
- (4) Driveways shall be no less than the required width per the Zoning Ordinance and no more than 24 feet at any point within the public right of way and shall comply with the requirements of any other ordinance regulating driveways adopted by the City of Fort Atkinson.
- (5) Flag Lots as defined in this ordinance are prohibited. No more than two (2) lots can share a single driveway. Any newly created lot that requires a shared driveway shall establish said

driveway in an easement that is recorded with Jefferson County Register of Deeds specifying use requirements, costs, and long-term maintenance responsibility.

- (6) Driveways shall not exceed a 12% slope unless approved by the Fire Chief and a permit is issued by the City Engineer. If a land division or development includes steep slopes, the City may require that a note with this restriction be added to the face of the recordable document that creates the land division or development.

## **Article IX: Pedestrian and Recreational Ways**

### **Section 70.09.01 General Standards**

- (1) Pedestrian and Recreation Ways may be required where deemed necessary by the Plan Commission to provide adequate pedestrian, bicycle, and other recreational circulation or access to schools, parks, shopping centers, churches, or transportation facilities, which may include mid-block circulation where long blocks exist. Mid-block circulation may include sidewalks / recreational paths between lots that connect interior roads or destinations or additional road crossings where deemed safe and appropriate. Pedestrian and recreational paths in wooded and wetland areas shall be so designed and constructed as to minimize the removal of noninvasive trees, shrubs, and other vegetation, and to preserve the natural beauty of the area. Paths that cross a wetland or waterway shall obtain approvals from the DNR and USACE. Also see City's Standard Specifications for requirements that may affect such facility design.
- (2) Pedestrian and Recreational Ways shall comply with Section 15.06.04 of the Zoning Code, this Ordinance, and shall be located within a right-of-way, outlot, or public access easement. Collector and arterial streets shall be designed for off-street bicycle/recreational paths rather than promoting in-street bicycle lanes. Sidewalks/Recreational path widths shall be increased to accommodate bicycles where appropriate. Typically eight (8) – ten (10) feet in width is required to accommodate pedestrian and bicycle traffic.
- (3) The grade shall not exceed five (5) percent. Where a sidewalk/pedestrian way runs along an existing roadway with a grade that exceeds five (5) percent, the sidewalk/pedestrian way may also exceed five (5) percent but shall be less than or equal to the existing roadway grade in accordance with the Americans with Disability Act Accessibility Guidelines (ADAAG).
- (4) A ramp shall be built at each pedestrian crosswalk in accordance with the ADA and all other applicable regulations.

### **Section 70.09.02 Design Standards**

Design specifications should be determined during engineering studies for specific street and highway projects, and should be based on recommendations in the most recent edition of the "Guide for the Development of Bicycle Facilities," published by the American Association of State Highway and Transportation Officials (AASHTO); the "Wisconsin Bicycle Facility Design Handbook," and "Facilities Development Manual," published by the Wisconsin Department of Transportation; and the adopted City comprehensive and or any existing or future component thereof, including bicycle plan components. Signing, traffic control devices, and striping configurations for bicycle facilities should be provided in

accordance with the most recent edition of the "Manual on Uniform Traffic Control Devices," also published by AASHTO.

## **Article X: WATER, WASTEWATER, STORMWATER, UTILITY DESIGN & CONSTRUCTION STANDARDS**

### **Section 70.10.01: General Requirements**

A professional engineer, licensed in Wisconsin, shall design any plans for public water supply, stormwater and wastewater facilities.

### **Section 70.10.02: Water and Wastewater Design Requirements**

- (1) Water Supply. The developer shall provide evidence that potable water is available in quantities and pressure sufficient to supply the development:
  - (a) All existing private water systems shall meet all applicable laws and regulations and comply with Chapter 98 of the City of Fort Atkinson Code of Ordinances. Accordingly, the private water system shall be properly abandoned within one year from the date the land division or condominium plat is recorded. The restrictions and financial obligations to ensure compliance will be specified in the Developer's Agreement.
  - (b) All new development shall be served by city water. The developer shall provide a complete water distribution system including a service connection to each lot or dwelling unit with individual shut-off valves, including all units within condominiums. Public water distribution systems shall meet the requirements of the DNR or other appropriate water purveyor and shall meet the rules and regulations of the City's Standard Specifications and Chapter 98 of the City of Fort Atkinson's Code of Ordinances.
- (2) Wastewater Treatment Systems. The developer shall provide evidence that a safe and sanitary wastewater treatment system will serve the development.
  - (a) Only existing development can continue to be served by private on-site wastewater treatment systems (POWTS). If an existing structure will remain within a development proposal and that structure is served by a POWTS, the system shall be inspected by Jefferson County for compliance with the standards set forth by the Department of Safety and Professional Services (DSPS) and Jefferson County. Any issues identified during the inspection shall be addressed to the satisfaction of Jefferson County, prior to the development being approved by the City. An existing POWTS must be properly abandoned and the property connected to the City's public sanitary sewer system within one year of the development being approved by the City in accordance with Chapter 98 of the City of Fort Atkinson Code of Ordinances.

The restrictions and financial obligations to ensure compliance will be specified in the Developer's Agreement.

- (b) The developer shall provide public sanitary sewers to all newly developed lots or dwelling units including lateral connections from the street right-of-way line of the development to the public system at the time of development. Public sewer system extensions shall meet the requirements and specifications of the City Engineer and Chapter 98 of the City of Fort Atkinson's Code of Ordinances.
- (c) The developer shall prepare a plan and profile drawing and specifications for the installation of water main facilities in compliance with City requirements and specifications. The construction of water mains shall be sufficient to provide adequate water service to each lot within the development and the required fire flow protection to each hydrant.
- (d) The developer shall assume the cost of installing all water mains eight inches in diameter or less in size. If water mains greater than eight inches in diameter are required to serve areas outside the proposed development, the excess cost shall be borne by the City.

**Section 70.10.03: Stormwater Design Requirements**

- (1) General requirements: The developer shall construct stormwater management facilities, which may include curbs and gutters, catch basins and inlets, storm sewers, road ditches, open channels, infiltration facilities, storage facilities, and settling basins, including bioretention basins with underdrains, infiltration trenches, and other green stormwater infrastructure as may be required. All such facilities are to be of adequate size and grade to hydraulically accommodate potential volumes of flow. Water quality and quantity requirements of Chapter 18 Article V of the City of Fort Atkinson Code of Ordinances shall be complied with. The type of facilities required and the design criteria shall be determined by the City Engineer while considering the nature of the topography and discharge location within and adjacent to the land division. Stormwater management facilities shall be so designed as to prevent and control soil erosion and sedimentation and present no hazard to life or property. The size, type, and installation of all stormwater management facilities proposed to be constructed shall be in accordance with the plans and specifications approved by the City Engineer. In addition to review by the City Engineer, the design and construction of stormwater management facilities shall require review and approval of the DNR and be in accordance with all other applicable laws and regulations.
- (2) All stormwater facilities that accommodate more than one lot shall be located in an outlet that is held in undivided fractional ownership between all lot owners of the land division. Drainage swales that accommodate flowing water from one area to another may be placed in drainage easements. The long-term maintenance requirements shall be specifically identified in the Stormwater Maintenance Agreement document that is required in Chapter

18 Article V of the City of Fort Atkinson Code of Ordinances and all lot owners shall share an undivided proportional interest in maintenance responsibilities.

- (3) The developer shall assume the costs entailed in constructing stormwater conveyances, infiltration facilities, and storage facilities necessary to serve the proposed development, to achieve the intended level of control of nonpoint source pollution, and to carry the existing stormwater flows through the proposed development. If larger conveyance, infiltration, and storage facilities are required to accommodate flows originating from outside the proposed development, or to avoid flooding attendant to increased flows downstream of the proposed development caused not by the development but by preexisting development upstream, the cost of such facilities shall be prorated in proportion to the contributing rates of flows, and the excess cost shall be borne by the City or assessed against the tributary areas concerned.

