

Chapter 18 - LAND REGULATIONS

Section 18.01 LAND DIVISION REGULATIONS

(a) Policy and Purpose.

(1) **Policy.** The Town Board of Supervisors of the Town of Turtle (hereafter called “Town”) does ordain as follows: to have lands put to appropriate uses, respecting the physical characteristics of sites and areas, and to have development occur in an orderly, planned, efficient and environmentally sound manner. The Town of Turtle Land Division Regulations are adopted to achieve these policies.

(2) **Purposes.** The specific purposes of these regulations are the following:

a. To prevent or limit, as appropriate, the land division of sites that are physically unsuited to the intended use for reasons of hazard from fire, flood, poor drainage, instability or other similar hazard.

b. To gear land division and resulting land use change to the physical character of sites.

c. To identify the needs of proposed land divisions for public services, such as streets, sewage and water supply service, drainage facilities, park and recreation facilities, and the like, and to assure that such services will be available if and when the development occurs.

d. To guide the design of land divisions so that lots are usable for their intended purpose, streets are designed and constructed to perform their functions safely and efficiently, drainage and similar problems are anticipated and responsibly addressed prior to project development.

e. To assure that land divisions and associated land use changes conform to the duly adopted Town of Turtle Land Use Plan.

f. To afford flexibility, principally through planned unit development provisions, for adaptation of designs to new public concerns such as clustering, energy conservation, and protection of open space in land layout.

g. To accomplish the following additional purposes:

1. to promote the public health, safety, convenience and general welfare of the Town and its residents;

2. to lessen congestion in the streets and highways and to further the orderly layout and use of land;

3. to secure safety from flood, fire, panic and other dangers, and to provide adequate light;

4. to prevent the overcrowding of land and to avoid undue concentration of population;

5. to facilitate adequate provisions for transportation, water, sewerage, schools, parks, playgrounds, and other public facilities with sufficient capacity to serve proposed developments;

6. to adequately facilitate the further resubdivision of larger tracts into smaller parcels of land;

7. to establish reasonable design and procedural standards that will promote the character of the Town with a view to conserving the value of the buildings placed on the land;

8. to provide a quality environment for human habitation and for encouraging the most appropriate use of land throughout the Town;

9. to encourage planned and orderly development and to protect property values and the property tax base;

10. to encourage the design of land divisions in accordance with the character and adaptability of the natural resources;

11. to protect the beauty and amenities of landscape and man-made developments and to provide healthy surroundings for family life;

12. to promote the efficient and economical use of public funds and avoid hazards of soils and topographic conditions;

13. to provide for the proper location and width of street and building lines and the circulation of traffic throughout the Town;

14. to provide for safe ingress and egress from lots and ensure proper description and monumenting of divided land;

15. to prevent the pollution of air, streams and ponds and manage drainage facilities for the immediate development as well as those downhill;

16. to minimize the costs of providing public facilities necessary to serve additional needs created by the people brought into the community by new land divisions; and

17. to accomplish the purposes identified in sections 236.01 and 236.45 of the Wisconsin Statutes.

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

(c) Authority, Jurisdiction and Applicability.

(1) Authority. This Ordinance is adopted pursuant to legislation contained in sections 60.22(3), 61.34(1), 66.55, 236.03, 236.45 and 703.27(1) of the Wisconsin Statutes.

(2) Jurisdiction. This Ordinance applies to new land divisions that are created for the purpose of sale, transfer, development or conduct of business in the Town.

(3) Applicability.

a. This Ordinance applies to all lands in the Town. The Town Board shall be responsible to administer this Ordinance.

b. No person, unless exempt from this Ordinance, shall divide or create a land division of any land in the Town unless the final land division, plat or map shall be approved by the Town Board.

c. In no instance shall the provisions of this Ordinance apply to:

1. cemetery plats made under section 157.07, Wis. Stats.
2. transfers of interests in land by will or pursuant to court order.
3. assessor's plats made under section 70.27, Wis. Stats.
4. leases for a term not to exceed 10 years, mortgages or easements.
5. the sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by Chapter 236 of the Wisconsin Statutes or other applicable laws or ordinances.

d. No Building Site Permit shall be issued for any lot if the lot or parcel is not in conformity with the Ordinance, applicable State Land Division Statutes, or Administrative Codes. Building Site Permits shall be denied if conditions of approval are not met. Building Site Permits shall be withheld until erosion control measures are in place as provided in the erosion control plan for the land division. No excavation or construction of any public or private improvements shall take place except in conformity with these regulations and with all conditions imposed hereunder.

e. In the case of a lot split, or sale of land between adjoining owners, the Town Board may waive the certified survey map requirement if it is not in conflict with the purpose of this Ordinance. In addition, where there is a proposed lot split or a sale between adjoining owners, the Town Board may waive the requirements of a certified survey map if the land being transferred is less than fifty feet wide and if the resulting lots are not reduced below the minimum lot size required by this Ordinance, providing that evidence is given to the Town Board that the new lot line has been staked by a registered surveyor. This evidence shall be in the form of a plat of survey marked to show the new lot line and stamped by a registered land surveyor, and such evidence shall be submitted to the Town Board for review and approval, prior to the recording of the instrument which transfers the land. The criteria used to determine the appropriateness of a waiver are as follows:

1. The parcel being increased in size has previously been platted or surveyed.
2. The land to be transferred will be part of a lot with minimum road frontage.
3. The land to be transferred is a size and configuration that does not easily lend itself to becoming a buildable parcel.
4. The following restriction is attached to the deed and plat of survey associated with the proposed transfer: "This parcel cannot be used as a separate building site or for buildings which produce wastewater."

Existing lots recorded prior to the date of the adoption of the Ordinance shall be issued a Building Site Permit upon approval of a Sanitary Permit. The building site permit shall have a drawing showing proper setbacks, lot lines, lot size and that the proposed building is located in accordance with these respective Land Regulations.

f. The Town Board may waive the Certified Survey Map requirement for the sale, gift or trade of land between adjoining land owners when no new lot is created and when both lots after the transfer are within minimum lot size requirements if evidence is given to the Town Board that;

1. the new lot line has been staked by a registered land surveyor.

2. a plat of survey containing a deed restriction shall be filed with the deed in the Register of Deeds Office with a restriction on the transferred land permanently prohibiting the grantee and successors in interest from transferring said land separately from the adjoining parcel owned by the grantee.

(d) **Amendments.** The Town Board may from time to time amend the provisions imposed by these Land Division Regulations. A public hearing on all proposed amendments shall be held by the Town Board as provided in section 236.45 of the Wisconsin Statutes.

(e) **Abrogation, Greater Restrictions, Severability and Repeal.**

(1) **Conflict with Public Provisions.** This Ordinance is not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, statute, or other provisions of law. Where any provision of these regulations imposes a restriction similar to those imposed by any other provision of these regulations or any other ordinance, rule, regulation, whichever provision is more restrictive or imposes higher standards shall control.

(2) **Conflict with Covenants.** These regulations are not intended to abrogate any easement, covenant, private agreement or restriction. Where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, private agreement or restriction, the more restrictive shall control.

(3) **Severability.** Each section, paragraph, sentence, clause, word, and provision of this Ordinance is severable. If any provision is held unconstitutional or invalid for any reason, such determination shall not affect the remainder of this Ordinance.

(4) **Repeal.** All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance to the extent of the inconsistency only, are hereby repealed.

(f) **Title and Effective Date.**

(1) **Title.** The Ordinance shall hereafter be known, cited, and referred to as the Town of Turtle Land Division Regulations.

(2) **Effective Date.** This Ordinance shall be effective October 15, 2005, after adoption by the Town Board.

(g) **Enforcement.**

(1) **Violation.** It shall be unlawful:

a. for any building or structure to be erected, constructed, placed or moved in violation of the provisions of this Ordinance;

b. to fail to comply with any provision of this Ordinance or with any condition or qualification placed upon the issuance of a permit or approval or variance granted under this Ordinance;

c. for any land to be divided except in compliance with the terms of this Ordinance and with the terms of applicable state laws;

d. for any person to create any land division or to offer or contract to convey or to convey any land division or any lot or parcel within a land division without first having the land division reviewed, duly approved by the Town pursuant to this Ordinance and recorded with the Register of Deeds, except that an offer or contract to convey may be made or entered into if the offer or contract to convey states on its face that it is contingent upon final Town approval of all land divisions necessary to effect the transaction and that it shall be void if such approvals are not granted;

e. for any person to cause to be recorded with the Register of Deeds a subdivision plat or certified survey map of a land division without having the map or plat approved by the Town pursuant to this Ordinance; or

f. for the owner of lands in a land division approved by the Town to fail to place monuments or construct improvements of the land division as prescribed in the approved map or plat.

(2) Responsibility.

a. Owners of lands or properties, occupiers of land or premises, and agents of owners or occupiers including without limitation because of enumeration, building contractors, surveyors, engineers, architects, planners, plumbers, installers, soils technicians, road builders, grading and excavating contractors and their agents, and lending institutions and insurers and their agents are responsible for compliance with all provisions of this Ordinance which bear upon their area of competency and responsibility.

b. Any such party who violates or aids or abets in a violation shall be liable to prosecution or remedial actions.

c. This Ordinance applies fully to all public governmental and quasi-public and quasi-governmental lands, developments and activities unless specifically exempted by state or federal law.

(3) Compliance.

a. The Town Board is responsible for inspecting and investigating compliance of land division activities with the terms of this Ordinance.

b. If, upon such inspection or investigation, the Town Board becomes aware of a condition which it concludes is or is likely to become unlawful as defined in Section 18.01(g)(1), the Town Board shall immediately notify the parties who it deems to be responsible and potentially liable for the violation, pursuant to Section 18.01(g)(2). Such notice shall include:

1. A demand that the condition that is alleged to constitute the present or potential violation be halted, prevented from occurring or remedied; or

2. A statement that a complaint on the condition and demand for prosecution has been or will be transmitted to the Town attorney, district attorney and/or to other enforcement officials.

c. If any enforcement demand is issued under Section 18.01(g)(3)b. of this Ordinance, is not complied with, the Town Board shall forthwith file a complaint and demand for prosecution, unless an administrative appeal has been commenced and a stay order has been issued.

d. If an enforcement demand is issued under Section 18.01(g)(3)b. of this Ordinance, and is not complied with, an injunction restraining the responsible parties from a continuance of the condition shall be requested from the Circuit Court.

(4) Penalties.

a. **Improper Recording.** Any person causing his or her final plat to be recorded without submitting such plat for approval as required by this Ordinance, or who shall fail to present the plat for record within the time prescribed after approval, shall forfeit not less than \$100 nor more than \$1,000.

b. **Transfer of Lots Without Recorded Plat.** Any subdivider or the subdivider's agent who offers or contracts to convey, or conveys, any subdivision or lot or parcel which lies in a subdivision knowing that the final plat thereof has not been recorded shall forfeit no more than \$500. However, where the preliminary or final plat of the subdivision has been filed for approval with the Town, an offer or contract to convey may be made if that offer or contract states on its face that it is contingent upon approval of the final plat and shall be void if such plat is not approved.

c. **Disturbing or Not Placing Monuments.** Any of the following shall receive a forfeiture of not more than \$250:

1. Any owner, surveyor or subdivider who fails to place monuments as prescribed by this Ordinance and Chapter 236 of the Wisconsin Statutes when subdividing land.

2. Any person who knowingly removes or disturbs any such monument without the permission of the Town Board or fails to report such disturbance or removal of it.

3. Any person who fails to replace properly any monuments which have been removed or disturbed when ordered to do so by the Town Board.

d. Other Violations. Any land divider or his or her agent who fails to comply with any other requirements or standards of this Ordinance or with conditions of approval or to provide or maintain improvements shall forfeit not less than \$100 nor more than \$5,000. In addition, the land divider shall be responsible for the provision or maintenance of those improvements and for meeting the conditions of approval until they are accepted by the Town or homeowners association.

