

DRAFT 4.17.15

Ordinance No. 2016-1 Subdivision Ordinance for the Town of Forest

SECTION 1- Statement of Purpose

SECTION 2- Jurisdiction

SECTION 3- Approval Required; Violations

SECTION 4- Definitions

SECTION 5- Basic Application, Review and Approval Procedures for Town Review of
Subdivisions

SECTION 6- Procedures for Review of Minor Subdivision

SECTION 7- Procedures for Review of Major Subdivisions

SECTION 8- Subdivision Design Standards

SECTION 9- Engineer's Approval

SECTION 10- Financial Guarantee

SECTION 11- Development Agreement Required

SECTION 12- Exception to Design Standards

SECTION 13- Enforcement

SECTION 14- Severability

SECTION 15 - Effective Date

SECTION 1- Statement of Purpose

The purpose of this ordinance is to promote the public health, safety, and general welfare by assuring that, subdivisions occur in a well-designed and orderly manner so as to provide the best possible environment for human habitation, and that adequate provisions are made for public services required or affected by land subdivisions.

SECTION 2- Jurisdiction

- A. This ordinance is adopted under the statutory authority granted pursuant to the Village Powers of the Town of Forest, under Wis. Stat. Sections 60.10(2) (c), 60.22(3), 61.35, 61.23, 61.24(1), 236.03, and 236.45. This ordinance was adopted by the Town Board after its receipt of a recommendation from the Town Plan Commission to adopt this ordinance and after a public hearing preceded by a Class 2 published notice.

- B. This Ordinance shall apply to all land subdivisions as defined in Section 4, which occur or are proposed to occur within the geographic limits of the Town of Forest. The subdivision of land in the Town is also under the concurrent jurisdiction of the St. Croix County Subdivision Ordinance. Where the standards of this ordinance are more restrictive than the standards of the county ordinance, the more restrictive standards in this ordinance shall apply. Where the standards of the county ordinance are more restrictive or where the county ordinance sets standards for aspects of land subdivisions that are not addressed by the standards of this ordinance, the County standards shall apply, except that all standards regarding public improvements that are required and maintained by the Town shall be governed exclusively by the Town's Subdivision Ordinance.
- C. Exemptions: The provisions of this ordinance shall not apply to:
1. Transfers in interest in land by will or pursuant to court order.
 2. Leases for terms not exceeding 10 years, mortgages, or easements.
 3. Sales or exchanges of land between owners of adjoining property if additional lots are not thereby created and the resulting lots are not reduced below the minimum lot sizes required by state law or the Town Zoning Ordinance, or other town ordinances.
 4. Cemetery plats made under Wis. Stat. 157.07
 5. Assessor's plats made under Wis. Stat. 70.27
 6. Any other exemptions allowed under Wisconsin Statutes.

SECTION 3- Approval Required; Violations

- A. Authority. The Forest Town Board (the Town Board) shall be the approving authority for subdivisions covered by this ordinance, acting after considering the advice and recommendations of the Plan Commission of the Town or Forest.
- B. Violations. The following activities are declared to be violations of this ordinance
1. To convey, offer to convey, or contract to convey a Subdivision of a lot, tract, or parcel within such a Subdivision without having had the Subdivision approved pursuant to this ordinance.
 2. To record a survey map, a plat, or a metes and bounds description of a lot, parcel, or tract, thereby creating a Subdivision, without such Subdivision having been approved pursuant to this Ordinance

3. To fail to comply with all standards of this Ordinance and all conditions which are imposed by the Town Board in the course of its review and approval of a Subdivision.
4. Any violation of Ch. 236, Wis. Stats.

SECTION 4- Definitions

- A. Subdivision is a division of a lot, parcel, or tract of land which existed on the effective date of this ordinance by the owner thereof or their agents for the purpose of transfer of ownership or building development where the act of division creates one or more new lots, parcels, or tracts, if the lots, parcels, or tracts are twenty (20) acres or smaller in area.
- B. Minor subdivision is a subdivision resulting in the creation of four or fewer lots from a parcel that existed five years before the date of the application. A Minor Subdivision requires certified survey map approval.
- C. Major subdivision is a subdivision resulting in the creation of five or more lots from a parcel that existed five years before the date of the application. A Major Subdivision requires preliminary and final plat approval.
- D. Parcel – Contiguous land under single ownership, not separated by public roads or rights of way.
- E. Definitions as to key words and phrases in this Ordinance shall be defined in current St. Croix County Zoning Ordinance, unless otherwise defined in this Ordinance.

SECTION 5- Basic Application, Review and Approval Procedures for Town Review of Subdivisions

- A. Basic application procedure. Application materials (twelve copies) and all required fees for approval of any proposed subdivision activity under this chapter shall be submitted to the Town Clerk who will provide them to the Town Board and the Town Plan Commission. Application materials including current Town requirements, checklists and deadlines are available in written form from the Town Clerk.
 1. Submission Date. An application for any Town Board action under this chapter (concept, certified survey map, preliminary plat, and final plat) shall be deemed to have been validly submitted to the Town when all of the following have occurred:
 - a. A written application and predevelopment agreement, signed by the owner and subdivider or by the owner and an authorized representative

and all required materials and fees have been personally delivered to the Town Clerk.