**Section 70.10.04: Other Utilities**

- (1) The developer shall cause gas, electrical power, and telephone and other communication facilities to be installed, where available, in such a manner as to make adequate service available to each lot or unit in the land division or condominium.
- (2) All new private utilities shall be established as part of a utility easement recorded as a separate document. Public utility easements may be established on the subdivision plat or CSM, but the installation and maintenance provisions shall be identified as part of a separate document. The purpose of the easements shall be clearly identified on the face of the land division or condominium document. Existing easements shall be shown, but new easements cannot be created, as part of a condominium plat.
- (3) Facilities for distribution of gas, electric, telephone and other utility service located within a new subdivision development shall be installed underground except where the City Council, upon recommendation of the Plan Commission, finds that adverse soil conditions or problems of utility distribution make such installation prohibitively expensive or impractical. Transformers, junction boxes, meter points or similar equipment may be installed upon the ground surface. Such aboveground equipment shall be placed in a visually unobtrusive location from public view or a landscape screening plan shall be submitted for review. Any landscape plan required for such aboveground equipment shall be submitted to the utility for approval.
- (4) Plans indicating the proposed location of all gas, electrical power, telephone, and other communications distribution and transmission lines required to serve the land division or condominium shall be approved by the City Engineer in order to ensure that there are no conflicts with other required private or public improvements. These utilities are preferably located along rear and side lot lines or in mid-block easements and should be designed to avoid the location of facilities such as electric power transformers in the flow lines of drainage swales and ditches.

## **Article XI: REQUIRED IMPROVEMENTS**

### **Section 70.11.01: General requirements**

- (1) In accordance with the authority granted by Sec. 236.13 Wisconsin Statutes, the City of Fort Atkinson hereby requires that, as a condition of Final Plat, CSM, or Condominium Plat approval, the developer agrees to make and install all public improvements required by this Chapter and that the developer shall provide the City with security to ensure that the developer will make the required improvements. As a further condition of approval, the City Council hereby requires that the developer be responsible for the cost of any necessary alterations of any existing utilities which, by virtue of the platting or CSM, fall within the public right-of-way.
- (2) As a condition for the acceptance of dedication of public rights-of-way, the City requires that the public ways have been previously provided with all necessary facilities constructed to City specifications, including, but not limited to, sewerage, storm drainage, water mains and services, grading and improvement of the streets and other public ways, sidewalks, recreational paths, street signing, street lighting and such other facilities required by the City Council or that a specific portion of the costs be paid in advance as provided in Sec. 66.54(3) Wisconsin Statutes.
- (3) Project Manager. The developer shall designate a project manager who shall be readily available on the project site during the construction of the required public improvements. The project manager shall be granted authority on behalf of the developer to make decisions related to the construction of the required public improvements as they may arise during the course of the construction. The project manager shall also be responsible for the scheduling and coordination of the required work to construct the required improvements. Correspondence with or verbal orders to the designated project manager shall have the same authority as with the developer directly.

### **Section 70.11.02: Survey Monuments**

The developer shall install survey monuments placed in accordance with the requirements of Section 236.15 of the Wisconsin Statutes and as may be required by the City Engineer.

### **Section 70.11.03: Grading, Erosion, and Sedimentation Control**

- (1) Cut and filled lands shall be graded in accordance with grading plans and specifications approved by the City Engineer. Slopes shall not be steeper than one vertical to three horizontal, or the soil's angle of repose, whichever is the lesser, and such slopes shall be covered with permanent vegetation. To the extent practicable, grading shall be minimized. The City Engineer shall review any proposed modifications to these provisions and the developer shall demonstrate that the slope is capable of being stabilized with permanent vegetation and that the slope will not result in adverse drainage on adjacent and nearby properties or the road.
- (2) After the installation of temporary block corner monuments or other survey control points by the developer and establishment of street grades by the City Engineer, the developer shall grade the full width of the right-of-way of all streets proposed to be dedicated in accordance with plans and specifications approved by the City Engineer. The developer shall grade the



roadbeds in the street rights-of-way to subgrade. Any cut and filled lands immediately adjacent to street or highway rights-of-way shall be graded and restored in accordance with the approved plans and specifications.

- (3) Streets, stormwater facilities, and lots shall be brought to finished grades as specified in a Master Grading Plan approved by the City Engineer at the time of land division. The Master Grading Plan shall illustrate all areas with existing slopes greater than 20%. The City Engineer may accept the completion of an interim grading plan at the City Engineer's discretion, if it is the intent to use future excavated basement material as backfill. In such cases, the City Engineer shall review the Interim Grading Plan and Master Grading Plan at time of land division. The Master Grading Plan shall be referenced on the face of the Final Plat, CSM, or Condominium Plat.
- (4) All utility easements shall be graded to finished grade elevation, and no earth fill, mounds of dirt, or construction materials shall be stored on such easement areas.
- (5) Upon completion of all street and subdivision grading, the grades shall be checked and inspected by the City Engineer to determine that the completed grading work substantially complies with the approved plans. The City Engineer must transmit a written letter of acceptance indicating such work is complete and in place.
- (6) Grading shall not result in adverse drainage on adjacent properties or be a detriment to any existing developed lands, either within or outside of the corporate limits.
- (7) The topsoil stripped for grading shall be repurposed and all disturbed areas shall be restored with a minimum of six inches of topsoil.
- (8) All disturbed areas shall be matted and seeded or sodded so that erosion, siltation, sedimentation and washing are prevented. The developer shall submit an Erosion Control Plan along with the Master Grading Plan that specifies measures that will be taken to ensure the minimization of erosion problems. Such plans shall meet the requirements of the Chapter 18, Article V of the City of Fort Atkinson's Code of Ordinances.
- (9) The cost of all required grading work, supervision, certification, inspection and engineering fees shall be paid for by the developer. The developer shall submit the estimated costs to the City for review and approval. Said costs shall be referenced and become part of the Developer's Agreement required in Section 70.12.01 of this Ordinance.

#### **Section 70.11.04: Street Surfacing**

Following the installation, inspection, and written approval by the City Engineer of utility and stormwater drainage improvements, the developer shall surface all roadways in streets proposed to be dedicated to the public to widths prescribed by this Ordinance, the City official map, comprehensive plan or component thereof, or neighborhood development plan. Said surfacing shall be done in accordance with plans and specifications approved by the City Engineer and as specified in this Ordinance.

#### **Section 70.11.05: Removal of Temporary Turnarounds**

Where a land division abuts an existing temporary circular cul-de-sac or "T" turnaround and the City Official Map or proposed development includes extending the street ended by said temporary turnaround, the developer shall be responsible for the removal of the turnaround, reconstruction of the curb and gutter, reinstallation of culverts, reconstruction of driveways, and restoration of all disturbed areas, and removing or vacating any portion of the street containing a temporary easement if applicable (see Section 70.08.04(3)). The City Engineer will determine if existing culverts, if any, may be salvaged and reused.

#### **Section 70.11.06: Curbs and Gutters**

- (1) After the Installation and the City's inspection and approval of all utility and stormwater drainage improvements, the developer shall construct concrete curbs and gutters in accordance with plans and specifications approved by the City Engineer.
- (2) Curbs and Gutters are required on all streets. Openings in curbs for drainage are encouraged, upon approval of the City Engineer, to accommodate stormwater drainage and treatment within the terrace. Wherever possible, provisions shall be made at the time of construction for driveway access curb cuts in accordance with Chapter 90 of the City of Fort Atkinson Code of Ordinances. If "butterfly", "roll-face", or "mountable" type curbs are installed, such curb cuts may not be necessary.
- (3) Curb Ramps or openings shall be installed, where applicable, in accordance with the Americans with Disabilities Act Accessibility Guidelines, Section 66.0909 Wisconsin Statutes, and as approved by the City Engineer.

#### **Section 70.11.07: Sidewalks and Recreational Paths**

- (1) The developer shall construct a concrete sidewalk or asphalt path on one side of all frontage streets and on both sides of all other streets within the land division or condominium in accordance with Section 15.06.04 of the Zoning Code and Article IX of this ordinance. Off-street paths or trails may also be required by the City. All such facilities shall be located within a dedicated public right-of-way or a public access easement. The construction of all sidewalks and recreational paths, including bicycle facilities, shall be in accordance with plans and specifications approved by the City Engineer and adopted pedestrian, bicycle, park, or recreational plans.
- (2) Wider than standard sidewalks or recreational paths may be required by the City Engineer in the vicinity of schools, commercial areas, and other places of public assembly.