(gm) Modifications.

(1) Authority, application.

(i) Wherein the judgment of the Town Board, it would be inappropriate to apply literally the provisions of this ordinance because exceptional or undue hardship would result, the Town Board may waive or modify any requirements to the extent deemed just and proper.

(ii) Application for any such modification or waiver shall be made in writing, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data that may aid the Town in the analysis of the requested modification or waiver.

(2) Conditions for granting. The Town Board shall not grant modifications or waivers to this ordinance unless it shall make findings based upon the evidence presented to it in each specific case that:

(i) The granting of the modification will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the area in which the property is located.

(ii) The conditions upon which the request for a modification is based are unique to the property for which the modification is sought and are not applicable generally to other property.

(iii) A particular hardship to the owner would result if the strict letter of the ordinance were carried out.

(iv) Such modification is necessary for the preservation and enjoyment of substantial property rights possessed by other similar properties in the vicinity.

(3) Granting by Town Board.

(i) The Town Board, if it approves of the modification to this ordinance, shall do so by motion or resolution and shall instruct the Town Clerk to notify the petitioner.

(ii) Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Ordinance or the desirable general development of the Town consistent with the Town Comprehensive Plan.

(iii) Any modification granted can only provide the minimum relief needed to alleviate the unnecessary hardship or obtain reasonable use of the property.

(h) **Fees.**

(1) **Preliminary Application Fee.** At the time of Preliminary Application the land divider shall pay a fee to assist in defraying the cost of the review. The fee shall be in an amount determined by the Town Board.

(2) **Fees for Requested Variances and Appeals.** The fee for requested variances and appeals shall be an amount determined by the Town Board.

(3) **Building Site Approval.** The fee for building site approval shall be an amount determined by the Town Board.

(4) **Other Fees.** All reasonable costs incurred by the Town or its agents to properly review each land division shall be the responsibility of the land divider who shall timely pay or reimburse the Town for engineering, inspection, legal and administrative costs incurred by the Town in connection with the land division. The Town may require that all or a portion of the costs be paid in advance.

(i) **Land Division Procedures.**

(j) **Consultation.** It is recommended that prior to filing of an application for the approval of land division, the land divider consult with the Planning Commission in order to obtain an understanding of local planning procedures, regulations, and other pertinent information that may help him or her secure approval of his or her application. This consultation is neither formal nor mandatory, but is intended to help the land divider and

Planning Commission reach mutual conclusions regarding the general objectives of the proposed development and its possible effects on the neighborhood and the community.

(k) Preliminary Application for Land Divisions.

(1) **Application.** Prior to submitting a final land division for approval the land divider shall submit a preliminary land division application. The application shall:

a. be made on official forms available at the office of the Town Clerk; and

b. include all land which the applicant proposes to divide and the name of the owners.

(2) Preliminary Application Map.

a. The Preliminary Application Map shall be prepared by a licensed land surveyor at a convenient scale which shall not exceed two hundred (200) feet to the inch and must be numbered in sequence if more than one (1) sheet is used.

b. The Preliminary Application Map shall show the following:

1. Location of property by section, town name, all adjacent property parcel sizes, adjacent road right-of-way dimensions, the names of adjacent roads, current and requested zoning districts.

2. Location and dimensions of all boundary lines of the property to be expressed in feet. Subdivisions shall show topography lines at two (2) foot contour intervals.

3. The approximate location and width of existing streets, soil boring data, (if required by the Town Board), existing and proposed water bodies, regional floodplain, wetlands, railroads, cemeteries, drainage ditches, surface drainageways, detention or retention areas, bridges, rock outcroppings, areas in excess of 20% slope, and other information required by the Town Board. Subdivisions also require topography with two (2) foot contour interval.

4. The approximate location and width of all proposed streets, alleys and other public ways, and proposed street right-of-ways including proposed names, and the approximate location of existing buildings, water wells, and/or sewerage system.

5. The approximate location, dimensions, and areas of all proposed or existing lots or units. All lots, units and blocks shall be numbered for reference.

6. The approximate location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation. The location of proposed easements for such things as utilities, drainageways, and pedestrian ways shall also be shown.

7. The name and address of the owner or owners of land to be divided; the name and address of the land divider if other than the owners; and the name, address and telephone number of the land surveyor; and the proposed name of land division and signature of owner or agent.

8. The date of drawing of the maps, scale, and north arrow properly indicated.

9. The name and location of any existing or proposed lake, pond or stream.

10. An indication of the use of lots, units, outlots, and other parcels other than single-family residential.

11. The preliminary concept for connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal; preliminary provisions for collecting and discharging surface water drainage.

12. The proposed time schedule for submission of construction plans and actual construction of improvements.

13. Development of lands with slopes greater than 20% shall be prohibited by a restrictive covenant to be placed on the survey map. The locations of areas with slopes ranging between 12% and 20% on proposed parcels are to be shaded as part of the preliminary land division map. These parcels shall show "Pre-Planned Lot" indicated on the final land division map. In addition, a Preliminary Pre-Planned Lot Plan shall be prepared by the applicant. The Town Board shall review and approve the Preliminary Pre-Planned Lot Plan prior to final approval of the land division.

14. The Preliminary Pre-Planned Lot Plan shall be a map prepared at a scale of one (1) inch equals fifty (50) feet. The plan shall be in accord with standards that address erosion control and minimum lot/building area requirements. It shall also indicate the location of existing buildings, building setbacks, lot configuration with approximate bearing and distances, road right-of-way locations, names of abutting roads, septic system location and reserve field systems, well locations and distribution systems, drainage easements and holding ponds, driveway location, vegetation removal, cut and fill areas to assure an adequate building site/envelope location and safe access for the future residence and emergency vehicles.

c. The lack of information under any item specified herein, or inaccurate information supplied by the applicant, may be cause of disapproval of preliminary land division. The time limits shall not commence until all information is supplied.

(3) **Reviewing Agencies.** The land divider shall submit the original plat to the Department of Administration pursuant to section 236.12(6) of the Wisconsin Statutes.

(4) **Action on Preliminary Application.** Within 90 days of receiving the Preliminary Application, the Town Board shall take action to approve, approve conditionally, or reject the Preliminary Application and shall state in writing any conditions of approval or reasons for rejection, unless the time is extended by agreement with the land divider. The Town Board shall approve or conditionally approve the time schedule for submission of construction plans and the construction of improvements as part of the Preliminary Application. If the Town Board denies approval, the reasons for this denial shall be in writing and forwarded to the land divider or his agent within five (5) working days.

(5) **Construction Plan Specifications.** Construction plans and drainage plans shall be submitted as a condition of preliminary approval and prepared for all required public and quasi-public improvements at the developer's expense. Plans shall be drawn at a scale of no more than one (1) inch equals fifty (50) feet, and map sheets shall be 24" x 36". The following shall be shown:

a. Profiles showing existing and proposed elevations along centerlines of all roads. Where a proposed road intersects an existing road, the elevation along the centerline of the existing road within six hundred (600) feet of the intersection shall be shown. Approximate radii of all curves, lengths of tangents, and central angles on all streets shall be shown.

b. Cross-sections of all proposed streets at one hundred (100) foot stations shall be shown superimposed on existing topography. The Commission may require cross-sections every fifty (50) feet in areas in excess of nine (9) percent slope.

c. Plans and profiles as showing the locations and typical cross-section of street pavements including drainage easements, right-of-ways, and street signs, the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drainageways, drainage control facilities, and fire hydrants, showing connection to any existing or proposed utility systems; and location and size of all water, gas, or other underground utilities or structures.

d. All specifications and references required by the Town's construction standards and specifications;

(6) **Public Improvements.** The Town Board shall require the applicant to indicate on the plan all roads and public improvements to be dedicated, all special districts for water, fire, and utility improvements which shall be required to be extended and any other special requirements deemed necessary by the Town Board in order to conform the land division to the Town of Turtle Land Use Plan.

(7) **Covenants and Restrictions.** The Town Board shall require submission of covenants and/or restrictions when the land divider intends to create a homeowners association in conjunction with the land division. The covenants and/or restrictions are a condition of approval and shall be submitted to the Town Board a minimum of fourteen (14) days before final approval.

(8) **Effective Period of Preliminary Approval.** The approval of a preliminary land division shall be effective for a period of one (1) year at the end of which time final approval on the land division must have been obtained from the Town Board. Final land division approval by all approving agencies entitles the land division to be filed in the Register of Deeds Office and the transfer of property ownership may occur by reference to the plat or map. Any land division not receiving final approval within the period of time set forth herein shall be null and void, and the developer shall be required to resubmit a new application for preliminary approval. Extensions may be applied for and may be granted at the discretion of the Town Board upon findings that delays are beyond control of the applicant and that no material change in standards or in conditions has occurred or is reasonably expected to occur.

(9) **Environment Assessment.** The Town Board may require the developer to have a complete or partial environmental assessment prepared of the proposed land division area, if the Town Board believes the parent parcel contains an environmentally sensitive area. No physical work shall be started on the land division improvements until the Town Board has approved the consultant and environmental assessment. The developer may be required by the Town Board to have an independent third party consultant prepare the environmental assessment to identify any environmentally significant areas and their significance, in a written report provided directly to the Town Board. The consultant shall prepare an environmental assessment of the area of concern. The developer shall submit the professional credentials of the consultant to the Town Board. The Town Board may require the design of the land division around these areas as part of the land division and may require they be left in their natural state.

(1) Final Land Division.

(1) **Procedure and Requirements.** Following the approval of the preliminary application, if the applicant wishes to proceed the applicant shall submit the proposed final land division to the Town Board for review and consideration. The land division shall:

a. Conform with the conditions of approval and provisions of sections 236.20 and 236.34 of the Wisconsin Statutes and be submitted to the Town Board;

b. Include the entire land division, or section thereof, which derives access from an existing state, county or local highway;

c. Be accompanied by one (1) copy of the land division and the final construction plans, as described in these regulations;

d. Substantially comply with approved preliminary land division;

e. Be accompanied by a written financial agreement, if required, in a form satisfactory to the Town Attorney in amounts approved by the Town Board for improvements required by the Town. The method of financing shall comply with all the terms of final approval and shall assure the performance of all required improvements. All offers of dedication shall be irrevocable and shall offer title free and clear of all liens and encumbrances; and

f. Be accompanied by written assurance from the public utility companies that necessary utilities shall be installed or proof that the applicant has submitted petitions in writing for the extension of any utility districts. The utility company or its agent shall be responsible for accurate replacement of all lot corners and monuments destroyed while installing utilities within a reasonable time after completion of installation.

(2) Certified Survey Map or Subdivision Plat Requirements.

a. The land divider may plat or map by certified survey all or only part of the area required in Section 18.01(k) of this Ordinance.

b. The certified survey map or plat shall be at a scale that shall not exceed two hundred (200) feet to the inch and show (in addition to that required by sections 236.20 and 236.34 of the Wisconsin Statutes) the following:

1. railroad right-of-way or easements along, within or abutting the map or plat;

2. all lands reserved for future public acquisition or reserved for the common use of property owners within the area;

3. special restrictions required by the Town Board related to access control along public ways;

4. proposed utility easements identified with the notation "U.E.";

5. the regional flood line when this information is available;

6. the exact location of the land division indicated by distances and bearings with reference to the nearest exterior line, north-south quarter line or east-west quarter line of a section in which the land division is situated and a corner established in the U.S. Public Land Survey that establishes one end of this line;

7. a notarized certificate by the owner of the land in substantially the form found in section 236.21(2)(a) of the Wisconsin Statutes that indicates the rightful owner(s) have caused the land to be surveyed, divided, mapped, and/or dedicated; and

8. covenants and restrictions previously reviewed and approved by the Town Board.

