

CHAPTER 10 : LAND DIVISION

10.01 INTRODUCTION

A. TITLE

This ordinance shall be known and may be cited and referred to as the Town of Mosel Land Division Ordinance, or as Chapter Ten (10) of the Town of Mosel Municipal Code.

B. AUTHORITY

This Ordinance was adopted by the Town of Mosel under its Village Powers, pursuant to §. 60.10(2)(c), 60.22(3), 61.34(1), 236.03, and 236.45, Wis. Stats. This Ordinance was adopted by the Town Board after its receipt of a formal written recommendation of this Ordinance dated March 1, 2005, from the Town Planning Agency under §. 61.35, 62.23, and 236.45(2), Wis. Stats., which for the Town of Mosel is the Town of Mosel Planning and Zoning Commission.

C. PURPOSE AND INTENT

It is the purpose of this Ordinance to regulate and control all land divisions within the Town of Mosel in order to promote and protect the public health, safety, aesthetics, and general welfare of the community. More particularly, and without limitation, it is the purpose of this Ordinance to implement the Town's comprehensive plan and components thereof and facilitate enforcement of community development standards as set forth in the zoning code, building code, and official map; to promote the wise use, development, and conservation of resources, and achieve a balanced relationship between land use and development and the natural resource base; to further the orderly layout and appropriate use of land; to avoid the harmful effects of premature division or development of land; to lessen congestion in the streets; to provide for proper ingress and egress from development sites; to secure safety from fire, flooding, water pollution, and other hazards and minimize expenditures for flood relief and flood control projects; to prevent and control erosion, sedimentation, and other pollution of surface and subsurface waters; to preserve natural vegetation and cover and protect the natural beauty of the Town; to provide adequate light and air; to prevent the overcrowding of land and avoid undue concentration of population; to facilitate the division of land into smaller parcels; to facilitate and ensure the adequate provision of transportation, water, sewage, stormwater management, schools, parks, playgrounds, and other public facilities and services; to ensure adequate legal description and proper survey monumentation of divided land; to provide adequate, affordable housing; and to provide for the administration and enforcement of this ordinance.

D. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.

E. 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 Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

F. 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.

G. 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.

H. DISCLAIMER OF LIABILITY

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

10.02 DEFINITIONS

A. GENERAL PROVISIONS

For the purpose of this ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory and not directory and the word “building” shall include the word “structure.”

B. SPECIFIC WORDS AND PHRASES

(1) ALLEY

A public or private right-of-way which provides secondary access to abutting properties.

(2) APPLICANT

The subdivider or condominium developer or their agents.

(3) APPROVING AUTHORITIES

Each governmental body having authority to approve or reject a preliminary or final plat, or condominium plat. Approving authorities are set forth in §. 236.10, Wis. Stats.

(4) ARTERIAL STREET

A street used, or intended to be used, primarily for fast or heavy through-traffic, whose function is to convey traffic between municipalities and activity centers. Arterial streets shall include freeways and expressways.

(5) BLOCK

An area of land bounded by streets, or a combination of streets, public parks, cemeteries, railroad rights-of-way, bulkhead lines, shorelines of waterways, and/or town boundaries.

(6) BUFFERYARD

An area of land within the boundaries of a lot or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences and/or berms. It is designed to limit continuously the view and/or sound from the lot or site to adjacent lots or sites. A bufferyard is typically defined by a delineated easement graphically indicated on the face of the certified survey map, subdivision plat or condominium plat.

(7) BUILDING

Any structure erected or constructed of wood, metal, stone, plastic or other materials, having a roof supported by columns or walls, which is intended to be used by human beings or animals for occupancy, livery, commerce, education, storage, or other purposes.

(8) CERTIFIED SURVEY MAP

A map prepared in accordance with §. 236.34, Wis. Stats., and applicable provisions of this Ordinance, or future revisions thereof, for recording a minor land division.

(9) CHANNEL

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

(10) COLLECTOR STREET

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

(11) COMMISSION

Reference to Commission shall mean the Town of Mosel Planning and Zoning Commission.

(12) COMPREHENSIVE PLAN

An extensively developed plan, also called the Mosel Land Use Plan, adopted by the Mosel Town Board pursuant to §. 62.23 , Wis. Stats., or a Comprehensive Plan adopted pursuant to §. 66.1001 , Wis. Stats. Components of a comprehensive plan include, but are not limited to, a land use, transportation system, park and open space, sanitary sewer, public water supply, and stormwater management system elements, and neighborhood unit development plans. Devices for implementation of such plans include zoning, official mapping, land division control, and capital improvement programs.

(13) CONDOMINIUM

A structure having two (2) or more individual units, each assigned to individual ownership, but located on a lot having a common ownership and use arrangement.

(14) CONDOMINIUM ASSOCIATION

An association, whether incorporated or not, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium. See also Homeowner's Association.

(15) CONDOMINIUM PLAT, MAJOR

Condominiums in which land is allocated into parcels or building sites, whether the individual portions of land are defined as "units" or "limited common elements", are subject to review and approval of this ordinance if five (5) or more parcels or building sites of forty (40) acres or less are created within any five (5) year period from a lot, parcel or tract which existed on the effective date of this ordinance.

(16) CONDOMINIUM PLAT, MINOR

Condominiums in which land is allocated into parcels or building sites, whether the individual portions of land are defined as "units" or "limited common elements", are subject to review and approval of this ordinance if one (1) but not more than four (4) parcels or building sites of forty (40) acres or smaller in size are created within any five (5) year period from a lot, parcel or tract which existed on the effective date of this ordinance.

(17) COUNTY

Reference to County shall mean Sheboygan County and shall include any agency, department or committee thereof.

(18) CRITICAL AREAS

Areas of steep slopes, woodlands and forest (mature and young), lakes, ponds, streams, shore buffer, floodplains, drainageways, wetlands and shoreland wetlands as defined in the Town of Mosel Environmental Features Map prepared by the Bay Lake Regional Planning Commission, 1999.

(19) CUL-DE-SAC STREET

A minor street with only one outlet and a turn-around for the safe and convenient reversal of traffic movement.

(20) DETENTION BASIN

A man-made or natural depression below the surrounding grade level designed to collect surface and subsurface water so that it might impede its flow; and to gradually release the same into natural or man-made outlets (i.e. stream or storm sewer systems) at a rate not greater than that prior to the development of the property.

(21) DEVELOPMENT

Any man-made change to improved or unimproved real estate including, but not limited to, construction of or additions or substantial improvements to: structures, accessory uses, mining, dredging, filling, grading, paving, excavating or drilling operations, or disposition of materials.

(22) DRAINAGEWAY

The land on either side and within fifty (50) feet of the centerline of any intermittent or perennial stream graphically shown on: a topographic survey prepared and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet, or on the U.S. Geological Survey (USGS) 7.5-minute quadrangle topographic map of the area.

(23) EASEMENT

Authorization by a property owner for another to use the owner's property for a specified purpose.

(24) EXTRATERRITORIAL PLAT APPROVAL JURISDICTION

The unincorporated area within one and one half (1.5) miles of a fourth-class city or village and within three (3) miles of all other cities over which cities and villages may exercise plat approval, provided they have enacted an official map ordinance or subdivision control ordinance in accordance with, §. 236.10, Wis. Stats.

(25) FINAL PLAT

A map prepared in accordance with Chapter 236, Wis. Stats., and this Ordinance.

(26) FLOOD OF RECORD, MAXIMUM

The highest recorded elevation of a flood event.

(27) FLOOD PROTECTION ELEVATION

An elevation two (2) feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, five (5) feet above the maximum flood of record.

(28) FLOODPLAINS

Those lands, including the channels, floodways and floodplain fringe of any given reach, which are subject to inundation by flood within a given recurrence frequency. The 100-year recurrence interval flood (or that flood having a one (1) percent probability of occurring in any given year) is generally used for zoning regulation. Other flood events used in this ordinance are the 50-year recurrence interval flood (or that flood having a two (2) percent probability of occurring in any given year) and the 10-year recurrence interval flood (or that flood having a ten (10) percent probability of occurring in any given year). Where detailed flood data is not available, the maximum flood of record is used.

(29) FRONTAGE

The length of the front property line of the lot, lots or tract of land abutting the right-of-way of a public street, road, or highway.

(30) FRONTAGE STREET

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

(31) GRADE

The slope of a road, street or other public way, specified in percent.

(32) HIGH GROUNDWATER ELEVATION

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

(33) HIGHWAY, LIMITED ACCESS

A freeway or expressway for through-traffic onto which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over the freeway or expressway.

(34) HOMEOWNERS' ASSOCIATION

An association, whether incorporated or not, combining individual home ownership with shared use, ownership, maintenance, and responsibility for common property or facilities, including private open space, within a land division.

(35) IMPROVEMENT, PUBLIC

Any sanitary sewer, storm sewer, drainage ditch, water main, roadway, park, parkway, public access, sidewalk, bicycle or pedestrian way, planting strip, off-street parking area or other facility for which Sheboygan County or Town of Mosel may ultimately assume maintenance and operation responsibilities.

(36) LAND DIVISION

The act or process of dividing land into two or more parcels.

(37) LAND DIVISION, MINOR

The creation of one (1) but not more than four (4) parcels or building sites any one of which is forty (40) acres or smaller in size. Minor land divisions shall be created by Certified Survey Maps. Not more than four (4) parcels may be created by means of minor land division procedures within any five (5) year period from a lot, parcel or tract which existed on the effective date of this ordinance.

(38) LANDSCAPING

Living material (such as grass, groundcover, flowers, shrubs, vines, hedges and trees) and nonliving durable material (such as rocks, pebbles, sand, mulch, wood chips or bark, walls and fences).

(39) LOT

A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet lot width, lot frontage, lot area, setback, yard, parking and other requirements of the Town of Mosel's Zoning Ordinance.

(40) LOT AREA

The total square footage lying within the peripheral boundaries of a parcel of land. In any zoning jurisdiction, the area of a lot specifically excludes:

- (a) the right-of-way of a public or private street; and
- (b) areas of navigable water.

(41) LOT, CORNER

A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of one hundred thirty-five (135) degrees or less measured on the lot side.

(42) LOT, LEGAL

A parcel of land existing under a single ownership which complies with the applicable basic district standards for the Zoning District in which such lot is situated or meets the definition of a "lot of record" of this ordinance, which is provided with the minimum frontage upon a public road, and which complies with all applicable subdivision laws and ordinances.

(43) LOT, THROUGH

A lot that has a pair of opposite lot lines among two parallel streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

(44) LOT LINES

The peripheral boundaries of a parcel of land.

(45) LOT OF RECORD

A legal lot of record shall mean a lot legally created and recorded in the Sheboygan County Register of Deeds Office prior to or according to the current

Sheboygan County Subdivision Ordinance of April 20, 1999, that meets applicable State and County zoning and subdivision laws and ordinances.