- b. All information and written materials required to allow the Town Clerk to notify all adjoining landowners of what subdivision activity is being proposed is provided. Adjoining landowners shall include owners of land across any roadways from the proposed land division.
 - c. All such materials have been provided at least 14 days before a Plan Commission meeting so that the Town Clerk can process and mail said notices at least 10 days before the Town Plan Commission meeting at which said subdivision proposal will be considered.
 - d. The application has been acknowledged by the Plan Commission at its regular monthly meeting following the delivery of materials to the designated Town personnel.
2. Additional Information. The Town Board, Town Plan Commission, Town Attorney, or Town Engineer can require an applicant to provide additional information at any time where site characteristics or other unique circumstances make it appropriate to do so.

B. Basic Review and Approval Procedures.

- 1. Site visit. The Town Plan Commission and Town Board may make on-site visits to the property being considered for subdivision sometime before their meetings between the hours of 7:00 a.m. and 8:00 p.m. without notice to the owner.
- 2. Presentation of proposal. The subdivider/owner or designee shall attend the meeting of the Plan Commission and Town Board to present the proposed land division. Failure to attend these meetings or to provide a complete application may be grounds for the Town Board or Plan Commission to table or deny the application.
- 3. Conditions of approval. The Town Board may impose conditions upon its approval of any subdivision, provided that such conditions shall be limited to the required compliance of the subdivision with the standards of this ordinance, other town ordinances, St. Croix County ordinances or Chapter 236 of the Wisconsin Statutes, or other applicable laws or regulations. Such conditions shall be stated in the Town Board meeting minutes and a copy given to the applicant. Such conditions shall also be incorporated into the developer's agreement required under this chapter.
- 4. Disapproval. When the Town Board decides not to approve a preliminary plat, final plat, or certified survey map, its reasons for denial shall be stated in the

Town Board meeting minutes and a copy thereof given to the applicant/subdivider.

5. Deadlines for Town action on plats and certified survey maps. The Town Board shall review and approve, conditionally approve, or disapprove a preliminary plat application or certified survey map within 90 days of submission to the town and a final plat application within 60 days of submission. "Submission to the town and submission" are defined as in Section 5 A 1 above. These deadlines may be extended by agreement of the Town Board and the applicant which shall be reflected in the Town Board minutes. The Town Clerk shall promptly notify the County Zoning Administrator of any such extension. The failure of the Town Board to act within these time periods shall be deemed an approval of the application, unless said time period had been extended as provided herein. Upon written request by the applicant, the Town Clerk shall issue a letter or execute a certificate of approval following an approval under this subsection.
6. Transmissions of subdivision approvals to St. Croix County Community Development Department. No Town Board approval of certified survey maps, preliminary plat, or final plats shall be effective until all approved exceptions to design standards, easements, covenants, developer's agreements, financial guarantees, and any other such information or agreements required by the Town, have been provided in final form satisfactory to the Town, signed and agreed to by the owners, developers or mortgagees, as applicable. All such signed documents shall be provided with the final plat or certified survey map when it is delivered to the County Community Development Department. In addition, all moneys owed to the Town shall be paid in full.
7. Recording of approvals. All final plats and certified survey maps shall be recorded at the St. Croix County Register of Deeds Office within six months of the last approval and within 36 months of the first approval. All risk of not completing this process in a timely manner is on the subdivider/owner.
8. Appeal. Any person aggrieved by the failure of the Town Board to approve a subdivision may appeal the rejection to the St. Croix Court as provided in Wisconsin Statutes.

SECTION 6 PROCEDURES FOR REVIEW OF A MINOR SUBDIVISION

A. Required Submittals.

1. Materials Required by County Subdivision Ordinance. All materials required to be prepared for County Certified Survey Map review and approval plus all fees and documents required under this ordinance shall be provided to the Town Clerk when the sub-divider submits a Certified Survey Map for Town approval.

2. Design and Construction Plans Required. The Certified Survey Map shall be accompanied by detailed design and construction plans for all public improvements being built by the developer that are proposed to be dedicated to the Town and for all stormwater management and erosion control plans.
3. Town Review.
 - a. Concept review. Concept review as provided in Section 7 is recommended, but not required for minor subdivisions. If a concept review is undertaken, it shall follow the procedures outlined in Section regarding review of Major Subdivisions.
 - b. Plan Commission Review and Recommendation. The Plan Commission shall review the proposed CSM for compliance with town codes, ordinances, the Town's Comprehensive Plan and the Town zoning and subdivision ordinance. If, after review, the Town Plan Commission finds that the CSM complies with all applicable ordinances, codes, plans, statutes, and regulations, the Plan Commission may recommend the CSM for Town Board approval with or without conditions. If the CSM does not comply with all of the above, the Plan Commission shall recommend that the Town Board disapprove the CSM.
 - c. Town Board Action. The Town Board may approve, conditionally approve, or disapprove the Certified Survey Map as provided in Section 5. In the case where the certified survey map does not require any construction and/or maintenance of Town infrastructure, the Town Board may waive the predevelopment agreement, a development agreement and a financial guarantee.