(3) Final Review.

a. The Town Board shall review the final land division as to meeting the requirements of these regulations and the conditions of preliminary approval.

b. The Town Board may employ a surveyor to make field checks according to state standards for the accuracy of survey, proper kind and location of monuments, legality and completeness of the drawings, and may check and compare the certified survey map or final plat with the preliminary subdivision which received tentative approval.

c. The Town Board may employ a surveyor to review final certified survey maps for compliance with the requirements of these regulations and section 236.34 of the Wisconsin Statutes.

d. The cost of any surveyor employed by the Town Board shall be paid by the developer.

(4) Zoning Regulations. Every land division shall conform to existing zoning regulations. The dimensions of all lots shall meet the minimum standards of the zoning district in which the property is located.

(5) Approval and Objecting Agencies. To entitle a final land division to be recorded at the Register of Deeds Office, the land divider must obtain all approvals from approving agencies and all objections from objecting agencies shall be eliminated by the land divider prior to final approval of the Town Board.

a. Approving agencies are:

1. Any municipalities where the land division lies within the extraterritorial plat approval jurisdiction of the municipality; and

2. Rock County Planning and Development Agency.

3. Objecting Agencies are:

i. State of Wisconsin Department of Commerce if the subdivision is not served by public sewer and provision for public sewer has not been made;

ii. State of Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or connecting highway; and

iii. State of Wisconsin Department of Natural Resources when the lands included in the plat lie within 500 feet of the ordinary high water mark of any navigable stream, lake or other body of navigable water or if land in the proposed plat involves lake or stream shorelands referred to in section 236.16 of the Wisconsin Statutes.

(6) Approval or Denial.

a. The Town Board shall approve the certified survey map, subdivision, or condominium plat if it complies with the preliminary approval or conditions of approval set forth on the Preliminary Application.

b. If the Town Board denies approval, the reasons for this denial shall be put on written record and forwarded to the land divider or his agent within five (5) work days.

c. Where lands in a certified survey map have physical limitations, the Town Board may require the words printed across the lot "Not Approved For Residential, Commercial, or Industrial Building".

d. Where lands have difficult topography, or soil problems which may be overcome, the Town Board may require the words "Special Building Conditions" printed on the specific lots of the final land division.

e. The Town Board shall approve or deny the plat or the certified survey map within sixty (60) days after date of final application. If the Town Board fails to act within sixty (60) days and the time has not been extended by agreement, and if no unsatisfied objections have been filed, within that period, the final land division application shall be deemed approved.

(7) Recording. The final approved certified survey map, subdivision plat, or condominium plat shall be recorded in the Register of Deeds Office within six (6)

months after the last final approval of the plat and within twenty-four (24) months of preliminary approval by the Town Board.

(8) **Land Parcels Indicated as Pre-planned Lots.** All land parcels required to be “Pre-planned Lots” shall be so indicated on the final survey map. Prior to the issue of any permit, the preliminary pre-planned lot plan shall be updated and finalized. The final pre-planned lot plan shall use the preliminary pre-planned lot plan as a starting point. It shall indicate the location of: areas to be left undisturbed, existing buildings, proposed buildings, building additions, the finished grades, site specific grading plans, permanent erosion control measures, and temporary erosion controls during construction. The final pre-planned lot plan is to be submitted, reviewed and approved by the Town Board before any permit is issued or any construction takes place.

(9) **County Treasurer’s Certification.** The Rock County Treasurer shall review all land divisions prior to the surveyor submitting the land division to the Town Board for final review, approval, and signature. The surveyor shall provide the following text as part of the final land division:

“County Treasurer
I hereby certify that the property taxes on the parent parcel are current and have been paid as of _____, 2xxx.

xxxxxxxxxxxxxxxx, Rock County Treasurer”

(1m) **Certified Survey Map Procedure**

(1) **Minor Land Divisions.** No person, firm, or corporation shall divide any land located within the limits of the Town of Turtle which shall result in a land division of four (4) or fewer parcels or building sites without first receiving approval of the Town Board and then recording with the Rock County Register of Deeds a certified survey map of the land division that complies with section 236.34 of the Wisconsin Statutes and with all requirements of the Town of Turtle Code of Ordinances.

(2) **Planning Commission Review.** The Town of Turtle Planning Commission shall review the proposed land division within 45 days of the date the application for land division was filed with the Town. However, this time period may be extended by mutual agreement of the applicant and the Planning Commission. The Planning Commission shall make a recommendation to the Town Board.

(3) **Town Board Approval.** Within 90 days of the filing of the land division application with the Town, the Town Board shall take action to approve, approve with conditions, or reject the application. However, this time period may be extended by mutual agreement of the applicant and the Town Board. The Town Board shall state in writing any conditions of approval or reasons for rejection.

(4) **Copy of Recorded Certified Survey Map to Town.** A copy of the recorded certified survey map shall be filed with the Town Clerk within 6 months of the date of approval or conditional approval by the Town Board. Failure to do so shall require a new review and reapproval of the certified survey map by the Town Board.

(5) **Building Permit Issuance.** No building permits will be issued for any of the parcels created by the land division unless the requirements of this subsection have been met.

(m) **Completion and Maintenance of Improvements.**

(1) **Improvements and Methods of Finance.** After preliminary approval has been obtained construction plans, where required, shall be submitted to the Town Board as specified in Section 18.01(k)(5) of this Ordinance. The Town Board shall review, approve or provide the applicant with changes that have to be made prior to approval.

a. Improvements shall be constructed in accordance with the approved time schedule and construction plans prior to final approval. However, for improvements other than streets, drainage, erosion control, utilities, and sanitary facilities the Town Board may allow delayed construction as provided in the approved time schedule.

b. Financial guarantees shall be provided and approved by the Town Board for all proposed improvements within the area of final plat that are not constructed at the time of final approval. The road pavement may be deferred by the Town Board for up to one (1) year when the applicant provides a financial guarantee satisfactory to the Town Board for the cost of construction. The applicant shall provide one of the following types of financial guarantee in the sum sufficient to pay the costs of improvements:

1. Performance Bond. An insurance contract by which a bonding company guarantees that they will pay for the construction of certain public or quasi-public improvements if the developer fails to complete the improvements.

2. Irrevocable Letter of Credit. A written document from a financial institution authorized to do business in Wisconsin stating that a sum sufficient is available to the Town for the completion of certain improvements if the developer fails to complete the improvements; and

3. Escrow Account. An account in a financial institution authorized to do business in Wisconsin with an approved sum of money available to the Town for the completion of certain improvements if the developer fails to complete the improvements.

c. The improvements must be completely installed within a maximum period of one (1) year from the date of final approval of the land division. Extensions may be applied for and may be granted at the discretion of the Town Board upon findings that delays are beyond control of the applicant and that no material change in standards or in conditions has occurred or is reasonably expected to occur. Extensions for final surface coating of roads may be granted by the Town Board.

(2) **Inspection of Improvements.** The Town Board shall provide for inspection of improvements during construction and insure their satisfactory completion. The Town Board may appoint a designee to do the inspection. If the Town Board finds that the improvements have not been constructed in accordance with the approved construction plans, the developer shall be responsible for taking corrective measures to complete the improvements to the satisfaction of the Town Board.

(3) **Maintenance of Improvements.** The developer shall be required to maintain all improvements until acceptance of said improvements by the Town Board or homeowners association. This includes snow removal on roads. The Town may on notice plow the street or effect emergency repairs and charge same to the developer.

(4) **Monumenting Public Land.** Where lands in natural waterways or park land are dedicated to the public a three (3) inch fiberglass right-of-way post extending three (3) feet above the ground and at a depth of three (3) feet which shall be set within a one (1) foot radius of all intersecting property lines.

(5) **Monumenting Lot Corners.** The external monuments of each lot required by Chapter 236 of the Wisconsin Statutes and this ordinance shall be witnessed by a non-organic stake:

a. The stake shall be a minimum of 31 inches long and can be either white with a colored top, painted metal, or earth-toned color;

b. A minimum of one (1) inch by one (1) inch wide “T” formed metal stake, or a two (2) inch wide flat with 0.6 wide ridged sides and a solid web connecting each side; and

c. Be set within a six (6) inch radius of each external monument driven to a minimum depth of eighteen (18) inches, and extended a minimum of twelve (12) inches above ground.

(n) **Altering Land Divisions.**

(1) **Alteration.** A recorded land division may be altered when such alteration does not effect any area dedicated to the public. Alterations shall be processed in the same procedure as land divisions.

(2) **Procedure.** The procedures for vacating or altering an approved and recorded land division or parts thereof shall be as set forth in Sections 236.36 through 236.445 of the Wisconsin Statutes.

(3) **Recording.** Upon approval, the altered land division shall be recorded in the Register of Deeds Office with a copy of the original land division showing the part that has been altered.

(4) **Procedure for Future Re-division.** Whenever a parcel of land is divided and the land division plat shows one or more lots containing more than one (1) acre of land and there are indications that such lots will eventually be re-divided into small building sites, the Town Board may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Reservations or dedications providing for the future opening and extension of such streets may be made by the Town Board.

(o) **Building Site Permit.**

(1) **Approval.** Prior to commencing construction of a building on a plot of land the property owner or his agent shall obtain a building site permit from the Town. In issuing a building site permit, the Town Board shall require that the building is built on a part of the lot which will still provide adequate areas for health and safety provisions of this Ordinance.

(2) **Requirements.** The Town may issue a building site permit after a sanitary permit has been issued by the Rock County Health Department, or a public sewer connection has been approved, and the requirements of this Ordinance are complied with. The standards of Section 18.01(c)(3)d. shall be applied to requests for approval of building site permits.

(3) **Action.** If the Town Board denies approval, the reasons for this denial shall be in writing and sent to the land owner or his agent within five (5) working days.

(p) **Assessor's Plat.** An Assessor's Plat made under section 70.27 of the Wisconsin Statutes may be ordered by the Town Board when a subdivision is created by successive divisions.

(q) **Dedication of Land for Public and Quasi-Public Uses.**

(r) **Land for Public Recreation and Open Space.**

(1) **Dedication of Lands or Money In-Lieu of Dedication:**

a. The Town Board shall require that land or monies in lieu of land be dedicated to a public agency for parks, stream or lake access, drainageways, and similar public purposes.

b. Dedication of land to a property owners association may, at the discretion of the Town Board, meet the requirements of this section.

c. Money-in-lieu of land dedication shall be required where land dedication is not called for on the Town Land Use Plan and where land dedication is otherwise deemed inappropriate.

d. When land is to be dedicated to the property owners, the Town Board shall require that a property owners association be established for all lots within the land division. The covenants shall contain acceptable methods of governing the commonly owned property, maintenance of land and improvements, assessments of taxes and maintenance costs, an assurance that additional lots will not be created in commonly-owned open space, and a mechanism to amend the covenants by the membership of the association.

e. Where a preliminary land division application is submitted and the Town Land Use Plan indicates a proposed park, playground, recreation trail, open space area, environmental corridor, or environmentally sensitive area on the proposed parcel to be divided, a minimum area of dedication of five percent (5%) of total immediately adjacent acreage owned by the developer shall be dedicated to the public.

f. Where a preliminary land division application is submitted and the Town Land Use Plan indicates a proposed park, playground, recreation trail, open space area, environmental corridor, environmentally sensitive area, on the proposed land parcel to be divided, and the Land Use Plan's recreation and open space areas exceed the minimum area of dedication of five percent (5%) of total adjacent acreage owned by the developer, the final land division map shall indicate that land area is "Reserved for Future Public Park and Open Space" that is to be set aside and subject to future dedication and/or acquisition by the public.

g. Where a preliminary land division application is submitted and the Town Land Use Plan indicates an open space area, environmental corridor, or environmentally sensitive area on the proposed parcel to be divided, the final land division map shall indicate that area as having an "Open Space" and/or "Conservation Easement".

h. The Town Board shall not require that land or money in lieu of land be dedicated to a public agency for park and recreation where the land division is zoned as a restrictive commercial or industrial zoning classification. Dedications for roads, utilities and stormwater shall be as provided in other land divisions under this Ordinance.

i. The Town Board shall not require land or money in lieu of land to be dedicated to the Town for park and recreation purposes where there is an existing residential dwelling.