(46) LOT WIDTH

The horizontal distance between the side lot lines of a lot, measured within the side lot lines at the building line established by the applicable required front yard as established by the Mosel Zoning Ordinance for the zoning district in which it is located.

(47) OBJECTING AGENCIES

An agency empowered to object to a subdivision plat pursuant to Chapter 236, Wis. Stats. The Town may not approve any plat upon which an objection has been certified until the objection has been satisfied. The objecting agencies include the Wisconsin Department of Administration, the Wisconsin Department of Commerce, the Wisconsin Department of Transportation, Wisconsin Department of Natural Resources and the Sheboygan County Planning and Resources Department.

(48) OBSTRUCTION, DRAINAGEWAY

This ordinance refers to two different types of obstructions:

- (a) Artificial Obstruction – any obstruction other than a natural obstruction that is capable of reducing the carrying capacity of a stream or drainageway or that may accumulate debris and thereby reduce the carrying capacity of a stream; i.e. fences, dams, planted trees and shrubs, and any other obstructions instituted as a result of human activity.
- (b) Natural Obstruction – any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within the stream or drainageway by a non-human cause.

(49) OPEN SPACE

Any site, parcel, lot, area, or outlot of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use including use by the owners and occupants of land adjoining or neighboring such open space. Open space land shall not be occupied by buildings, roads, drives, public rights-of-way or off-street parking areas for non-recreational uses.

(50) OPEN SPACE, COMMON

Privately-owned land within a land division or condominium that has been restricted in perpetuity from further development and is set aside for the use and enjoyment of residents of the land division or condominium. Common open space shall be substantially free of structures, but may contain recreational facilities approved by the Town.

(51) OPEN SPACE, DEED-RESTRICTED

Deed-restricted open space on platted "lots" is not occupied by any principal or accessory buildings or structures, roads, public road rights-of-way or parking areas. Deed-restricted open space on platted "outlots" is not occupied by principal

or accessory buildings or structures, roads, road rights-of-way, or parking areas. Individual lot owners shall maintain deed-restricted open space on platted "lots." A Homeowners' Association shall maintain deed-restricted open space located on platted "outlots."

(52) OPEN SPACE, PUBLIC

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

(53) ORDINARY HIGH WATER ELEVATION

(commonly referred to as the **ORDINARY HIGH WATER MARK**)

The average annual high water level of a pond, stream, lake, flowage, or wetland as referred to an established datum plane or, where such elevation is not available, the elevation of the line up to which the presence of water is so frequent as to leave a distinct mark by erosion, change in, or destruction of vegetation or other easily recognized topographic, geologic or vegetative characteristic.

(54) OUTLOT

A parcel of land, other than a buildable lot or block, so designated on the plat, which is used to convey or reserve parcels of land. Outlots may be created to restrict a lot which is unbuildable due to high groundwater, steep slopes, or other physical constraints, or to create common open space. Outlots may also be parcels of land intended to be re-divided into lots or combined with lots or outlots in adjacent land divisions in the future for the purpose of creating buildable lots. An outlot may also be created if a lot fails to meet requirements for a private onsite wastewater treatments system, but which may be buildable if public sewer is extended to the lot or land division. §. 236.13, Wis. Stats., prohibits using an outlot as a building site unless it complies with all the requirements imposed for buildable lots. Any restrictions related to an outlot must be included on the face of the plat.

(55) OWNER

A natural person, individual, firm, association, syndicate, partnership, private corporation, public or quasi-public corporation or combination of these having legal title or sufficient proprietary interest to seek development of land.

(56) PARCEL

A single piece of land separately owned, either publicly or privately, and capable of being conveyed separately.

(57) PEDESTRIAN PATHWAY

A public way that is intended for the convenience of pedestrians only. It may also provide public right-of-way for utilities.

(58) PLANNING AND ZONING COMMISSION

The Town of Mosel Planning and Zoning Commission, as authorized by §. 62.23, Wis. Stats., and Chapter 2.02 of the Town of Mosel Municipal Code.

(59) PLAT

A map, prepared as required by this Ordinance, for the purpose of recording a subdivision or condominium.

(60) PRELIMINARY PLAT

A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration. A preliminary plat precisely describes the location and exterior boundaries of the parcel proposed to be divided, and shows the approximate location of lots and other improvements.

(61) PROTECTIVE COVENANTS

Contracts entered into between private parties or between private parties and public bodies pursuant to §. 236.293, Wis. Stats, which constitute a restriction on the use of private or platted property within a minor land division or subdivision for the benefit of the public or property owners and to provide mutual protection against undesirable aspects of development.

(62) PUBLIC UTILITY

An entity engaged in providing a utility such as gas, water, sewage, telephone, cable television, electricity, wireless communication, etc., except for power generating facilities.

(63) PUBLIC WAY

Any public road, street, highway, bicycle or pedestrian pathway, drainageway, or part thereof.

(64) REPLAT

The process of changing, or the map or plat which changes, the boundaries of a recorded Subdivision Plat, Certified Survey Map or part thereof. The division of a large block, lot or outlot within a recorded Subdivision Plat or Certified Survey Map that does not change the exterior boundaries of said block, lot or outlot is not a replat.

(65) RESERVE STRIP

Any land which would prohibit or interfere with the orderly extension of streets, bicycle or pedestrian ways, sanitary sewer, water mains, storm water facilities or other utilities or improvements between two abutting properties.

(66) RETENTION BASIN

A man-made or natural body of water of a depth of not less than three (3) feet designed to contain water at all times, the level of which will be increased as a result of the flow into it of surface and subsurface water, collected therein and released gradually into natural and man-made outlets.

(67) REVERSED FRONTAGE

Yard area that fronts a road on which there is no access.

(68) SETBACK

Those minimum street, front, rear and side yards required by the Town of Mosel Zoning Ordinance.

(69) SHORELAND JURISDICTION

Refer to the *Sheboygan County Shoreland-Floodplain Ordinance*.

(70) SHORELAND WETLAND

A wetland, as defined by this ordinance, which is located within a shoreland area.

(71) SLOPE

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

(72) STREAM

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

(73) STREET

Right-of-way dedicated to the public that generally provides access to abutting properties.

(74) STREET, MAJOR

Arterial and collector roads primarily intended for through-traffic with a secondary function for direct access.

(75) STREET, MINOR

A street used or intended to be used primarily for access to abutting properties.

(76) STRUCTURE

Any man-made combination of materials, other than natural terrain or plant growth, erected or constructed with form, shape and/or utility, including but not limited to, buildings, shelters, containers, driveways, supports or decorations.

(77) SUBDIVIDER

Any person, firm or corporation, dividing or proposing to divide land resulting in a subdivision, minor land division, or replat, or any person who creates a condominium under Chapter 703, Wis. Stats.

(78) SUBDIVISION

The division of a lot, parcel or tract of land by its owner for the purposes of sale or building development, including condominium development, where the act of division creates five or more parcels or building sites, inclusive of the original remnant parcel, any one of which is forty (40) acres or less in area, by a division or by successive divisions of any part of the original property within a period of five years. For the purposes of this Ordinance as it applies to subsequent land divisions, a lot, parcel or tract (which may be identified by a single tax key number) which is bisected by an existing public roadway, railroad right-of-way, or navigable stream shall be considered to be effectively divided into separate lots, parcels or tracts.

(79) TOWN

Reference to Town shall mean the Town of Mosel, including the Town Board, Town Clerk or any other designated Town Commission.

(80) TRACT

A contiguous area of land of more than one parcel which exists in single ownership.

(81) WATERCOURSE

A permanent or intermittent stream channel.

(82) WETLAND

An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation, and which has soils indicative of wet conditions.

10.03 GENERAL PROVISIONS

A. JURISDICTION

The jurisdiction of this ordinance shall include all lands within the Town of Mosel, Sheboygan County, Wisconsin. However, in no instance shall the provisions of this ordinance apply to:

- (1) transfers of interest in land by will or pursuant to court order;
- (2) leases for terms not to exceed ten (10) years, mortgages or easements; or
- (3) sales or exchanges of parcels of land between owners of adjoining property if additional lots are not thereby created and the resultant lots are not reduced below the minimum size required by these regulations, the Town of Mosel Zoning Ordinance, or other applicable laws or ordinances. For the purpose of this section, an additional lot is deemed to be created if the parcel being sold or created is not combined with the adjoining parcel by means of a new legal description in accordance with applicable laws or ordinances.
- (4) Cemetery plats made under §. 157.07, Wis. Stats.
- (5) Assessor’s plats made under §. 70.27, Wis. Stats.; however, assessor’s plats shall comply with §. 236.15(1)(a) through (g), and 236.20(1), and (2)(a) through (e), Wis. Stats., unless waived under §. 236.20(2)(L).
- (6) Sale or exchange of parcels of public utilities or railway rights-of-way to adjoining property owners if the Town Board and the Sheboygan County Planning and Resources Department approve such sale or exchange on the basis of applicable local ordinances or the provision of Chapter 236, Wis. Stats.

B. REGULATION OF CONDOMINIUMS

It is the express intent of this Ordinance to regulate condominiums. The maximum number of units in a condominium shall not exceed the maximum number of lots the same parcel could have accommodated under the Town Zoning Ordinance if the parcel had been conventionally divided.

C. COMPLIANCE

No owner shall divide any land located within the jurisdictional limits of these regulations which results in a land division as defined herein, no such land division shall be entitled to be recorded, and no improvements shall be made to the land without compliance with all the requirements of this ordinance and:

- (1) Town of Mosel Zoning, Sanitary District, Building Code, and private sewage system ordinances, and all other applicable local ordinances;
- (2) Town of Mosel Land Use Plan or Comprehensive Plan, or any component thereof;
- (3) The provisions of Chapter 236, Wis. Stats., and the provisions of Chapter 703, Wis. Stats., for all proposed condominiums;
- (4) Sheboygan County Highway Access Control Ordinance;
- (5) Sheboygan County Shoreland-Floodplain Ordinance; and
- (6) Applicable federal, state, and county laws and regulations, including but not limited to:
 - (a) Wisconsin Department of Commerce regulations monitoring lot size and lot elevation, if the land to be subdivided is not served by a public sewer and provisions for such service have not been made.
 - (b) Wisconsin Department of Transportation regulations relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the Applicant abuts a state trunk highway or street;
 - (c) Wisconsin Department of Natural Resources regulations setting water quality standards for preventing and abating pollution and for monitoring development within floodplains, wetlands, and shoreland areas;
 - (d) Wisconsin Administrative Code regulations;
 - (e) U.S. Army Corps of Engineers and U.S. Environmental Protection Agency regulations;
 - (f) Americans with Disabilities Act (ADA) accessibility guidelines for buildings and facilities; and
 - (g) All other applicable laws and ordinances.