#### **Section 70.11.08: Development of Parks and Public Lands**

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

- (b) Provide surface contour suitable for anticipated use of area as approved by the City Engineer; and
  - (c) Cover areas to be seeded with a minimum of six (6) inches of quality topsoil, seed as specified by the City Engineer, fertilized with 16-6-6 at a rate of seven (7) pounds per one thousand (1,000) square feet, and appropriately mulched. The vegetation and seeding plan shall be reviewed and approved by the City Engineer. 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.
  - (d) Utility Extensions. The subdivider shall install or provide for installation of water and sanitary sewer lines to the property line of all dedicated land, where such services are to be provided to the adjacent properties and as specified by the City Engineer. All park areas shall be provided by the subdivider with a one and one-half (1½) inch water service and a four (4) inch sanitary sewer lateral, all located at the street property line. In addition, any park over five (5) acres shall be provided with at least one (1) fire hydrant.
  - (e) The subdivider shall be responsible for the costs and installation of public sidewalks adjacent to public roadways and connecting existing sidewalk or recreational path networks, as specified by the City Engineer.
  - (f) Timing of improvements listed in this section to be established in an agreement with the developer and as approved by City Council at the time the Final Plat, CSM, or Condominium Plat is approved.
- (2) It shall be the responsibility of the developer to maintain the dedicated areas until deeded to the City at the time of the final plat or CSM approval. The owner of said land shall be responsible for its maintenance and 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.

**Section 70.11.09: Street Lights**

- (1) The developer shall install public street lights along all streets proposed to be dedicated. The Plan Commission shall approve the design and location of all street lights, which shall be compatible with the neighborhood and type of development proposed, as well as specifications of the City. Shielded luminaries with downward reflection, luminaries with cutoff optics, LED or similar energy-saving luminaries, and careful fixture placement are required.
- (2) In lieu of or in addition to the installation of public street lights, the Plan Commission may permit the installation of private light posts on each lot of a land division and at appropriate locations within a condominium. The type and location of such light posts shall be approved by the City Engineer and shall be maintained by the homeowners or condominium association.

**Section 70.11.10: Street and Traffic Control Signs and Signals**

- (1) The developer shall pay for the fabrication and installation of street name signage, which will be designed and installed by the City at the intersection of all streets proposed to be dedicated.
- (2) The developer shall install or pay for the fabrication and installation of any traffic control signs or signals identified during the review and approval process needed to control traffic generated by the proposed land development. Traffic control signs and signals are subject to review and approval by the City Engineer or the government agency having jurisdiction over a street or intersection.
- (3) The City Engineer has the authority to impose signage requirements on street improvements that have not yet been accepted by the City in order to protect improvements from damage and to protect the safety of the public. Such signage may refer to weight restrictions, street closings, access restrictions, or the posting of temporary traffic control measures.

**Section 70.11.11: Street Trees**

- (1) The developer shall plant street trees of a species approved by the Plan Commission of at least three caliper inches. The total number of trees to be planted shall be based on one tree for every 50 feet of frontage on all streets proposed to be dedicated and be spaced on average about 50 feet apart. The required trees shall be planted in the area between the sidewalk and curb in accordance with plans and specifications approved by the City Engineer and all provisions of Chapter 102.83 of the City of Fort Atkinson Code of Ordinances and the *Acceptable Street Trees and Site Consideration for Terrace Tree Planting* document on file with the City of Fort Atkinson City Engineer and Arborist shall be complied with, including location, site, and species requirements. Street trees shall not be planted on steep slopes, unless in walled plant beds, and at bottom of swales.
- (2) Trees shall not be installed within a vision corner easement, five feet from any sanitary sewer service or water service, or 10 ft. of a driveway apron.
- (3) The requirement for street trees may be waived by the Plan Commission if street tree growth will be compromised by adjacent, existing trees. A landscape buffer or preservation easement, with maintenance provisions, may be required to protect the landscaped areas in perpetuity.
- (4) Plans. The developer shall prepare a street tree planting plan that complies with the standards of this Ordinance and Chapter 102.83 of the City of Fort Atkinson Code of Ordinances for review and approval by the City Engineer. The plan shall set forth the location, size, and species of each tree, and any other information required by the City Engineer. The plan shall consider utility and civil plans in locating trees. Consideration shall be given to signs, light poles, fire hydrants, driveways, and any other required structure that would dictate where tree planting would be appropriate.
- (5) Planting Requirements. Street trees shall be planted prior to the issuance of any Building Permits and subject to the Developer's Agreement and Financial Sureties specified in the Ordinance. If the developer seeks approval for an alternative landscape plan by the Plan

Commission, the Plan Commission shall establish who is responsible for installation, timing requirements, and financial responsibilities.

- (6) Plan Modifications. The developer shall include in the declaration of restrictions for the subdivision a provision that requires the lot owners to remove, replace or relocate any tree that requires relocation due to the lot owner's driveway location. The restriction shall require replacement or relocation; and further, that if the lot owner fails to do so, the City may do so and place the cost thereof on the tax roll if not paid, pursuant to the provisions of Section 66.0627 Wisconsin Statutes.
- (7) Maintenance. The developer is responsible for maintaining the health of all planted street trees for a minimum of two years. Trees must be accepted in writing by the engineer following the two-year period.

**Section 70.11.12: Landscaping/Preservation of Existing Trees**

- (1) The developer shall install landscaping in accordance with landscaping plans and specifications approved by the Plan Commission. If plantings are not installed prior to approval of a final plat or condominium plat, a landscaping schedule shall be specified in the Development Agreement and appropriate sureties shall be provided.
- (2) Maintenance of all landscaping included in an approved landscaping plan shall be the responsibility of the property owner, or, for landscaping installed in common areas, the homeowners or condominium owner's association. Provisions maintaining such landscaping shall be included in the homeowners or condominium association documents required under Section 70.05.08.
- (3) The developer shall inventory all noninvasive trees with a trunk diameter of six inches or greater and make every effort to protect and retain all existing noninvasive trees, shrubs, grasses, and groundcover not actually lying in paved portions of public street rights-of-way, drainageways, building foundation sites, private driveways, and pedestrian/recreational paths. Trees shall be protected and preserved during construction in accordance with the approved landscaping plan and with sound conservation practices, including the preservation of trees by well islands or retaining walls, whenever abutting grades are altered.

**Section 70.11.13: Improvements to Extend to Limit of Parcel or Lot**

Any and all improvements or utility services required by this Ordinance for land divisions and condominiums shall be extended to the farthest limit of the parcel or lot upon which a building permit is requested unless the developer is exempted from meeting such requirement by the City Council after considering a recommendation from the City Engineer and Plan Commission. In the event the improvements are not required to extend to the end of the parcel or lot, the developer shall be required to post a bond or other financial sureties with the City so they can be installed in the future, unless the City Council agrees to waive or modify this provision and accepts partial or full responsibility for funding future improvements that may be required to accommodate adjoining parcels or lots. The City Council may also require that the financial burden be placed on the adjacent lot owner that would benefit from

the road extension. The exact requirements and financial responsibilities determined by City Council shall be specified in the Developer's Agreement and land division document, where applicable.

## **Article XII: REQUIREMENTS FOR CONSTRUCTION OF IMPROVEMENTS**

### **Section 70.12.01 Developer's Agreement**

A developer's agreement shall be submitted for review prior to approval of any final plat, CSM, or condominium plat for which public improvements are required by this ordinance. A developer's agreement supplements the requirements of the subdivision regulations, other applicable regulatory requirements and the jurisdictional authority of other county, city, town, state or federal departments or agencies. The developer's agreement shall include any improvement requirements, phasing, sequencing, and timing of improvements, as well as any sureties. A developer's agreement needs to be approved by the City Engineer and City Council detailing conditions and requirements to be agreed upon between the developer and the City and recorded as a binding agreement. The initial agreement must be approved prior to the start of construction after a Preliminary Plat has been approved. The final binding agreement with any agreed upon revisions must be approved as part of the final plat approval process with the City Council, when applicable. The approved final binding agreement shall be signed by the City and the developer and be recorded with the final plat, CSM, or Condominium Plat.

