

The Subdivision Ordinance for the Town of Gilman, Pierce County, Wisconsin

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ARTICLE I - General Provisions

Section 1 Title

This chapter shall be known as the “Town of Gilman Subdivision Ordinance,” herein referred to as “this chapter.”

Section 2 Authority

The provisions of this chapter are adopted by the Town of Gilman pursuant to the authority granted by §236.45, Wis. Stats., and other applicable Wisconsin law.

Section 3 Purpose & Intent

The purpose and intent of this chapter are to advise and regulate the division of land in the Town of Gilman, Pierce County, Wisconsin, to promote the public health, safety, aesthetics, and general welfare of the current and future residents by assuring that land within the Town is placed in its most appropriate use, that subdivisions occur in a well-designed and orderly manner so as to provide the best possible environment for human habitation, to provide for erosion control and the protection of the natural environment, water quality, aesthetics, and historical sites, to facilitate adequate provision for multiple residents’ transportation needs, to protect prime farmland, and to ensure that adequate protections are made for public services required or affected by subdivisions.

Section 4 Land unsuitable for subdivision

No land shall be subdivided which is determined by the Town Board, after review and recommendation by the Town Plan Commission, to be unsuitable for its proposed use by the subdivider, for any of the following reasons: flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage capabilities, potential harm to the health, safety or general welfare of the future residents of the subdivision or the community, or the imposition of unreasonable costs to remedy severe and avoidable problems that are, with reasonable certainty, likely to result from the subdivision.

In applying the provisions of this section, the Town Plan Commission or the Town Board shall recite in writing the particular facts upon which it bases its conclusion that the land is not suitable for the

proposed subdivision and shall then allow the subdivider to present evidence regarding such suitability. After reviewing evidence regarding suitability, the Town Board may affirm, modify or withdraw its determination of unsuitability.

Section 5 Jurisdiction

- A. This chapter shall apply to all subdivisions that occur or are proposed to occur within the geographic limits of the Town of Gilman, Pierce County, Wisconsin.
- B. The subdivision of land in the Town of Gilman is also under the jurisdiction of the Pierce County Subdivision Ordinance. Where the standards of this chapter are more restrictive than 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 subdivisions that are not addressed by this chapter, the County standards shall apply, except for standards regarding public improvements which are proposed for dedication to the Town, in which case, the Town has sole jurisdiction and the standards of Town ordinances shall apply .

Section 6 Abrogation and Interpretation

- A. It is not the intent of this chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements or permits previously adopted or issued pursuant to applicable laws. After enactment, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.
- B. In their interpretation and application, the provisions of this chapter 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. After enactment of this chapter, where its provisions impose greater restrictions than state statutes, the provisions of this chapter shall govern.

Section 7 Applicability

The provisions of this chapter shall apply to combining or dividing parcels of land in the Town of Gilman as follows:

- A. The combining of two or more parcels of land shall comply with the requirements of Section 9, Combining parcels.
- B. The creation of at least one but not more than four lots, parcels or building sites of 20 acres or less in size within a period of five years by the same or successive owners shall comply with the requirements of Article II - Certified Survey Map Land Divisions, in addition to all other applicable provisions.
- C. The creation of five or more lots, parcels or building sites which are 20 acres or less in size either through a single division or successive divisions by either the same or subsequent owner(s) within a period of five years shall comply with the requirements of Article III - Plats, in addition to all other applicable provisions.
- D. A condominium plat prepared pursuant to § 703.11, Wis. Stats., and other applicable statutes shall be reviewed by the Town in the same manner as a subdivision plat as set forth in this

chapter and comply with the applicable design standards and required improvements of this chapter.

- E. Exceptions. The provisions of this chapter shall not apply to divisions of land of less than five parcels that involve:
- (1) Transfers of interest in land by will or pursuant to court order;
 - (2) Leases for a term not to exceed 10 years, mortgages or easements;
 - (3) Sale or exchange of land between owners of adjoining property, provided additional lots are not created and provided any new lot configurations meet applicable zoning or other regulations;
 - (4) Cemetery plats created under § 157.07, Wis. Stats.;
 - (5) Assessors plats created under § 70.27, Wis. Stats., but such plats shall comply with § 236.15(1)(a) to (g) and § 236.20(1) and (2)(a) to (e), unless waived under § 236.20(2)(l), Wis. Stats.

Section 8 Compliance

- A. Any division or combining of land which is applicable under Section 7 Applicability, shall not be entitled to recording and/or improvements to the land unless such division is in compliance with all the requirements of this chapter. All approved certified survey maps and plats shall be filed for recording with the Register of Deeds of Pierce County prior to transferring ownership of any parcels created by a land division.
- B. The subdivider shall comply with all other applicable town ordinances, including but not limited to any Town road ordinance or driveway permit process.

Section 9 Combining parcels

A certified survey map shall be required for the combining of two or more parcels into one to four parcels when the resulting parcel(s) is 20 acres or less in size. The certified survey map shall be reviewed and comply with the requirements of § 236.34, Wis Stats., and shall be filed for recording with the Register of Deeds of Pierce County. If the combining of lots results in five or more lots of 20 acres or less in size, the platting procedure for plats is required.

Section 10 Application and Fees

- A. An application for any Town Board action under this article shall be deemed to have been validly submitted to and received by the Town when a written application, signed by the applicant or an authorized representative and accompanied by the applicable Town land division application checklist and all required applications copies and materials, has been personally delivered to the Town Clerk-Treasurer, copies of all application materials have been delivered to the Town Attorney and Town Engineer and the application submitted has been acknowledged by the Plan Commission at its regular monthly meeting following the delivery of materials to designated Town personnel. The Town Board, Town Plan Commission, the 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. At the time an application is delivered to the Clerk-Treasurer, the applicant shall also provide all information and written materials required to allow the Town Clerk-Treasurer to notify all adjoining landowners of what development and/or rezoning action is being proposed. The applicant/developer is responsible for providing all

such materials at least 25 days before a Plan Commission meeting so that the Town Clerk-Treasurer can process and mail said notices at least 20 days before the Town Plan Commission meeting at which said proposal for subdivision of land will be considered.