D. LAND SUITABILITY

No land shall be divided which the Town Board finds unsuitable for any proposed use, upon recommendation of engineers hired, at the applicant's expense, to review the proposal for reason of flooding, inadequate drainage, adverse soil and rock formations, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of current and future residents of the proposed subdivision, or of the Town, or poses an imminent harm to the environment. In addition:

- (1) Any lot served by public sanitary sewer facilities shall have at least fifty (50) percent of its required lot area above an elevation at least two (2) feet above the elevation of the 100-year recurrence interval floodplain.
- (2) No lot one (1) acre or less in area served by an on-site sanitary sewage disposal (septic tank) system shall include floodplains.

- (3) All lots more than one (1) acre in area served by an on-site sanitary sewage disposal (septic tank) system shall contain not less than forty thousand (40,000) square feet of land which is at least two (2) feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, five (5) feet above the maximum flood of record.
- (4) Lands having a slope of twelve (12) percent or more may be required to be maintained in natural open uses. No lot shall have more than fifty (50) percent of its minimum required area in slopes of twelve (12) percent or more.
- (5) Each lot or dwelling unit shall be capable of meeting the requirements of the Sheboygan County Sanitary Code and the Wisconsin Administrative Code regarding the construction of on-site sewage disposal systems unless served by a municipal sewage system.
- (6) Other conditions which may indicate land unsuitability include, but are not limited to:
 - (a) Lands made, altered, or filled with non-earth materials within the last twenty (20) years or lands made, altered, or filled with earth within the last seven (7) years shall not be divided into building sites which are to be served by onsite sanitary sewage disposal systems except where soil tests show it is suited to the proposed use.
 - (b) Lands having bedrock or seasonal and/or permanent groundwater within ten (10) feet of the natural undisturbed surface shall not be divided into building sites to be served by private onsite waste treatment systems, unless the sites are compliant with standards set forth in Chapters COMM 83 and 85 of the Wisconsin Administrative Code.
 - (c) Lands covered by soils having course textures or lands drained by farm drainage tile or farm ditch systems shall not be divided into building sites to be served by private onsite waste treatment systems, unless the sites are compliant with standards set forth in Chapters COMM 83 and 85 of the Wisconsin Administrative Code.
- (7) The Town Board, in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for its proposed use, and afford the Applicant an opportunity to present evidence in rebuttal to such finding of unsuitability if he/she so desires. Thereafter, the Town Board may affirm, modify or withdraw its determination of unsuitability.

E. DEDICATION AND RESERVATION OF LANDS

- (1) **Streets, Highways, and Drainageways:** Whenever a proposed subdivision, minor land division, or condominium plat encompasses all or any part of an arterial street, drainageway, or other public way which has been designated in the comprehensive plan or component thereof or the official map of the Town of Mosel, said public way shall be made a part of the plat or certified survey map and dedicated or reserved, as determined by the Town, by the Applicant in the locations and dimensions indicated on said plan or map and as set forth in this ordinance.

- (2) **Private Recreation and Open Space Lands:** For lands designated by a Subdivision, Certified Survey Map or Condominium to be set aside for private recreation and/or open space use and owned and maintained by a homeowner or condominium association, the Applicant shall file, with the Preliminary Plat or Certified Survey Map, a declaration of covenants and deed restrictions, including association bylaws, pursuant to the requirements of this ordinance, that shall govern said homeowner or condominium association. Said covenants, deed restrictions and bylaws shall be subject to review as to form by the Town Attorney at the Applicant's expense. The provisions of the declaration of covenants and deed restrictions shall incorporate the requirement that a Wisconsin non-profit membership corporation be formed for the purpose of maintaining, improving, policing and preserving property(s) in which its members shall have common rights of usage and enjoyment by virtue of their ownership of lots in the Subdivision, Certified Survey Map, or Condominium and shall further include the requirements that:
- (a) the corporation be established before any lots, building sites or units are sold;
 - (b) membership in the corporation be mandatory and automatic upon the purchase of a lot, building site or unit;
 - (c) recreation and/or open space restrictions must be perpetual and not for a specific period of years;
 - (d) title to the private recreational areas or facilities be transferred to the corporation. The Town shall receive written notice of any proposed transfer of common areas or facilities, or the assumption of maintenance of common areas or facilities, at least thirty (30) days prior to such transfer.
 - (e) the corporation be responsible for liability insurance, property taxes and all maintenance and improvements of recreational and/or open space areas; and
 - (f) the corporation have the powers granted by, §. 703.15(3) or 779.70(1), Wis. Stats., as applicable, and in particular to levy assessments upon all properties in the Subdivision, Certified Survey Map, or Condominium for the purposes specified therein.
 - (g) In the event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the those common areas or facilities, the Town may serve written notice upon such association setting forth the nature of the corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the association shall be considered in violation of this Ordinance, and the Town shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the Town shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.

F. IMPROVEMENTS

Before approval of any final plat located within the Town, the Applicant shall install street and other improvements as hereinafter provided. In the alternative, if such improvements are not installed at the time the final plat is submitted for approval, the Applicant shall, before the recording of the plat, enter into a development agreement with the Town, whereby the Applicant agrees to install the required improvements, and shall file with said agreement a bond or letter of credit with good and sufficient surety meeting the approval of the Town Attorney or a certified check in the amount equal to the estimated cost of the improvements. Said estimate shall be made by an engineer hired by the Town, at the Applicant's expense, as a guarantee that such improvements will be completed by the Applicant or his or her subcontractors not later than one year from the date the plat is recorded and as a further guarantee that all obligations to subcontractors for work on the subdivision are satisfied.

- (1) Contracts and contract specifications for the construction of street and utility improvements within public street rights-of-way, as well as contractors and subcontractors providing such work, shall be subject to approval of an engineer hired by the Town, at the applicant's expense.
- (2) Governmental Units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.
- (3) Survey Monuments. Before final approval of any plat within the Town, the Applicant shall cause survey monuments to be installed and placed in accordance with, the requirements of §. 236.15, Wis. Stats., and as may be required by the Town. The Town may waive the placing of monuments, as provided in §. 236.15(1) (h), Wis. Stats., for a reasonable time, not to exceed one year, on condition that the Applicant provide a letter of credit, certified check, or surety bond equal to the estimated cost of installing the monuments to ensure the placing of such monuments within the time required by statute. Additional time may be granted upon show of cause.

G. DEVELOPMENT AGREEMENT

Before or as a condition of receiving final approval from the Town Board of any final plat, condominium plat, or certified survey map for which public improvements are required by this Ordinance; or for which public improvements, dedications, or fees are being deferred; or for which phasing approval is being granted under this Ordinance, the Applicant shall sign and file with the Town a development agreement. The development agreement shall be approved as to form by the Town Attorney, and shall be approved by the Town Board prior to approval of the final plat, condominium plat, or certified survey map.

H. FINANCIAL SURETIES

Financial sureties furnished to the Town to ensure performance of obligations and guarantees under the terms of this ordinance shall only be in a form which the Town Attorney deems secure and may include certified checks, corporate bonds, escrow accounts, irrevocable letters of credit, or performance bonds.

- (1) **Determination of Financial Surety Amount.** The amount of financial surety shall be one hundred twenty-five (125) percent of the estimated full amount of the obligation being ensured (including the costs of inspection) as estimated by an engineer or other agent appointed by the Town through, at minimum, the scheduled completion date; however, the Town Board shall allow reductions in the amount of the financial surety in proportion to the amounts of the obligations as they are fulfilled.
- (2) **Disputes Over the Amount of Financial Sureties.** In any disputes over the amount of a surety, the estimate prepared by an engineer or other agent appointed by the Town shall be conclusive.
- (3) **Criteria for Determining Applicant's Delinquency in Meeting Requirements.** The Town Board shall give notice by registered mail to the Applicant and the Applicant's surety of such delinquency, said notice to specify the corrective measures required, if the Applicant:
 - (a) fails to perform the work with sufficient workers and equipment or with sufficient materials to ensure the completion of said work within the specified time;
 - (b) performs the work unsuitably, as determined by the Town Board;
 - (c) neglects or refuses to supply materials or to perform anew any work rejected as defective and unsuitable;
 - (d) discontinues the execution of work; or
 - (e) for any other cause whatsoever does not carry on the work in an approved manner.
- (4) **Guarantee of Improvements.** The Applicant shall guarantee all improvements for a period of **one (1) year or two (2) years** from the date of the acceptance of improvements by the Town Board. To assure such improvement guarantee, the Applicant shall provide financial surety (such as performance bond or irrevocable letter of credit) of twenty (20) percent of the construction value of said improvements.
- (5) **Town Board Action.** After said notice, the Town Board shall call upon the performance guarantee to have the work completed in accordance with the terms of the performance guarantee.

I. MODIFICATION OF REGULATIONS

When the Town Board finds that injustice or hardship will result from strict compliance with this ordinance, it may diverge from the terms hereof to the extent deemed necessary and proper to grant relief. No exception or modification shall be granted unless the Planning and Zoning Commission and the Town Board find that all the following facts and conditions exist and so indicate in the minutes of their proceedings:

- (1) the modification is necessary due to the physical features of the site;
- (2) the modification is the minimum deviation from the terms of this ordinance necessary to mitigate the injustice or undue hardship; and
- (3) the modification is due to exceptional or unusual circumstances that do not apply generally to other properties or is of such a recurrent nature as to suggest that this ordinance should be changed.

- (4) the modification is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity
- (5) the modification is not detrimental to the public interest, will not create substantial detriment to adjacent property, and is in keeping with the general spirit and intent of this ordinance or the desirable general development of the community in accordance with an adopted Land Use Plan or comprehensive plan or component thereof.

The Applicant shall submit a written request for any modification at the time the Preliminary Plat is filed for consideration, stating specifically the circumstances upon which the Applicant is relying, the modification requested, and how the request meets the standards set forth in this subsection. The request shall be supplemented with maps, plans, and any additional information that may aid the Commission and Town Board. The Commission shall make a recommendation and the Town Board shall address the request as part of the Preliminary Plat application process.

J. VIOLATIONS

No person shall build upon, divide, convey, record or monument any land in violation of this ordinance or the Wisconsin Statutes. No permit shall be issued authorizing the building on or improvement of any subdivision plat, replat or condominium plat within the jurisdiction of this ordinance and not on record as of the effective date of this Ordinance, until the provisions and requirements of this ordinance have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this ordinance or the applicable Wisconsin Statutes.

K. PENALTIES

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$100 plus any additional applicable costs incurred by the Town for each offense, and the penalty for default of payment of such forfeiture and costs shall be imprisonment in the County Jail until payment thereof, but not exceeding six months. Each day a violation exists or continues shall constitute a separate offense. Violations and accompanying penalties shall include the following:

- (1) Recordation improperly made carries penalties as provided in §. 236.30, Wis. Stats.
- (2) Conveyance of lots in unrecorded plats carries penalties as provided for in §. 236.31, Wis. Stats.
- (3) Monuments disturbed or not placed carries penalties as provided for in §. 236.32, Wis. Stats.
- (4) An Assessor's Plat made under §. 70.27, Wis. Stats., may be ordered as a remedy by the Town, at the expense of the Applicant, when a subdivision is created by successive divisions.