SECTION 7 PROCEDURES FOR REVIEW OF MAJOR SUBDIVISIONS

- A. Concept Review required.
 1. Concept review is required for major subdivisions.
 2. Concept review submittals. Submittal to the Town Clerk shall include the following attachments and information:
 - a. Application;
 - b. Properly executed predevelopment agreement;
 - c. Payment of any required funds;
 - d. Name and address of the owner of the property and the subdivider;
 - e. Location and size of the property;
 - f. Names and addresses of all adjacent landowners;
 - g. Name and address of the surveyor who will be doing the survey work;

- h. Present use of the land and the land adjacent to the proposed subdivision;
- i. Number and size of projected lots upon final land division;
- j. Existing zoning and other land use controls on the proposed land division and the land adjacent to the proposed subdivision;
- k. Location of any slopes of 25% or greater;
- l. Locations of general land cover types, such as woodlands, wetlands and agricultural;
- m. Locations of historic and cultural features as listed at the Wisconsin State Historic Preservation Office, on the Wisconsin Architecture and Historic Inventory (AHI) or on the National Register of Historic Places.

3. Town review and limitation of rights. The purpose of concept review is for the Plan Commission and Town Board to provide feedback to the subdivider/owner on the proposed land division. The subdivider/owner obtains no vested rights in a concept submittal, and any comments by the Town Engineer, Plan Commission and Town Board during the concept review are not binding on the Town.

- 4. Concurrent review. The subdivider/owner shall also apply to St. Croix County and proceed through that review process as required.

B. Preliminary plat review.

- 1. Required submittals for preliminary plat approval. Submittals for preliminary plat approval shall include:
 - a. Application.
 - b. Payment of any required funds.
 - c. Name and address of the owner of the property and the subdivider.
 - d. Name and address of the surveyor who will be doing the survey work.
 - e. Property location of the proposed land division by government lot, quarter-section, Town, range, county and state.
 - f. Sketch showing the general location of the proposed subdivision within the US Public Land Survey section.
 - g. Date, graphic scale and North arrow.

- h. Exact length and bearing of the exterior boundaries of the proposed land division referenced to a corner established in the US Public Land Survey and the total acreage encompassed thereby.
- i. Present use of the land and the land adjacent to the proposed subdivision.
- j. Existing zoning and other land use controls on the proposed land division and the land adjacent to the proposed subdivision.
- k. Names and addresses of all adjacent landowners.
- l. Existing and proposed contours at vertical intervals of not more than two feet.
- m. Land areas with 12% to 19.9%, 20% to 24.9%, 25% to 29.9% and/or 30% and greater slope shall be differentially shaded and labeled or otherwise clearly indicated on a separate map with the road layout, lot lines and driveway access locations.
- n. Drainage patterns and watershed boundaries shall be delineated to help determine peak runoff for specified storm events.
- o. All lakes and streams existing in and adjoining to the plat will be identified with OHWM at the date of the survey.
- p. All delineations of wetlands and waterways, which shall be based on field identification and on-site staking conducted by a professional wetland delineator and reviewed by the County Land and Water Conservation Department and/or Wisconsin DNR.
- q. Floodplain limits and the contour line lying a vertical distance of two feet above the elevation of the five-hundred-year recurrence interval flood, or where such data is not available, five feet above the HWE.
- r. Location, right-of-way, width and names of all existing and proposed roads, trails, driveway or other public ways, easements, railroad and utility right-of-way and all section and quarter-section lines within the exterior boundaries of the plat or immediately adjacent thereto. In addition, distances to the nearest adjoining roads, trails and driveways on all sides of the proposed site.
- s. Location and names of any adjacent land divisions, major or minor, certified survey lots, unplatted and unsurveyed parcels,

outlots, lots, parks, cemeteries and owners of record of abutting unplatted and unsurveyed lands.

- t. Location of all fuel storage tanks, dumps and wells.
- u. Locations of all existing property boundary lines, structures, driveways, closed depressions, drainage ditches, water wells, on-site wastewater treatment systems, sinkholes, rock outcrops, wooded area, railroad tracks, other similar significant natural or man-made features within the tract being subdivided or immediately adjacent thereto.
- v. Location and approximate dimensions and size of any sites to be reserved or dedicated for parks, drainageways, stormwater ponds, trails, or other public uses. The ownership and purpose of the sites shall be stated on the face of the plat.
- w. Location of soil boring tests indicating general
- x. Location of the proposed net project buildable area (NPBA) pursuant to § 168-7D when required by the Town.
- y. Locations of all environmental corridors and isolated natural areas as mapped by the State of Wisconsin, the county, the Town or local agencies.
- z. Plans for grading, stormwater management, and erosion and sediment control shall be submitted for all land disturbances. Areas proposed for filling and grading within shoreland jurisdiction and in close proximity to wetlands and floodplains shall be differentially shaded. All emergency overflow (EOF) routes for ponds and ditches shall be shown.
- aa. Complete road construction plans that meet applicable state, county and Town requirements. Those plans shall show plan views and profiles of all roads, horizontal and vertical curve information, typical sections, and other pertinent road information. If trails are included in the site, all trail plans should be included in the submittal. Storm sewers that extend for 40 feet or more shall have plans and profiles of the pipe shown on the construction plans.
- bb. A schedule of construction for accesses, roads, and all other improvements in the proposed plat that shall be incorporated into the developer's agreement pursuant to § 168-22B.