- B. Application Fee. At the time of filing for Concept Review, or, if Concept Review is waived with respect to a Certified Survey Map, at the time of filing a Certified Survey Map for approval, the subdivider shall pay to the Town the application fee in an amount established by resolution of the Town Board from time to time and on file in the office of the Town Clerk.
- C. Payment of Town Fees and Expenses. The subdivider and/or owner shall be responsible for paying all of the Town's professional fees and expenses related to the review of the proposed subdivision or certified survey map, including but not limited to surveying, engineering, inspection, and attorneys fees incurred in review of the proposed subdivision or in enforcement of this ordinance and/or a Developer's Agreement entered into pursuant to this ordinance. The Town Board may by resolution establish a deposit schedule for such review fees and require the subdivider or the property owner to maintain an amount on deposit with the Town sufficient to cover the Town's estimate of its costs for professional review of the subdivision application. If such amount is not kept on file, the Town shall not process the certified survey map or the plat any further. All such fees are deemed to be incurred for the benefit of the property proposed for subdivision.

Any fees or costs the Town incurs in reviewing a proposed subdivision that remain unpaid after being billed to the subdivider and/or property owner, shall be certified to the County as a special charge for collection along with property taxes pursuant to Wis. Stat. 66.0627.

Section 11 Definitions

- A. For purposes of this chapter, words used in the present tense include the future; singular number includes the plural number; and the plural number includes the singular number. The word "shall" is intended to be mandatory.
- B. Definitions as to key words and phrases in this chapter shall be as defined in Chapter 17.08 of the Pierce County Zoning Ordinance and Chapter 237 of the Pierce County Subdivision of Land Ordinance, unless otherwise defined in this chapter.

Section 12 Severability

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

Section 13 Effective date

This chapter shall be in effect and in force from and after the date of its passage and publication all in accordance with the Wisconsin State Statutes.

ARTICLE II - Certified Survey Map Land Divisions

Section 1 Certified survey map required

Land divisions which create at least one but not more than four lots or building sites of 20 acres or less in size within a five-year period by one or successive divisions by the same or subsequent owners are considered certified survey map land divisions requiring approval under this section. Approval of a certified survey map shall be required.

- A. Land divisions which create one or two lots of 20 acres or less in size within a five-year period by one or successive divisions by the same or subsequent owners are considered minor certified survey map land divisions.
- B. Land divisions which create three or four lots of 20 acres or less in size within a five-year period by one or successive divisions by the same or subsequent owners are considered major certified survey map land divisions.

Section 2 Minor certified survey map land division

- A. Submittal. Ten copies of the certified survey map shall be submitted to the Town of Gilman Clerk. The certified survey map shall be prepared according to § 236.34, Wis. Stats., and shall show clearly on its face all existing buildings and the date the map was prepared.
- B. Access. The applicant shall submit a statement from the town, county or state agency approving access for each lot.
- C. Soil test. Sufficient soil evaluations shall be submitted to demonstrate that each lot is suitable for a soil absorption wastewater system. The Town of Gilman may accept information from the Soil Survey for Pierce County, Wisconsin, or soil evaluations from adjacent property if appropriate to satisfy this requirement.
- D. Slopes. A separate drawing at the same scale as the certified survey map shall be submitted designating portions of the lot which have greater than 12% slopes and greater than 20% slopes.
- E. Plan Commission Review and Recommendation. The Town Plan Commission shall review the proposed CSM for compliance with Town codes, ordinances, the Town's comprehensive plan and the County 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. If the CSM does not comply with all of the above, the Plan Commission may recommend that the Town Board disapprove or approve the CSM with conditions.
- F. Town Board Action; Failure to Act.
 - 1. Town Board Action. Within 90 days of the Town's receipt of the certified survey map, or any extension thereof, the Town Board shall approve, approve with conditions or disapprove the certified survey map or preliminary plat.
 - 2. Conditions of approval. The Town Board may impose conditions upon its approval of any subdivision application, provided that such conditions shall be stated in writing and given to the applicant and shall be limited to the required compliance of the

subdivision with the standards of this chapter, other town ordinances, Pierce County ordinances or Chapter 236 of the Wisconsin Statutes.

3. Disapproval. When the Town Board determines to disapprove a subdivision it shall place a written statement of the reasons for the rejection in the minutes of the meeting at which the decision was made and shall supply the applicant with a written statement of the reasons for rejection within 10 days
4. Extension of time periods. The time periods provided for in this chapter may be extended by the Town Board upon determination by the Board that additional information is required. The Town Clerk shall promptly notify the County Planning and Zoning Office of any such extension.
5. Failure to act within time period. The failure of the Town Board to act within the time periods specified 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.