L. APPEALS

Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal such objection or failure to approve, as provided in §. 236.13 (5) and 62.23 (7)(e), Wis. Stats., within thirty (30) days of notification of the rejection of the plat.

Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable, or discriminatory.

10.04 PROCEDURES

A. PRELIMINARY CONSULTATION

Prior to filing an application for approval of a subdivision plat or major condominium plat, the Applicant shall consult with all affected utilities and the Commission. This preliminary consultation is mandatory and is intended to inform the Applicant of the purpose and objectives of these regulations; the Town of Mosel Land Use Plan and/or Comprehensive Plan components; the availability of sanitary sewer and stormwater management facilities; site grading requirements; and environmentally sensitive areas as identified on the Environmental Features map prepared by Bay-Lake Regional Planning Commission. The consultation shall take place before all land division reviews and approvals, based upon the procedure stated below.

- (1) The Applicant shall prepare a "concept" plan of the proposed land division. The plan should show the basic layout of the streets, lots, open space and any other proposed developments
- (2) The Applicant shall contact the Town Clerk to make an appointment to review the plan with the Commission and pay the required fee (see Section 10.11). The Applicant shall submit eight (8) copies of the plan to the Town Clerk at least seven (7) days prior to the scheduled meeting to give the Commission time to prepare for the meeting
- (3) As soon after the preliminary consultation meeting as is practical, the Commission will prepare a written report outlining any of its comments, concerns, and/or suggestions. This report shall be sent to the Applicant, with copies to the Town Board, and the adjoining city or village (if in its extraterritorial plat approval jurisdiction).

B. PUBLIC HEARINGS REQUIRED. Public hearings shall be conducted as described in Sections (D) (2), below. To facilitate public comment, the Applicant shall provide a list of the names of all property owners within four hundred (400) feet of the boundaries of the subdivision to the Town Clerk. The Town Clerk shall send each identified property owner notice of the public hearings at least ten (10) days prior to the date of the hearings by first class mail.

C. PRELIMINARY PLAT REVIEW

- (1) **When Required.** When a subdivision is proposed, the Applicant shall subdivide by use of a Subdivision Plat. The Subdivision Plat shall include all parcels of land forty (40) acres or less in size and may, at the owner's discretion, include any other parcels containing more than forty (40) acres.
- (2) **Preliminary Plat Submittal.** Prior to submittal of a Final Plat for approval, the Applicant shall prepare a Preliminary Plat in accordance with applicable sections of this ordinance, and the Applicant shall provide the Clerk with all

required copies of the Preliminary Plat, supporting documents, and all necessary fees (see Section 10.11) at least sixty (60) days prior to the meeting of the Town Board at which action is desired.

- (3) Submission Requirements.** The Applicant shall submit to the Town Clerk the following required copies of the Preliminary Plat, and the Town Clerk shall within two (2) working days after filing, transmit:
- (a) Seven (7) copies to the Planning & Zoning Commission
 - (b) Four (4) copies to the Town Board
 - (c) Four (4) copies to the Sheboygan County Planning and Resources Department
 - (d) Two (2) copies to the City of Sheboygan or Village of Howards Grove, or any other municipality, if the proposed subdivision is within their extraterritorial plat approval jurisdiction
 - (e) Two (2) copies to the Director of Plat Review, Wisconsin Department of Administration
 - (f) Additional copies to the Director of Plat Review, Wisconsin Department of Administration, for re-transmission as follows:
 - (i) Two (2) copies to the Wisconsin Department of Transportation, if the subdivision abuts or adjoins a state trunk highway or a connecting highway;
 - (ii) Two (2) copies to the Wisconsin Department of Commerce if the subdivision is not served by a public sewer and provision for such service has not been made; and
 - (iii) Two (2) copies to the Wisconsin Department of Natural Resources, if lands included in the plat lie within five hundred (500) feet of the ordinary high water elevation of any navigable stream, lake, or other navigable body of water, or if any shoreland areas are located within the plat.
- (4) Alternate Submission Procedure.** In lieu of the procedure set forth in (3) above, the applicant may, pursuant to §. 236.12(6), Wis. Stats., submit the original of the preliminary plat directly to the plat review section of the Wisconsin Department of Administration, who will prepare and forward copies of the plat at the applicant's expense to the objecting agencies. When the applicant elects to use this alternative procedure, it shall be the responsibility of the applicant to submit to the Town Clerk the additional copies required in Section (3) (a) and (b).

D. APPROVAL OF PRELIMINARY PLAT

- (1) Certification by Objecting Agencies.** The Objecting Agencies shall, within twenty (20) days of receiving their copies of the preliminary plat, notify the Applicant and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Town Clerk. If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objection to the plat.
- (2) Plan Commission Hearing.** After all objections and comments have been received from the objecting and reviewing agencies, the Planning and Zoning

Commission shall review all preliminary plats for conformance with this Ordinance and all applicable laws, ordinances, the Mosel Land Use Plan, and any comprehensive plan or components thereof. Additionally, the Commission shall hold a public hearing giving at least ten (10) days but not more than thirty (30) days prior notice by Class I publication and posting in not less than three places. The Commission shall submit, within fifteen (15) days of the hearing, a written recommendation to the Town Board recommending approval, conditional approval, or rejection of the Preliminary Plat. If the Commission's recommendation is to conditionally approve or reject the plat, the written recommendation shall specifically state the conditions of approval or the reasons for rejection.

- (3) Town Board Action.** The Town Board shall act within ninety (90) days of the date the Preliminary plat was filed with the Town Clerk, unless the time is extended by agreement with the Applicant. The Town Board shall approve, approve conditionally, or reject the preliminary plat. In making its decision, the Town Board may accept, modify or reject the recommendation of the Commission in whole or in part. Following action by the Town Board, one copy of the plat shall be returned to the Applicant with the date and action endorsed thereon; and if approved conditionally or rejected, a letter setting forth the conditions of the approval or the reasons for rejection shall accompany the plat.
- (4) Effect on Final Plat Approval.** Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat, except that if the final plat is submitted within twenty-four (24) months after the last required approval of the preliminary plat and conforms substantially to the preliminary plat, including any conditions of that approval, and to local plans and ordinances, the final plat shall be entitled to approval as provided in §. 236.11(1)(b), Wis. Stats.
- (5) Amendments to Approved Preliminary Plat.** Should the applicant desire to amend the preliminary plat as approved, he/she may resubmit the amended plat to the Town Board, which shall follow the same procedure, except for the hearing and the fee, unless the amendment is, in the opinion of the Town Board, of such scope as to constitute a new plat, in which case it shall be re-filed.

E. FINAL PLAT REVIEW

A final plat shall be prepared in accordance with this Ordinance and the Applicant shall file an adequate number of copies for distribution in accordance with this Section; the completed application, and the final plat review fee with the Town Clerk at least thirty (30) days prior to the Town Board meeting at which action is desired.

- (1) Final Plat Submission Requirements.** The Applicant shall submit to the Town Clerk, along with all necessary fees (see Section 10.11), the following required copies of the Final Plat, and the Town Clerk shall within two (2) working days after filing, along with a list of the authorities to which the plat must be submitted for approval under §. 236.10, Wis. Stats., transmit at the applicant's expense:

- (a) Four (4) copies to the Town Board
 - (b) Four (4) copies to the Sheboygan County Planning and Resources Department
 - (c) Two (2) copies to the City of Sheboygan or Village of Howards Grove, or any other municipality, if the proposed subdivision is within their extraterritorial plat approval jurisdiction
 - (d) Two (2) copies to the Director of Plat Review, Wisconsin Department of Administration
 - (e) Additional copies to the Director of Plat Review, Wisconsin Department of Administration, for re-transmission as follows:
 - (i) Two (2) copies to the Wisconsin Department of Transportation, if the subdivision abuts or adjoins a state trunk highway or a connecting highway;
 - (ii) Two (2) copies to the Wisconsin Department of Commerce if the subdivision is not served by a public sewer and provision for such service has not been made; and
 - (iii) Two (2) copies to the Wisconsin Department of Natural Resources, if lands included in the plat lie within five hundred (500) feet of the ordinary high water elevation of any navigable stream, lake, or other navigable body of water, or if any shoreland areas are located within the plat.
- (2) **Alternate Submission Procedure.** In lieu of the procedure set forth above, the applicant may, pursuant to §. 236.12(6), Wis. Stats., submit the original of the final plat directly to the plat review section of the Wisconsin Department of Administration, who will prepare and forward copies of the plat at the applicant's expense to the objecting agencies. When the applicant elects to use this alternative procedure, it shall be the responsibility of the applicant to submit to the Town Clerk the additional copies required in Section (1) (a).
- (3) **Partial Platting.**
- (a) **Plat Phasing.** The Final Plat may, if permitted by the Town Board, be platted in phases, with each phase of the Final Plat constituting only that portion of the approved Preliminary Plat which the Applicant proposes to record at that time. It is required that each such phase be platted as a Final Plat and be designated as a "phase" of the approved Preliminary Plat.
 - (b) **Time Extension for Approval of a Final Plat for Portion of Preliminary Plat.** Final Plats for only a portion of the Preliminary Plat shall extend approval for the remaining portion of the Preliminary Plat for six (6) months from the date of such Final Plat approval.

F. APPROVAL OF FINAL PLAT

- (1) **Submission Deadline.** If the final plat is not submitted within twenty-four (24) months of the last required approval of the preliminary plat, the Town Board may refuse to approve the final plat.
- (2) **Certification by Objecting Agencies.** The Objecting Agencies shall, within twenty (20) days of receiving their copies of the final plat, notify the

Applicant and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Town Clerk. If an objecting agency fails to act within twenty (20) days, it shall be deemed to have no objection to the plat.

- (3) Town Board Determination.** Within sixty (60) days of final plat submittal, unless the time is extended by agreement with the Applicant, the Town Board shall make a final determination regarding said plat. The Board shall examine the final plat as to its conformance with the approved preliminary plat, any conditions of approval of the preliminary plat, this ordinance and other ordinances, rules, and regulations, and the adopted Town of Mosel Land Use Plan or comprehensive plan, or any adopted regional plans which may affect the plat. The Town Board shall thereafter issue its final written decision to approve or reject the Final Plat. If the plat is rejected, the Town Board shall issue a written decision stating the reasons for rejection. If the plat is approved, the Town Board shall not inscribe its approval on the face of the original Final Plat unless the Town Clerk certifies on the face of the plat that the copies were forwarded to objecting agencies as required herein, with the date they were forwarded, and that no objections have been filed within twenty (20) days, or if filed, that they have been satisfied.
- (4) Notification of Neighboring Municipalities.** The Town Board shall give at least ten (10) days prior written notice of its intention to approve or reject a final plat to the clerk of any municipality whose boundaries are within one thousand (1,000) feet of any portion of said plat.
- (5) Notification of Applicant.** The Town Clerk shall provide the written decision to the Applicant along with one (1) copy of the Final Plat with the date and action endorsed thereon.
- (6) Failure to Act.** Failure of the Town Board to act within sixty (60) days, the time not having been extended and no unsatisfied objections having been filed, and all fees payable by the Applicant having been paid, shall constitute approval of the final plat, and, upon demand, a certificate to that effect shall be made on the face of the plat by the Town Clerk.
- (7) Recordation.** Final Plats approved by the Town Board must be recorded with the adopting resolution in the office of the Sheboygan County Register of Deeds within thirty (30) days of the date of the last resolution of approval and not later than twenty-four (24) months following the date of the first resolution of approval. Land divisions shall not be recognized by the Town until recorded with the Register of Deeds. The document numbers and other recording information shall be filed with the Town Clerk prior to issuance of any permits. The Applicant shall file one (1) full-size and one (1) reduced size eight and one-half by eleven (8½ x 11) inch certified copies of the approved land division with the Town Clerk.