- cc. Draft of protective covenants that intend to regulate land use in the proposed subdivision and otherwise protect the proposed development, if any. The covenants shall be subject to the review and approval of the Town Attorney.
 - dd. Easements shall be shown and be limited to utility easements, drainage easements and access easements. All drainage easements shall state on the face of the document who shall own title and bear responsibility for maintenance of the easement.
 - ee. Conservation easements, their location, purpose and proposed ownership and control.
 - ff. Overlay map of sensitive areas [wetlands, water bodies, floodplains, steep slopes, historic and archaeological features as listed at the Wisconsin State Historic Preservation Office, on the Wisconsin Architecture and Historic Inventory (AHI) or on the National Register of Historic Places, drainageways and basins, erosion control features, problem soils and the like] and a report as to how the sensitive areas are to be handled through conservation easements, deed restrictions or covenants approved by and enforceable by the Town.
 - gg. Context of the surrounding area within 660 feet of the tract, including the general outline of existing buildings, land use, roads, property boundaries, natural features (water bodies, woodlands, wetlands, native prairies and farm or fallow fields), zoning and general topography. This information may be presented on an aerial photograph or sketch map at a scale of no less than one inch equals 400 feet.
 - hh. A note on all plats regarding future assessments for roads shall read as follows: "Lots may be subject to future assessments for any upgrades and improvements to the road."
 - ii. Detailed statement as to whether and how the proposed development is consistent with the Comprehensive Plan.
2. Developer's agreement required. As a condition of preliminary plat approval, the Town shall require a developer's agreement pursuant to Section 11.
 3. Financial guarantee required. As a condition of preliminary plat approval, the Town shall require a financial guaranty pursuant to Section 10.

4. Town Board Action. After receiving a recommendation from the Plan Commission, the Town Board may approve, approve with conditions, or disapprove a preliminary plat as provided in Section 5 B. When the Town Board determines to approve a preliminary plat of a major subdivision, the decision shall be stated in a letter sent to the applicant with a copy sent to the County Zoning Administrator.
5. Amendment of preliminary plat. If the subdivider/owner desires to amend an approved preliminary plat, the subdivider/owner shall resubmit the proposed amended plat, which shall follow the same procedure, unless the amendment is, in the opinion of the Plan Commission, of such scope as to constitute a new plat, in which case, a new application shall be filed. Any amended or new plat filed with the Town shall be forwarded to St. Croix County for concurrent review.
6. Approval conditions. The Town Board shall reject any plats which have not had review and action by objecting agencies prior to being submitted to the Town Board. Such rejection shall be without prejudice and the subdivider shall be asked to submit the plat pursuant to this section and the St. Croix County Subdivision Ordinance. Approval of a preliminary plat or certified survey map shall be valid for 36 months from the date of approval. Approval or conditional approval of the preliminary plat does not constitute automatic approval of the final plat.

C. Final plat review.

1. Required Submittals & Information. Final plats submitted for approval shall show the following information in a format that also complies with all applicable state and county requirements:
 - a. All requirements submitted under preliminary plat § 7B including any amendments made during the review process;
 - b. Dimensions and area (including and excluding rights-of-way) of all lots' setbacks, high water elevation and lowest building opening for those lots affected by a drainage easement or floodplain;
 - c. All easements with their intended use identified;
 - d. All required executed agreements;
 - e. All required financial guarantees;
 - f. All required materials; and
 - g. Four copies of the final plat with original signatures.

2. Town Approval & Certification. When the Town Board approves the final plat of a major subdivision and when all the required documentation, e.g. Developer's Agreement, financial guarantee, etc., is submitted, the Town Chair shall certify Town approval on the plat document in the space provided for that purpose and the Town Clerk/Treasurer shall sign the certificate on the plat concerning taxes or special assessments, if there are no delinquent taxes or special assessments.
3. Transmittal to County. A copy of the final plat with the signed certificate shall be sent to the County Zoning Administrator.
4. Time Period for Submitting Final Plat. If a final plat is not submitted to the Town for approval within 36 months of preliminary plat approval, the Town may refuse to approve the final plat.