(2) Characteristics of Dedicated Lands.

a. The dedicated land shall form a single parcel of land except where the Town Board determines that two (2) parcels or more would be in the public interest. A connecting strip of land not less than thirty (30) feet wide may be required between two (2) or more parcels.

b. In general, land dedicated for recreation purposes shall be equal to five percent (5%) of the total land in the land division but not less than four (4) acres. Where the five percent (5%) land dedication requirement would create less than four (4) acres, the Town Board may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than two (2) acres be dedicated for recreation purposes if it is impractical or impossible to secure additional lands in order to increase its area.

c. Land dedicated for public purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreational purposes. All land to be dedicated shall abut a public road for at least fifty (50) feet. All land to be dedicated for park purposes shall have prior approval of the Town Board, and shall be marked on the plat "Dedicated for Park, Recreation, and/or Open Space."

d. The provisions of this section are minimum standards. None of the paragraphs above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

(3) Money In-Lieu of Parkland Dedications.

a. When money is required in lieu of land dedication, the Town Board shall require a money-in-lieu of land fee approximately equal to the value of land that would be required to be dedicated. The sum of which is to be made payable to the Town on a one thousand dollar (\$1,000.00) per lot basis by the developer and submitted to the Town prior to final approval of the division.

b. Revenues from money-in lieu of land fees shall be placed in a segregated interest bearing account and shall be accounted for separately from the other funds of the Town.

c. Money-in-lieu of land fees that are imposed and collected, but are not used within a reasonable period of time after they are collected to pay the capital costs for which they were imposed shall be refunded to the current owner of the property with respect to which the fees were imposed. Fees collected shall be spent or refunded under this subsection within three years of collection.

d. Appeal Process.

1. A developer may appeal and contest the amount, collection or use of the money-in-lieu of land fee to the Town Board within 30 days of the imposition of the fee.

2. An appeal shall be commenced by filing a notice of appeal with the Town Clerk specifying the grounds for the appeal and the relief requested. Upon receipt of the notice, the Town Clerk shall immediately notify the Town Board and the appeal shall be heard at the next available Town Board meeting.

3. Following a hearing, the Town Board shall decide the matter upon whether the amount, collection or use of the fee is in error. The Town Board may alter the amount, collection or use of the fee appealed from and may make such amendments or modifications as are appropriate considering the intent of section 66.55 of the Wisconsin Statutes and this Ordinance.

(s) Dedication of Land For Roads, Construction of Roads at Developer's Expense. When public streets are established, the land divider shall dedicate land for and improve public streets. The land divider shall provide grading, base course, surface course, marking and signing, drainage work, landscaping and erosion control as provided in this Ordinance, and any other applicable Town Ordinances.

(1) The Developer shall come to an agreement with the Town Board on a method of financing to assure that the surface course is applied to the road. The surface course is to be applied approximately one (1) year after the base course is constructed. The surface course shall be a condition of approval.

(2) Bridges of primary benefit to the applicant shall be constructed at the expense of the applicant without reimbursement from the Town. The sharing of expenses for the construction of bridges not of primary benefit to the applicant can be fixed by special agreement between the Town and the applicant as a condition of approval. Said cost shall be charged to the applicant pro-rata as the acreage of his land developed so served.

(3) Construction of all improvements shall be the total financial responsibility of the developer.

(t) Access to Waterways and Lakes. Where the Town Board determines that a navigable lake or a river or stream has a serious lack of public access facilities, a land division that includes at least five hundred (500) feet of frontage on such water body may be required to dedicate lands for a public access facility at a width of at least seventy (70) feet connecting the low water mark to the nearest public road. The provisions of Section 236.26(4) of the Wisconsin Statutes are included herein by reference. This provision does not apply to non-navigable water bodies or to newly created water bodies located entirely within new developments.

(u) **Drainageways.** Where natural drainageways traverse the land division or the drainage plan indicates there is a need for a drainage channel the land divider shall dedicate and make the necessary improvements as provided in the approved plan. The Town Board, in its discretion, may decide whether the drainageway is to be dedicated as park land or designated as a drainage easement.

(v) **Easements.** The Town Board may require dedication of easements for utilities, drainageways, walkways, scenic and other public purposes. Easements do not constitute park land dedication unless they are on public or quasi-public property owned by a local governmental unit or a property owners association. Easements shall not be considered in calculating setback lines.

(w) **Design Standards.** The following standards shall be met on preliminary and final land divisions:

(1) General Criteria for Location of Site.

a. Those areas which are subject to hazards of life, or property as may arise from fire, disease, noise, or considered to be uninhabitable for other reasons, may not be subdivided for building purposes unless the hazards have been eliminated or the plans show adequate safeguards correcting the hazards. Land which the Town Board finds to be unsuitable for division or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which may be harmful to the safety, health, and general welfare of the present or future inhabitants of the land division and/or its surrounding areas, shall not be divided or developed unless adequate methods are formulated by the developer and approved by the Town Board to solve the problems created by the unsuitable land conditions.

b. Land division is prohibited in areas with the following soil map units as indicated in the United States Soil Conservation Services Publication entitled Soil Survey of Rock County, Wisconsin unless an intensive soil investigation determines that the minimum requirements of the Rock County Sanitary Code are met. These soil units have been determined to have severe limitations due to high water table, slow permeability, lateral seepage, storm water runoff, bedrock, or excessive slopes.

Ad	E1A	KeD2	P1A	SaA	WeC2
Aw	EmA	KeE	P1B	SaB	WfA
AzA	EoA	LkA	P1C2	SaC2	WfB2
BmA	EvB	LoD	PmA	SaD	WfC2
Br	EvC2	Ma	PmB	SbA	WhB2
CaD2	EvD	Mb	PnA	SbB	WhC2
CaE	EvE	Mc	PnB	SbC2	W1A
Co	GoD	Md	Ro	Se	W1B2
Da	GpB2	Me	RpB	SoB	W1C2

DrD2	GpC2	Mf	RpC2	SoC2	W1D2
DuA	GrD2	Na	RpD2	SoD	WnA
DuB2	Ha	OoD2	RrE	SoF	WnB2
DuC2	HeA	Ot	PrF	TrA	WnC2
EdB2	Ho	Pa	Rs	Wb	WoA
EdC2	JuA	PeA	RtD	WcA	ZuA
EdD2	KaA	PeB2	RuE	WeA	ZuB
EdE	KdD	PeC2	RuF	WeB	ZuC2

c. If the applicant disagrees with the decision he may do more research, obtain better data and appeal the decision to the Town Board.

d. A land division shall be coordinated with existing nearby development or neighborhoods so that the areas as a whole shall be developed harmoniously in a coordinated manner.

e. All land division plats shall comply with applicable state highway regulations if any lot contained therein abuts a state or federal highway.

f. Approval may be withheld if a land division is not in conformity with the policy and purpose of this Ordinance set forth in Section 18.01(a)(2) of these regulations.

g. The Town Land Use Plan shall serve as a guide for public and private actions and decisions to assure the development of public and private property in appropriate relationships. In reviewing and acting on preliminary and final land divisions, the Town Board should consider the way in which the parcels are divided in relation to the type of development indicated in the Town Land Use Plan.

(2) Natural Features.

a. In all divisions of land, care shall be taken to preserve all natural features such as trees, watercourses and views, and historic features such as buildings which will add attractiveness and value to the remainder of the land being divided.

b. The damming, filling, relocation or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural watercourse shall not be permitted except with approval of the Town Board, and pursuant to Chapter 30 of the Wisconsin Statutes.

c. All earth moving operations undertaken to install or make improvements shall be done in such a manner as to minimize erosion and silting of adjacent streams or ponds. Silt basins or other erosion control devices may be required by the Town Board.

(3) **Planned Features.** Those areas, which are shown on the Town Land Use Plan, shall be made a part of the subdivision design. Consideration shall also be given in the design of the subdivision to the preservation of scenic and historic sites, marshes, wetlands, lakes and ponds, water sources and ravines.

(4) **Subdivision Name.** The proposed name of the land division shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the Town. The Town Board shall have final authority to designate the name of the land division which shall be determined at preliminary approval.

(5) **Ingress and Egress.** All subdivisions shall have at least two (2) streets for ingress and egress into and out of the subdivision.

(x) **Monuments.** The land divider 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 Town Board.

(y) **Lots and Blocks.**

(1) **General.** The lot size, width, depth, shape, orientation, and minimum building lines shall be appropriate for the location of the land division and the type of development proposed.

(2) **Minimum Lot Sizes.** Minimum lot sizes shall be appropriately increased to accommodate a marketable building envelope area with the application of front, rear, and side yard area setbacks, zoning district lot size, private sewage system area requirements, useable open space area and physical characteristics.

(3) **Percolation Tests.** Before final approval of a land division each lot designed for private sewage system shall have adequate soil boring and percolation tests which comply with the requirements of all applicable statutes and regulations.

(4) **Lots.** Lots shall comply with applicable zoning ordinance requirements. Consideration shall be given to solar orientation and energy conservation with the lot length being north to south and block length being east to west where applicable. Lot lines shall be radial to road right-of-way lines. Dimensions of corner lots shall observe minimum front-yard setbacks from both roads. Depth and width of property for commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated.

(5) **Lot Arrangement.** The lot configuration shall provide that there will be no foreseeable difficulties because of topography or other physical conditions. Lots shall abut a public road for at least 100 feet except lots on a cul-de-sac bulb where the minimum frontage of a lot located on the bulb portion shall be 50 feet at the road right-of-way with the minimum front yard setback line established where the minimum lot

width of 100 feet is obtained. Double frontage lots in are encouraged on corner lots, arterial highways, collector highways, on existing local roads with speed limits of more than 40 miles per hour, and areas where topographic disadvantages need to be overcome. Driveway access on double frontage lots shall be on the road with the lowest functional classification.

(6) **Restricted Lots.** Lots restricted by soil and/or slope problems shall be preplanned with a copy of the lot layout placed on file with the Town.

(7) **Rural Residential Lots.** Rural residential lots shall have a minimum lot size 40,000 square feet for single family structures, and 55,000 square feet for two (2) family structures. Each residential unit shall utilize its own private sewer system and fresh water well. The minimum lot size shall be appropriately increased to meet minimum lot requirements when any of the provisions of this section cannot be met. Each lot shall contain a buildable area of 2,000 square feet that does not encroach upon setback requirements and is not located closer than twenty five (25) feet from any part of the area proposed for the private sewage system. The lot shall contain an area for a private sewer system (a primary area and replacement area). Each lot shall contain a useable open space area of not less than seventy percent (70%) of the gross land area of the lot. The useable open space area is the gross lot area, less 3,000 square feet for potential structural, driveway, parking use, less 50% of the square footage of the private sewage system. The lot design shall be oriented to obtain maximum solar access.

(8) **Public Sewer Lots.** Public sewer lots shall be a minimum sizing of 8,000 square feet except in shoreland areas where the minimum shall be 10,000 square feet. Minimum width at the building line shall be 70 feet.

(9) **Block Length.** Block lengths shall not exceed 1,500 feet or be less than 400 feet, except as the Town Board deems necessary to secure the efficient use of land or desired features of street layout.

(10) **Block Width.** Blocks shall be wide enough to allow two tiers of lots of sufficient depth to provide an adequate building site on each lot. The Town Board may approve block widths providing for a single tier of lots, where lots would otherwise front on a major street or where the topographical conditions or size of the property prevent two tiers. In the event that a single tier lot is permitted by the Town Board, an adequate buffer area shall be provided and access from an abutting major street prohibited.

(11) **Pedestrian Ways.** Pedestrian walkways may be required near the center and entirely across blocks which exceed 900 feet in length or to connect dead-end streets or to provide access to parks, schools, shopping areas or similar facilities. In the event that a pedestrian walkway is required, a minimum of 10 foot right-of-way shall be set aside with an 8 foot pavement, or other cover approved by the Town Board, and at a grade not steeper than fifteen per cent (15%) unless steps of adequate design are

approved. A note shall be placed upon the final plat stating by whom such pedestrian walkway shall be maintained.