G. MINOR LAND DIVISION

- (1) When Required.** When a minor land division is proposed, or when it is proposed to create by land division not more than four (4) parcels or building

sites within a recorded Subdivision Plat without changing the exterior boundaries of a block, lot or outlot (thus not constituting a subdivision as defined by this ordinance), the Applicant shall subdivide by use of a Certified Survey Map. The Certified Survey Map shall include all parcels of land forty (40) acres or less in size and may include any other parcels containing more than forty (40) acres.

- (2) **Certified Survey Map Submittal.** The Applicant shall submit to the Clerk all required copies of the Certified Survey Map, supporting documents, and all necessary fees (see Section 10.11) at least thirty (30) days prior to the meeting of the Town Board at which action is desired.
- (3) **Submission Requirements.** The Applicant shall submit to the Town Clerk the original Certified Survey Map and the following required copies:
 - (a) Four (4) copies for the Town Board
 - (b) One (1) copy for the Sheboygan County Planning and Resources Department
 - (c) One (1) copy for the City of Sheboygan or Village of Howards Grove, or any other municipality, if the proposed land division is within their extraterritorial review jurisdiction
- (4) **Review and Approval.** The Town Board shall, within sixty (60) days of the date of submission unless mutually extended by both parties, review the application and map against the applicable standards of this ordinance and approve, approve conditionally and thereby require re-submission of a corrected map, or reject the application and map based upon a determination of conformity or non-conformity with the standards. If the map is rejected, a written statement stating the reasons shall be provided to the applicant. If the map is approved, said approval shall be certified on the original map.
- (5) **Additional Approvals.** Following approval by the Town Board, the Applicant shall submit the original map to the following for approval:
 - (a) Sheboygan County Planning and Resources Department
 - (b) City of Sheboygan Planning Department or Village of Howards Grove, or any other municipality, if the land division is within their extraterritorial review jurisdiction
- (6) **Recordation.** After all required approvals have been obtained, the Applicant shall cause the map to be recorded in the office of the Sheboygan County Register of Deeds within thirty (30) days of the date of final approval and not later than twelve (12) months following the first approval. Land divisions shall not be recognized by the Town until recorded with the Register of Deeds. The document numbers and other recording information shall be filed with the Town Clerk prior to issuance of any permits. The Applicant shall file one (1) full-size and one (1) reduced size eight and one-half by eleven (8½ x 11) inch certified copies of the approved land division with the Town Clerk.

H. REPLATS

- (1) When it is proposed to replat a recorded subdivision or part thereof so as to change the boundaries of a recorded subdivision or part thereof, the Applicant or person wishing to replat shall vacate or alter the recorded Plat as provided

in §. 236.40 through 236.44, Wis. Stats. The Applicant or person wishing to replat shall then proceed as specified in Section 10.04 of this Ordinance.

- (2) The Town Clerk shall schedule a public hearing before the Commission when a Preliminary Plat of a replat of lands within the Town is filed and shall cause notices of the proposed Replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the Replat and to the owners of all properties within four hundred (400) feet of the exterior boundaries of the proposed Replat.

I. CONDOMINIUM PLATS

- (1) A condominium plat prepared by a land surveyor registered in Wisconsin is required for all condominium plats or any amendments or expansions thereof. Such plat shall comply in all respects with the requirements of §. 703.11, Wis. Stats., and shall be reviewed and approved or denied in the same manner as a subdivision plat as set forth in Sections 10.04 (A) through (F) of this Ordinance. Such plat shall comply with the design standards, improvements, and all other requirements of this Ordinance that would otherwise apply to subdivision plats, including, but not limited to, those set forth in Section 10.08.
- (2) A minor condominium plat shall be prepared according to §. 236.34 and 703.11, Wis. Stats., and shall be reviewed and approved or denied in the same manner as for a minor land division as set forth in Section 10.04 (G) of this Ordinance.

10.05 PRELIMINARY PLAT REQUIREMENTS

A. GENERAL REQUIREMENTS

- (1) **Drafting Standards.** The Preliminary Plat shall be based upon an accurate exterior boundary survey prepared on reproducible material by a registered land surveyor. The survey shall show clearly the proposed subdivision at a scale of not more than one (1) inch per one hundred (100) feet with two (2) foot contour intervals; shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land) and easements which the Applicant proposes to make; and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall also be submitted.
- (2) **Title.** All preliminary plats shall include the title or name under which the proposed subdivision is to be recorded. Such title shall not be the same or similar to a previously approved and recorded plat, unless it is an addition to a previously recorded plat and is so stated on the plat.
- (3) **Legal Description.** The legal description and general location of proposed subdivision by quarter section, township, range, county and state.
- (4) **Date, Scale, and North Arrow** shall be included on the face of the plat.
- (5) **Required Identification.** The names and addresses of the owner, applicant, and land surveyor preparing the plat.

- (6) **Contiguous Area.** The entire area contiguous to the proposed plat that is owned or controlled by the Applicant shall be shown, even though only a portion of such area is proposed for immediate development. The Town Board may waive this requirement where it is unnecessary to fulfill the purposes and intent of this ordinance and undue hardship would result from strict application thereof

B. SITE ANALYSIS INFORMATION.

The site analysis map and accompanying descriptions shall be included with the submittal of the preliminary plat. The map shall include:

- (1) Existing and proposed zoning and uses on land adjacent to the proposed subdivision;
- (2) Municipal Corporate limit lines;
- (3) Statement of the proposed uses of lots, identifying types of residential buildings with number of proposed dwelling units and types of business or industry, so as to reveal the effect of the development on traffic, fire hazards and congestion of population;
- (4) Proposed zoning plan, including dimensions, if any zoning changes are contemplated;
- (5) Preliminary plat of any or all adjacent property owned by the Applicant, so as to show the possible relationships between the proposed subdivision and future subdivisions. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.

C. PLAT DATA.

All preliminary plats shall show the following:

- (1) Approximate length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U. S. Public Land Survey, and the total acreage encompassed thereby.
- (2) Contours at a vertical interval of not more than two (2) feet where the slope of the ground surface is less than twelve (12) percent. Elevations shall be marked on such contours based on the mean sea level datum;
- (3) Water elevations of adjoining lakes and streams at the date of survey, ordinary high water elevation, and designated floodplains, wetlands, and surface water drainageways regulated under the authority of the Sheboygan County Shoreland/Floodplain Ordinance and the Town of Mosel Zoning Ordinance;
- (4) Location, rights-of-way, width, and names of all existing and proposed streets, alleys or other public ways, easements, railroad and utility rights-of-way, and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto;
- (5) Location and names of any adjacent subdivisions, parks, schools, and cemeteries, and owners of record of abutting unplatted lands;
- (6) Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations, all to the datum used for the contours;

- (7) Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drainpipes, the location of manholes, catch-basins, hydrants, power and telephone poles and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by their directions and distances from the tract, size and invert elevations;
- (8) Locations of all existing property boundary lines, structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other similar significant features within the tract being subdivided or immediately adjacent thereto;
- (9) Landscape plan as described in Section 10.09(J) of this ordinance;
- (10) Dimensions of all lots, together with proposed lot and block numbers;
- (11) Location and dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use, or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting;
- (12) Approximate radii of all curves;
- (13) Any proposed lake and stream access, with a small drawing clearly indicating the location of the proposed subdivision in relation to the access;
- (14) Any proposed lake and stream improvement or relocation and proposed filling, grading, lagooning and dredging, and the notice of application for Wisconsin Department of Natural Resources approval, when applicable; and
- (15) Seasonally wet areas.

D. STREET PLANS AND PROFILES

The Applicant shall provide street plans and profiles showing existing ground surface, and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision, when requested by the Commission. All elevations, plans, and profiles shall meet the approval of the Commission.

E. SOIL BORINGS AND TESTS

The Commission may require that borings and soundings be made in designated areas to ascertain subsurface soil, rock, and water conditions including the depth to bedrock and the depth to the groundwater table. All subdivisions not served by public sanitary sewer service shall comply with the provisions of Wisconsin Administrative Code, Chapter COMM 83 and 85 or any other pertinent statutes or codes. All appropriate data shall be submitted with the Preliminary Plat.

F. COVENANTS AND CONDOMINIUM OR HOMEOWNERS ASSOCIATION DOCUMENTS

- (1) **Declaration of Deed Restrictions and Protective Covenants.** The Commission shall require submission of a draft of declaration of deed restrictions and protective covenants whereby the Applicant intends to

regulate land use in the proposed subdivision and otherwise protect the proposed development.

- (2) **Wisconsin Non-Profit Membership Corporation (Homeowners' Association).** The Commission shall require submission of a draft of the legal instruments and rules for any proposed Wisconsin non-profit membership corporation (homeowners' association) when the Applicant proposes that property within a subdivision would be either owned or maintained by such an organization of property owners or subunit of the Town pursuant to §. 236.293, Wis. Stats.
- (3) **Town Attorney Review.** The Town Attorney shall review, at the applicant's expense, all draft declarations of deed restrictions and protective covenants and homeowners' associations and shall approve said instruments as to form.

G. SURVEYOR'S CERTIFICATE

The surveyor preparing the Preliminary Plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he/she has fully complied with the provisions of this ordinance, and of Chapter 236, Wis. Stats.

10.06 FINAL PLAT REQUIREMENTS

A. GENERAL REQUIREMENTS

A final plat prepared by a registered land surveyor shall be required for all subdivisions and condominiums. It shall comply in all respects with the requirements of Chapter 236, Wis. Stats.