Section 3 Major certified survey map land division

- A. Submittal of preliminary certified survey map. Ten copies of a preliminary certified survey map shall be filed with the Town Clerk. The preliminary certified survey map shall be prepared in accordance with § 236.34, Wis. Stats., and shall include all information required for preliminary plat applications (as delineated below in Article III, section 3, paragraphs A2 through A4), except two-foot contour intervals may be omitted and instead show slopes of 12% and greater as certified by a registered land surveyor. The Town of Gilman shall be authorized to reject any application deemed incomplete.
- B. Plan Commission Preliminary Review and Recommendation. The Plan Commission shall review the proposed preliminary CSM for compliance with Town codes, ordinances, the Town's comprehensive plan and the County zoning and subdivision ordinance. If, after review, the Town Plan Commission finds that the preliminary CSM complies with all applicable ordinances, codes, plans, statutes, and regulations, the Plan Commission may recommend the preliminary CSM for Town Board approval. If the preliminary CSM does not comply with all of the above, the Plan Commission may recommend that the Town Board disapprove or approve the preliminary CSM with conditions.
- C. Plan Commission Final Review and Recommendation. The Plan Commission shall review and recommend the final CSM for Town Board approval if it substantially conforms to the approved preliminary CSM and any conditions of that approval.
- D. Town Board Action; Failure to Act.
 1. Town Board Action. Within 90 days of the Town's receipt of the Final Certified Survey Map (CSM) , or any extension thereof, the Town Board shall approve, approve with conditions or disapprove the Final CSM.

2. Conditions of approval. The Town Board may impose conditions upon its approval of any subdivision application, provided that such conditions shall be stated in writing and given to the applicant and shall be limited to the required compliance of the subdivision with the standards of this chapter, other town ordinances, Pierce County ordinances or Chapter 236 of the Wisconsin Statutes.
3. Disapproval. When the Town Board determines to disapprove a subdivision it shall place a written statement of the reasons for the rejection in the minutes of the meeting at which the decision was made and shall supply the applicant with a written statement of the reasons for rejection within 10 days
4. Extension of time periods. The time periods provided for in this chapter may be extended by the Town Board upon determination by the Board that additional information is required. The Town Clerk shall promptly notify the County Planning and Zoning Office of any such extension.
5. Failure to act within time period. The failure of the Town Board to act within the time periods specified 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.

Section 4 Certified survey map land divisions involving dedication of land

Certified survey map land divisions which involve the dedication of public rights-of-way or other dedications of public lands shall require approval of the applicable governmental entity(ies). The Town of Gilman shall not approve such certified survey map land divisions until approval of the applicable governmental entity(ies) has been obtained.

Section 5 Recording

Certified survey maps shall be recorded as provided in § 236.34(2), Wis. Stats.

ARTICLE III - Plats

Section 1 Conformance with procedures

Land divisions which create five or more Lots , parcels or building sites which are 20 acres or less in size either through a single division or successive divisions by either the same or subsequent owner(s) within a period of five years shall follow the procedures contained in this article.

Section 2 Concept approval.

Prior to filing a preliminary plat for approval, the applicant shall consult with the Town of Gilman Plan Commission for assistance and to become informed of the purpose and objectives of these regulations and shall meet with the Town Board to present a concept plan for review and approval.

- A. Submittal. The applicant shall provide ten copies of a concept plan drawn to a reasonable scale depicting the proposed general lot layout, exterior boundary, roadways, known

easements, wetlands, floodplain, existing land use of the tract and adjacent lands, and slopes in excess of 12% and in excess of 20%, and any additional information required by either the Town of Gilman Plan Commission or the Board which is deemed relevant to the proposed plat. The concept plan shall be submitted to the Town of Gilman at least 20 calendar days before to the first meeting of the Plan Commission at which it is to be considered. The Town Board shall be authorized to reject any application deemed incomplete.

- B. Review and approval. The Town Plan Commission shall review the proposed concept plan as to conformance with town plans, ordinances, purposes and the suitability of the land for subdivision. The Town Plan Commission shall approve, conditionally approve or reject the concept plan and shall state in writing any conditions of approval or reasons for rejection before forwarding the proposed concept plan to the Town Board.

The Town Board shall review the proposed concept plan as to conformance with town plans, ordinances, purposes and the suitability of the land for subdivision. The Town Board shall approve, conditionally approve or reject the concept plan and shall state in writing to the applicant any conditions of approval or reasons for rejection. The applicant obtains no vested rights in a concept submittal. Comments/suggestions by the Town Engineer, Plan Commission, or Town Board during concept review are not binding on the Town.

Section 3 Procedure for approval of preliminary plat

- A. Submittal. After concept plan approval the applicant shall submit to the Town of Gilman, at least 20 calendar days before any meeting of the Town Plan Commission or the Town Board at which it is to be considered, the following:

- (1) A signed application form requesting review and approval of a preliminary plat. The Town of Gilman shall be authorized to reject any application deemed incomplete.
- (2) Ten copies of the preliminary plat plus any additional copies as may be required for other reviewing agencies. The plat shall be based upon a survey prepared by a registered land surveyor on reproducible material and shall show the following information unless waived in whole or in part in writing by the Town:
 - (a) All requirements of § 236.20, Wis. Stats.
 - (b) The names and addresses of the property owner and registered surveyor preparing the plat and date of preparation.
 - (c) An eight-and-one-half-inch-by-eleven-inch reproducible copy of the proposed plat.
 - (d) The location and names of adjacent platted lands and the owners of adjoining parcels of unplatted land, including the use and zoning of adjacent land.
 - (e) Contours at vertical intervals of not more than two feet, with slopes of 12% or greater and 20% or greater delineated.
- (3) Accompanying information shall include:
 - (a) Erosion control and stormwater plans. Stormwater management and erosion control devices shall be designed to permit the unimpeded flow of natural watercourses, to ensure the drainage of all points along public and private roads and driveways and to provide positive drainage away from on-site sewage disposal facilities. In designing storm water management and erosion

control devices, special consideration shall be given to protection against shoreland erosion and siltation of surface waters and preventing excess runoff onto adjacent property. Stormwater shall be managed so as to drain from an area proposed for subdivision in the same quantity and velocity after the area has been subdivided and built out as it drained from the land being subdivided when it was in an undeveloped state. Drainage easements of widths sufficient to accommodate anticipated storm water run-off shall be provided and shown on the plat.