(12) **Flag Lots.** Flag lots are discouraged, and used only when there are no other alternatives for access to a building site.

(13) **Driveway Access.** Driveway access to a public road for each lot shall be located where the lot abuts the adjoining public road. When a lot abuts two or more public roads the driveway shall be located on the road with the lowest functional class and/or lowest traffic volume. Every new lot shall have a driveway location area with direct access to a public road reviewed and approved by the Town Board or the Highway Superintendent or his or her designee, that has taken into consideration vision triangles, the speed of approaching vehicles, sight distance, traffic type, and safety factors.

(14) **Driveway Specifications.** Driveways shall be constructed with a minimum eighteen (18) foot lane of aggregate or blacktop, a minimum clear area width of 24 feet, and 16 feet of height clearance within the access strip between the public roadway and the right-of-way line. At the access point of the driveway and the public road, there shall be a minimum 2% grade from the driveways' crown to the edge of the driveway and a 4% grade from the edge of the driveway to the ditch line. The driveway within the public road right-of-way shall be level or lower than the public road until it reaches the centerline of the road ditch. When a driveway cannot be conveniently located because of spacing requirements or limited sight distance, two lots may use the same joint driveway when located on the common property line and the requirements in this section are met.

(15) **Driveway Vision Area.** Where the lot's driveway meets the public road, the areas on both sides of the driveway shall have a minimum stopping line of site on both sides of the driveway for a distance of 645 feet at 55 miles per hour or eight (8) seconds travel distance for the posted speed limit, whichever is less restrictive. The stopping site distance shall be measured 24 feet from the centerline of the road at a height of 42 inches.

(16) **Shared Driveway Access.** Shared driveways shall be constructed with a minimum of twenty (20) foot lane of aggregate or blacktop, a minimum clear area width of 24 feet, and 16 feet of height clearance within the access strip. Shared driveway access shall be constructed so that at least 40% of the access is located on each land owners property with the remainder at the land owners discretion. The driveway within the public road right-of-way shall be level or lower than the public road until it reaches the edge of the centerline of the road ditch. The length of the common driveways access easement shall remain shared for a minimum distance of 30 feet from the right-of-way, after which the driveways can be separated to serve the separate landowners. The location of the shared driveway access shall be indicated on the preliminary land division and the final land division. Cross easement shall be used on each side of the property line giving both property owners the right of use of the driveway easement on each others

land within the easement. Joint easements shall be indicated on the face of the land division including the specific location of the shared driveway.

(17) **Development Areas Along Existing Roads.** In order to maintain a rural aesthetic quality, development areas adjacent to existing roads and highways, new land divisions in development areas shall have a 50 foot wide conservation easement adjacent and parallel to the existing road right-of-way and be designed with the new lot driveways accessing on new internal roads in the development area as opposed to new driveways being located on existing roads. The developer and parcel owner shall either:

a. Leave and maintain the natural vegetation and ground elevation as a conservation easement within 50 feet of existing public road right-of-way as it naturally existed prior to submittal of the land division; or

b. As a condition of approval, the developer shall submit a landscaping plan proposing improvements addressing the rural aesthetic quality within the fifty (50) foot conservation easement area to the Town Board, for review and approval prior to commencement of grading, planting of trees, and vegetation that implement the approved plan. The developer shall implement the landscaping plan prior to the sale of the land parcel and the parcel owner shall be responsible for on-going maintenance.

(z) **Setback Lines.**

(1) **Corner Lots.** Driveways shall not have access to a road or street less than one hundred (100) feet from the mid-point of an arterial or collector street intersection.

(2) **Streets and Setbacks.**

a. Arterial and Collector setback lines shall be 115 feet from the centerline of the highway or 75 feet from the right-of-way, whichever is greater.

b. Local setback lines shall be as follows:

1. Lots with Public Sewer 25 feet

2. Lots without Public Sewer 50 feet

(3) **Rear Yard and Side Yard.** Rear Yard setbacks shall be a minimum of 25 feet and side yard requirements shall be a minimum of 15 feet from the property line on lots served by private sewer systems and 8 feet from the property line (total of 20 feet between buildings) for lots served with public sewer. The minimum setback from a lake or waterway shall be 75 feet from the high water line.

(4) **Lesser Setbacks.** Lesser setbacks may be permitted by the Town Board in cases of unusual topography, existing patterns of lesser setbacks of buildings on nearby properties or varying alignment of highway right-of-way lines.

(aa) **Utilities.**

(1) **Easements.** The Town Board may require a minimum of eight (8) foot easements on each side of all rear lot lines, and on side lot lines, across lots or along front lot lines where necessary, for the installation of utility facilities. Such easements shall be noted as “Utility Easements” on the final plat or certified survey map. Prior to approval of the final plat or certified survey map a review of the utilities serving the areas as to the location and width of the “Utility Easements” shall be made. The utilities shall have ten (10) working days from their receipt in which to review land divisions.

(2) **Underground Facilities.** The Town Board may require the subdivider to provide the telephone lines, electric lines under 15,000 volts and cable television lines to individual lots to be installed underground within the utility easements of a land division of five or more lots, except:

a. Where it is not practical due to location, topography, soil conditions, stands of trees, or other circumstances that would cause excessive costs of such underground installations;

b. Where temporary overhead utility facilities are necessary to serve a construction site and where temporary overhead utility facilities are installed because of severe weather conditions, such temporary utility facilities shall be removed by the utility installing them within a reasonable time after the proper underground utility facilities are installed;

c. Where associated equipment is necessary to the proper operation of underground utility facilities, such as, but not limited to, substations, pad-mounted transformers, pedestal mounted terminal boxes when placement is considered as being compatible with good design; and

d. In districts zoned other than residential.

(3) **Hook Up.** The land divider shall provide primary public utility services other than on-site private sewer so that individual lot hook-up is available to each lot.

(bb) **Roads.**

(1) **Road Construction Plan.** Proposed roads require a road construction plan be submitted, reviewed and approved by the Town Board and the Town of Turtle Highway Commissioner prior to starting road construction. The road construction plan shall include: road right-of-way cross sections every fifty (50) feet, horizontal and

vertical alignment, right-of-way width, pavement width, road gradient, functional town/county road cross-section, layout in relation to proposed lots, integration with existing and proposed road network, location and size of culverts (including slope), speed limit signs, warning signs, stop signs and road name signs. The storm water runoff requirements in Section 18.01(cc) of this Ordinance shall be included for the design of road ditches. The following minimum standards in subsections (2) and (3) shall be used in the design and construction of proposed roads.

(2) **Widths.** The following are the minimum road and street right-of-way widths:

	<u>Arterial</u>	<u>Collector</u>	<u>Local</u>
Full Width	100	80	70
Half Width	50	40	35
Farmland Preservation Areas (Zoned A-1)			
Full Width	100	80	70
Half Width	50	40	35

(3) **Gradient.**

a. No street gradient shall be in excess of nine percent (9%). Where grades are steep, streets may be constructed diagonally across contours. In severe topography grades may be increased to eleven percent (11%) with the approval of the Town Board.

b. The vertical grade of a street shall not exceed 1.4% for a minimum distance of fifty (50) feet from the intersection of the street centerlines.

c. All road must meet the construction standards of the Town.

(4) **Layout.**

a. All streets shall be properly integrated with the existing and proposed system of roads and dedicated right-of-way. Streets located on hillsides shall be located so they traverse the slope with minimum street grade, driveway grade and earth movement. All streets shall be public streets unless the Town Board, prior to preliminary approval, agrees to the use of private streets. Private streets will be considered only when an association or entity is established by covenant with capability and responsibility for maintenance.

1. All streets shall be properly related to special traffic generators such as industries, business districts, schools, churches and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

2. Streets shall be related appropriately to topography. Local streets shall be curved wherever practical to avoid conformity of lot appearance. All streets shall be arranged so as to obtain access to lots and building sites at or above the grades of the streets.

3. The rigid rectangular gridiron street pattern need not necessarily be adhered to and the use of curvilinear streets or U-shaped streets, and in some cases cul-de-sacs, shall be utilized where such use will result in a more desirable layout.

4. In business developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

b. The arrangement of rights-of-way in a subdivision shall provide for the continuation of the existing streets or rights-of-way in adjoining areas, unless the Town Board deems such continuation undesirable for reasons of topography or design. Where subdivision streets or rights-of-way are continuations or extensions of existing streets or rights-of-way, the width thereof shall be at the same or greater width of the existing streets or right-of-way. A combination of steep grades and curves shall be avoided. Proposed streets shall be constructed and joined to existing streets. Where the subdivision abuts on or contains an existing or proposed arterial on which traffic volume and vehicular speeds warrant special safety precautions, the Town Board may require that frontage or access streets be provided in order that no lots front on such existing or proposed arterial.

c. When the area to be subdivided adjoins or contains, for a considerable distance, a railroad, expressway, freeway or a parkway, a street may be required approximately parallel to the right-of-way of such facility and consideration shall be given to the distance required for approach grades to future grade separations.

d. No cul-de-sac shall be longer than six hundred (600) feet, unless approved by the Town Board, and shall terminate in a circular open space having a diameter at the outside of the right-of-way of at least one hundred forty (140) feet. Cul-de-sacs shall only be used where topographic limitations prevent utilization of any other type of road pattern. Temporary cul-de-sacs permitted by the Town Board are to be constructed to the property line and be provided with a temporary circular or "T" shaped turn-around.

e. Streets shall intersect, as nearly as possible, at right angles.

f. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on collector streets.

g. Street systems in new land divisions shall be laid out so as to eliminate or avoid perimeter half-streets. The Town Board may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his won subdivision boundaries.

h. When a development area with twenty-four (24) or more lots has one road that provides access to the public road network, a second public road access to the public road network shall be required.

i. Names of the streets shall be authorized by the Town Board.

(cc) Drainage and Erosion Control.

(1) **Generally.** In order to approve a land division, the Town Board must receive a written report by a state certified inspector which satisfies the Town Board that:

a. Stormwater runoff is adequately handled so that it will not harm the future residents, their property, any public, quasi-public, or private property.

b. Erosion and sedimentation from the land division during and after construction will not increase as compared to the conditions prior to the development.

c. The stormwater runoff from the upstream area of the watershed will be accommodated in the land division design.

d. The stormwater runoff from the land division and the upstream area of the watershed will be accommodated in the downstream area.

(2) **Drainage and Erosion Control Plan.** The Town Board shall require that a Drainage and Erosion Control Plan be prepared and implemented by the developer as a condition of approval. The Town Board shall review the plan and approve, approve with modification, or reject the plan based on the standards of this Ordinance.

(3) **Erosion and Sediment Control Plan.** Prior to final approval of the land division, the Town Board shall review the respective land divisions' Erosion and Sediment Control Plan and inspect the premises for stabilization practices, public or quasi-public improvements, and the plat or map to assure that improvements, easements, and dedications are provided as indicated in said plan.

(dd) Sewer Facilities.

(1) **Sewer Facilities.** All land divisions intended for residential, commercial or industrial use shall be capable of either on-site sewage disposal system or

be connected to a public sewer system that will adequately provide treatment of effluent generated on the premises.

a. In low and medium-density residential districts, sanitary sewage systems shall be constructed as follows:

1. Where a public sanitary sewage system is accessible the applicant shall connect with same and provide sewers accessible to each lot in the subdivision.

2. Where a public sanitary sewage system is not accessible, the applicant may use on-site sewage disposal systems on lot sizes with the provision of replatting the lot into smaller lots when public sewer is available.

b. In high-density residential and new nonresidential districts, sanitary sewage facilities shall connect with public sanitary sewage systems. Sewers shall be installed to serve each lot and to grades and sizes required by approving official and agencies. Individual disposal system or treatment plants (private or group disposal systems) shall be permitted when found to be in compliance with the State non-proliferation policy and assurances are provided to the Town Board that the system will be maintained into perpetuity.

