

Chapter 235

LAND DIVISION AND SUBDIVISION DEVELOPMENT

[HISTORY: Adopted by the Town Board of the Town of Erin 2-12-1979 by Ord. No. 79-3; as amended through 12-4-1989 by Ord. No. 89-23. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Zoning Administrator — See Ch. 90, Art. II.

Building construction — See Ch. 162.

Zoning — See Ch. 360.

§ 235-1. Intent and purpose.

This chapter is intended to regulate and control the division of land within the Town of Erin in order to promote the public health, safety and general welfare, to encourage the most appropriate use of land, to provide the best possible living environment for people and to conserve the value of buildings placed upon the land by furthering the orderly layout and use of land; insuring proper legal description and proper monumenting of land; preventing overcrowding of land and avoiding undue concentration of population; lessening congestion in the streets and highways; securing safety from fire, flooding, water pollution and other hazards; providing adequate light and air; facilitating adequate provisions for transportation, water, sewerage, schools, parks, playgrounds, open space, stormwater drainage, the conservation of land, natural resources, scenic and historic sites, energy and other public requirements; facilitating further resubdivision of larger parcels into smaller parcels of land; insuring the enforcement of and compliance with the goals, standards, policies and criteria of the Town of Erin Land Use Policy Plan and related components, Chapter 360, Zoning, sanitary codes, established street and highway width map of Washington County and all other applicable county and Town ordinances.

§ 235-2. Abrogation and greater restrictions.

It is not the intent of this chapter to repeal, abrogate, annul, impair or interfere with existing rules and regulations governing the subdivision of land; provided, however, that where this chapter is more restrictive, the provisions of this chapter shall govern.

§ 235-3. Interpretation.

The provisions of this chapter shall 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.

§ 235-4. Nonliability.

The Town of Erin does not guarantee, warrant, or represent that only those areas

designated as flood lands will be subject to periodic inundation and hereby asserts that there is no liability on the part of the Town Board of Supervisors, its agencies, or employees for any flood damages, sanitation problems or structural damage that may occur as a result of, or reliance upon, or conformance with this chapter.

§ 235-5. Title.

The name of this chapter shall be known and cited as the "Land Division and Subdivision Development Ordinance for the Town of Erin."

§ 235-6. Compliance.

No person, firm or corporation shall divide any lands located within the jurisdictional limits of these regulations which results in a subdivision, minor land division or replat as defined herein; no such subdivision, minor land division or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this chapter, and:

- A. Provisions of Chapter 236, Wisconsin Statutes, Chapter 360, Zoning, Washington County Sanitary Ordinance, Washington County Shoreland and Floodplain Ordinances, Established Street and Highway Width Maps, duly approved Town of Erin Land Use Policy Plan or plan components, and all other applicable Town or county ordinances;¹
- B. The rules of the Department of Commerce relating to lot size and lot elevation necessary for proper sanitary conditions in a subdivision not served by a public sewer, where provision for public sewer service has not been made;
- C. The rules of the Department of Transportation relating to provision for the safety of entrance upon and departure from the abutting state trunk highways or connecting highways and for the preservation of the public interest and investment in such highways;
- D. Rules of the Department of Natural Resources setting water quality standards preventing and abating pollution, and regulating development within floodland, wetland and shoreland areas.²

§ 235-7. Definitions.

For the purposes of this chapter, the following definitions shall be used. See § 235-33I for additional definitions.

BERM — A man-made linear mound of earth of uniform height exceeding three feet. The side slopes of a berm are generally of uniform pitch. The purpose of a berm is to block or obscure the view of the interior of a parcel of land from the road or from

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Original Sec. 1.19E, which duplicated language now located in § 235-6A and which previously followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

adjacent lot lines. Berms are prohibited in the Town of Erin. [Added 5-16-2005 by Ord. No. 05-03]

CERTIFIED SURVEY MAP — A map of land split prepared in accordance with § 236.34, Wis. Stats.

COUNTY — Washington County Land Use and Park Department.

CUL-DE-SAC — Minor street closed at one end with turnaround provided for passenger vehicles. See § 235-33I for additional details.