### **Section 70.12.02 Improvement Plans**

All necessary improvement plans for proposed roads, sidewalks/recreational paths, streetlights, landscaping, traffic control improvements, storm sewers, sanitary sewer and water supply systems, and drainage facilities shall be completed in accordance with the design and construction standards of this Ordinance and be approved by the City Engineer prior to approval of commencing construction of said improvements and prior to approval of the final plat. Final plat approval may be withheld if the developer fails to comply with the approved improvement plan in any of the preceding plat phases.

### **Section 70.12.03 Performance Bond/Financial Assurance**

The developer shall file an irrevocable letter of credit in an amount equal to one hundred twenty percent (120%) of the contracted bid cost for required infrastructure improvements as surety to guarantee that such improvements will be completed by the developer or his/her contractors no later than eighteen (18) months from the date of recording the plat, certified survey map, or condominium plat, unless a phasing plan is approved and made part of the developer's agreement. The City has the ability to extend the dates of the letter of credit, at their discretion. Required infrastructure improvements may include:

- A. Construction surveying and engineering;
- B. Construction of roads;
- C. Sidewalks/recreational paths;
- D. Traffic control improvements;
- E. Streetlights;
- F. Landscaping and street tree plantings;
- G. Storm and sanitary sewers and facilities;
- H. Pumping stations and water supply systems;

- I. Drainage structures;
- J. Erosion and sediment control;
- K. Restoration of land and site cleanup;
- L. Any other related items.

If a phasing plan is submitted with the development, the amount of surety shall be based on the phase being proposed. No additional phases may begin until an adequate surety is submitted for that phase. The City must be the beneficiary of such letter of credits.

As work progresses on the installation of below-ground improvements, the City Engineer, upon written request from the developer from time to time, is authorized to recommend a reduction in the amount of surety upon installation and successful testing. Reductions in the amount of surety will not be made for above-ground improvements. In any case, the amount of surety remaining shall be equal to one hundred twenty percent (120%) of the costs of work remaining to be completed and accepted and to insure performance of at least one (1) year guarantee against defects in workmanship and materials on work accepted. As a further guarantee that all obligations under contract for work on the development are satisfied, the contractor and subcontractors who are to be engaged in the construction of utilities or street improvements on the street right-of-way to be dedicated shall be approved for such work by the City Engineer prior to commencing construction. The City Council, at its option, may extend the bond period for additional periods not to exceed one (1) year each.

#### **Section 70.12.04 Building and Other Permits**

No zoning, building, sanitary, erosion control, stormwater management, or other permits shall be issued for a structure on any lot not of record on the date of adoption of this Ordinance until all the requirements of this Ordinance have been met as specified in the Developer's Agreement.

#### **Section 70.12.05 Inspection**

The developer, prior to commencing any work within the land division or condominium, shall make arrangements with the City Engineer to provide for inspection of right-of-way improvements and grading within the development. The City Engineer shall inspect and approve all completed work prior to release of the sureties. The City Engineer shall have access to the premises and structures during reasonable hours to make those inspections as deemed necessary to ensure compliance with this Ordinance. If, however, the City Engineer or an authorized representative is refused entry after presentation of proper identification, he or she may procure a special inspection warrant in accordance with Section 66.0119 of the Wisconsin Statutes, except in cases of emergency where immediate access is necessary.

#### **Section 70.12.06 As-Built Drawings**

If applicable, at the completion of the construction and before acceptance of improvements by the City, the developer and/or the agent of the developer shall provide the City Engineer with "As-Built" drawings for permanent record, showing the locations, sizes, and elevations of all improvements as constructed.

#### **Section 70.12.07 Acceptance of Improvements**

The dedication of any improvements, utilities, streets, parks, easements, rights-of-way or other lands or rights to the City or the public shall not be considered accepted by the City for public ownership until such time as the required public improvements within the intended dedication have been completed and the City Engineer has verified compliance with the approved specifications. The developer shall be responsible for and liable for the maintenance, safety and operation of all required public improvements until such time as the improvements are accepted by the City. In the event the City must take measures to maintain, operate or make safe a public improvement which has not yet been accepted by the City, the costs of such measures shall hereby be determined to be City-incurred costs to be reimbursed to the City by the developer in accordance with the provisions of this Ordinance. All fees shall be paid and a resolution passed by the City Council accepting all dedications. Official acceptance may only occur with a signed and stamped letter from the City Engineer to both the City Council and developer. This letter will signify an official end to the project and obligations, financial and otherwise, of the developer to the public improvements.

**Section 70.12.08 Indemnification**

The developer agrees to indemnify, defend and hold harmless the City from and against any and all liabilities, claims, causes of action (including negligence), fines, penalties and expenses of any nature that arise, allegedly arise or are caused by the developer and the developer's independent contractors, employees or agents. The indemnifications shall survive the final completion of the subdivision and release or expiration of any sureties.

**Article XIII: ADMINISTRATION, FEES, ENFORCEMENT, & APPEALS**

**Section 70.13.01 Administration**

The City Engineer shall be responsible for the administration and enforcement of this Ordinance and may delegate duties to other City staff, except where specific authority is given to another municipality, state, or federal office as set forth in this Ordinance.

**Section 70.13.02 Fees**

The developer shall pay the City all required fees before being entitled to record the subdivision plat, certified survey map, or condominium plat.

- (1) Administrative fees for the following are set by Resolution by the City Council and shall be made at time of application:
  - (a) Preliminary Plat
  - (b) Final Plat
  - (c) Certified Survey Map
  - (d) Condominium Plat
  - (e) Reapplication Fee
- (2) Park and public site fees in lieu of land are set by Resolution by the City Council.
- (3) Professional review fees:
  - (a) The developer shall pay the City a fee equal to the actual cost to the City for any engineering, planning, or legal work incurred by the City in conjunction with the



development review. Legal work shall include the drafting or review of contracts between the City and developer and a review of developer's agreements, covenants, easements, and documents involved in dedications. The developer is held responsible for all fees which will be payable upon invoice.

- (b) The developer shall pay the City a fee equal to the actual cost to the City for any time and materials associated with any plan and inspection review. The fees also include any work related to the assurance that the construction of the requirement improvements complies with the approved plans. The developer is held responsible for all fees which will be payable upon invoice.
- (4) Appeal. The Developer shall have the right to challenge the amount of any fees of this Ordinance, with the exception of administrative fees, by an appeal to the City Council. Upon receipt of such an appeal, the City Council, upon due notice, shall hold a public hearing at which the Developer and the City officials concerned can present their case. Based upon review of relevant records and the testimony presented at the public hearing, the City Council shall make a determination with respect to the fairness of the amount of the fees challenged and shall make a determination to decrease, affirm, or increase the fees concerned.

#### **Section 70.13.03 Enforcement**

##### **(1) Violations**

No person, firm, or corporation shall build upon, divide, convey, record, or place monuments on any land in violation of this Ordinance or the Wisconsin Statutes. No person, firm, or corporation shall be issued a zoning, building, street opening, or any other required permit by the City authorizing the building or improvement of any subdivision, minor land division, replat, or condominium within the jurisdiction of this Ordinance not of record as of the effective date of this Ordinance, until the provisions and requirements of this Ordinance have been fully met. The City may institute appropriate action or proceedings to resolve violations of this Ordinance.

##### **(2) Penalties and remedies**

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance or Chapter 236 of the Wisconsin Statutes shall, upon conviction thereof, face penalties as set forth below plus any additional costs incurred by the City for each violation. Each day a violation exists or continues shall constitute a separate offense. A forfeiture of no less than \$25.00 nor more than \$500.00 for each offense, together with the cost of prosecution, may be required by the City. A default of such forfeiture and cost of prosecution may result in imprisonment in the County Jail of Jefferson County, Wisconsin, until said forfeiture and costs are paid, but not to exceed thirty (30) days for each violation. Violations and penalties shall include the following:

- (a) Recordation improperly made carries penalties as provided in Section 236.30 of the Wisconsin Statutes.