Section 8- Subdivision Design Standards

- A. Statement of Intent. Section 8 of this Ordinance contains standards for selected aspects of land subdivisions. The Town is governed by the St. Croix County Subdivision Ordinance. That Ordinance is comprehensive in character and addresses more features or aspects of land subdivisions than are addressed by the standards of Section 8 of this Ordinance. Where the standards of Section 8 are more restrictive than the standards of the County Ordinance, the more restrictive standards shall apply. Where the County Ordinance is more restrictive or where the County Ordinance sets standards for aspects of land subdivision which are not addressed by standards of this Town Ordinance, the County Ordinance shall apply, except that all standards regarding public improvements that are required and maintained by the Town shall be governed exclusively by the Town Subdivision ordinance.
- B. Suitability of Lands for Subdivision. No land shall be subdivided which is held unsuitable for its proposed use for reasons of flooding, inadequate drainage, adverse soil or rock formation, sewer erosion potential, unfavorable topography, inadequate water or sewer capabilities, or any other feature or circumstance likely to result in the imposition of unreasonable costs to remedy severe and avoidable problems or to be harmful to the health, safety, or general welfare of the future residents of the subdivision or the community.
 1. Buildable land is land suitable for the placement and construction of a dwelling, accessory buildings, a well and waste treatment facilities, in total without restriction from
 - a. Slopes of 20 percent or more, or slopes of 12 percent or more on highly erodible soils where evidence of erosion already exists
 - b. Bedrock outcroppings, sink holes, or closed depressions

- c. Wetlands, natural drainage ways or shoreland
- 2. Each lot, parcel, or tract created for the purpose of erecting a residential building or structure shall have a minimum of one half of an acre of contiguous buildable area
- 3. No more than fifty (50) percent of the contiguous buildable area may lie in the front, rear, or side setbacks
- 4. On-site wastewater treatment drainfields or mound systems may be placed on buildable area other than the designated buildable area in cases where it can be demonstrated that such placement would minimize overall site disturbance and would not create a negative environmental impact.

C. Minimum Lot Standards

- 1. The size, shape, and orientation of all lots shall be appropriate to the uses intended.
- 2. Minimum lot sizes and setbacks shall be determined by the Town of Forest Zoning Ordinance.
- 3. Lots within the existing Forest Sanitary District.
Such lots will require a 1 acre minimum lot size per dwelling unit. Connections to the Forest Sanitary District must be authorized by the Town Board and be based on a comprehensive inspection and approval by an engineer hired for such purpose before any additional connections are permitted

This sewer inspection must determine the system's total capacity and any improvements required prior to authorization of additional connections. The Town Board will determine the allocation of inspection costs, if any, to be paid by the requesting party prior to authorizing the inspection and improvements of the existing Forest Sewer System.

- 4. Land adjacent to the existing Forest Sewer System.
In order to provide for an orderly growth of the area adjacent to the existing Forest Sewer System, and preserve the area for higher density use, any subdivision within 1500 feet of the Forest Sewer System's physical pump station is limited to a maximum of 1 acre dwelling size unless otherwise approved by the Town Board.
- 5. Length to width ratio. The suggested minimum length to width ratio of a lot will be a ratio of 3:1, length to width.

D. Road and Access Standards

1. Each lot in a subdivision shall have a useable access to a street or road that connects the lot to an existing public street, road, or highway. Said access shall meet the minimum specifications as set by St. Croix County and the Town of Forest (Forest Minimum Road Construction Standards).
5. All streets or roads which are proposed to be established within the subdivision to meet the requirements of Paragraph (1) above, shall have right of way width and grade characteristics as would qualify the street or road for allotment of State Highway Funds pursuant to Chapter 86 of the Wisconsin Statutes
3. All such roads shall be designed, graded, and constructed at the expense of the subdivider in such a manner as will fully satisfy the standards of Chapter 86 of the Wisconsin Statutes as to roadway width or specified in the Forest minimum Road Construction Standards.
4. The Town Board shall specify the requirements to be met as to street signs, street lights, culvert, posts, and guardrails, with the costs of such lights, signs, posts, or rails, if any determined, to be paid by the subdivider.
5. The requirements of paragraphs 2 through 4 above shall apply to all streets and roads specified in paragraph 1 above. At the time of application to Town for approval of a subdivision, the applicant shall identify the accesses, streets, and roads within the subdivision, which meet the definition of paragraph 1 and shall submit a schedule for the required construction and surfacing identifying the accesses, streets, and roads and the approximate timing of the required construction in relation to the final approval. The Plan Commission shall review this schedule. The schedule of access, road, and street construction shall be approved as submitted or with modifications. The schedule of construction so approved shall be a binding and enforceable condition of the Plan Commission's approval of the subdivision. A financial guarantee, as specified in Section 7, shall be required to assure that construction will occur according to the approved schedule.
6. All roads and streets identified in the above paragraph shall be offered for dedication to the Town. Dedications which are to be accepted by the Town shall be accomplished pursuant to Chapter 236 of the WI statutes.
7. Developers shall be required, at their expense, to install base and sub base for each residential driveway from the edge of the proposed roadway to the lot line of each lot according to the Forest Minimum Road Construction Standards. All driveways shall be located as designated on the approved final plat unless unforeseen problems may require placement in another location in which case the new location would require Town Board approval. If a culvert is required for proper drainage, a steel culvert of appropriate size shall be installed by the developer at the developer's expense.

8. All roads and streets constructed which do not meet the Town of Forest Minimum Road Construction Standards will be required to meet such standards prior to CSM or preliminary plat approval.