LANDSCAPING BERM — A man-made curvilinear mound of earth with varying height and widths. The landscaping berm's primary function is to provide decorative space for tree and shrub plantings without obscuring the view scape. Landscaping berms for the purpose of individual lot beautification, less than three feet in height, are exempt from the provisions of this chapter. Landscaping berms between three and six feet in height may be approved by the Zoning Administrator. Landscaping berms over six feet in height may be permitted by conditional use permit issued after submittal and review of site plans designed by a landscape architect or professional engineer. Site plans shall be prepared to the standards described in § 360-21 of Chapter 360, Zoning. [Added 5-16-2005 by Ord. No. 05-03³]

MINOR LAND DIVISION — Any division of land other than a subdivision as defined herein, which creates one or more parcels.

PARKWAY — A continuous or semicontinuous park or drive, usually along a watercourse or park, where the land is owned or reserved for public or semipublic purpose and having access to it.

PLAN COMMISSION — The Plan Commission of the Town of Erin established under § 360-75 of Chapter 360, Zoning.⁴

REPLAT — The changing of any interior or exterior boundaries of a recorded subdivision plat.

SUBDIVISION — The division of a lot, parcel or tract of land by the owner thereof, or his agent for the purpose of sale or of building development where:

- A. The act of division creates five or more parcels or building sites of 10 acres each or less in area; or
- B. Five or more building sites of 10 acres each or less in area created by successive divisions within five years.

§ 235-8. Dedication and reservation.

In order that adequate open spaces and sites for public uses may be properly located and preserved as the Town develops; and in order that the costs of providing public park,

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

recreation and open space sites and facilities necessary to serve the additional number of people brought into the community by the subdivision development may be most equitably apportioned on the basis of the additional need created by such developments, the following provisions are established:

- A. The Town Board shall, as a condition for the approval of any certified survey map or subdivision plat for the division of land for development purposes, require the payment of a sum of money for park, playground, recreation and open space purposes.⁵
- B. Where a subdivision abuts a public use area such as a park, lake, stream, hunting grounds or any similar type of public recreational area, the subdivider, at the option of the Town Board, shall provide a pedestrian access easement at least 20 feet wide connecting such public area with a public street at such location as the Plan Commission and Board shall approve.
- C. The land to be dedicated or acquired and the money to be paid in lieu thereof shall be held for such public use by the Town or such agency as it shall create, and all monies received shall be held for the acquisition or capital improvement and maintenance of such areas.
- D. Where the proposed division abuts an existing or proposed state, county, or town road, the subdivider shall be required to dedicate any additional lands abutting the road in accordance with the width as required by the County Established Street and Highway Width Map or any other officially approved plan or ordinance in effect in the area.
- E. The dedication of land for public purposes, such as rights-of-way, parks, school sites and easements, becomes effective at the time of approval and recording of the final plat or map. The acceptance of the constructed roadway for maintenance purposes shall be by separate resolution adopted by the Town of Erin.
- F. Where the lot or parcel for which payment has been once made is further divided, payment shall be required only for the additional residential units created.
- G. No payment shall be required for a parcel on which a permanent residential structure has existed for at least one year prior to the date of the division.
- H. No payment shall be required for any lot or parcel in any recorded map or plat unless the same is further divided into additional home sites.

§ 235-9. Improvements.

Prior to approval of the final plat, the subdivider shall install street and utility improvements or provide a cash payment to the Town in lieu of such improvements. See § 235-38 for additional details.

⁵. Editor's Note: Original § 1.21B, which immediately followed this subsection and dealt with the fee for park, recreation and open space, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

§ 235-10. Land suitability.

- A. No land shall be subdivided for residential use which is deemed by the Town unsuitable for such use for reason of flooding, inadequate drainage, adverse soil or rock formations, unfavorable topography, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision of the community. In applying the provisions of this section, the Town shall, in writing, recite the particular facts upon which it bases its conclusions that the land is not suitable for residential use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter, the Town may affirm, modify or withdraw its determination of unsuitability.
- B. In addition to the above, the following criteria is to be adhered to:
- (1) All lands to be subdivided shall be at least two feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, five feet above the elevation of the maximum flood on record.
 - (2) No building sites shall be created which do not meet the standards as established in Chapter COMM 83 of the Wisconsin Administrative Code and the Washington County Sanitary Code.⁶
 - (3) Any proposed development areas creating more than 50 homesites shall be located in areas that have direct access to county trunk or state trunk highway road systems within the Town.