- (b) Conveyance of lots in unrecorded plats carries penalties as provided in Section 236.31 of the Wisconsin Statutes.
- (c) Monuments required in accordance with Section 70.11.02 of this ordinance disturbed or not placed carries penalties as provided in Section 236.32 of the Wisconsin Statutes.
- (d) Dividing a Lot or Parcel, or use if so divided, in a recorded plat or certified survey map for purposes of sale or building development not in compliance with the provisions of Chapter 236 of the Wisconsin Statutes, to any applicable ordinance of an approving authority, or to the rules of the Wisconsin Department of Safety and Professional Services carries penalties as provided in Section 236.335 of the Wisconsin Statutes.
- (e) An Assessor's Plat made under Section 70.27 of the Wisconsin Statutes may be ordered as a remedy by the *City*, at the expense of the developer, when a subdivision, as defined in this Ordinance, is created by successive divisions.

#### **Section 70.13.04 Appeals**

Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal such objection or failure to approve, as provided in Sections 236.13(5) and 62.23(7)(e) of the Wisconsin Statutes, within 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.

#### **Article XIV: Definitions**

**Access:** A means of providing vehicular or non-vehicular egress from or ingress to a property, public right-of-way, or private street.

**ADA.** American Disabilities Act.

**Agency or Authority, Approving.** Each governmental body having authority to approve or reject a preliminary or final plat or certified survey map. Approving authorities are set forth in Section 236.10 of the Wisconsin Statutes.

**Agency, County Planning.** The agency created by the County Board and authorized by Statute to plan land use and to review subdivision plats and certified survey maps.

**Agency, Objecting.** An agency empowered to object to a subdivision plat pursuant to Chapter 236 of the Wisconsin Statutes. The City may not approve any plat upon which an objection has been certified until the objection has been satisfied. The objecting agencies include the Wisconsin Department of Administration, the Wisconsin Department of Safety and Professional Services if the land to be subdivided will be served by POWTS, the Wisconsin Department of Transportation or the Jefferson County highway department if land to be subdivided abuts, respectively, a State or County trunk highway or connecting highway or street.

**Alley.** A minor public right-of-way/street or thoroughfare providing secondary access to a property. Alley access does not constitute frontage for the purposes of minimum lot frontage.

**Arterial Street.** See "Street, Arterial."

**Assessor's Plat.** Are used to reconcile parcel boundaries between 2 or more separate owners when one of the following apply:

- (1) Boundaries cannot be accurately described or retraced due to:
  - (a) Monuments lost, obliterated, or never set.
  - (b) Gross errors in lot measurements or locations.
  - (c) Ambiguous descriptions.
- (2) Assessor's Plats may be used to simplify descriptions, for purposes of assessment, taxation, or conveyance, of parcels that otherwise could be described only by metes and bounds.
- (3) An Assessor's Plat may be used when uncertainty in locating existing parcels interferes with the siting of public roads, buildings, or other improvements.

**Block.** The property abutting the street between the two nearest intersecting or intercepting streets. A railroad right-of-way, the boundary line of un-subdivided acreage, or a body of water shall be regarded the same as an intersecting or intercepting street for the purpose of defining a "block."

**Buffer.** An area separating land uses and may consist of open areas, existing natural vegetation, or new landscaping, such as trees, shrubs, and berms.

**Building.** A structure with a permanent location on the land, having a roof that may provide shelter, support, protection, or enclosure of persons, animals, or property of any kind.

**Building Setback Line.** The distance from the boundaries of a parcel, right-of-way, a natural or artificial feature, or other feature, as prescribed by the appropriate zoning or other regulations, within which buildings or structures shall not be erected.

**Certified Survey Map (CSM).** A map prepared in accordance with Section 236.34 of the Wisconsin Statutes and this Ordinance for the purpose of creating and recording a minor land division as defined by this Ordinance; or used to document, for recording purposes, survey and dedication data relating to single parcels. Certified survey maps are also referred to as minor land divisions.

**City.** The City of Fort Atkinson, Wisconsin, and, where appropriate, its City Council, commissions, committees and authorized officials.

**City Engineer.** A professional engineer who is a full-time employee of the City, or a consulting engineer who provides resident staff services to the City, and who is duly appointed by the City Council to the position.

**Collector Street.** See "Street, Collector."

**Common Open Space.** See "Open Space, Common."

**Common Areas.** Areas of property used by all owners or tenants in common in accordance with such owners' bylaws or owners' agreement which may include but is not limited to sidewalks, recreational paths, parking areas, driveways, open space, stormwater and recreation facilities.

**Comprehensive Plan.** The long-range master plan for the desirable use and development of land in the City as officially adopted and as amended from time to time by the Plan Commission and certified to the Council.

**Conceptual Plan.** A plan of a proposed land division that is submitted for informal review and shows the proposed general layout of streets, lots, and other features in relation to existing conditions.

**Condominium.** An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with separate interest in space. A condominium may include, in addition, separate interest in other portions of such property.

**Condominium Association.** An association, whose members consist of all of the condominium's unit owners acting as a group, either through a nonstock, nonprofit corporation, or an unincorporated association, in accordance with its bylaws and declaration.

**Condominium Declaration.** The instrument by which property becomes subject to Chapter 703 of the Wisconsin Statutes.

**Condominium Instrument.** Recorded documents relating the creation and subsequent modification of the condominium, including the declaration, plats, and plans of a condominium together with attached exhibits or schedules and addendums or amendments.

**Condominium Plat.** See "Plat, Condominium."

**Condominium Unit.** A part of a condominium intended for any type of independent use, including one or more cubicles of air at one or more levels of space or one or more rooms or enclosed spaces located on one or more floors (or parts thereof) in a building. A unit may include two or more noncontiguous areas.

**Connecting Street or Highway.** See "Street or Highway, Connecting."

**Conservation Easement.** The grant of a property right or interest from the property owner to another person, agency, unit of government, or other organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.

**Correction instrument (affidavit).** An instrument drafted by a professional land surveyor that complies with the requirements of Wis. Stats., 236.295 and that, upon recording, corrects a subdivision plat or a CSM.

**County Planning Agency.** See "Agency, County Planning."

**Covenant.** A restriction on the use of land, usually set forth in the deed.

**CSM.** Certified Survey Map.

**Cul-de-sac.** A local road with only one vehicular outlet and having the other end terminated by a vehicular turn-around. See "Street, Cul-de-sac."

**Cul-de-sac Temporary.** A local road terminating in a temporary turnaround which will be extended as a through road. It is strongly recommended that a temporary timeline be established in the Developer's Agreement.

**Datum.** A system that serves as the basis for land survey measurements and calculations.

**Days.** As used in this Chapter, "days" shall mean calendar, not working days.

**Dead End Street.** A street permanently or temporarily closed at one (1) end, with or without turnarounds.

**Deed Restriction.** A restriction on the use of a property set forth in the deed.

**Density.** A unit of measurement; the number of dwelling units per acre of land.

**Department of Natural Resources (DNR).** State of Wisconsin DNR.

**Developer, Agent of the Developer.** Any individual, subdivider, firm, association, syndicate, limited partnership, partnership, corporation, limited liability company, trust, or any other legal entity proceeding under these subdivision regulations to effect a subdivision of land hereunder for himself/herself or for another.

**Development.** The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; the primary or principal use or change in primary or principal use of any buildings or land; any extension of any use of land; deposition of materials; or any clearing, grading, or other movement of land, for which permission may be required pursuant to this Chapter.

**Development Agreement.** An agreement entered into by and between the City and a subdivider whereby the City and subdivider agree as to the design, construction, and installation of required public improvements; the payment for such public improvements; dedication of land; and other matters related to the requirements of this Ordinance. The Development Agreement shall not come into effect unless and until a Letter of Credit or other appropriate surety has been provided to the City by the subdivider.

**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.

**Drainageway.** An open area of land, either in an easement or dedicated right-of-way, the primary purpose of which is to carry storm water on the ground surface in lieu of an enclosed storm sewer. Drainageways may serve multiple purposes in addition to their principal use including, but not limited to, maintenance, bicycle and pedestrian traffic, sanitary sewers, water mains, storm sewers, storm water detention, park development, and other related uses. Drainageways may also be referred to as "greenways."

**Dwelling unit:** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**Easement.** Written authorization, recorded in the Register of Deeds office, from a landowner authorizing another party to use any designated part of the land owner's property for a specified purpose.