(ee) **Planned Unit Development (P.U.D.).** The Planned Unit Development (P.U.D.) is provided to promote improved environmental design by allowing greater flexibility in the layout of a land division while insuring its consistency with the Town Land Use Plan. The minimum lot width and area requirements of section 236.16(1) of the Wisconsin States are hereby relaxed in P.U.D. land divisions at the discretion of the Town Board. The standards of this ordinance may be relaxed to a minimum unit width of twenty-four (24) feet and minimum unit area of 750 square feet. P.U.D.'s shall only be developed when they are served by public sewer or when each unit is served by an individual on-site sewer system which may be located on commonly owned property. In no case shall the maximum number of lots of a P.U.D. exceed the maximum number of lots the same parcel could have been conveniently divided into, as provided in the underlying zoning district. The P.U.D. allows variation in lot size, use, private ownership of quasi-public facilities as a cohesive and unified project. The purpose for relaxing design standards by the Town Board is to obtain improved amenities from the developer which will complement the land division and the community. The P.U.D. is intended to encourage more rational and economic development in relation to public services and to preserve open land by clustering or concentrating structures in higher densities, in the developed parts of projects.

(1) **Minimum Size.** A minimum of five (5) acres of land shall be developed as a unit.

(2) **Parking Facilities.** Parking facilities shall be provided for each unit of ownership.

(3) **Criteria.** As a basis of determining the acceptability of a planned unit development application, the following criteria shall be applied to the development plan with specific consideration as to whether or not it is consistent with this Ordinance, has been prepared with competent professional advice and guidance, and produces significant benefits in terms of environmental design:

a. In a planned unit development, the uses proposed and their intensity and arrangement on the site shall be a visual and operational character which:

1. are compatible with the physical nature of the site with particular concern for preservation of natural features, tree growth and open space;

2. would produce an attractive environment of sustained aesthetic and ecological desirability and economic stability that is functional, practical, and compatible with the general development plans for the areas as established by the community; and

3. would not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.

b. The developer shall dedicate a minimum of five per cent (5%) of the total land in the proposed land division, but not less than one-half (½) acre. For each square foot that a lot is reduced from the minimum lot size requirements of this Ordinance an equal amount shall be dedicated as open space to the property owners association.

c. The proponents of a planned unit development application shall provide evidence satisfactory to the Town Board of its economic feasibility, of available adequate financing, and that it would not adversely affect the economic prosperity of the community or the values of surrounding properties.

d. The width of street right-of-way, width and location of street or other paving, outdoor lighting, location of sewer and water lines, provision for storm water drainage or other similar environmental engineering consideration shall be based upon determination as to the appropriate standards necessary to implement the specific function in the specific situation. However, in no case shall standards be less than those necessary to insure the public safety and welfare as determined by the Town Board.

e. In a planned unit development adequate provision shall be made for the permanent preservation and maintenance of common open space by dedication of land to a property owners association.

1. In the establishment of the property owners association, covenants shall be included which protect the open area against building development. Buildings or uses for noncommercial, recreational or cultural purposes compatible with

the open space objective may be permitted only where specifically authorized as part of the preliminary application or with the express approval of the Town Board.

2. The care and maintenance of such open space reservation shall be assured by establishment of appropriate management organization for the project. The manner of assuring maintenance and assessing such cost of individual properties shall be included in any contractual agreement and shall be included in the title of each property.

3. Ownership of and tax liability for private open space reservation shall be established and made a part of the conditions of the plan approval.

f. The proponents of a planned unit development shall submit a reasonable schedule for the implementation of the development to the satisfaction of the Town Board which shall include suitable provisions for assurance that each phase could be brought to completion in a manner which would not result in adverse effect upon the community as a result of termination at that point.

(4) The procedure for obtaining a P.U.D. shall be as required for any other land division under this ordinance, wherein a preliminary application is filed, approval or conditional approval of the preliminary application is granted by the Town Board, and final approval obtained from the approving agencies.

(ff) Nonresidential Land Divisions.

(1) **General.** If a proposed land division includes land for commercial or industrial purposes, the layout shall be subject to all the requirements of this Ordinance, as well as such additional standards required by the Town Board. Industrial and/or commercial land divisions shall not receive preliminary or final approval until the Town Board is satisfied that adequate sewage disposal is provided for permitted and conditional uses.

(2) **Standards.** In addition to the standards in this Ordinance, the applicant shall demonstrate to the satisfaction of the Town Board that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

a. Proposed industrial parcels shall be suitable in area dimensions to the types of industrial development anticipated. Minimum industrial lot size is two (2) acres. Minimum commercial lot size is one (1) acre.

b. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereon. Minimum roadway width is eighty (80) feet.

c. Special requirements may be imposed by the Town Board with respect to street, curb, gutter and sidewalk design and construction. Natural drainage shall be used where practical.

d. Special requirements may be imposed by the Town Board with respect to the installation of public utilities, including water and sewer. Consideration shall be given as to whether public sewer will be required or if an on-site sewage disposal system will provide adequate treatment in relation to the industrial and commercial sewer effluents generated by the proposed land division.

e. Adjacent residential areas shall be protected from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary. A fifty (50) foot buffer strip may be required by the Town Board along with prescribed vegetation.

f. Streets carrying nonresidential traffic, especially truck traffic, shall not be extended to the boundaries of adjacent existing or potential residential areas.

(gg) Condominium Projects.

(1) Declaration of Applicability.

a. It is the expressed intent of this Ordinance to apply to development projects that have condominium ownership features where the project has one or more principal structures on any parcel. In no case shall the maximum number of units of a Condominium exceed the maximum number of lots the same parcel could have been conveniently divided into, as provided in the underlying zoning district.

b. Notwithstanding paragraph (a), this Ordinance shall not apply to condominium conversions of existing structures for non-residential use purposes or to conversions for residential use where no additional dwelling units are being created.

(2) Standards Applied to Condominium Projects.

a. Standards of Sections 18.01(a) to 18.01(o) shall apply to all condominiums.

b. Standards of Section 18.01(r) to 18.01(v) shall apply to all condominium projects covered by this Ordinance, except that dwelling units shall substitute for lots in calculation of payments in lieu of dedication of parkland.

c. Standards of Section 18.01(w) shall apply to all condominiums.

d. Lot size and shape standards of Section 18.01(y) shall be applied to condominiums by description in the application of lot equivalents for each structure

and the lot equivalents shall satisfy lot standards unless reduced by PUD approval under Section 18.01(ee). Minimum unit areas shall not be less than 840 square feet.

e. Standards of Section 18.01(z) shall apply to all condominiums.

f. Standards of Section 18.01(aa) shall apply with lot equivalents substituting for lots.

g. Standards of Section 18.01(bb) shall apply to condominiums.

h. Standards of Sections 18.01(cc) to 18.01(ff) shall apply to all condominiums.

i. In the application of these standards, condominium projects shall be subject to no more restrictive rules than are non-condominium projects that are physically equivalent.

(hh) Land Combinations.

(1) **General.** Any proposed land combination shall be subject to all the requirements of this Ordinance, as well as such additional standards required by the Town Board.

(ii) **Definitions.** Unless otherwise expressly stated, the following shall, for the purpose of this Ordinance, have the meaning herein indicated. Any pertinent word or term not a part of this listing, but vital to the interpretation of this Ordinance, shall be construed to have its legal definition.

Applicant. The owner of land proposed to be subdivided or his representative. Consent shall be required from the legal owner of the premises.

Access Strip. The land within a public road right-of-way between the blacktop/concrete roadway and the side of the right-of-way line/outer edge of the road easement.

Building. A structure intended for use as a working or dwelling place where a sanitary permit or public sewer connection is required.

Building Envelope. The lot area minus the areas of the lot established by the front, side, and rear yard setback requirements.

Certified Survey Map. A division of a lot, parcel or tract of land by the owner thereof or his agent, for the purpose of sale or building development where the act of division creates not more than four (4) parcels of land which may require the dedication, reservation, and/or construction of public improvements.

Condominium. A system of ownership of individual units on a single parcel of real property with all individual unit owners having the right to use the common elements of the parcel and separate ownership confined to individual units which are serially designated. The common property is owned by an undivided interest of the individual unit owners, is part of each owner's responsibility, and herein requires a formal association of all unit owners acting as a group in accordance with its bylaws and declaration.

Conservation Easement. A real property right indicating a public interest in real property imposing a limitation or affirmative obligation for the purpose of retaining or protecting natural, scenic, or open space values of real property; assuring the availability for real property for agricultural, forest, recreational or open space use; protecting natural resources, maintaining, or enhancing air or water quality, preserving a burial site, or preserving the historical, architectural, archaeological, environmentally sensitive areas, or cultural aspects of real property.

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

Development Area. Areas on the Town Land Use Plan where new development is promoted. These areas use existing nodes of development that have adequate physical characteristics and infrastructure, to promote infill development on existing lots, and areas adjacent to existing development areas having the capability to extend public improvements and the creation of new development parcels for future residential, commercial, industrial, and recreational areas.

Drainageway. The land proposed to be reserved or dedicated which may naturally convey stormwater runoff, or a channel designed at ground level to conduct stormwater from one place to another so as to safeguard the public and land improvements against flooding, sedimentation and erosion.

Environmentally Sensitive Areas. An area with physical characteristics and/or natural resources containing one or more of the following: rare or endangered fauna or flora; wetlands; hydraulic soils; floodways; undeveloped flood fringe areas, slopes in excess of twelve percent (12%); highly erodible soils; ground water recharge areas; kettle retention areas, bedrock within one foot of the surface; and soils with physical limitations as provided on the SCS soils maps as determined by the Town Board.

Environmental Corridors. Linear areas delineated on the Town Land Use Plan indicating areas that should not be developed because of their physical characteristics. These areas may have: a potential adverse impact on water quality, soils that do not have the ability to support development, and/or an area that may be subject to natural catastrophes.

Extraterritorial Plat Approval Jurisdiction. The unincorporated area within one and one-half (1 ½) miles of a fourth class city or village and within three (3) miles of all other cities over which cities and villages exercise plat approval provided they have an Official Map Ordinance or Subdivision Control Ordinance in accordance with section 236.10 of the Wisconsin Statutes.

Farmland Preservation Areas. Areas indicated on the Town Land Use Plan which are intended to exclusively provide for agricultural uses and land uses that are compatible with agricultural activities as provided in the A-1 Zoning District. The intent in having this district is to conserve agricultural soils, and historically farmed soils, and prevent uneconomical spread of residential development which results in excessive costs to the community for the provision of essential public services.

Flag Lot. A lot where access to the building site is provided over a strip of land from the public road to the building site that is a larger rectangle at the end of the access strip.

Grade. The center line gradient of a road, street or other public way, specified in percent.

Half Width. Refers to one-half (½) road right-of-way width and is only to be used in the case of certified surveys on existing public roads.

Jog. An offset in the intersection of two or more streets to a common street where the horizontal distance between the centerline of the streets is less than 150 feet.

Land Combination. The combining of two or more land parcels to form a larger parcel whether for the purpose of rezoning or some other purpose.

Land Division. The division of a lot, parcel, or tract of land by the owner thereof or his agent, for the purpose of sale or building development which creates:

- (1) One or more lots, parcels or ownership units;
- (2) The need for a public dedication of land for public road, parkland, or open space; or
- (3) Creates a lot or parcel less than 35 acres.

Land Surveyor. A person licensed in Wisconsin to perform land surveys.

Lot. A geographic area of land separately owned or intended to be separately owned.

Lot Equivalent. An area of land shown on a condominium project approval application encompassing an individual condominium unit, or a building, or part of a

building, having two or more units stacked vertically, and also encompassing adjoining yard areas that will be associated with that unit, or set of stacked units, in an occupancy and/or comparable non-condominium project.