§ 235-11. Issuance of building permits.

No building or occupancy permits shall be issued for erection of a structure on any lot not of record until all of the requirements of this or any other Town or Washington County ordinance applicable have been met.

§ 235-12. Preapplication.

It is recommended that prior to filing of an application for the approval of a preliminary plat, the subdivider consult with the Town Plan Commission and the Soil Conservation Service in order to obtain its advice and assistance. This consultation is intended to inform the subdivider of the purpose and objectives of these regulations, the Town of Erin Land Use Policy Plan or components thereof, and the duly adopted plan implementation devices of the Town, including Chapter 360, Zoning, the water drainage problems, and to otherwise assist the subdivider in planning his development.

§ 235-13. Preliminary plat review.

- A. Prior to the submittal of a final plat, the subdivider shall file a preliminary plat and a letter of application to the Town along with sufficient number of copies to be forwarded within two days to the following agencies involved with reviewing the

⁶. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

plat:

- (1) Two copies to the Department of Administration, additional copies to be supplied for retransmission of two copies each to the Department of Transportation, if the plat abuts or adjoins a state trunk highway, and the Department of Commerce, if the plat is not to be served with municipal sewers, along with the original copy of the percolation results and soil borings.
 - (2) Two copies to any municipality exercising extraterritorial plat jurisdiction pursuant to §§ 236.02(5), 236.10(1)(b)(2), and 236.12 of the Wisconsin Statutes.⁷
 - (3) Two copies to the Washington County Land Conservation Department and two copies to the Washington County Land Use and Park Department.
 - (4) Four copies to be retained by the Town along with two copies of soil percolation and boring results.
 - (5) One copy to be forwarded to each of the utility companies serving the area. This is to inform the utility companies that there is a pending development in the area. It will be the responsibility of the subdivider and the utility company to arrange for the services needed and their location within the plat.
- B. The Wisconsin Department of Administration, the Wisconsin Department of Transportation and the Wisconsin Department of Commerce shall be hereinafter referred to as "objecting agencies." All other agencies mentioned, excepting the utility companies, shall be hereinafter referred to as "approving agencies." Washington County is an approving and objecting agency.
- C. Within 20 days of the date of receiving the copies of the plat, any agency having objecting authority shall notify the subdivider and all approving and other objecting authorities of any objections which it may have, based upon failure of the plat to comply with the statutes or rules which its examination is authorized to cover. If, within 30 days, there are no objections, it shall so certify on a copy of the plat and return that copy to the approving authority from which it was received. If any objections are made by an objecting authority, a resubmittal of the preliminary plat shall be required with the required corrections noted. Such resubmittal shall be filed as required by Subsection A of this section. If the objecting agency fails to act within the established twenty-day period, it shall be deemed to have no objection to the plat.
- D. After all objections have been formally removed and the plat is so certified by the objecting authorities, the approving agencies may approve the plat upon compliance with all other rules, regulations or plans which are in effect in the area of the plat. This decision shall be made within 90 days of the date of receiving, unless objections are received from any objecting authority. Failure of the Town to act within the prescribed 90 days shall constitute an approval of the plat.

⁷. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- E. Approval of a preliminary plat shall not constitute automatic approval of the final plat, except that if the final plat is submitted within 24 months of the last required preliminary plat approval and conforms substantially to the preliminary plat layout, the final plat may be entitled to approval with respect to such layout, unless conditions in the area of the plat have changed substantially to require an alteration to the plat. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted and as a guide to the preparation of the final plat which will be subject to further consideration by the Town and the county at the time of its submission.⁸

§ 235-14. Final plat review.