B. PLAT DATA

The Plat shall show correctly on its face, in addition to the information required by §. 236.20, Wis. Stats., the following:

- (1) **Reserved lands.** All lands reserved for future public acquisition or reserved for the common use of property owners within the plat
- (2) **Length and Bearing of Streets.** The length and bearing of the centerline of all streets. The lengths shall be given to the nearest one-one hundredths (0.01) of a foot and bearings to the nearest one second of arc. The arc, chord, and radius lengths and the chord bearings, together with the bearings of the radii at the ends of the arcs and chords, shall be given for all curved streets
- (3) **Street Width.** The street width along the line of any obliquely intersecting street to the nearest one-hundredths of a foot.
- (4) **Railway Rights-of-Way.** Active and Abandoned Railway rights-of-way within and abutting the exterior boundaries of the plat.
- (5) **Building or Setback Lines.** All setbacks required by the Plan Commission or other approving or objecting agency which are more restrictive than the regulations of the zoning district in which the plat is located, or which are proposed by the subdivider and are to be included in recorded private covenants.

- (6) **Easements.** All easements for any Public sanitary sewers, water supply mains, stormwater management facilities, drainageways, or access ways.
- (7) **Floodplain Boundaries.** Boundaries of the 100-year recurrence interval floodplain and related regulatory stages as determined by the Federal Emergency Management Agency or the Bay Lakes Regional Planning Commission. Where such data are not available, the floodplain boundaries and related stages shall be determined by a registered professional engineer retained by the Applicant and the engineer's report providing the required data shall be submitted with the plat for review and approval by the Town Board.
- (8) **Existing Rights-of-Way.** The location of existing and proposed bicycle and pedestrian ways and utility rights-of-way.
- (9) **Notations of Any Restrictions.** Any restrictions required by the Plan Commission or other approving or objecting agency relative to access control along any public ways within or adjacent to the plat; the provision and use of planting strips; or provisions for the protection of any existing wetlands or other environmentally significant lands within the exterior boundaries of the plat.

C. DEED RESTRICTIONS

The Town may require that deed restrictions be filed with the final plat. When required, such restrictions shall be recorded with the final plat.

D. SURVEY ACCURACY

The Town shall, at applicant's expense, have an engineer examine all final plats within the Town and may make, or cause to be made by a registered land surveyor under the supervision or direction of the engineer, field checks for the accuracy and closure of survey, proper kind and location of monuments, and liability and completeness of the drawing. In addition:

- (1) **Maximum Error of Closure** before adjustment of the survey of the exterior boundary of the subdivision shall not exceed, in horizontal distance or position, the ratio of one (1) part in ten thousand (10,000), nor in azimuth, of four seconds of arc per interior angle. If field measurements exceed this maximum, new field measurements shall be made until a satisfactory closure is obtained. When a satisfactory closure of the field measurements has been obtained, the survey of the exterior boundary shall be adjusted to form a closed geometric figure.
- (2) **Street, Block, and Lot Dimensions:** All dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary survey. If field checks disclose an error for any interior line of the plat greater than the ratio of one (1) part in five thousand (5,000), or an error in measured angle greater than one minute of arc for any angle where the shorter side forming the angle is 300 feet or longer, necessary corrections shall be made. Where the shorter side of a measured angle is less than three hundred (300) feet in length, the error shall not exceed the value of one minute multiplied by the quotient of three hundred (300) divided by the length

of the shorter side; however, such error shall not in any case exceed five minutes of arc.

- (3) Engineer's Report:** The Town Board shall receive the results of the engineer's examination prior to approving the final plat. The engineer may, however, in accordance with this Ordinance, waive the placing of monuments for a reasonable time, not to exceed one year, on condition that the Applicant provide a letter of credit, certified check, or surety bond equal to the estimated cost of installing the monuments, to ensure the placing of such monuments within the time required by Statute. In that case, the engineer's examination required under this section and any related field checks shall be made after the required monuments have been installed. The letter of credit, certified check, or surety bond concerned shall not be released until the engineer is satisfied with the accuracy of the land surveying concerned.

E. SURVEYING AND MONUMENTING

All Final Plats shall meet all the surveying and monumenting requirements of §. 236.15, Wis. Stats.

F. CERTIFICATES

All Final Plats shall provide all the certificates required by §. 236.21, Wis. Stats., and in addition, the surveyor shall certify that he has fully complied with all the provisions of this ordinance and shall provide a certificate for Town Board final approval.

G. FILING AND RECORDING

- (1)** The Final Plat shall be submitted for recording in accordance with Section 10.04(F)(7), and other applicable sections, of this Ordinance.
- (2)** The Sheboygan County Register of Deeds shall record the plat as provided by §. 236.25, Wis. Stats.
- (3)** The Applicant shall file a copy of the final recorded plat with the Town Clerk, as provided by §. 236.27, Wis. Stats.

10.07 CERTIFIED SURVEY MAP REQUIREMENTS

A. GENERAL REQUIREMENTS

The Certified Survey Map shall be prepared by a registered land surveyor according to §. 236.34, Wis. Stats., and shall show clearly on its face the following information:

- (1)** all existing buildings, setbacks, water courses, drainage ditches, setbacks to structures on adjacent property, and other features pertinent to the division of property;
- (2)** location of public road access;
- (3)** date of the map and a graphic scale and north arrow;
- (4)** name and address of the person for whom the survey was made; and

- (5) an owner's certificate, approval signatures of the Town Chairperson and Clerk after approval by the Town Board, and approval signature of the County Planning Director, after approval by the County Planning Department.
- (6) statement of purpose or use for any outlots.

B. ADDITIONAL INFORMATION

The results of a soil test showing suitability for construction and/or the proposed use, if applicable, shall be submitted to the Town Board.

C. CERTIFICATES

All certified survey maps shall provide all of the following certificates: an owner's certificate, approval signatures of the Town Chairperson and Clerk after approval by the Town Board, and approval signature of the County Planning Director, after approval by the County Planning Department. The Town Board shall certify its approval on the face of the map. In addition, the surveyor shall certify that he or she has fully complied with all of the provisions of this Ordinance.

D. FILING AND RECORDING

After the certified survey map has been duly approved by the Town Board, the Town Clerk shall cause the certificate to be inscribed upon the map attesting to such approval and the map recorded as provided for under Section 10.04(G)(6), and other applicable sections, of this Ordinance.

10.08 DESIGN STANDARDS

A. STREET ARRANGEMENT

The Applicant shall dedicate land for and improve streets as provided herein.

(1) General Requirements.

- (a) **Street Arrangement in Areas with Official Map:** Streets shall conform to the town's official map, adopted town Land Use or comprehensive plans, or county or state jurisdictional highway plans.
- (b) **Street Arrangement in Areas with No Official Map:** In areas for which an official map has not been completed, the street layout shall recognize the functional classification of various street types and shall be developed and located in proper relation to existing and proposed streets, with due regard to topographical conditions, natural features, utilities, land uses, and public convenience and safety.
- (c) **Acceptance of a Public Street.** The Town shall not accept a street that provides sole access to less than four (4) building sites and, thus, will not be responsible for maintenance of said street.
- (d) **Lot Access to Public Street.** All land divisions shall be designed so as to provide each lot with satisfactory access to a public street as provided herein.
- (e) **Maintenance of Private Roads.** No person shall sell any parcel of land, lot, or outlot of five (5) acres or less in size in the Town if it abuts on a road which has not been accepted as a public road unless

the seller informs the land purchaser in writing of the fact that the road is not a public road and is not required to be maintained by the Town or Sheboygan County.

(2) Specific Street Conditions.

- (a) **Arterial Street.** Arterial streets shall be arranged so as to provide ready access to centers of employment, high-density residential areas, centers of government activity, community shopping and recreation areas, and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
- (b) **Collector Streets.** Collector streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major street and highway system; and shall be properly related to special traffic generators such as schools, churches, shopping centers, and other concentrations of population, and to the major streets into which they feed.
- (c) **Minor Streets.** Minor streets shall be arranged to conform to the topography, to discourage use by through-traffic, to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide safe and convenient access to abutting property.
- (d) **Proposed Streets.** Proposed streets shall extend to the boundary lines of the tract being divided unless either prevented by topography or other physical conditions or the Plan Commission and Town Board determine such extension is not desirable for the layout of the subdivision or for the advantageous development of adjacent land tracts. Such proposed streets shall terminate with a temporary turnaround having a minimum right-of-way radius of sixty (60) feet and a minimum roadway radius of forty-five (45) feet.
- (e) **Street Intersections.**
 - (i) Streets shall intersect each other as nearly as possible at right angles, and not more than two streets shall intersect at one point unless approved by the Town Board.
 - (ii) The number of intersections along major streets and highways shall be held to a minimum. Wherever practicable the distance between such intersections should not be less than twelve hundred (1,200) feet.
 - (iii) Street jogs shall not have centerline offsets of less than one hundred twenty-five (125) feet.
 - (iv) Vision Clearance easements shall be provided at street intersections as may be required by the Town Zoning Ordinance and by any approving or objecting authority concerned.

- (f) **Arterial Street and Highway Protection.** Whenever the proposed land division contains or is adjacent to a major street or highway, residential properties shall be provided adequate protection by limiting access, separating local and through-traffic, and providing reversed frontage, with screen planting contained in a non-access reservation along the rear property line or by the use of frontage streets.
- (g) **Reserve Strips.** Reserve strips controlling access to streets or alleys shall be prohibited except where their control is definitely placed with the Town.
- (h) **Alleys.** Alleys may be required in commercial and industrial districts to provide off-street loading and service access, but shall not be approved in residential districts unless required by unusual topography or other exceptional conditions. Dead-end alleys shall not be approved and alleys shall not connect to a federal, state, or county highway.
- (i) **Street Names.** Street names shall not duplicate or be similar to existing street names, and existing street names shall be projected or continued wherever possible.

B. STREET, BICYCLE AND PEDESTRIAN WAY DESIGN STANDARDS

- (1) **Minimum Right-of-Way.** The minimum right-of-way of all proposed streets shall be as specified by the Town of Mosel Land Use Plan, official map, or jurisdictional highway system plan of Sheboygan County. If no width is specified therein, the minimum width shall be as shown in Table 10.08-1.
- (2) **Minimum Roadway/Surface Width.** Minimum roadway width and surface width of all new land division roads shall comply with the town road standards contained in §. 82.50, Wis. Stats., unless locally adopted town road standards require greater width.
- (3) **Cul-de-Sacs.** Cul-de-sac streets designed to have one end permanently closed should not normally exceed six hundred (600) feet in length. Such streets shall terminate in a circular turnaround having a minimum right-of-way radius of sixty (60) feet and a minimum roadway radius of forty-five (45) feet.
- (4) **Roadside Ditches.** All roadways shall include roadside ditches to provide proper drainage and be of adequate depth for driveway culverts, except where curb and gutter is installed.
- (5) **Street Grades.** Street grades shall comply with town road standards contained in §. 82.50, Wis. Stats.; however, the minimum grade shall be no less than one half of one percent (0.5%). Street grades shall be established wherever practicable so as to avoid excessive grading, removal of ground cover and tree growth, and general leveling of the topography.
- (6) **Radii of Curvature.** When a continuous street centerline deflects at any one point by more than ten (10) degrees, a circular curve shall be introduced having a radius of curvature on such centerline of not less than one hundred (100) feet on minor streets.
- (7) **Half Streets.** Where an existing dedicated or platted half-street is adjacent to the tract being subdivided by either a Subdivision Plat or Certified Survey Map, the other half of the street shall be dedicated by the Applicant. The platting of new half-streets shall not be permitted.