- (b) Areas of filling, grading, lagooning or dredging.
 - (c) Sufficient soil tests to establish the suitability of soil absorption wastewater systems for each lot.
 - (d) Any restrictive covenants related to the proposed land division.
 - (e) A statement and location of any improvements proposed to be provided by the applicant.
 - (f) A statement from appropriate town, county or state agency approving access connections onto existing road system.
- (4) Any additional information required by the Town of Gilman Plan Commission or the Town Board. Any cost involved in producing and reviewing such additional information shall be the responsibility of the applicant.
 - (5) A review fee established by the Town Board shall be submitted to the Town Treasurer with the application. Review fees required by other reviewing agencies shall be submitted to those agencies.
 - (6) The applicant also shall submit the original drawing of the preliminary plat to the appropriate state plat review agency, in accordance with § 236.12(6), Wis. Stats.
 - (7) Erosion control bond. Applicant shall submit a bond or irrevocable letter of credit for erosion control work. The amount of the bond shall be 200% of the estimated cost of installing and maintaining erosion control for all project improvements. The additional amount is to compensate the Town if necessary for any administrative expenses and repair work which may be necessary should the applicant fail to install and maintain measures correctly.

B. Requirements.

- (1) The preliminary plat shall comply with the approved concept plan, and any other adopted town plans and ordinances.
- (2) The preliminary plat shall comply with the requirements of Article IV, Design Standards, and Article V, Improvements.

- (3) Land subject to hazards of life, health or property shall not be subdivided for residential purposes until all such hazards have been eliminated or unless adequate safeguards against such hazards are provided by the subdivision plan.

C. Review and decision.

- (1) Plan Commission Review and Recommendation. The Town Plan Commission shall review the proposed preliminary plat for compliance with Town codes, ordinances, the Town's comprehensive plan and the County zoning and subdivision ordinance. If, after review, the Town Plan Commission finds that the preliminary plat complies with all applicable ordinances, codes, plans, statutes, and regulations, the Plan Commission may recommend the preliminary plat for Town Board approval. If the preliminary plat does not comply with all of the above, the Plan Commission may recommend that the Town Board disapprove or approve the preliminary plat with conditions.
- (2) After reviewing the preliminary plat and data for compliance with this chapter, the Town Board shall either approve, approve conditionally, or reject the preliminary plat and shall state in writing any conditions of approval or reasons for rejection.
- (3) Failure of the Town Board to act within 90 calendar days of submittal of the preliminary plat shall constitute an approval of the preliminary plat, unless such time is extended by agreement with the applicant.
- (4) Approval of the preliminary plat shall entitle the applicant to final approval of the layout shown by such plat if the final plat is submitted within 36 months of the date of approval of the preliminary plat and conforms to such layout and conditions attached to the approved preliminary plat.

Section 4 Procedure for approval of final plat

A. Submittal. The applicant shall submit the following:

- (1) Ten copies of the final plat shall be submitted to the Town of Gilman by the applicant. The final plat may constitute only that portion of the approved preliminary plat which the applicant proposes to record at that time. Final plats shall conform to the approved preliminary plat, and to the requirements of Chapter 236, Wis. Stats., including § 236.20, Wis. Stats., but contours do not have to be shown.
- (2) The applicant shall also submit the original drawing of the final plat to the appropriate state plat review agency, in accordance with § 236.12(6), Wis. Stats. Such plats shall comply fully with the requirements of Chapter 236, Wis. Stats.
- (3) Submission for Subsections A(1) and (2) of this section shall be made at the same time as copies are submitted to the county, and the applicant shall provide the county with a written statement of the date that required materials were sent to all appropriate agencies.
- (4) Road construction. Roads shall be constructed consistent with Article IV Design Standards.

B. Requirements.

- (1) The final plat shall be prepared by a registered land surveyor and shall comply with the requirements of § 236.20, Wis. Stats., and any other information as required by the Town of Gilman during preliminary plat approval.
- (2) The final plat shall show on its face all lands reserved for future public dedication or reserved for the common use of property owners within the plat. If common property is located within the plat, then provisions for its use, maintenance and ownership must also be provided with the plat.
- (3) Certificates. All final plats shall provide all the certificates required by § 236.21, Wis. Stats.

C. Final plat review and approval.

- (1) Required Submittals within 36 months of Preliminary Plat Approval. To be considered and treated as a final plat, ten (10) copies of the final plat shall be submitted to the Town Plan Commission within thirty six (36) months of preliminary plat approval. If it is not submitted within 36 months the Town Board may refuse to approve the final plat. The final plat shall be filed with the Town Clerk by noon on the Tuesday two weeks before the Plan Commission meeting. The final plat shall substantially conform to the preliminary plat, and to the requirements of all applicable ordinances and State laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided in §236.12, Wis. Stats.
- (2) Certification of unpaid taxes or assessments. The applicant shall supply the Town Board with a County Treasurer's certification of any unpaid taxes or assessments. The Town Treasurer shall not sign the final plat if any taxes or assessments remain unpaid.
- (3) Plan Commission Review and Recommendation. The Plan Commission shall recommend the final plat for Town Board approval if it substantially conforms to the approved preliminary plat and any conditions of that approval.
- (4) Town Board Action; Failure to Act.
 - a. Town Board Action. Within 60 days of the Town's receipt of the final plat within 60 days of its receipt of a preliminary plat, or any extension thereof, the Town Board shall approve, approve with conditions or disapprove the final plat.
 - b. Conditions of approval. The Town Board may impose conditions upon its approval of any subdivision application, provided that such conditions shall be stated in writing and given to the applicant and shall be limited to the required compliance of the subdivision with the standards of this chapter, other town ordinances, Pierce County ordinances or Chapter 236 of the Wisconsin Statutes.
 - c. Disapproval. When the Town Board determines to disapprove a subdivision it shall place a written statement of the reasons for the rejection in the minutes

of the meeting at which the decision was made and shall supply the applicant with a written statement of the reasons for rejection within 10 days

- d. Extension of time periods. The time periods provided for in this chapter may be extended by the Town Board upon determination by the Board that additional information is required. The Town Clerk shall promptly notify the Subdivider and the County Planning and Zoning Office of any such extension.
 - e. Failure to act within time period. The failure of the Town Board to act within the time periods specified 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.
- (5) Appeals. Any person aggrieved by an objection to a plat or certified survey map or by a failure to approve a plat or certified survey map may appeal therefrom to a court of competent jurisdiction within thirty (30) days of notification of the rejection of the plat as provided in W.S.A. §236.13(5).