**Easement, Utility.** An easement provided for entities and companies providing sanitary sewer, water, stormwater, gas, electric, telecommunication, cable television, and other public utility services.

**Engineer.** Any person registered to practice professional engineering by the state board of registration as specified in Wis. Stats., 443.04.

**Extraterritorial area:** The area outside of the City limits in which the City of Fort Atkinson may

exercise extraterritorial powers of planning, land division, and/or zoning review.

**Extraterritorial Plat and Certified Survey Map (Land Division) Approval Jurisdiction.** The unincorporated area within 1.5 miles of a fourth-class City or City and within three miles of all other cities. Where such jurisdictions overlap, the jurisdiction over the overlapping area is divided on a line, all points of which are equidistant from the boundaries of each municipality, so that not more than one municipality exercises extraterritorial authority over any area. The City of Fort Atkinson has extraterritorial land division approval jurisdiction within three miles of an unincorporated area.

**FEMA.** The Federal Emergency Management Agency.

**Final Plat.** See "Plat, Final."

**Floodplains.** Land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the flood fringe and may include other designated floodplain areas for regulatory purposes. See Chapter 30 Environment, Article III City of Fort Atkinson's Floodplain Zoning Ordinance.

**Floodway.** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

**Frontage.** See "Lot, Frontage".

**Frontage Street.** See "Street, Frontage."

**Grade.** The slope of a road or other public way specified in percent.

**Half-Way Street.** See Street, Half-Way.

**Hedgerow.** A row of shrubs or trees planted for enclosure or separation of fields.

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

**Highest Groundwater Table.** The upper limit of the zone of soil saturation caused by underlying groundwater at its highest level based on soil and site evaluations in accordance with the standards contained in Section 70.03.05(2) of this Ordinance.

**Homeowners Association.** An association combining individual home ownership with shared use, ownership, maintenance, and responsibility for common property or facilities, including private open space, within a land division.

**Impervious Surface.** Surfaces that prohibit infiltration of stormwater. Homes, buildings, and other structures with roofs, as well as concrete, brick, stone, asphalt, gravel, and similar paved surfaces are considered impervious.

**Improvement, Private.** Those additions to undeveloped land such as landscaping and subdivision signage that the developer or lot owners will ultimately assume the responsibility for maintenance and operation, and which are owned by an individual or group of lot owners.

**Improvement, Public.** Any Improvement, facility, or service, together with customary improvements and appurtenances thereto, necessary to provide for public needs, such as: streets, roads, alleys, or pedestrian walks or paths; storm sewers; flood control improvements; water supply and distribution facilities; sanitary sewage disposal and treatment; and public utility and energy

services.

**Land Division.** A generic term that includes both subdivisions and minor land divisions (CSM), as those terms are defined in this Chapter. A land division can be legally created only by means of a subdivision plat or CSM, and not a condominium plat.

**Landscaping or Landscaped Area.** The area of a site which is planted and continually maintained in vegetation, including grasses, flowers, herbs, garden plants, native or introduced groundcovers, shrubs, bushes, and trees. The landscaped area also includes the area located within planted and continually maintained landscaped planters as well as subordinate accessory use of other landscape elements such as mulch, river rock, etc.

**Letter of Credit.** An irrevocable written agreement guaranteeing payment for improvements, entered into by a bank, savings and loan, or other financial institution authorized to do business in the State of Wisconsin and which has a financial standing acceptable to the City, which secures a subdivider's obligation to pay the cost of designing, constructing, and installing required public improvements and certain other obligations in connection with an approved land division or condominium.

**Limited Access Highway or Expressway.** A traffic way for through traffic, in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except only at such points and in such manner as may be determined by the public authority having jurisdiction over such traffic way.

**Local Street.** A street of little or no continuity designed to provide access to abutting property and leading into collector streets.

**Lot.** A parcel of land in one ownership and not divided by a street nor including any land within the limits of a public right-of-way. The term "lot of record" shall mean land designated as a distinct and separate parcel on a legally recorded plat, subdivision, or other instrument permitted by law, in the Register of Deeds office.

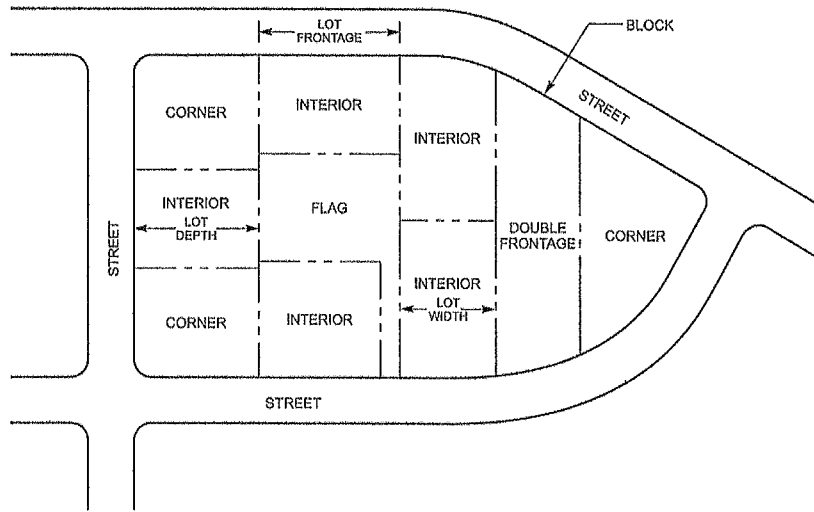
**Lot, Corner.** A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135 degrees or less. (See Illustration 1.) All sides of such lot adjacent to roads shall be considered frontage, and front yard setbacks shall be provided as required.

**Lot depth.** The mean horizontal distance between the front and rear lot lines.

**Lot, Double or Reverse Frontage.** A lot, other than a corner lot, with frontage on more than one street. Such lots shall normally be deemed to have two front yards and two side yards and no rear yard. (See Illustration 1.)

**Lot, Flag.** A lot not fronting on or abutting a public street and where access to the public street system is by a narrow strip of land (sometimes called a "neck," "narrow leg," or "flag staff), easement, or private right-of-way. Flag lots generally are not considered to conform to sound planning principles. (See Illustration 1.)

**Lot frontage.** The horizontal distance between the side lot lines measured at the point where the side lot lines intersect the right-of-way. All sides of a lot that abuts a street shall be considered lot frontage. On curvilinear streets, the distance of the arc between the side lot lines shall be considered the lot frontage.



Source: SEWRPC.

**Illustration 1**

**TYPICAL CORNER, DOUBLE FRONTAGE, FLAG, AND INTERIOR LOTS**

**Lot, Interior.** A lot other than a corner lot.

**Lot line.** A lot line is the legal property line (including the vertical plane established by the line and the ground) bounding a lot except that where any portion of a lot extends into the public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line for applying this Chapter.

**Lot line, front.** A lot line which abuts a public or private street right-of-way. In the case of a lot which has two of more street frontages, the lot line along the street with the shortest frontage distance shall be the front lot line, unless approved otherwise by city staff (See also lot line, street side). See Figure 15.01.23b in the City of Fort Atkinson Zoning Code.

**Lot line, rear.** In the case of rectangular or most trapezoidal shaped lots, that lot line which is parallel to and most distant from the front lot line of the lot. In the case of an irregular, triangular, or gore-shaped lot, a line 20 feet in length, entirely within the lot, parallel to and at the maximum possible distance from the front line shall be considered to be the rear lot line. In the case of lots that have frontage on more than one road or street, the rear lot line shall be opposite the front lot line (shorter of the frontages). See Figure 15.01.23b in the City of Fort Atkinson Zoning Code.

**Lot line, side.** Any lot line other than a front or rear lot lines. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot is called an interior side lot line. See Figure 15.01.23b in the City of Fort Atkinson Zoning Code.

**Lot line, street side.** Any lot line which abuts a public or private street right-of-way which is not the front lot line (see also lot line, front). See Figure 15.01.23b in the City of Fort Atkinson Zoning



Code.

**Lot of record.** A platted lot or lot described in a plat, certified survey map, in a metes and bounds description, or other instrument permitted by law and has been approved by the City of Fort Atkinson and/or by Jefferson County, and has been recorded in the office of the Register of Deeds.