- (8) **Bicycle and Pedestrian Ways.** Such pathways shall have a right-of-way width of not less than twenty (20) feet and may be required where deemed necessary by Town Board to provide adequate bicycle and pedestrian circulation. Bicycle and pedestrian ways in wooded and wetland areas shall be so designed and constructed as to minimize the removal of trees, shrubs, and other vegetation, and to preserve the natural beauty of the area.
- (9) **Bridges and Culverts.** All new and replacement bridges and culverts over navigable waterways, including pedestrian and other minor bridges, shall be designed so as to accommodate the peak rate of discharge of a 100-year recurrence interval flood event without raising the peak stage, either upstream or downstream, more than one-one hundredths (0.01) of a foot above the peak stage for the 100-year recurrence interval flood. Larger permissible flood stage increases may be acceptable for reaches having topographic or land use conditions which could accommodate the increased stages without creating additional flood damage potential upstream or downstream of the proposed structure, providing that flood easements or other appropriate legal measures have been secured from all property owners affected by the excess stage increases. Such bridges and culverts shall be so designed and constructed as to facilitate the passage of ice flows and other debris.

(10) **Table 10.08-1. Design Standards for Streets.**

Type of Street	Width of Right-of-Way	Minimum Dimensions of Pavement	Minimum Dimensions of Shoulder
Arterial Streets	80 Feet	24 Feet	10 Feet
Collector Streets	66 Feet	24 Feet	5 Feet
Minor Streets	66 Feet	22 Feet	3 Feet
Cul-de-sacs	60 Foot (outside) Radius	45 Foot (outside) Radius	3 Feet

C. LIMITED ACCESS HIGHWAY AND RAILROAD RIGHT OF WAY TREATMENT

Whenever the proposed land division contains or is adjacent to a limited access highway or railroad right-of-way, the design shall incorporate the provisions listed below.

- (1) When residential lots within the proposed land division back upon the right-of-way of an existing or proposed limited access highway or railroad, the following restriction shall be lettered on the face of the plat: "Direct vehicular access to (Name of Road) from lots abutting such road is prohibited."
- (2) Commercial and industrial districts should provide, on each side of the limited access highway or railroad right-of-way, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of

the land between such streets and highway or railroad, but not less than one hundred fifty (150) feet.

- (3) Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street, highway or collector street which crosses such railroad or highway, shall be located at a minimum distance of two hundred fifty (250) feet from such highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.
- (4) Minor streets immediately adjacent and parallel to railroad right-of-way should be avoided.
- (5) When lots within the proposed land division back upon the right-of-way of an existing limited access highway or railroad right-of-way, a planting strip (landscape bufferyard easement) with a minimum thirty-five (35) foot depth (width) shall be provided adjacent to the highway or railroad right-of-way in addition to the normal lot depth. This strip shall be a part of the platted lots but shall have the following restriction lettered on the face of the plat:
"Landscape Bufferyard Easement: This strip is reserved for the planting of trees and shrubs. The building of structures is prohibited."

D. BLOCKS

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

- (1) **Length.** Blocks in residential areas should not as a general rule be less than five hundred (500) feet nor more than one thousand five hundred (1,500) feet in length unless otherwise dictated.
- (2) **Width.** Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through-traffic or where lots abut a lake or stream. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for the off-street service and parking required by the contemplated use and local zoning.

E. LOTS

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

- (1) **Lot Lines.** Side lot lines should be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
- (2) **Double Frontage/Reversed Frontage Lots.** Double frontage and reversed frontage lots shall be prohibited, except where necessary to provide separation of residential development from through-traffic or to overcome specific disadvantages of topography and orientation.

- (3) **Lot Frontage.** Unless otherwise noted in an applicable Town ordinance, all newly created lots shall have a minimum frontage of one hundred (100) feet on a public street.
- (4) **Area and Dimensional Requirements.** Area and dimensions of lots shall conform to the requirements of the Town Zoning Ordinance.
- (5) **Lot Width.** Lot width shall conform to the requirements of the Town Zoning Ordinance or other applicable ordinances.
- (6) **Lot Depth.** Lots shall have a minimum average depth of one hundred (100) feet. Excessive depth in relation to width shall be avoided and a proportion of two to one (2:1) shall be considered a desirable ratio, unless a deeper lot is needed to protect natural resources. The depth of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street parking and loading areas required by the contemplated use and the Town Zoning Ordinance.
- (7) **Corner Lots.** Corner lots shall be designed to permit adequate building setback from both streets.
- (8) **Remnants of Lots.** All remnants of lots below minimum size left over after the subdivision of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than remaining as unusable parcels.
- (9) **Natural Features.** In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

F. BUILDING SETBACK LINES

Building setback lines shall conform to the requirements established in the Town of Mosel Zoning Ordinance.

G. EASEMENTS

- (1) **Utility Easements.** The Town Board may require utility easements of widths deemed adequate for the intended purpose. Such easements shall be located as determined by the applicable utility company, but preferably should be located along rear and side lot lines and should be designed to avoid the location of such facilities as electric power transformers in the flow lines of drainage swales and ditches. All lines, pipes, cables and similar equipment shall be installed underground unless the Town Board finds that the topography, soils, depth to bedrock, woodlands, wetlands, or other physical barriers would make underground installation impractical, or that the lots to be served by said facilities can be served directly from existing overhead facilities and requiring underground installation would constitute an undue hardship upon the Applicant. Associated equipment and facilities which are appurtenant to underground electric power, communications, and gas facility systems, including but not limited to, substations, pad-mounted transformers, pad-mounted sectionalizing switches, above-grade pedestal-mounted terminal boxes, junction boxes, meter points, and similar equipment may be installed at ground level. A landscape screening plan for such aboveground equipment shall be submitted by the Applicant to the affected utility and the Town Board

for approval. All utility easements shall be noted on the final plat, condominium plat, or certified survey map followed by reference to the use or uses for which they are intended.

- (2) **Drainage Easements.** Where a land division or condominium is traversed by a drainageway or stream, an adequate easement shall be provided as required by the Town Board. The location, width, alignment, and improvement of such drainageway or easement shall be subject to the approval of an engineer, at the applicant's expense; and parallel streets or parkways may be required in connection therewith. Where necessary, storm water drainage shall be maintained by landscaped open channels of adequate size and grade to accommodate maximum potential volumes of flow. These design details are subject to review and approval by an engineer hired by the Town at the Applicant's expense.

H. PARK, OPEN SPACE AND OTHER PUBLIC SITES

All residential subdivisions and condominium developments shall be required to incorporate open space into their proposed developments in accordance with the Sheboygan County Subdivision Ordinance.

10.09 REQUIRED IMPROVEMENTS

A. GENERAL REQUIREMENTS

Before recording the Final Plat with the Sheboygan County Register of Deeds, the Applicant shall enter into a contract or other arrangement with the Town agreeing to install all required public improvements, and shall file with such contract a surety bond or other satisfactory security meeting the approval of the Town Board as a guarantee that such improvements will be completed by the Applicant or his subcontractors within the time limit established by the Town Board.

B. SURVEY MONUMENTS

The Applicant shall install survey monuments placed in accordance with the requirements of §. 236.15, Wis. Stats., and as may be required by the Town Board.

C. PUBLIC SANITARY SEWER AND PRIVATE SEWAGE DISPOSAL SYSTEMS

When public sanitary sewer facilities are available to the Subdivision Plat, Certified Survey Map or Condominium Plat, the Applicant shall construct sanitary sewer facilities in such a manner as to make adequate public sanitary sewer service available to each lot within the Subdivision Plat, Certified Survey Map or dwelling unit within a condominium. Where public sanitary sewer facilities are not available, private systems shall be constructed pursuant to applicable regulations of Sheboygan County and any applicable sanitary district.

- (1) The Applicant shall construct sanitary sewers in such a manner as to make adequate sanitary sewerage service available to each lot within the land division or condominium. Where public sanitary sewer facilities are not available, the Applicant shall make provision for adequate private sewage

disposal systems as specified by the Town, County, and State agencies concerned.

- (2) The Applicant shall install sewer laterals to the street lot line. If, at the time of final platting, sanitary sewer facilities are not available to the plat, but will become available within a period of five years from the date of plat recording, the Applicant shall install or cause to be installed sanitary sewers and sewer laterals to the street lot line in accordance with this Section and shall cap all laterals as may be specified by the Town Board. The size, type, and installation of all sanitary sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the Town Board.
- (3) The Applicant shall assume the cost of installing all sanitary sewers, laterals, and appurtenances required to serve the land division or condominium development proposed. If sewers greater than eight inches in diameter are required to accommodate sewage flows originating from outside of the proposed development, the cost of such larger sewers shall be prorated either in proportion to the ratio of the total area of the land division or condominium development to the total tributary drainage area to be served by such larger sewer, or in proportion to the contributing sewage flows, as may be agreed upon between the Applicant and the Town, and the excess cost either borne by the Town or assessed against the total tributary drainage area.

D. SURFACE WATER DRAINAGE

The intent of this section is to protect property and structures from damage caused by increased surface water runoff due to commercial, industrial, and residential development of the land.