The subdivider shall prepare a final plat and a letter of application in accordance with this chapter and shall file an adequate number of copies of the plat and the application with the Town Clerk at least 30 days prior to the meeting of the Town Plan Commission at which action is desired. In addition:

- A. The Town Clerk shall, within two normal workdays after filing, transmit four copies to the Washington County Land Use and Park Department; two copies to Washington County Land Conservation Department; two copies to the Wisconsin Department of Administration; additional copies to the Wisconsin Department of Administration for retransmission of two copies each to the Wisconsin Department of Transportation (if the subdivision abuts or adjoins a state trunk highway or a connecting street); the Wisconsin Department of Commerce (if the subdivision is not served by a public sewer and provision for such service has not been made); and the Wisconsin Department of Natural Resources (if shorelands or floodlands are contained within the proposed subdivision); and the original final plat and an adequate number of copies to the Town Plan Commission.
- B. In lieu of the procedure set forth in Subsection A above, the subdivider may, pursuant to § 236.12(6), Wis. Stats., submit the original drawing of the final plat directly to the Wisconsin Department of Administration who will prepare and forward copies of the plat at the subdivider's expense to the objecting agencies. When the subdivider elects to use this alternative procedure, it is the responsibility of the subdivider to submit sufficient additional copies of the final plat to the Town Clerk for review by the Town Plan Commission.
- C. The Town Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat; any conditions of approval of the preliminary plat; this chapter and all ordinances, rules, regulations, the Town of Erin Land Use Policy Plan, and components thereof, and Chapter 360, Zoning, which may affect it and shall recommend approval, or rejection, of the plat to the Town Board.
- D. Partial platting. If permitted by the Town Board, the approved preliminary plat may be final platted in phases with each phase encompassing only that portion of the approved preliminary plat which the subdivider proposed to report at one time.

⁸. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

However, it is required that each such phase be final platted and be designated as a phase of the approved preliminary plat.

§ 235-15. Final plat approval.

The objecting agencies shall, within 20 days of the date of receiving their copies of the final plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Town Plan Commission. If an objecting agency fails to act within 20 days, it shall be deemed to have no objection to the plat. In addition:

- A. Submission. If the final plat is not submitted within 24 months of the last required approval of the preliminary plat, the Town Board may refuse to approve the final plat.⁹
- B. The county and the Town shall, within 60 days of the date of filing of the final plat, approve or reject such plat unless the time is extended by agreement with the subdivider or unless objections have been filed which would require a formal resubmittal of the plat after the corrections have been made. The Town and county shall examine the final plat as to its conformance with the approved preliminary plat, this chapter and all ordinances, rules, regulations, and other plans which may affect the plat. The final plat may constitute only that portion of the approved preliminary plat which the subdivider proposed to record at that time. The final plat may be rejected if it is not submitted within 24 months of the date of the last required approval of the preliminary plat. No approval by any approving agency can be granted until all formal objections have been satisfied. Failure of any approving agency to act within 60 days, the time not having been extended and no objections having been filed, shall constitute an approval. The necessary certificates shall also be placed upon the original drawing of the final plat and must be signed by all appropriate review agencies prior to recording.¹⁰
- C. Notification. The Town Plan Commission shall, at the time it recommends approval or rejection of a plat to the Town Board, give at least 10 days' prior written notice of its recommendation to the Clerk of any municipality within 1,000 feet of the plat.
- D. Failure of the Town Board to take action on the plat within 60 days, the time having not been extended and no unsatisfied objections having been filed, and all fees payable by the subdivider having been paid, the plat shall be deemed approved.
- E. Recordation. After the final plat has been approved by the county and the Town and required improvements either installed or a contract and sureties insuring their installation is filed, the Town Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed, and the Washington County Land Use and Park Department shall record the plat with the County Register of Deeds.

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- F. Copies. The subdivider shall file five copies of the recorded final plat with the Town Clerk for distribution to the Town Engineer, Building Inspector, Assessor, and other affected departments for their files.

§ 235-16. Replatting.

When it is proposed to replat a recorded subdivision, or part thereof, the Wisconsin Statutes and the provisions of this chapter shall apply.

§ 235-17. Minor land divisions.

Any division of land other than a subdivision as defined herein which creates one or more parcels shall be surveyed and a certified survey map prepared and recorded as provided in § 236.34, Wis. Stats. A plan showing the remaining portion of the parcel, acreage, frontage to public roads, and other information deemed pertinent by the Board shall be provided at the time of application for approval of such minor land division.