Section 5 Recording

Within twelve months after the last approval or within thirty six months after the first approval, , the plat shall be filed by the applicant for recording with the Register of Deeds of Pierce County in accordance with §236.25, Wis. Stats. Failure to record the plat within said time period shall nullify the approval of the final plat.

Section 6 Replat

Any replat of a recorded plat or part thereof shall be done in accordance with § 236.36, Wis. Stats.

Section 7 Procedure for dedication

- A. Parks, playgrounds, and open spaces. The Town Board shall require that suitable sites not to exceed 10% of the total area of the subdivision be dedicated for future public use such as parks, playgrounds and open spaces. At the option of the Town Board, as an alternative to required dedication of parks, playgrounds, and open space, a fee established by the Town Board shall be paid by the applicant to the Town for the purpose of funding of acquisition or initial improvement of land for public parks as authorized in Wis Stat. §236.45.
- B. Streets, drainageways, other public ways. Any part of a street, drainageway, or other public way which is indicated on the plat shall conform to the arrangement, width and location indicated, and shall be dedicated for such use, subject to acceptance thereof by the Town Board, or other public agency or commission.
- C. Land on water's edge. Dedications of public access on navigable lakes and streams as required by the state shall be as required in § 236.16, Wis. Stats. At the option of the Town Board, such required dedications may count toward the area of any dedication required in Subsection A of this section.

ARTICLE IV - Design Standards

Section 1 Road and access standards

- A. Overview of Town road system. The road system serving any subdivision of two or more newly formed lots shall be designed by a registered professional engineer licensed in the State of Wisconsin to meet the following objectives: to permit the safe, efficient and orderly movement of traffic; to meet the needs of the present and future population with a simple and logical pattern; to respect natural features and topography; and to present an attractive appearance. A completed road engineering study shall be submitted to the Town Clerk or designated Town official(s) with the preliminary plat or certified survey map for both minor and major subdivisions. The Town Board may require the construction of service roads or shared access roads serving multiple building sites to minimize congestion of driveway intersections with planned or existing public roads.
- B. Compliance with Town Comprehensive Plan. Any part of a road, drainage way or other public way which is shown on a plat or certified survey map and also indicated on the comprehensive plan of the Town or any plan component shall conform to the arrangement, width and location indicated in any such plan or plan component.
- C. Access route, public or private. Each lot in a subdivision shall be accessible by a road or driveway (access route) that connects to an existing public street, road, or highway. Furthermore anyone selling a lot must inform the purchaser in writing, what portions of the access route are public or private, stating clearly that the private portion(s) of the road will not be maintained or plowed by the Town or County.
- D. Individual and joint driveways. All driveways shall comply with applicable Town of Gilman ordinances, including any Town road ordinance or driveway permit process. For lots that are served by joint driveways, the Town Board may require the subdivider to prepare and record a joint driveway maintenance agreement as a condition of subdivision.
- E. Multi-lot subdivision roads. All roads or streets within a subdivision of three or more lots shall comply with the Town of Gilman Private Road Ordinance No. 2002-2, have right of way width and grade characteristics as would qualify for allotment of state highway funds pursuant to §86.30 and 86.31 Wis. Stats., comply with §86.26 Wis. Stats. regarding roadway width, surface width, bridge widths, and design loads, be paved with hot mix blacktopping approved by the Town Board, and have adequate space for school buses, fire, and emergency vehicles to turn around.
- F. Road construction expenses. The expense to upgrade existing or build new roads and required drainage structures, within a subdivision or connecting a subdivision to the Town road system, including but not limited to design, excavation, materials procurement hauling & spreading, grading and surfacing, shall be borne by the subdivider.
- G. Auxiliary structures. The Town Board shall specify the requirements to be met as to street signs, street lights, culverts, pedestrian and bicycle paths, posts, and rails with the cost of same to be paid by the subdivider.