E. Storm Sewers and Sanitary Water

1. The Town Board shall determine with the assistance of an engineer hired for such purpose, if necessary, whether a storm sewer system shall be required, and if so, the type and size thereof. All costs and expenses incurred regarding hiring of such an engineer by the Town Board, and any cost of such a system, shall be borne by the subdivider.
2. The Town Board shall determine with the assistance of an engineer hired for such purpose, if necessary, whether a Central sanitary water system shall be required.

F. Central Sanitary Sewage Collection Systems.

The Town Board may consider a Central Sanitary Sewage Collection Systems having the approval of and meet all standards of regulating State of Wisconsin and St. Croix County agencies. Any cost of such a system, if approved, will be borne by the subdivider.

- I. Consideration shall be given in the design of any subdivision to the preservation of scenic and historic sites, stands of fine trees, marshes, lakes, and ponds, watercourses, watersheds, and ravines.
- J. Easements. The Town Board may require easements of width deemed adequate for electric power and communication facilities, storm and sanitary sewers, streets, roads, trees, and gas, water, or other utility lines. Where such easements are specifically located in the area being subdivided, they shall be so placed as to not interfere unreasonably with the use and enjoyment of the property for residential or other purposes. All easements shall be noted on the final plat filed by reference to the intended use.

Section 9 - Engineer's Approval

The adequacy of any facilities or improvements and the proper installation thereof shall be subject to the approval of an engineer hired for such purpose by the Town of Forest. All costs and expenses incurred regarding hiring of such engineer by the Town Board shall be borne by the subdivider.

Section 10- Financial Guarantee

Performance and Maintenance Guarantees.

- A. Requirement. When the public infrastructure, roads and related improvements are required by the Town under Town Ordinances or pursuant to a developer's agreement with the Town, the developer shall file a performance and maintenance guarantee with the Town Clerk before preliminary plat or CSM approval. The performance and maintenance guarantee shall be in favor of the Town and in an amount sufficient to fund and guarantee the performance of the developer's obligations, make payment for any and all work and other obligations to be performed by the developer pursuant to this Article or such developer's agreement and to serve as a maintenance guarantee, at a reduced level, after such public improvements have been accepted by the Town. When the Town approves a phased construction of platted area, the performance and maintenance guarantee shall be provided for each phase before any site work commences in the area of that phase, and in an amount sufficient to fund and guarantee the performance of the developer's obligations with reference to the permanent and temporary public facilities, roads and public improvements that will be built as part of that phase and the maintenance of such improvements for a reasonable time, not to exceed 14 months after the Town determines that the said improvements have been substantially completed. Performance and maintenance guarantees may be in the form of an irrevocable letter of credit or a performance bond, either of which shall be in a form and substance approved by the Town Attorney and in an initial amount estimated by the Town Engineer to be 120% of the total cost of completing the public facilities and improvements being required and the costs of inspections by the Town in the CSM, preliminary plat or phase of preliminary plat for which approval is being sought, including all improvements for which the Town will have future responsibility for maintenance or repair. In multi-phase developments, the 120% performance and maintenance guarantee required for each phase shall include the cost of construction of stormwater management required for that specific phase when not held by St Croix County and shall include the cost of construction of all interior roads in that phase including the roads in that phase that will connect to future phases and/or adjacent developments. Once the required infrastructure has been substantially completed in the CSM, preliminary plat or in a specific phase, inspected by the Town Engineer and found to be satisfactory, and accepted by the Town, if applicable, the performance guarantee for the CSM, plat or phase may be reduced to an amount equal to the total cost of completion of any uncompleted public improvements in that phase plus 10% of the total cost of the completed public improvements. Town ordinances also exist requiring developers to pay certain costs of the Town incurred in application review and inspection, to deposit funds with the Town for this purpose and requiring that developer's agreement be entered into with the Town.
- B. Drawing Upon a Performance or Maintenance Guarantee. The performance bond or letter of credit provided to the Town shall expressly state that any litigation concerning the performance bond shall be venued in St. Croix County and that if at any time the developer is in default under this Article in any aspect of its developer's agreement with the Town; or if the developer does not complete the installation of the required public improvements within the time established in the developer's agreement

unless otherwise extended by agreement or action of the Town Board; or if a bond or letter of credit on file with the Town is dated to expire in the next 60 days and has not been extended, renewed or replaced and delivered to the Town by the developer; or the developer otherwise fails to maintain the bond or letter of credit in the amount required by this Ordinance or applicable developer's agreement to pay the costs of the required public improvements, then the developer shall be deemed to be in violation of this Ordinance and the Town Board shall have the authority to draw upon the performance bond or letter of credit, whereupon the bond company or financial institution involved shall pay to the Town all amounts requested and available for payment. If the irrevocable letter of credit or performance bond is not paid to the Town upon demand, whether in whole or in part, the Town shall be empowered, in addition to its other remedies and without notice or hearing, to impose a special charge for the amount of said performance/completion costs or maintenance and repair expense related to the required public improvements upon each and every lot in the development, payable with the next succeeding tax roll, pursuant to Wis. Stat. §66.0627.

Section 11 – Development Agreement Required.