- A. Prior to the preparation of the map, it is recommended to first submit the proposed division to the Town for informal preliminary discussion and approval in accordance with this chapter. It shall be reviewed to establish conformity with surrounding existing or proposed developments; adjacent or future streets; schools; other planned public developments; analysis of soil types; topography; drainage; access to any abutting street or highway; conformance with the Established Street and Highway Width Map of Washington County; and generally for the effect the land division would have on the development of surrounding property. If any lots to be divided are not served by municipal sanitary sewer, percolation tests shall be submitted for approval in accordance with the Washington County Sanitary Ordinance and the rules of the Department of Commerce applicable to subdivisions, Chapter COMM 83, Wis. Adm. Code.¹¹
- B. If the Plan Commission determines that the area may have surface water drainage or erosion problems, the Plan Commission must request the written recommendations of the Washington County Soil and Water District Conservationist for the control of surface water and soil erosion.
- C. After preliminary approval has been granted by the Town as to the general land division, the subdivider may proceed to have drawn a certified survey map in accordance with § 236.34, Wis. Stats. The subdivider shall be required to dedicate any street which the Town deems necessary and shall be required to build the street according to Chapter 317, Article II, Road Construction, as amended, and in conformance with this chapter. All other dedications, payments and reservations established by this chapter shall be required of the subdivider.
- D. Four copies of the final certified survey map and four copies of the certified percolation tests shall be submitted to the Town Clerk at least 30 days prior to the meeting of the Town Plan Commission at which action is desired. The Town Clerk shall, within two normal workdays after filing, transmit the copies of the map and

¹¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

appropriate application forms to the Town Plan Commission. The map shall be reviewed by the Town Plan Commission for compliance with this chapter (including design standards and required improvements) and all other ordinances, rules, regulations, the Land Use Policy Plan and components thereof.

- E. The Town Plan Commission shall, within 60 days from the date of filing of the map, recommend approval, conditional approval, or rejection of the map and shall submit the map along with its recommendations to the Town Board.
- F. The Town board shall approve, approve conditionally and thereby require resubmission of a corrected map, or reject such map within 90 days of its submission to the Town Plan Commission, unless the time is extended by agreement with the subdivider. The reason for conditional approval or for rejection shall be recorded in the minutes and a letter detailing the action taken shall be sent to the applicant. If the map is approved, the Town Board shall adopt a resolution to that effect and this resolution shall be certified by the Town Clerk on the original of the certified survey map.¹²
- G. After Town approval, the original of the certified survey map shall be reviewed by the Washington County Land Use and Park Department, if required, and shall conform to the requirements of § 236.34, Wis. Stats. The recording fee, as established by statute, shall also be filed in the form of a check or money order made out to the County Register of Deeds.
- H. If the Town Board fails to act within 90 days of filing and the time has not been extended by mutual agreement between the Town and the applicant, the plat shall be deemed approved, and, upon demand, a certificate to the effect shall be made on the face of the original of the certified survey map by the Town Clerk.¹³
- I. The Town Board, in making its decision to approve, approve conditionally, or reject the certified survey map, shall base its action on whether or not the map complies with all provisions of this chapter, Chapter 360, Zoning, the Land Use Policy Plan, and all other applicable Town ordinances and regulations.
- J. The certified survey map shall show correctly on its face, in addition to the information required by § 236.34, Wis. Stats., all information listed on the certified survey map checklist in addition to the following:
 - (1) The location of environmental corridors.
 - (2) The location of critical watersheds.
 - (3) The Plan Commission may require that additional information be provided when necessary for the proper review and consideration of the map.
- K. The certified survey map checklist is intended to be used by the Town Board, Town Plan Commission and any consultants when reviewing certified survey maps. The

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

checklist is available at the office of the Town Clerk.¹⁴

§ 235-18. Plat data.