- (1) Surface water runoff after development shall not exceed the peak rate/volume of flow at predevelopment conditions. The ten (10) and twenty-five (25) year, twenty-four (24) hour storm frequency for Sheboygan County shall be the basis to determine both preconstruction and post-construction surface water runoff.
- (2) A stormwater management plan shall be based upon the ten (10) and twenty-five (25) year, twenty-four (24) hour storm frequency for Sheboygan County. It shall be designed in accordance with the United States Department of Agriculture Technical Release No. 55: *Urban Hydrology for Small Watersheds*, County, and Town standards, whichever is most restrictive. In addition, the plan shall include, but not be limited to, the following:
 - (a) soil types, infiltration characteristics of the soil, amount of available detention area, type of vegetative cover, amount of impervious cover, and time response to runoff;
 - (b) compatibility with County and Town natural drainageways and easements;
 - (c) sizes, dimensions, and grades of bridges, regional drainage patterns, water boundaries, pipes, culverts, catch basins, waterways, ditches, detention and retention basins;
 - (d) drainageways and associated structures, which shall lie within designated maintenance easements;

- (e) direction of the surface water flow by arrows; and
 - (f) methods that will be used to protect downstream areas and adjacent property owners from damage caused by increased surface water runoff and pollutant loadings. Methods employed to prevent damage resulting from stormwater run-off should include non-structural management practices where possible. These alternatives include, but are not limited to, incorporating natural vegetation into the design of existing and new development, buffering navigable and non-navigable streams, permitting unpaved street gutters to serve as grassed waterways in place of curb and gutter, and respecting contours and natural features of the landscape.
 - (g) Structural stormwater facilities must be identified. These include, but are not limited to, curb and gutters, catch basins and inlets, storm sewers, and water retention and detention structures.
- (3) A covenant shall be recorded with the Final Plat in the Sheboygan County Register of Deeds office which shall state:
- (a) "Maintenance of all drainageways and associated structures within the subdivision are the sole responsibility of the property owners of the subdivision," unless otherwise noted on the plan or required by the Town.
 - (b) Upon failure of the property owner(s) to perform maintenance of the drainageways and associated structures, the Town retains the right to perform maintenance and/or repairs that shall be equally assessed among the property owner(s) of the subdivision with a drainage covenant.
- (4) All buildings and structures shall be set back at least twenty-five (25) feet from the landward edge of nonnavigable streams, drainageways and wetlands. Roadways, recreational trails, and pedestrian walkways shall be permitted to cross nonnavigable streams and drainageways, provided such construction allows for the free passage of waters and that runoff is controlled so as to prevent erosion and transport of sediment and pollutants to nearby waters.
- (5) No artificial obstruction may be constructed, planted or maintained within any man-made or natural drainageway so that such obstruction impedes the natural flow of water and/or diminishes the natural aesthetic quality of the drainageway.
- (6) Lot boundaries shall be made to coincide with new and/or preexisting man-made and natural drainageways to avoid the creation of lots that can be built upon by altering such drainageways.
- (7) Exceptions. Surface water shall not be regarded as unduly retained or diverted if:
- (a) the retention or diversion results from a technique, practice, or device deliberately installed as part of an approved sedimentation or storm water runoff control plan;
 - (b) the retention or diversion is not substantially different in location or degree than that experienced by the development site in its

- predevelopment state, unless such retention presents a danger to health or safety;
- (c) the retention or diversion results from the actions of natural obstructions, whereby maintenance shall be performed by the property owner; or
 - (d) the retention or diversion has been allowed or required by the Town Board and noted on the approved drainage plan.

E. WATER SUPPLY FACILITIES

The Applicant shall construct water mains in such a manner as to make adequate water service available to each lot within the land division or condominium. If municipal water service is not available, the Applicant shall make provision for adequate private water systems as specified by the Town, County, and State agencies concerned. The Town Board may require the installation of water laterals to the street lot line. The size, type, and installation of all public water mains proposed to be constructed shall be in accordance with plans and specifications approved by the Town Board. The Applicant shall assume the cost of installing all water mains eight inches in diameter or less in size. If water mains greater than eight inches in diameter are required to serve areas outside the proposed development, the excess cost shall be borne by the Town.

F. OTHER UTILITIES

The Applicant shall cause gas, electrical power, and telephone and other communication facilities to be installed in such a manner as to make adequate service available to each lot in the land division or condominium, in accordance with this Ordinance. Plans indicating the proposed location of all gas, electrical power, telephone, and other communications distribution and transmission lines required to serve the land division or condominium shall be approved by the Town Board.

G. STREET SIGNS

The Applicant shall install at the intersection of all streets proposed to be dedicated a street sign of a design specified by the Town Board.

H. STREET TREES

The Town Board may require that certain species of trees be planted on both sides of all streets. Street trees when planted shall be at least fifty (50) feet apart with a minimum of one (1) tree per lot. They should preferably be placed six (6) to twenty (20) feet inside the property line rather than in the boulevard. The minimum size and type to be planted shall conform to the provisions of applicable ordinances and Town Board requirements. The requirement for street trees may be waived by the Town Board if substantial alternative landscaping, including trees, is to be provided within the land division or condominium in accordance with a landscaping plan approved by the Town Board.

I. EROSION AND SEDIMENTATION CONTROL

The Applicant shall prepare an erosion and sedimentation control plan addressing the installation and maintenance of soil erosion and sedimentation control measures.

Such plans shall meet the requirements set forth in the Sheboygan County Erosion Control and Stormwater Management Ordinances. The Applicant shall plant those grasses, trees, and groundcover of species and size specified by the Town Board, upon recommendation of the Plan Commission, necessary to prevent soil erosion and sedimentation, in accordance with the approved erosion and sedimentation control plan. The Applicant shall install those protection and rehabilitation measures, such as fencing, sloping, seeding, riprap, revetments, jetties, clearing, dredging, snagging, drop structures, brush mats, willow poles, and grade stabilization structures, set forth in the approved erosion and sedimentation control plan.

J. LANDSCAPING

A "Landscape Plan" shall be prepared for all subdivision and condominium plats. Eleven (11) full-size copies of the Landscape Plan drawn to the same scale as the Preliminary Plat or Condominium Plat shall be submitted with the Preliminary Plat or Condominium Plat. The Landscape Plan shall be prepared on reproducible drafting film or paper of good quality and shall show correctly the following information:

- (1) proposed name and location of the Subdivision Plat or Condominium Plat;
- (2) names, addresses, and telephone numbers of the plan designer, owners, applicants, lessees and/or developers;
- (3) boundary lines of the site with dimensions and the total land area encompassed by the site;
- (4) boundary lines of all proposed lot lines and open space areas;
- (5) location, extent, types (common and scientific names in the case of plant materials), and sizes of all existing trees and natural resource features which are to be maintained and credited toward the landscaping requirements of the Town. If any existing vegetation or other natural resource features are to be demolished or mitigated, the extent of such demolition or mitigation shall also be clearly delineated;
- (6) location, extent, types (common and scientific names in the case of plant materials), and sizes of proposed landscaping and landscape plantings in all areas of the Subdivision or Condominium, or in areas which are to serve as landscaped entrances or other special landscaped features of the Subdivision or Condominium; and
- (7) areas of a Subdivision or Condominium designated as landscape easement areas. These shall be maintained and kept free of all debris, rubbish, and noxious weeds by the property owner or, in the case of landscaping in common open space areas, the homeowners' association.

10.10 CONSTRUCTION

A. COMMENCEMENT

No construction or installation of improvements shall commence in a proposed land division or condominium development until a development agreement has been executed, the Town Board has given written authorization to proceed, and a pre-construction meeting of concerned parties, such as the utilities and contractors concerned, has been called by the Town Board.

B. PHASING

The Town Board may permit the construction and installation of public improvements in phases corresponding to the development phases of a final plat.

C. BUILDING PERMITS

No building permits shall be issued for a structure on any lot not of record on the date of adoption of this Ordinance until all the requirements of this Ordinance have been met.

D. PLANS

The following plans, drawn at a minimum scale of one inch equals forty feet (1"= 40'), and accompanying construction specifications shall be required by the Town Board before authorization of construction or installation of improvements:

- (1) street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements;
- (2) installation of street signs meeting the approval of the Town Board at all intersections;
- (3) sanitary sewer plans and profiles showing the locations, grade, sizes, elevations and materials or required facilities;
- (4) surface water drainage facilities, which may include curb and gutters, catch-basins and inlets, road ditches and open channels, as may be required to provide adequate surface drainage for the subdivision;
- (5) erosion control plans; and
- (6) landscaping plans.

E. EARTH MOVING

Earth moving, such as grading, topsoil removal, mineral extraction, stream course changing, road cutting, waterway construction or enlargement, removal of stream or lake bed materials, excavation, channeling, clearing, ditching, drain tile laying, dredging, and lagooning, shall be so conducted as to minimize erosion and sedimentation and disturbance of the natural fauna, flora, watercourse, water regimen, and topography.

F. PRESERVATION OF EXISTING VEGETATION

The subdivider shall make every effort to protect and retain all existing desirable trees, shrubs, grasses, and groundcover not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, and bicycle and pedestrian ways. Trees shall be protected and preserved during construction in accordance with the approved landscaping plan and with sound conservation practices, including the preservation of trees by well islands or retaining walls, whenever abutting grades are altered.

G. INSPECTION

The Applicant, prior to commencement of any work within the land division, shall make arrangements with the Town Board to provide for adequate inspection. The

Town Board or its agent shall inspect and approve all completed work as specified in the Final Plat prior to release of the sureties.

H. COMPLETION OF IMPROVEMENTS

All of the improvements required under this Ordinance shall be completed prior to the final approval of a subdivision or condominium plat by the Town Board, except that in lieu of completion of construction, a certified check, surety bond, or letter of credit approved by the Town Attorney may be furnished as provided in Section 10.03 H.

I. AS-BUILT PLANS

Within thirty (30) days following completion and acceptance by the Town Board of all improvements, the Applicant shall provide reproducible copies of plans and profiles that accurately show the location, extent, and horizontal and vertical location and alignment of all improvements as actually constructed. Horizontal locations shall be expressed in terms of Wisconsin State Plane Coordinates, North American Datum of 1927 and vertical locations shall be referenced to the National Geodetic Vertical Datum of 1929.

10.11 FEES

A. GENERAL

The Applicant shall pay to the Town Clerk-Treasurer all fees as hereinafter required and at the times specified before being entitled to record the Plat or Certified Survey Map concerned.

B. PRELIMINARY CONSULTATION MEETING

The Applicant shall pay a fee as set forth in Chapter 11.05 of the Mosel Municipal Code to the Town Clerk-Treasurer at the time the consultation meeting is requested to assist in defraying the cost of the meeting.

C. PRELIMINARY PLAT OR CERTIFIED SURVEY MAP REVIEW FEE

The Applicant shall pay a fee as set forth in Chapter 11.05 of the Mosel Municipal Code to the Town Clerk-Treasurer at the time of first application for approval of any preliminary plat or certified survey map to assist in defraying the cost of review.

D. FINAL PLAT REVIEW FEE

The Applicant shall pay a fee as set forth in Chapter 11.05 of the Mosel Municipal Code for each lot or parcel within the final plat to the Town Clerk-Treasurer at the time of first application for approval of said plat to assist in defraying the cost of review.

E. PARKLAND FEE

The Applicant shall pay, to the Town, a fee as set forth in the Sheboygan County Subdivision Ordinance (Chapter 71, Sheboygan County Code of Ordinances) for the acquisition of playgrounds, parks, or other open space that will serve the Town.

F. OTHER CHARGES FOR DEVELOPMENT SERVICES

The Applicant shall pay a fee equal to the actual cost of any professional services which may be required, by the Town or any of its commissions, committees, officers or other agents, for the review, administration, investigation, and processing of preliminary plats, final plats, condominium plats, Certified Survey Maps, and any other plans required by this Ordinance. 'Professional services' may include planning, engineering, inspection, legal, and related services. Such charges shall be in addition to any other filing, permit, publication or meeting fees, charges, or costs otherwise payable by the applicant.

G. APPEAL OF FEES

The applicant shall have the right to challenge the amount of any fees levied under Section 10.11 F of this ordinance by an appeal to the Town Board. Upon receipt of such an appeal, the Town Board, upon due notice, shall hold a public hearing, shall make a determination with respect to the fairness of the amount of fees challenged and shall make a determination to decrease, affirm, or increase the fees concerned.