As the pressure for further development in the Town increases, the Town Board finds it important to acquire the services of competent planning, engineering and legal professionals with the technical expertise needed to evaluate the impact of proposed development activities on the health, safety, and welfare of the Town residents, infrastructure and public facilities. The Town Board has also found it appropriate to require the subdivider/owner seeking to subdivide land, rather than the general taxpayer, to pay the cost of these professional opinions required during the ongoing subdivision review and development process. Agreements.

- A. Predevelopment agreement. Anyone applying for Town approval of activity regulated by this ordinance shall enter into a predevelopment agreement with the Town at the time of concept review application, or if no concept review is required, at the first application under this chapter. Said agreement shall be executed by the Town and by all beneficial owners of the land for which the plat or certified survey map approval is sought unless excused by the Town Board from this requirement, in accordance with the criteria in this chapter. This agreement shall have the following provisions:
1. Property location and legal description identifying the parcel proposed for subdivision.
 2. Provision that the subdivider/owner shall pay all administrative fees and professional costs incurred by the Town to study and review the concept plan, the preliminary and final plat for a major subdivision or the certified survey map for a minor subdivision, including:
 - a. Fees established by the Town Board for review of documents;

b. Consultation, in any format, without limitation, with people working in the following professional fields:

1. Legal;
2. Engineering;
3. Landscaping;
4. Conservation;
5. Surveying;
6. Other professional service providers deemed reasonable, appropriate, and the same or similar to other professional service providers on a case-by-case basis by the Town Board;

b. Agreement that all charges before, during and after the submittal of the development application will be included.

3. Provision that payment of the costs shall be made by a cash deposit, cashier's check or irrevocable letter of credit in the name of the Town in an amount established by resolution of the Town Board from time to time and on file in the office of the Town Clerk/Treasurer.

4. Provision that failure to pay any costs associated with review of the application shall result in the drawing of the funds deposited pursuant to Subsection A (3) of this section.

5. Provision for termination of the guarantee.

6. Any other provision deemed reasonable, appropriate, and the same or similar to other provisions in this section on a case-by-case basis by the Town Board.

7. Failure to maintain the deposit pursuant to Subsection A (3) of this section will result in stoppage of all review by the Town until the subdivider/owner is in compliance.

D. Developer's Agreement.

1. Developer's agreement required.

a. Anyone proposing to create a subdivision in the Town shall enter into a developer's agreement with the Town if the proposed development will:

- (1) Create or affect public improvements, whether already built or proposed to be built and dedicated to the Town; and/or

- (2) Install erosion control or stormwater management devices that will be permanent and will drain or affect stormwater drainage from areas other than the lot on which such devices will be located; and/or
 - (3) Include private improvements or infrastructure that will be maintained by all lot owners in the proposed development or an association of lot owners.
 - b. The developer's agreement shall be executed by the person/entity proposing the subdivision, by the record owner of the property proposed to be subdivided and by all persons/entities with a beneficial interest in the property, e.g., mortgagees.
- 2. Components of the developer's agreement. The agreement shall have the following provisions:
 - a. The developer's agreement shall identify all individuals or business entities holding an ownership interest in the subject property or holding an interest under an executed purchase agreement at the time the developer's agreement is executed. The developer's agreement shall also be executed and acknowledged by current and known future mortgagees and shall be binding on the successors and assigns of the named developers, owners and mortgagees.
 - b. The developer's agreement shall contain a full and accurate description of the area being subdivided.
 - c. The developer's agreement shall require that cash, an irrevocable letter of credit or performance bond in favor of the Town as provided in Section 10 be filed with the Town and a copy attached to the agreement in an amount of 120% of the amount sufficient to cover the estimated costs of public or private infrastructure, erosion control devices, Town's professional fees incurred in reviewing and administering the development process, maintenance and snowplowing of roads before acceptance. The developer's agreement shall address whether and when the financial guarantee can be released. The subdivider shall take all steps necessary to maintain financial guarantee in the Town's possession and not allow it to expire before completion of construction and the expiration of any warranty period.
 - d. The agreement shall disclose and confirm relevant details regarding the subdivider's bonding, insurance, sureties, warranties, continuing maintenance requirements and responsibilities, and other contracts and agreements affecting the subject property.