**Lot, through.** A lot having frontage on two parallel or approximately parallel streets (also known as a "double-frontage lot"). See Figure 15.01.23b in the City of Fort Atkinson Zoning Code.

**Lot, waterfront.** A lot that abuts the Bark or Rock River. Waterfront lots have a waterfront yard, a street yard, and a side yard. All waterfront lots are subject to the provisions of Chapter 78 of the City of Fort Atkinson Municipal Code.

**Lot width.** The maximum horizontal distance between the side lot lines of a lot, measured parallel to the front lot line(s) at the required front yard setback (see minimum lot width).

**Minor Land Division (Certified Survey Map).** A minor land division is any division of land that is not identified as a subdivision, condominium, or otherwise, exempt from this ordinance. In accordance with Section 236.34(1)(ar) Wisconsin Statutes, a certified survey map may also be used for dividing land into not more than 10 parcels, lots, or outlots if the land being divided is zoned for industrial or commercial office and business park development.

**Monument.** A survey marker of durable material found or set to mark lot corners, right-of-way points, the start or end of a curve, horizontal or vertical control points, meander points, section corners, or witness points.

**Municipality.** A political unit of government such as a county, town, village or city.

**Navigable Water.** All natural inland lakes, rivers, streams, ponds, sloughs, flowages, and other waters within the territorial limits of Wisconsin, including the Wisconsin portion of boundary waters. All bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. For the purposes of this Chapter, rivers and streams will be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps until such time that the Wisconsin Department of Natural Resources has made a determination that the waterway is not, in fact, navigable.

**Objecting Agency.** See "Agency, Objecting."

**Official Map.** The map adopted pursuant to Section 62.23 of the Wisconsin Statutes which shows existing and proposed streets, highways, parkways, parks and playgrounds, school sites, etc.

**Open Space.** Any site, parcel, lot, area, or outlot of land or water that has been designated, dedicated, reserved, or restricted from further development. Open space may be privately or publicly owned but shall not be part of individual residential lots. Open space shall be substantially free of structures but may be used for landscaping and contain recreational facilities approved by the City. Open space may include, but is not limited to, floodplains, wetlands, woodlands, steep slopes, prairie remnants, natural areas, critical species habitat sites, and other natural resource features.

**Open Space, Common.** Privately-owned land within a land division or condominium that has been restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the land division or condominium. Common open space shall be substantially free of

structures but may be used for landscaping and contain recreational facilities approved by the City.

**Open Space, Public.** Land within a land division or condominium that has been dedicated to the public for recreational or conservation purposes. Open space lands shall be substantially free of structures but may contain recreational facilities approved by the City.

**Ordinary High Water Mark (OHWM) or Elevations.** A mark delineating the highest water level which has been maintained for a sufficient period to leave evidence upon the landscape. The ordinary high water mark is commonly that point where natural vegetation changes from predominately aquatic to predominately terrestrial. In areas where the ordinary high water mark is not evident, setbacks shall be measured from the stream bank of the following water bodies that have permanent flow or open water: the main channel, adjoining side channels, back waters, and sloughs.

**Outlot.** A parcel of land, other than a buildable lot or block, so designated on the plat, which is used to convey or reserve parcels of land. Outlots may be created to restrict a lot that is unbuildable due to high groundwater, steep slopes, or other physical constraints, or to create common open space that may accommodate certain recreational amenities and stormwater management facilities. Outlots may also be parcels of land intended to be re-divided into lots or combined with lots or outlots in adjacent land divisions in the future for the purpose of creating buildable lots.

Section 236.13(6) of the Wisconsin Statutes prohibits using an outlot as a building site unless it complies with all the requirements imposed for buildable lots. The City will generally require that any restrictions related to an outlot be included on the face of the plat.

**Owner.** The person, persons, or entity having the right of legal title to a lot or parcel of land.

**Parcel.** Any area of land (lot or contiguous group of lots) in the City under single ownership as shown on the last assessor's roll of the county or the records of the City, whichever is the most recent.

**Pedestrian Pathway or Way.** 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.

**Performance Bond.** An agreement between a developer and a performance bond or company for the benefit of a municipality in the amount of the estimated construction cost of improvements for the entire subdivision whereby the surety guarantees the completion of the physical improvements for the entire subdivision according to plans and specifications within the time prescribed by the agreement.

**Plat.** A map or drawing which graphically delineates the boundary of land lots/parcels for the purpose of identification and record title.

**Plat, Condominium.** A map prepared in accordance with Chapter 703 of the Wisconsin Statutes and this Ordinance for the purpose of creating and recording condominium units as defined herein. A "condominium plat" may be used to create condominium units along with specifying a condominium owner's proportional share or ownership of common facilities and/or grounds and shall not be used to create lots or parcels. The creation of lots or parcels requires a "certified survey map" or "subdivision plat."

**Plat, Final.** A map prepared in accordance with the requirements of Chapter 236 of the Wisconsin Statutes and this Ordinance for the purpose of creating a subdivision.

**Plat, Preliminary.** A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration. A preliminary plat precisely

describes the location and exterior boundaries of the parcel proposed to be divided, and shows the approximate location of lots, streets, and other improvements.

**Plat, Subdivision.** A map prepared in accordance with Chapter 236 of the Wisconsin Statutes and this Ordinance for the purpose of creating and recording a subdivision as defined by this Ordinance.

**POWTS.** Private Onsite Wastewater Treatment System. See "Septic System".

**Prairies.** Open, generally treeless areas that are dominated by native grasses, as delineated and mapped by the SEWRPC.

**Private Improvement.** See "Improvement, Private."

**Private Street.** A street that is privately owned by more than one property owner and may be legally described as a separate parcel such as an outlot to a subdivision. Private streets are not maintained by the City. Notwithstanding the preceding sentences, the definition of "private street" is not intended to regulate, and does not include, a driveway located on an individual single-family residential lot or a shared driveway that is separately defined herein. New private streets are prohibited in the City.

**Professional Land Surveyor.** A professional land surveyor licensed under Wis. Stats., 443.

**Public Improvement.** See "Improvement, Public."

**Public Utility.** Any person, firm or corporation, governmental agency, or board having a public utility commission or regulatory body permitted to furnish to the public under such regulations utilities including but not limited to electricity, gas, sewer, water, telephone, cable, transportation, steam, or other similar public services.

**Public Way.** Any public street, highway, bicycle or pedestrian/recreation way, drainageway, or part thereof.

**Recreation Path.** For the purpose of this Ordinance, a recreation path provides opportunities for walking, bicycling, rollerblading, skateboarding, and other recreational uses. Typically located within the public right of way, although may traverse private land with easements, they are a minimum of 8 FT in width and paved with asphalt.

**Replat.** The process of changing, or the plat or map which changes, the boundaries of a recorded subdivision plat, certified survey map, or a part thereof. The division of a large block, lot, or outlot within a recorded subdivision plat or certified survey map without changing the exterior boundaries of said block, lot, or outlot is not a replat. Changes to condominium plats, such as merging or removal of condominium units, must meet the requirements of Chapter 703 of the Wisconsin Statutes, and condominium plats may not be used nor are considered a replat of a subdivision, certified survey map, or part thereof.

**Reservation of Land.** The identification and setting aside of an area of land on a preliminary plan and final plat for future common use.

**Reserve Strip.** Any land that would prohibit or interfere with the orderly extension of streets, recreational paths or sidewalks, sanitary sewer, water mains, storm water facilities, or other utilities or improvements between two abutting properties, sometimes referred to as a spite strip.

**Residential Unit.** See "Unit".

**Right-of-way.** Right-of-way is a strip of land occupied or intended to be occupied by a road, walkway, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer

main, or for another special use. The usage of the term "right-of-way" for land established and shown on a final plat is to be separate and distinct from the parcels adjoining such right-of-way, and not included within the dimensions or areas of such parcels. Rights-of-way intended for roads, walkway, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider of the plat on which such right-of-way is established.

**Roadway.** The surfaced portion of the road available for vehicular traffic.

**Septic System.** Underground wastewater treatment structures, commonly used in rural areas without centralized sewer systems. They use a combination of nature and proven technology to treat wastewater from household plumbing produced by bathrooms, kitchen drains, and laundry. A typical septic system consists of a septic tank and a drainfield, or soil absorption field. New septic system installation is not permitted in the City.