- H. Construction schedule, review and approval. At the time of application for approval of a subdivision, the applicant shall submit to the Town Board a construction schedule for all streets and roads within the subdivision, as defined in paragraphs D and E above. This schedule shall indicate when the various construction phases for said streets and roads will be completed. (See section K Inspections, below for list of phases.)The Town Board shall review this schedule and approve it or suggest modifications and re-submittal. A satisfactory construction schedule shall be a binding and enforceable condition of the Town’s approval of the subdivision. The Town board may also require a financial guarantee (satisfactory to the Town) to assure that construction will occur according to the approved schedule.
- I. Road dedication. Roads within subdivisions of three or more lots may be offered for dedication to the Town. The Town shall accept only said roads that comply with all requirements of this chapter and all other applicable Town and County ordinances or State statutes. Dedications, which are to be accepted by the town, shall be accomplished pursuant to the provisions of W.S.A. ss. 236.10(3) and 236.29.
- (a) Dedications will not be done when there is snow cover on the road right-of-way area.
 - (b) As part of the road dedication process, the Town shall do a final visual inspection of the roadway.
- J. Private roads. All roads and streets within a subdivision which are not to be offered for dedication as Town roads shall be identified on the face of the plat or certified survey map as private roads or streets. In addition said plats or certified survey maps shall contain a statement warning lot purchasers that the town does not maintain or plow such non-dedicated roadways. The Town Board may require the subdivider to prepare and record a road association agreement, set up to support all maintenance costs for such non-dedicated roadways, and included by covenant in the purchase agreements for subdivision lots.
- K. Inspections.
- (a) Roads shall be inspected during the following designated phases of construction:
 - [1] At start;
 - [2] During subgrade construction;
 - [3] During subbase construction and after final subbase phase;
 - [4] During base construction and after final base phase; and
 - [5] During blacktop and after shouldering.
 - (b) Inspections are required for each of the above phases and, and, at the Town Board’s discretion may be done by the Town Board Chair or Board Supervisors, the County Highway Commissioner or a designated professional working under the Commissioner’s direction, or a registered professional engineer licensed in the State of Wisconsin hired by the Town, or a designated professional working under the engineer’s direction. The cost of inspections, including the cost of any consultants or professionals the Town hires, shall be paid by the subdivider.

- (c) **Inspection Report.** The person performing the inspection shall submit a written signed inspection report describing the results of the inspection. Any deficiencies reported in the inspection report shall be corrected before proceeding to the next phase of construction. The Town Board will not accept any construction completed without receiving proper written approval for each completed phase.
- (d) Erosion control measures shall be inspected throughout construction period and after until the site is stabilized.

L. Acceptance by the Town.

- (a) The Town Board shall not accept the road as a public town road unless the written signed inspection reports state that the road has been constructed in substantial compliance with the approved plans and all Town road standards. The Town shall not be obligated to accept any road as a public town road, if the road as constructed does not comply with the approved road construction plans. Before the Town accepts the road, it may require the road to be reconstructed in compliance with the plans, with all costs to be paid by the developer.
- (b) Any substantial deviations from the approved plans shall be cause for the Town not to accept the roadway or to require reconstruction to achieve substantial compliance at the whole cost of the developer.
- (c) Before the Town Board accepts the road the subdivider shall provide the Town with a copy of the as-built plans for the road. The Town Board can withhold acceptance of the road until the subdivider provides such as-built plans.

Section 2 Storm Sewers

If deemed necessary, the Town Board may determine with the assistance of a civil engineer hired for such purposes, whether a storm sewer shall be required for a proposed subdivision, and if so, the type and size thereof. All costs and expenses incurred regarding the hiring of such an engineer by the Town Board shall be borne by the subdivider. Further, all costs and expenses for the installation of the storm sewer as well as any curb and gutter required, shall be borne by the subdivider.

Section 3 Sanitary sewer systems.

- A. Every unsewered subdivision must comply with Com 83 of the Wisconsin Administrative Code.
- B. Any lot under two acres shall be served by a central sanitary sewer system.
- C. The Town Board shall have the authority to review the distribution of costs and expenses of central sanitary sewage collection systems and treatment plants, and may reject a proposal that would unreasonably burden landowners who will not be immediately served by the system.
- D. All costs of maintenance and operation of the central sewage collection systems and treatment plants shall be borne by the benefited property owners through a Sanitary Sewer

district which shall consist of said benefited property owners. Such an agreement as is necessary to embody this Sanitary Sewer district shall be recorded on each deed and bill of sale as binding covenants.

Section 4 Easements

The Town Board may require easements of width which the Board deems 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 not to interfere unreasonably with the use and enjoyment of the property for residential or other purposes. All easements shall be noted on the final plat or certified survey map filed by reference to the intended use.

Section 5 Blocks

When blocks are utilized, the following shall apply:

- A. The length, width and shape of blocks shall be appropriate to the need for convenient access, control and safety of street traffic and the limitations and opportunities of the topography.
- B. Width. Blocks shall generally have sufficient width to provide for two tiers of lots of appropriate depth, except one tier of lots is sufficient where blocks abut a lake or stream, plat boundary, or an arterial street.
- C. Within blocks, pedestrian rights-of-way of at least 15 feet in width may be required by the Town to provide improved circulation or access to schools, playgrounds, parks, shopping centers, waterways, and other community facilities.
- D. Blocks adjoining arterial streets shall be so oriented that the long dimension of the block shall front on the arterial street in order to create as few intersections as possible along the arterial street.

Section 6 Lots

- A. Minimum lot size shall be two acres, exclusive of land in any rights-of-way or easements, and except in the case of cluster development as defined in the Pierce County Zoning Ordinance Section 240-26, in which case the standards of Pierce County Code Section 240-26 shall apply.
- B. Corner lots shall have sufficient width in order to permit appropriate building setback from both streets.
- C. Every lot in a land division shall front or abut on a public or private street for a distance of at least 100 feet unless a rule exception is granted by the Town.
- D. Double frontage lots shall be prohibited, except where lots abut an existing or proposed arterial street or where necessary to overcome specified disadvantages of topography and orientation. The Town may require a planting screen easement of at least 10 feet in width contained in a nonaccess reservation along the property line abutting such arterial street or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

- E. Every lot that is intended for building purposes shall contain at least one acre of net area with slopes less than 20%, of which 1/2 acre shall be less than 12% slopes. Net area shall exclude rights-of-way, easements, wetlands and floodplain. Lots which are not to be used for building purposes shall be designated as outlots and have deed restrictions prohibiting building on such lots.
- F. Lot width at the building setback line and at the building construction line shall be 100 feet.
- G. Set Backs from a Town road shall be 75 feet from the center line of the road or 42 feet from the edge of the right of way, whichever is greater. Side setback: 20 feet; Rear setback: 20 feet
- H. No lot shall be divided by a public or private road.