Ownership Unit (or Units). A geographic area separately defined and owned as a lot, parcel or condominium unit or condominium common area.

Parcel. A geographic area of land separately owned or intended to be separately owned.

Parent Parcel. The parcel of land from which a new parcel(s) of land are divided under the ownership of the same family.

Pre-Planned Lot. A parcel of land which, due to physical characteristics, is required to have a site plan prepared by the applicant. The preliminary pre-planned lot (site plan) is to be submitted by the surveyor or property owner (agent) to the Town Board for review and approval prior to the land divisions final approval.

Principal Structure. Structure housing the land use activity that is primary or predominant on the site. A structure that includes or is a residential house, apartment or condominium unit is a principal structure for a residential use.

Regional Floodplain. The 100-year floodplain area as indicated in the Rock County Shoreland/Floodplain Zoning Ordinance and Official Zoning Map.

Street. A thoroughfare within the right-of-way which affords the principal means of access to abutting property for vehicular traffic. A street may be designated as a road, avenue, boulevard, drive, highway, lane, parkway, place, thoroughfare, court, or other appropriate name. Streets are identified according to type.

Street, Arterial. A street serving or designated to serve the rapid movement of concentrated volume of vehicular traffic over relatively long distances. It provides primarily for movement between rather than within activity areas.

Street, Collector. A street serving or designated to serve in the capacity of carrying moderate amounts of traffic between minor streets and arterials or highways and also providing access to individual lots. It provides for movement within, rather than between, activity areas such as neighborhoods.

Street, Local. A street providing or designated to provide primary access to abutting individual lots.

Subdivision Plat. A division of a lot, parcel, or tract of land by the owner thereof or his agent, for the purpose of sale or building development where:

- (a) The act of division creates five (5) or more parcels, or building sites.

(b) Five (5) or more parcels or building sites are created by successive divisions from the original parent parcel.

Town. Town of Turtle.

Town Board. The Town Board of Supervisors of the Town of Turtle.

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) on a single parcel of real property. A unit may include two (2) or more non-contiguous areas.

Unit Owner. Means a person, combination of persons, partnership or corporation who holds title to a condominium unit or has equitable ownership as land contract vendee.

Utility Easement (U.E.). An area of land indicated on a certified survey map, subdivision plat, or in a land covenant, where the area is set forth for the use of public bodies and private public utilities having the right to serve the parcel.

Waterway. A running stream of water, a natural stream fed from permanent or natural sources, including rivers, creeks, runs, and rivulets. There must be a stream, usually flowing in a particular direction, though it need not flow continuously. It may sometimes be dry. It must flow in a definite channel, having a bed or banks, and usually discharges itself into some other stream or body of water.

Wetlands. Areas mapped and defined under Wisconsin State Administrative Code NR 115.

Section 18.02 Livestock Facilities.

(a) Authority.

This ordinance is adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to sections 92.15 and 93.90. Further, this ordinance is adopted pursuant to the powers granted to the Town Board under the grant of village powers pursuant to sec. 60.22 of Wisconsin Statutes for the protection of public health and safety.

(b) Purpose.

The purpose of this ordinance is to comply with requirements of section 93.90 of Wisconsin Statutes and ch. ATCP 51, Wis. Adm. Code (ATCP 51), and to establish

standards and authority to protect the public health and safety of the people of the Town of Turtle.

(c) Definitions.

For the purpose of this Ordinance, the words in this section shall be defined as set forth below:

- (1) “Adjacent” means located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.
- (2) “Animal unit” has the meaning that was given in s. NR 243.03(3) as of April 27, 2004.
- (3) “Complete application for local approval” means an application that contains everything required under s. ATCP 51.30 (1) to (4).
- (4) “Expanded livestock facility” means the entire livestock facility that is created by the expansion, after May 1, 2006, of an existing livestock facility. “Expanded livestock facility” includes all livestock structures in the expanded facility, regardless of whether those structures are new, existing or altered.
- (5) “Expansion” means an increase in the largest number of animal units kept at a livestock facility on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by the operator of an adjacent livestock facility, does not constitute an “expansion” unless that operator increases the largest number of animal units kept at the combined livestock facilities on at least 90 days in any 12-month period.
- (6) “Livestock” means domestic animals traditionally used in this state in the production of food, fiber or other animal products. “Livestock” includes cattle, swine, poultry, sheep and goats. “Livestock” does not include equine animals, bison, farm-raised deer, fish, captive game birds, ratites, camelids or mink.
- (7) “Livestock facility” means a feedlot, dairy farm or other operation where livestock are or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A “livestock facility” includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area. Related livestock facilities are collectively treated as a single “livestock facility” for purposes of this chapter, except that

an operator may elect to treat a separate species facility as a separate “livestock facility.”

- (8) “Livestock structure” means a building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. “Livestock structure” includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. “Livestock structure” does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.
- (9) “Manure” means excreta from livestock kept at a livestock facility. “Manure” includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal manure handling operations.
- (10) “New livestock facility” means a livestock facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. “New livestock facility” does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.
- (11) “Operator” means a person who applies for or holds a local approval for a livestock facility.
- (12) “Person” means an individual, corporation, partnership, cooperative, limited liability company, trust or other legal entity.
- (13) “Populate” means to add animal units for which local approval is required.
- (14) “Property line” means a line that separates parcels of land owned by different persons.
- (15) “Related livestock facilities” means livestock facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:
 - a. They are located on the same tax parcel or adjacent tax parcels of land.

integral part of the facility. “Waste storage facility” does not include equipment used to apply waste to land.

(18) “Waste storage structure” means a waste storage impoundment made by constructing embankments, excavating a pit or dugout, or fabricating a structure. “Waste storage structure” does not include equipment used to apply waste to land. For purposes of ss. ATCP 51.12(2) and 51.14, “waste storage structure” does not include any of the following:

- a. A structure used to collect and store waste under a livestock housing facility.
- b. A manure digester consisting of a sealed structure in which manure is subject to managed biological decomposition.

(19) “WPDES permit” means a Wisconsin pollutant discharge elimination system permit issued by DNR under ch. NR 243.

The remaining definitions in ATCP 51 are hereby incorporated by reference without reproducing them in full in this ordinance.

(d) Livestock Facilities Regulated.

- (1) This Ordinance regulates the following livestock facilities:
 - a. Livestock facilities created after May 1, 2006, over 500 animal units; and
 - b. Livestock facilities existing on May 1, 2006 which expand more than 20% after May 1, 2006, and will have over 500 animal units in total.
- (2) This ordinance does not regulate a livestock facility that existed before May 1, 2006, except as provided in subsection (1)b.

(e) Location of Livestock Facility.

- (1) A livestock facility regulated by this Ordinance, regardless of size, may only be located on a parcel of land in the Town of Turtle zoned Exclusive Agricultural District One (A-1). However, the operator must obtain a conditional use permit from the Town of Turtle before locating the livestock facility on the parcel.

- (2) Livestock facilities shall not be located on land under any other zoning classification than A-1 in the Town of Turtle for reasons of health and safety.

(f) Property Development Standards.

- (1) Minimum lot area. No building, structure or use shall be established on any parcel less than 40 acres.

- (2) General setbacks for livestock structures.

a. Property lines

1. Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units.

2. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the property line.

b. Public road right-of-way

1. Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units.

2. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the public road right-of-way.

c. Waste Storage Structure

1. A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.

2. A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

(i) Located on the same tax parcel as a waste storage structure in existence before May 1, 2006.

(ii) No larger than the existing structure.

(iii) No further than 50 feet from the existing structure.

(iv) No closer to the road or property line than the existing structure.

3. This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line or road may not expand toward that property line or road.

(3) Water quality and related setbacks

a. Navigable Waters and Wetlands

A livestock facility shall comply with setback and related requirements in any applicable shoreland or wetland zoning ordinances enacted within the scope of authority granted under s. 59.692, 61.351 or 62.231, Wis. Stats.

b. Floodplain

A livestock facility shall comply with setback and related requirements in any applicable floodplain zoning ordinance that is enacted within the scope of statutory authority under s. 87.30, Wis. Stats.

c. Wells

All wells located within a livestock facility shall comply with chs. NR 811 and 812. New or substantially altered livestock structures shall be separated from existing wells by the distances required in chs. NR 811 and 812, regardless of whether the livestock facility operator owns the land on which the wells are located. A livestock structure in existence on May 1, 2006 may be altered as

long as the alteration does not reduced the distance between the livestock structure and an existing well.

(g) Conditional Use Permit.

(1) Approval Required.

An operator must obtain a conditional use permit before locating a livestock facility regulated by this Ordinance in the Town of Turtle.

(2) Application Procedure.

a. A livestock operator must complete the application and worksheets prescribed by ATCP 51, including any authorized local modifications. The application requirements specified in ATCP 51, Wis. Adm. Code are incorporated by reference, without reproducing them in full. The application form and worksheets establish compliance with the standards in ATCP 51 and this ordinance.

b. The operator must file 4 duplicate copies of the application form, including worksheets, maps and documents (other than engineering design specifications) included in the application.

(3) Application Fee.

A non-refundable application fee of \$1,000.00 shall accompany an application.

(4) Application Review Procedure.

a. Within 45 days after the Town of Turtle receives an application, the Town shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the Town shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.

b. Within 14 days after the Town notifies an applicant that the application is complete, the Town shall notify adjacent landowners of the application. The Town shall use the

approved notice form in ATCP 51, and mail a written notice to each adjacent landowner.

- c.** The Town shall grant or deny an application within 90 days after the notice of a complete application is provided as required by paragraph b. above. The Town may extend this time limit for good cause, including any of the following:
 - 1. The Town needs additional information to act on the application.
 - 2. The applicant materially modifies the application or agrees to an extension.
- d.** The Town shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Town will act on the application.

(5) Public Hearing.

The Town shall schedule public hearing on the application within 90 days after issuing notice of a complete application.

(6) Standards.

- a.** The standards for issuing a permit are as follows:
 - 1. The state livestock facility siting standards adopted under ATCP 51, Wis. Adm. Code. These standards are incorporated by reference, without reproducing them in full.
 - 2. Setbacks authorized by this ordinance.
- b.** No additional standards for the issuance of a conditional use permit under the Town of Turtle Zoning Ordinance shall apply to an application for a conditional use permit for a livestock facility under this section.

(7) Criteria for Issuance of a Permit.

- a.** A permit shall issue if the application for the proposed livestock facility contains sufficient credible information to show, in the absence of clear and convincing information to

the contrary, that the proposed livestock facility meets the standards specified in this ordinance.

- b.** A permit may be denied if any of the following apply:
 - 1. The application, on its face, fails to meet the standard for approval.
 - 2. The political subdivision finds, based on other clear and convincing information in the record, that the proposed livestock facility does not comply with applicable standards in this ordinance.
 - 3. Other grounds authorized by s. 93.90, Stats., that warrant disapproving the proposed livestock facility.
- c.** No conditions may be imposed on permit other than standards provided in ordinance.

(8) Record of Decision.

- a.** The Town of Turtle Planning Commission shall issue its decision in writing. Its decision shall be based on written findings of fact supported by evidence in the record.
- b.** In the event that a permit is approved, the applicant shall receive a duplicate copy of the approved application, marked “approved.” The duplicate copy must include worksheets, maps and other documents (other than engineering specifications) included in the application.

(9) Notice to the Department.

The Town Clerk as required by ATCP 51.36 within 30 days of the Town decision on the application shall do all of the following:

- a.** Give the Department of Agriculture, Trade and Consumer Protection written notice of the Town decision.
- b.** File with the Department a copy of the final application granted or denied, if the Town has granted or denied an application under this ordinance. The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.

- c.** If the Town has withdrawn a local approval under this ordinance, file with the department a copy of the Town final notice or order withdrawing the local approval.

(10) Expiration of Permit.