- e. The agreement shall identify the exceptions and variances to state, county and Town statutes, ordinances and regulations that have been granted or are being sought for the subdivision.
- f. Where any platted area in a subdivision or CSM will serve as open or buffer space and be jointly maintained and controlled by the owners of the platted lots, or where erosion control or stormwater management devices will be installed in the area being subdivided that will require ongoing maintenance, the developer's agreement shall require that a homeowners' association be created providing that the Association shall be responsible for maintaining such devices.
- g. Any jointly maintained and controlled areas being subdivided shall have a written management and maintenance plan and/or a land stewardship plan pursuant to § 168-22F.
- h. The agreement shall refer to or contain, as exhibits, the final documents naming the person(s) or business entity that will hold title to the property while the plat or certified survey map lots are being initially developed and built.
- h. The agreement shall provide detailed information regarding the nature and extent, design, quantity, location and other relevant characteristics, and a construction schedule for all planned public infrastructure improvements including sewer service, water service, public ways and public or private roads, stormwater and erosion controls, berms, vegetative management and plantings, ponds, streams, paths, lighting, monumentation, outbuildings and other public improvements as may be required by state, county or Town statutes, ordinances or regulations existing at the time of plat approval.
- j. The developer's agreement shall address the timing of joint driveway construction, shall require shared maintenance agreements concerning joint driveways and shall address the control and removal of debris and rubbish during initial construction on lots being created.
- k. The agreement may contain agreement in other areas not expressly authorized or required by law, but that are nonetheless mutually agreeable to the subdivider/owner and the Town and which serve to promote public health, safety and welfare. Any such stipulations may not be made a condition of plat approval, nor may a subdivider's/owner's refusal to enter into such stipulations form the exclusive basis for plat or CSM rejection.
- l. In all situations, the agreement shall require the subdivider/owner to pay:

- (1) All costs of constructing the improvements shown on the final plat; and
 - (2) All of the professional fees for any work relating to the agreement, for any work to supervise or inspect work covered in the agreement on behalf of the Town, and/or for Town action taken in order to enforce the subdivider's/owner's obligations under this chapter or a developer's agreement.
- m. The developer's agreement shall refer to and/or include as exhibits the following information:
- (1) Preliminary plat;
 - (2) Final plat, to be added once approved and recorded;
 - (3) Road design and construction plans;
 - (4) Stormwater calculations and plans;
 - (5) Irrevocable letter of credit (photocopy);
 - (6) Construction schedule with cost estimates for all earthmoving and public improvements to be replaced by the developer with accepted bid amounts as soon as available;
 - (7) Homeowners' association articles of incorporation and bylaws, where required;
 - (8) Homeowners' association and any other restrictive covenants, where required;
 - (9) Copies of the documents officially creating any developer business entity that holds or will hold title to the property while the plat or CSM lots are initially developed and/or built;
 - (10) Conservation easements, where required;
 - (11) Open space management plan and land stewardship plan, where required;
 - (12) Other project-related information deemed reasonable, appropriate, and the same or similar to other provisions on a case-by-case basis by the Town Board.

3. Waiver of developer's agreement requirement. The Town Board may waive the requirement of a developer's agreement in situations where:
 - a. The application for subdivision of land complies with the Comprehensive Plan, with all applicable local and county ordinances and state law, and no variances or rezoning will be required; and
 - b. No public or private roads, erosion control or stormwater management devices or other improvements, facilities or dedication of facilities or areas for public use or use by the residents of the subdivision, will be required as a result of the development being proposed; and
 - c. No utilities will be significantly altered.
4. When developer's agreement shall be executed and delivered to the Town.
 - a. For a major subdivision, the developer's agreement shall be executed upon conditional preliminary plat approval and delivered to the Town.
 - b. For certified survey maps, the developer's agreement shall be executed and delivered to the Town before Town Board final approval of the certified survey map.
 - c. Failure to execute and deliver a developer's agreement to the Town within 45 days of the time of conditional preliminary plat or preliminary certified survey map approval shall be considered a failure of a condition and grounds for denial of the preliminary plat or preliminary certified survey map unless the time is extended by written agreement between the Town and the subdivider.

Section 12 Exceptions

- A. The Town Board may grant exceptions from the design standards provisions of this Ordinance, but only after determining that:
 1. Because of the unique conditions of the subdivision involved, literal application of the Ordinance would impose exceptional and undue hardship;
 2. The exception would not violate the purpose of this Ordinance or the provisions of Chapter 236 of the Wisconsin Statutes.
- B. The requirement of filing and recording an approved certified survey or plat for subdivision shall not be waived.

Section 13-Enforcement

Any activity which fails to satisfy the standards of this Ordinance shall be a violation of the Ordinance, regardless of whether knowledge or intent to violate was present, and shall subject the party or parties who were responsible for non-compliance or who aided or abetted the non-compliance to an injunction action which demands that the condition constituting the violation be ceased or cured and that remedial actions to achieve compliance be undertaken, and/or a forfeiture in an amount of not less than \$500.00 nor more than \$1000.00 plus the costs of prosecution of these allegations. Each day during which such violation exists is a separate offense. In addition, the Town Board may order an assessor's plat pursuant to the provision of Chapter 70.27 of the Wisconsin Statutes whenever the conditions specified in that Chapter are found to exist.

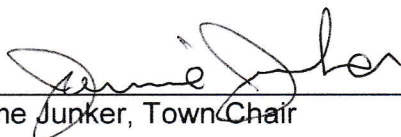
Section 14-Severability

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

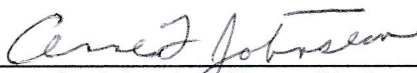
Section 15- Effective Date

This Ordinance shall become effective after Plan Commission recommendation, having a public hearing on the ordinance, approval by the Town Board and publication as provided by Wisconsin law.

Adopted this 12th day of Jan, 2016


Jaime Junker, Town Chair

Attest:


Anne L. Johnston, Town Clerk