**Setbacks.** The shortest distance between the exterior of a building or structure and the nearest point on the referenced lot line, excluding permitted projections per Section 15.04.40 as defined in the City Zoning Code.

**Shared driveway.** A driveway shared with non-owners of the land by a dedicated easement. A shared driveway is not the same as a private street. See definition of private street.

**Shorelands.** Those lands lying within the following distances: 1,000 feet from the ordinary high water elevation or mark of a navigable lake, pond, or flowages; or 300 feet from the ordinary high water elevation or mark of a navigable stream, or to the landward edge of the floodplain, whichever distance is greater.

**Sidewalk.** That portion of a public right of way, intended for pedestrian use only. Typically paved in concrete and less than 6 FT in width.

**Sight Distance.** The length of roadway that is necessary to insure the operator of a vehicle has an unobstructed view of the entire intersection and sufficient length of the intersecting road to provide safe driving conditions.

**Slope.** An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude. (Example: 3:1 slope is 3 feet horizontal and 1 foot vertical).

**Steep slope.** Steep slopes are areas which contain a ratio of horizontal magnitude to vertical magnitude of 8:1 (gradient of 12 percent or greater).

**Stormwater Detention Basin.** A facility for the temporary storage of stormwater runoff, constructed to receive and temporarily hold stormwater for release at a controlled rate.

**Stormwater Retention Basin.** A facility, such as a pond, pool or basin, used for the permanent storage of stormwater runoff, where additional storage capacity is provided above the normal water level.

**Street.** A right-of-way for vehicular and pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated and includes all of the area between the roadway or right-of-way lines.

**Street, Arterial.** A street used, or intended to be used, primarily for movement of through traffic, whose function is to convey traffic between municipalities and activity centers. Arterial streets include freeways and expressways as well as standard arterial streets and highways. Certain arterial

streets also provide appropriate access to abutting properties.

**Street, Collector.** A street used, or intended to be used, to carry traffic from land access streets to the system of arterial streets, including the principal entrance streets to residential developments and/or activity or employment centers. This street also provides access to adjacent properties.

**Street, Cul-de-sac.** A local road with only one vehicular outlet and having the other end terminated by a vehicular turn-around.

**Street, Frontage.** A land access street auxiliary to and located parallel or adjacent to an arterial street for control of access and for service to the abutting development.

**Street, Land Access.** A street used, or intended to be used, primarily for access to abutting properties. Such streets may be called minor streets or minor land-access streets.

**Street, Half-Way.** A street in which the subdivider has allocated only part of the ultimate right-of-way width. See Half-Way, Street.

**Street or Highway, Connecting.** A marked route, not a State trunk highway per se, of the State trunk highway system over certain streets and highways in municipalities that the Wisconsin Department of Transportation has designated as a "connecting highway" (see Section 86.32 of the Wisconsin Statutes).

**Street, Local.** Any street that is not identified as "collector" or "arterial" on the functional classification map or otherwise determined by the City Engineer. Streets which are intended primarily for access to abutting property.

**Street, Marginal Access a/k/a Frontage Street.** A minor street which parallels and is adjacent to a major arterial or highway, and which provides access to abutting properties and protection from through traffic.

**Street, Through.** A street which begins and ends on another public street.

**Street Signs and Signals.** Signs used for wayfinding and management of traffic.

**Structure:** Anything constructed or erected, the use of which requires a more or less permanent location on the ground, or attached to something having a permanent location on the ground, excluding landscape features, fences, public utilities, and other minor site improvements.

**Subdivider.** Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land which divides or proposes to divide or replat land in any manner subject to this ordinance and, Chapter 703 of the Wisconsin Statutes.

**Subdivision.** A division of a lot, parcel, or tract of land by the owner thereof or the owner's agent for the purpose of sale, transfer of ownership, or building development. A subdivision is inclusive of the following, unless exempt under Section 70.02.01(2), 70.02.02, or 70.02.03.

- a. The act of division that creates five or more parcels or building sites of 1 ½ acres each or less in area, inclusive of the original remnant parcel.
- b. The act of division that creates five or more parcels or building sites of 1 ½ acres each or less in area that are created by successive divisions within a period of five years, inclusive of the original remnant parcel.

- c. Where the act of division creates six or more parcels or building sites inclusive of the original remnant parcel of any size by successive divisions or any part of the original property by any person within a period of five years.

**Subdivision Plat.** See “Plat, Subdivision.”

**Surety Bond.** A bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider.

**Sustainability.** The capacity to meet the needs of the present generation without compromising the ability of future generations to meet their own needs.

**Thoroughfare.** A road with a high degree of continuity, including collectors, major arterials, and limited access highways.

**Traditional Neighborhood Design (TND).** Compact, mixed use neighborhoods where residential, commercial and civic spaces are within close proximity of each other and accessible via multiple modes of transportation.

**Traffic Impact Analysis (TIA).** A TIA meeting Wisconsin Department of Transportation requirements for content and format may be required by the City if deemed necessary by the City Engineer to analyze possible transportation and neighborhood impacts of a proposed subdivision and/or development.

**Unit.** A single structure or space within a structure providing complete, independent living facilities for one or more persons.

**USACE.** The United States Army Corps of Engineers, a U.S. federal agency under the Department of Defense and whose mission includes environmental regulation and ecosystem management.

**Vicinity Map.** A drawing located on a submittal which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the City in order to better locate and orient the area in question.

**Walkway.** A walkway or crosswalk is a right-of-way within a block, dedicated to public use and intended primarily for pedestrians, but which may include utilities where necessary.

**Wetland.** An area that is saturated by surface water or groundwater, with vegetation adapted for life under those soil conditions. See also Section 23.32(1), Wis. Stats.

**Wisconsin Administrative Code.** Regulations, commonly referred to as rules, written and promulgated by State agencies to supplement, implement, or interpret laws enacted by the Wisconsin Legislature. The rules are referred to based on the agency that is responsible for administering the rules. For example, “SPS” refers to rules administered by the Department of Safety and Professional Services, “NR” refers to rules administered by the Department of Natural Resources, and “Trans” refers to rules administered by the Department of Transportation. Portions of the Administrative Code that particularly affect planning include SPS 383 (requirements for private onsite wastewater treatment systems); NR 115 (requirements for shoreland areas and shoreland-wetlands in towns and counties); NR 116 (floodplain requirements); NR 117 (requirements for shoreland-wetlands in cities); and Trans 233 (requirements for subdivisions abutting State highways). The Wisconsin Administrative Code is available on the Legislature’s web page at <https://docs.legis.wisconsin.gov/code>.

**Wisconsin Statutes.** The body of law enacted by the Wisconsin State Legislature. Portions of the Wisconsin Statutes that particularly affect planning include Chapter 236 (land division requirements); Chapter 703 (condominium plat requirements); Section 62.23 (zoning and master planning requirements for cities and towns that have adopted City powers); Section 66.1001 (comprehensive planning requirements); and Chapter 59 (zoning requirements for counties). The Wisconsin Statutes are available on the Legislature's web page at <https://docs.legis.wisconsin.gov/statutes>.

**Zoning.** The legal right for local governments to regulate the use of real property to prevent conflicting land uses and promote orderly development. Such rights include, but are not limited to regulating: the use, height, bulk, and location, including percentage of lot occupancy, building setback lines, and other structures.

**Zoning map.** The map adopted and designated by the City as being the "Official Zoning Map."

**Zoning Regulations.** The zoning regulations adopted or approved by the County Board."

**Section 2.** This ordinance shall take effect upon passage, posting, or publication as provided by law.

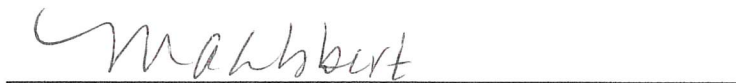
Enacted by the City Council of the City of Fort Atkinson, Jefferson County, Wisconsin, this 17 day of Feb, 2022.

**CITY OF FORT ATKINSON**



**Christopher Scherer, President**

ATTEST:



Michelle Ebbert, City Clerk/Treasurer/Finance Director