A permit remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under permit, and regardless of whether the livestock operator exercises the full authority granted by the approval. However, the political subdivision may treat a permit as lapsed and withdraw the permit if the permit holder fails to do all of the following within 2 years after issuance of permit:

- a.** Begin populating the new or expanded livestock facility; and
- b.** Begin constructing all of the new or expanded livestock housing or waste storage structures proposed in the permit application.

(11) Permit Modifications.

The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the Town of Turtle shall not withhold authorization for those changes.

(12) Compliance Monitoring.

The Town of Turtle shall monitor compliance with the ordinance as follows:

- a.** Upon notice to the livestock facility owner request the right of the Livestock Siting Facility Administrator to personally view the permitted facility at a reasonable time and date to insure that all commitments of the application as approved are being complied with.
- b.** If the livestock facility owner refuses the Administrator the right to view the permitted facility, the Administrator may request the assistance of the Sheriff or a deputy Sheriff to obtain an inspection warrant from the circuit court to inspect the permitted facility for the purpose of protection of the public health and safety under sec. 66.0119 of the Wisconsin Statutes.

- c. If a permitted facility is found not to be in compliance with the commitments made in the approved application, the Administrator shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application and be complied with in a reasonable amount of time stated in this written notice.
- d. If non-compliance of the permit conditions as described in the written notice given by the Administrator continue past the stated reasonable time to comply, the Administrator may take further action as provided in this Ordinance, including but not limited to issuance of a citation or seeking of injunctive relief.
- e. If the livestock facility owner disputes that the conditions of the permit have not been complied with, the livestock facility owner may request a hearing in writing within five days of receipt of the notice of non-compliance. The Town Planning Commission shall schedule a hearing within five days to determine if the conditions of the permit have been complied with or whether non-compliance of the commitments of the approved application and local approval exists.

(13) Transferability.

- a. A permit and the privileges granted by the permit run with land, and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.
- b. Upon change of ownership of the livestock facility, the new owner of the facility shall file information with the Town Clerk providing pertinent information, including but not limited to such information as the name and address of the new owner and date of transfer of ownership.

(h) Administration.

The Town of Turtle does hereby create the position of Livestock Facility Siting Administrator who shall have the primary responsibility of administering this ordinance and related matters thereto. The Livestock Facility Siting Administrator shall be appointed by the Town Board to serve at the pleasure of said board.

(i) Appeals.

- (1)** In addition to other appeal rights provided by law, section 93.90(5), Stats., provides that any “aggrieved person” may request review by the Livestock Facility Siting Review Board of any decision by the Town of Turtle in connection with a permit application. An “aggrieved person” may challenge the decision on the grounds that the Town of Turtle incorrectly applied the standards under this ordinance or violated section 93.30, Stats.
- (2)** An “aggrieved person” under this section as defined in section 93.90(5) of Wisconsin Statutes means a person who applied to a political subdivision for approval of a livestock siting or expansion, a person who lives within 2 miles of the livestock facility that is proposed to be sited or expanded, or a person who owns land within 2 miles of a livestock facility that is proposed to be sited or expanded.
- (3)** An “aggrieved person” may request review of any decision of the Livestock Facility Siting Administrator decision or action by the Town Planning Commission.
- (4)** Any appeal brought under this section must be requested within 30 days of the Town approval or disapproval.
- (5)** Any appeal to the State Livestock Facility Siting Review Board shall comply with section 93.90 of Wisconsin Statutes and administrative rules of said board.

(j) Penalties.

- (1)** Any person who violates any of the provisions of this ordinance, or who fails, neglects or refuses to comply with the provisions of this ordinance, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be subject to the following penalties:

 - a.** Upon conviction by a court of law, pay a forfeiture of not less than \$250.00 nor more than \$500.00, plus the applicable surcharges, assessments and costs for each violation.
 - b.** Each day a violation exists or continues shall be considered a separate offense under this ordinance.

- c. In addition, the Town Board committee may seek injunctive relief from a court of record to enjoin further violations.
 - d. In addition, the Town Board may suspend or revoke the local approval of a license under this ordinance after due notice to the livestock facility owner and a public hearing to determine whether the license should be suspended or revoked.
- (2) The Town shall exercise sound judgment in deciding whether to suspend or revoke a license. The Town shall consider extenuating circumstances, such as adverse weather conditions, that may affect an operator's ability to comply.
- (3) In addition to any other penalty imposed by this ordinance, the cost of abatement of any public nuisance on the licensed premises by the Town may be collected under this ordinance or section 823.06 of Wisconsin Statutes against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under section 66.0627 of Wisconsin Statutes unless paid earlier.

Section 18.03 Illicit Discharge

- (a) **Authority.** This ordinance is adopted under authority granted by Chapter 283 Wis. Stats. and NR 216.07(3) Wis. Adm. Code. The provisions of this ordinance are not intended to limit any other lawful regulatory powers of the Town of Turtle.
- (b) **Responsibility For Administration.** The Board of Supervisors of the Town of Turtle will administer and enforce the provisions of this ordinance.
- (c) **Purpose and Intent.** The purpose of this ordinance is to provide for the health, safety, and general welfare of citizens through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The intent of this ordinance is:
 - (1) To prohibit the discharge, spilling or dumping of non-storm water substances or materials into waters of the state or the MS4;

- (2) To identify non-storm water discharges or flows that are not considered illicit discharges; and
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this ordinance.
- (d) **Jurisdiction.** This ordinance shall apply to illicit discharges located within the boundaries and jurisdiction of the Town of Turtle.
- (e) **Definitions.** For the purposes of this ordinance, the following shall mean:
- (1) Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (2) DNR means Wisconsin Department of Natural Resources.
- (3) Hazardous Materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (4) Illicit Discharge means any discharge to the MS4 that is not composed entirely of storm water except discharges authorized by a WPDES permit or exempted in by this ordinance.
- (5) Illicit Connections means an illicit connection is defined as either of the following:
- a. Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4 regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Town;
- b. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by the LCD.

(6) Industrial Activity means activities subject to WPDES or NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

(7) Municipal Separate Storm Sewer System (MS4) means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meet all of the following criteria:

- a. Owned or operated by a municipality;
- b. Designed or used for collecting or conveying storm water; and
- c. Which is not a combined sewer conveying both sanitary and storm water.

(8) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit means a permit issued by the United States Environmental Protection Agency (EPA) or by a State under authority delegated pursuant to 33 USC § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

(9) Non-Storm Water Discharge means any discharge to the storm drain system that is not composed entirely of storm water.

(10) Permittee means the owner or operator of an MS4 authorized to discharge storm water into waters of the state in the Town of Turtle.

(11) Permitted Area means the areas of land under the jurisdiction of the Town of Turtle that contribute to discharge from the Town's MS4 which are regulated under a Municipal WPDES Permit pursuant to subch. I of NR 216 Wis. Adm. Code.

(12) Person means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

(13) Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals, animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

(14) Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(15) Storm Water means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(16) Town means the Town of Turtle.

(17) Town Board means the Board of Supervisors of the Town of Turtle.

(18) Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

(19) WPDES Permit means a Wisconsin Pollutant Discharge Elimination System permit issued pursuant to ch. 382 Wis. Stats. by the DNR.

(f) **Remedies Not Exclusive.** The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Town Board to seek cumulative remedies.

(g) **Discharge Prohibitions.** No person shall discharge or cause to be discharged into the MS4 or waters of the state any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, individual residential car washing, natural riparian habitat or wetland flows, swimming pools (if dechlorinated – typically less than one PPM chlorine), fire fighting activities, and any other water source not containing pollutants.

(2) Dye testing is an allowable discharge, but requires a verbal notification to the Town prior to the time of the test.

(3) The prohibition shall not apply to any non-storm water discharge permitted under an WPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Wisconsin DNR, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(h) **Ultimate Responsibility.** The standards set forth herein and promulgated pursuant to this ordinance are minimum standards. Therefore, this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(i) **Notification of Spills.** Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the MS4, or water of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Town in person or by phone or facsimile immediately. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town within three business days of the phone notice.

(j) **Industrial or Construction Site Discharges.** Any person subject to an industrial or construction site WPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to the allowing of discharges to the MS4.

(k) **Inspections.**

(1) The Town shall be permitted to enter and inspect any property subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Town.

(2) The Town shall be permitted ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a WPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) If the Town has been refused access to any part of the premises from which storm water is discharged, and the Town is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Town may seek issuance of an inspection warrant from any court of competent jurisdiction.

(I) Enforcement and Penalties.

(1) Any illicit discharge initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the provisions of this ordinance shall be deemed a violation unless conducted in compliance with the requirements of this ordinance.

(2) Every violation of this ordinance is a public nuisance. Compliance with this ordinance may be enforced by an injunction order at the suit of the Town. It shall not be necessary to prosecute for a forfeiture before resorting to injunction proceedings.

(3) When the Town finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Town may order compliance by written notice of violation to the responsible person via certified mail. Such notice may require without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of illicit connections or discharges;
- c. That violating discharges, practices, or operations shall cease and desist;
- d. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- e. The implementation of source control or treatment BMPs.

(4) Upon receipt of written notification from the Town, the responsible person shall correct the activity as necessary to meet the specifications and schedule set forth in the notice.

(5) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by

the Town or a contractor and the expense thereof shall be charged to the violator. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Town or designed contractor to enter upon the premises for the purposes set forth above.

(6) If the responsible person does not comply with the provisions of a notice of violation, the Town may request the Town Attorney to obtain a cease and desist order in any court with jurisdiction.

(7) Any person, firm, association or corporation violating any of the provisions of this ordinance shall be subject to a forfeiture of no less than \$500.00, nor more than \$5,000.00, and the costs of prosecution, including staff time, per offense. Each day a violation exists shall constitute a separate offense.

(8) In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Town may impose upon a violator alternative compensatory actions, such as attendance at compliance workshops, and creek cleanup.

(m) Cost of Abatement of the Violation. Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The propertyowner may file a written protest objecting to the amount of the assessment within 30 days. If the amount due is not paid within a timely manner as determined by the decision of the Town Board or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

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

Section 18.04 Adoption of the Town of Turtle Comprehensive Plan 2035

WHEREAS, the Town Board of the Town of Turtle, Rock County, Wisconsin has proceeded under the provisions of Wis. Stat. 66.1001 and this Ordinance is to be adopted under the authority of Wis. Stat. 66.1001; and,

WHEREAS, the Town of Turtle has developed the Town of Turtle Comprehensive Plan 2035 (Plan), in accordance with Wis. Stat. 66.1001, to guide and coordinate planning and development within the Town, to best promote the public health, safety, and general welfare of the Town and its citizens; and,

WHEREAS, the Plan was prepared by the Rock County Planning, Economic & Community Development Agency in accordance with the FY 2005 MULTI-

JURISDICTIONAL COMPREHENSIVE PLANNING GRANT AGENCY SERVICES AGREEMENT between the Town and the County; and,

WHEREAS, the Plan was presented to the public for input, review, and comment at a public hearing held August 12, 2009; and,

WHEREAS, the Town of Turtle Planning Commission has reviewed and approved the Plan, and recommends the Plan for adoption to the Town Board of Turtle, and the Town Board of Turtle has also reviewed and approved the Plan.

Section 1. **ADOPTION**

The Town Board of Turtle does ordain that the Town of Turtle, on August 12, 2009, hereby creates and adopts the Town of Turtle Comprehensive Plan 2035 and shall enforce all policies and recommendations contained therein.

Section 2. **PURPOSE AND INTENT**

The purpose of this Ordinance is to best promote the public health, safety, and general welfare of the Town and its citizens, by guiding and coordinating planning and development in the Town.

Section 3. **CONSISTENCY WITH ORDINANCE**

Commencing August 12, 2009, all actions, including amendments, involving the following Town ordinances shall be consistent with this Ordinance:

(1) Town of Turtle Zoning Ordinance

Section 4. **INTERPRETATION**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the purposes of this Ordinance, and shall not be deemed a limitation or repeal of any other power granted to the Town by Wis. Stats.

Section 5. **SEVERABILITY**

If any section, clause, 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.