Section 7 Compatibility

All subdivision layouts shall be developed in proper relation to existing planned or proposed roads and in harmony with the pre-subdivision topography, surface water, vegetative cover and other natural features, in a manner that will promote the most advantageous and beneficial development of adjoining areas whether for residential or for open space, recreational or agricultural purposes, so that changes in land use due to subdivision are compatible with existing adjacent land uses and/or make use of open space to provide a buffer between different uses.

ARTICLE V - Improvements

Section 1 Construction of Improvements and Town Engineer Approval

- A. The subdivider shall be responsible for installing all improvements shown on the Plat or Certified Survey Map regardless of whether the improvements will be dedicated to the Town or remain private. The subdivider shall install all required street and utility improvements before final approval of any plat or certified survey map.
- B. The adequacy of any facilities or improvements and the proper installation thereof shall be subject to the approval of the Town or any engineer or other professional hired by the Town to inspect the improvements or facilities. The subdivider shall pay all costs and expenses the Town incurs in hiring of such engineer or other professional.
- C. No building permits shall be issued for lots in the subdivision or certified survey map until all improvements are installed, inspected, and approved by the Town, and for dedicated public improvements, have been accepted by the Town.

Section 2 Financial Guaranty

Before commencing construction of public or private improvements called for in the plat or CSM may be commenced, the subdivider shall file with the Town Treasurer a cash deposit or an irrevocable letter of credit satisfactory to the Town naming the Town as beneficiary in the minimum amount of 125% of the estimated costs of public and private improvements in the plat or certified survey map. The letter of credit shall be reduced to thirty per cent of the original amount of the letter of credit after the improvements have been inspected and approved by the Town and, if

dedicated to the public, have been accepted by the Town. Said letter of credit shall remain in place for one year after any public roads or other public improvements have been accepted by the Town and have been through one freeze-thaw cycle. The subdivider shall bear all costs of the engineer's and the Town attorney's fees for review of the financial guaranty.

Section 3 Homeowners Association.

For all subdivisions which include non-dedicated open space, stormwater management or erosion control devices, or other improvements or facilities, excluding joint driveways, that serve more than one lot in the subdivision, such open space, devices and improvements shall be owned by an incorporated Homeowners Association with membership in such Association required of each buildable lot in the subdivision. Each lot shall hold membership in such a manner that one lot has one vote. Homeowners Associations shall hold title to all non-dedicated open space, storm water and erosion control devices, and other devices and/or improvements, and shall be responsible for improvements to and maintenance of such open space, devices and improvements. If any member lot owner so requests and the said Homeowners Association agrees erosion control and storm water management devices or naturally occurring surface waters and shore lands located on private land in the subdivision shall also be managed, maintained and improved by the Homeowners Association.

If the Homeowners Association fails to properly manage, maintain, and improve the above described open space, stormwater management/erosion control devices or other improvements, the Town shall have the authority, but not the obligation, to perform the required management/maintenance and assess the cost against all lots in the subdivision as a special charge under Wis. Stat. 66.0627.

ARTICLE VI Developers Agreement

Section 1 Developers Agreement Required

As a condition of approval of a Certified Survey Map, the Town may require Developers Agreements between the Developer, Property Owner (if different from the Developer) and the Town. The Town shall require a Developers Agreement as a condition of approval of any preliminary or final plat. The Developers Agreement shall be in the format specified by the Town Attorney and shall be reviewed by the Town Attorney before signature by the parties.

Section 2 Required Provisions of a Developers Agreement

The Developers Agreement shall:

- A.. 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 agreement is executed. The developer 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. Contain a full and accurate description of the area being subdivided.
- C. Address all exceptions to design standards being sought or being granted by the Town and affecting the area being subdivided.

- D. Require, as a condition of certified survey map or preliminary or final plat approval, as determined by the Town Board, that an irrevocable letter of credit in the minimum amount of 125% of the estimated cost of public and private improvements in the subdivision or certified survey map and otherwise satisfactory to the Town be posted with and in favor of the Town before construction of public or private improvements called for in the plat or CSM may be commenced. The developer agreement shall address whether and when the said irrevocable letter of credit can be released and shall further require the developer to take all steps necessary to maintain the letter of credit in the Town's possession and not to allow it to expire.
- E. Disclose and confirm relevant details regarding the developer's obligations, insurances, warranties, continuing maintenance requirements and responsibilities and other contracts and agreements affecting the subject property.
- 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 private roads, erosion control or storm water management devices, or other private improvements will be installed in the area being subdivided that will require ongoing maintenance, the developer agreement shall require that a homeowners association be created with membership on an equal basis of all platted lots not commonly owned that association bylaws be developed and that a restrictive covenant or other perpetual, binding legal device be employed that will create, administer and enforce the collective responsibilities of the individual members of the said homeowners association concerning commonly held areas and/or private roads, erosion control or storm water management devices, or other private improvements serving the subdivision. The restrictive covenants, homeowners association bylaws shall provide that no change to the maintenance responsibilities of the homeowners association as described above shall be effective without Town Board approval.
- G. Contain information regarding the nature, extent, design, construction, quantity, location and other relevant characteristics, in such detail as requested by the Town, concerning all planned public or private infrastructure or improvements including, but not limited to, sanitary sewer service, water service, public or private ways and roads, suggested speed limits, cul-de-sacs, intersections and road connection, storm water and erosion control measures, conservation easements, parks, berms, plantings, ponds, streams, paths, lighting, monumentation, outbuildings and all other public or private improvements that may be proposed by a developer or required by then existing state, county or Town statutes, regulations or ordinances.
- H. Address the timing of joint driveway paving, shall require shared maintenance agreements concerning shared driveways and shall address the control and removal of debris and rubbish during initial construction on lots being created.
- I. Require the developer to pay all of the Towns professional fees and expenses related to the developer agreement and review of the proposed subdivision or certified survey map, including but not limited to surveying, engineering, inspection, and attorneys fees incurred in review of the proposed subdivision and preparation and enforcement of the developers agreement.

- J. Provide that no building permits shall be issued for lots in the subdivision or certified survey map until all improvements are installed and accepted by the Town.
- K. Provide that the developer may not sell, transfer or lease any of the property within the subdivision or certified survey map until all of the improvements called for in the developer agreement have been fully and faithfully completed in accordance with the provisions of the developers agreement, and final plat approval has been granted, unless: 1) the Town consents, in writing; or 2) the certified survey map or final plat has been approved and the developer has deposited the necessary financial security with the Town and/or County to guarantee the installation of all improvements called for in the developers agreement.
- L.. Refer to 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 earth moving and public improvements, to be replaced by the developer with accepted bid amounts as soon as available;
 - (7) Homeowner’s 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) Other project-related information as required by the Town.
- M. The developer agreement may also address items not included in this ordinance or otherwise expressly required by law but that are nonetheless mutually agreeable to the developer and the Town and which promote the public health, safety and welfare of the residents and taxpayers of the Town of Gilman. A developer’s refusal to agree to such items if requested by the Town shall not serve as the sole basis for rejection of a plat or certified survey map by the Town.

Section 3 When Developer Agreements Shall Be Executed And Delivered To The Town

- A. For a plat, the developer agreement shall be executed and delivered to the Town Board before preliminary plat approval.
- B. For certified survey maps, the developer agreement shall be executed and delivered to the Town Board before Town Board final approval of the said certified survey map.

- C. Failure to execute and deliver a developer agreement to the Town within 90 days of the time of valid submission of an application to the Town Board for CSM or preliminary plat approval shall be grounds for rejection of the said application by the Town unless the time is extended by written agreement with the developer.

Section 4 Waiver of Developer Agreement requirement

- A. The Town Board may, but is not required to, waive the requirement of a developer agreement in a situation where:
 - 1 The application for subdivision of land complies with the Town’s master plan, with all applicable local and county ordinances and state law, and no variances or rezoning will be required;
 - 2 No significant public or private improvements, facilities or dedication of facilities or areas for public use or common private use among the lot owners will be required by the Town as a result of the development being proposed; and
 - 3 No utilities will be significantly altered.
- B. The Town Board shall have sole discretion in determining whether to waive the requirement of a developer agreement. It shall consider the recommendation of the Plan Commission in making this decision.

ARTICLE VII - Administration and Enforcement

Section 1 Administration.

The administration and enforcement of the provision of this chapter shall be the responsibility of the Town Plan Commission (initial review and recommendations) and Town Board (final review, approval and enforcement).

Section 2 Notice to Adjacent Landowners.

The Town Clerk shall notify adjacent landowners in writing about the proposed subdivision activity and the date of the Town Plan Commission meeting at which the application will first be considered. This notification shall be given at least two weeks before the Plan Commission meeting.

Section 3 Expert Assistance.

The Town Board may hire a consultant(s) (such as Town Engineer, County Highway Commissioner, Town Attorney, etc.) to review the subdivision application and all other applicable documents including but not limited to any certified survey map/plat. The cost of the consultant and all costs incurred in the approval and development of the proposed subdivision shall be deemed for the benefit of the property and shall be paid for by the owner of the property proposed for subdivision and/or the subdivider. If the costs are not paid, the Town shall stop reviewing the application and shall have the authority to certify any unpaid costs against the property proposed for subdivision for collection along with taxes, pursuant to Wis. Stat. 66.0627 .

Section 4 Rule Exception.

A. The Town Board shall hear requests for exceptions from specific provisions of this chapter in instances where strict enforcement would cause undue or unnecessary hardship because of circumstances unique to the individual property under consideration and only when it is demonstrated that the exception would be in keeping with the spirit and intent of this chapter. The Town Board may not grant a rule exception for any use that is not a permitted use or a special use under the terms of any applicable zoning ordinances.

B. In addition to the requirements above, in granting a rule exception the Town Board shall make one or more of the following findings:

- (1) That because of the particular physical surrounding, shape or topographical conditions of the specified parcel of land involved a particular hardship for the owner would result as distinguished from a mere inconvenience if the strict letter of the regulation were carried out.
- (2) That there are exceptional or extraordinary circumstances or conditions applying to the land or building which do not apply generally to land or buildings in the same zoning classification.
- (3) That the purpose of the rule exception is not based exclusively upon a desire to increase the value of the income potential of the parcel of land.
- (4) That granting of the rule exception is necessary for the preservation and enjoyment of substantial property rights of the applicant and the alleged difficulty or hardship caused by this chapter has not been created by any person having an interest in the parcel of land.
- (5) That granting of such rule exception will not, under the circumstances of this particular case, materially adversely affect the health and safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of this particular case, be materially detrimental to the public welfare or injurious to the property or improvements in such neighborhood.
- (6) That granting of such rule exception will serve to eliminate redundancies in submittals also required by Pierce County as part of their approval process.

C. No exception shall be granted to the application of this ordinance to a proposed subdivision subject to this ordinance or to the requirement of filing and recording a plat or certified survey map for subdivision.

Section 5 Enforcement

Any activity which fails to satisfy the standards of this chapter shall be a violation of the chapter, whether or not knowledge of 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 citations and/or 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 \$1,000 per violation. 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 §70.27 of the Wisconsin Statutes whenever the conditions specified in that Section are found to exist.

Section 6 Amendments.

The Town Board may from time to time amend the regulations imposed by this chapter. The Town Board shall hold a public hearing on all proposed amendments as required by § 236.45, Wis. Stats.