A preliminary plat shall be required for all subdivisions (as defined herein) and shall be based upon a survey by a registered land surveyor or engineer and the plat prepared on tracing cloth or paper of good quality at a scale of not less than 200 feet to the inch and shall show correctly on its face the following information:

- A. Title under which the proposed subdivision is to be recorded.
- B. Location of proposed subdivision by government lot, quarter section, Township, range, county and state.
- C. Date, scale, North arrow.
- D. Names and addresses of the owner, subdivider and land surveyor preparing the plat.
- E. Land contiguous to the proposed plat owned or controlled by the subdivider shall be included on the preliminary plat even though only a portion of said area is proposed for immediate development.
- F. The distance and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in U.S. Public Land Survey and the total acreage encompassed thereby.
- G. Contour at vertical intervals of not more than two feet; where ground slopes exceed 10%, five-foot vertical intervals will be sufficient. Where possible, elevations should be based on mean sea level datum.
- H. High water elevation of all ponds, streams, lakes, flowage, and wetlands based upon mean sea level datum. Floodland and shoreland boundaries shall be delineated and the contour line lying a vertical distance of two feet above the elevation of the one-hundred-year recurrence interval floor, or where such data is not available, five feet above the maximum flood on record or a known high water elevation.
- I. Location and names of any adjacent developments and/or property along with the location, established and existing width of all roads and names of all existing streets, alleys, or other public ways, easements, railroad and utility rights-of-way and easements and all section and quarter section lines in the immediate area of the plat. The type, width, and elevation of existing street pavements within or adjacent to the proposed development together with any legally established center line elevations referred to mean sea level datum.
- J. Location, size and invert elevation of any existing sanitary or storm sewers, culverts, and drain pipes, the locations of manholes, catch basins, hydrants, electric power and telephone poles or underground installations, location and size of any existing water and gas mains within the area of the plat or adjacent thereto. If no sewers, water mains or other utility facilities are located on or immediately adjacent

14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

to the tract, the nearest such facilities which might be extended to serve the tract shall be indicated by their direction and distance from the tract, their size and invert elevation.

- K. Location of all existing property boundary lines, structures, drives, streams or watercourses, marshes, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto.
- L. Surface drainage plans for the area within the proposed subdivision to protect the lands in and adjoining the subdivision from surface water and soil erosion and as required by Washington County ordinance, the written recommendations of the Washington County Soil and Water District Conservationist for the control of surface water and soil erosion.
- M. The scaled dimensions of all lots, proposed open space dedication, drainageways, or other public use areas such as shopping centers, church sites, group housings, or other nonpublic uses that do not require lotting.
- N. Existing zoning on and adjacent to the proposed subdivision along with the corporate limit lines.
- O. Proposed lake and stream access in the subdivision along with any improvement or relocation of the lake or stream.
- P. Soil types, slopes and boundaries as shown on the soil survey maps prepared by the Soil Conservation Service, US Department of Agriculture.
- Q. Location of critical watersheds, environmental corridors and DNR mapped wetlands.
- R. Any additional information required by the county or Town.

§ 235-19. Street plans and profiles.

It shall be required that the subdivider prepare and submit street plans and profiles to the Town for its recommendation and/or approval prior to submittal of the final plat. These plans and profiles shall show existing ground surface, proposed and established street grades, and profiles, including extensions for a reasonable distance beyond the boundary of the proposed subdivision. Refer to § 235-33 and Chapter 317, Article II, Road Construction, for additional details.

§ 235-20. Soil tests. ¹⁵

The Town may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to groundwater or bedrock. These provisions may be in addition to the requirements of Chapter COMM 83 of the Wisconsin Administrative Codes, and shall be submitted for review with the preliminary

15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

plat.

§ 235-21. Protective covenants.

Protective covenants may be required whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development. The plat shall be accompanied by a draft of proposed protective covenants which shall include the following requirements:

- A. The first floor grade of every building shall be at least 1 1/2 feet above the center line profile of the adjoining street or highway, unless, because of natural terrain, the lower setting is approved by the Building Inspector. In the case of newly constructed streets, the center line profile shall be the grade approved by the Town Board. In the case of existing streets, or highways, the center line profile shall be the recommended center line profile proposed by the surveyor for the subdivider.
- B. The type and style of the buildings which may be erected on each lot.
- C. The proposed front setback line for each lot.¹⁶
- D. The sewage disposal facilities to be constructed on each lot shall conform to the requirements of the Washington County Sanitary Ordinance, the Washington County Floodplain Ordinance, and Chapter H65 of the Wisconsin Administrative Code, whichever shall be more restrictive.
- E. The owner of each parcel of land or lot must make application for a driveway access permit to a public road and must provide and install an iron galvanized culvert, the design, location and construction requirements therefore shall be specified on such permit form as prescribed by the Town Board. Refer to § 235-33D through H for additional details.
- F. Private roads and drives may be allowed as per § 360-12D, Private roads and drives, of Chapter 360, Zoning.
- G. New driveways installed after August 28, 1989, shall not be less than 10 feet from all lot lines. This provision does not apply to replacing an existing driveway.
- H. Road maintenance standards for all private roads shall be recorded in the deed of each parcel served by such roads. It shall be specified in the deed that each property owner served by a private road shall be held liable for ensuring that such roads are maintained in conformance with the standards specified in the recorded deed. Road maintenance standards must be reviewed and approved by the Town before the final plat or certified survey map is approved and recorded.
- I. All private roads shall be maintained at a level which will allow for adequate access by emergency vehicles.
- J. No building shall be constructed on a parcel unless the parcel is provided with vehicular access by an abutting public or private street.

¹⁶. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- K. All private roads shall be platted as outlots. Every outlot designated as for a private road shall have deed restrictions recorded with the County Register of Deeds, giving enforcement powers to the Town of Erin, before a building permit will be issued for a structure on any lot served by said private road.
- (1) The deed restriction shall require the landowners served by the private road to provide for maintenance of the road to Town road standards.
 - (2) If the property owners do not fulfill their obligations, then the deed restrictions shall give full authority to the Town to fulfill those conditions, and then assess all costs associated with said action, including legal fees, if any, to the property owners served by the road.
 - (3) Each property served by a private road shall have deed restrictions recorded indicating their responsibility for the private road and outlot.

§ 235-22. Certification of preliminary plat.

The surveyor or engineer preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land division and features, and that he has fully complied with the provisions of this chapter.

§ 235-23. General requirements for final plat.

A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of § 236.20, Wis. Stats.

§ 235-24. Additional information for final plat.

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

- A. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat shall be adequately identified.
- B. Special restrictions as may be required by the Town or the Washington County Land Use and Park Department.
- C. Each lot must have a minimum of 1 1/2 acres of buildable site and a certified percolation test.
- D. Floodland and shoreland boundaries and the contour line lying a vertical distance of two feet above the elevation of the one-hundred-year reoccurrence interval flood, or, where such data is not available, a vertical distance of five feet above the elevation of the maximum flood of record.
- E. Location of critical watersheds, environmental corridors and DNR mapped wetlands.
- F. Any additional information required by the Town or the Washington County Land Use and Park Department.

§ 235-25. Net density standards.

The rules and regulations of § 360-35, Net density standards, of Chapter 360, Zoning, shall apply to all subdivisions and certified surveys in the Town of Erin.

§ 235-26. Certification and monumentation.

Survey accuracy and monumenting shall comply with § 236.15, Wis. Stats. Certification shall be included as required by § 236.21, Wis. Stats.; and, in addition, the surveyor shall certify that he has fully complied with all the provisions of this chapter.

§ 235-27. Certificates for final plat.

All final plats shall provide all the certificates required by § 236.25(2)(c) and (d), Wis. Stats.; and, in addition, the surveyor shall certify that he has fully complied with all the provisions of this chapter.

§ 235-28. Certified survey map.

A certified survey map prepared by a registered surveyor shall be required for all minor land divisions. It shall comply in all respects with the requirements of § 236.34, Wis. Stats., and § 235-17, Minor land divisions, of this chapter. Any improvements necessary for proper use of the subject parcels shall be required as specified by this chapter.

§ 235-29. Additional information for certified survey map.

The certified survey map shall show correctly on its face, in addition to the information required by § 236.34, Wis. Stats., the following:

- A. All existing buildings, watercourses, drainage ditches, and other features pertinent to proper division.
- B. Minimum setbacks or building lines as required by Town of Erin Building Ordinance.
- C. All lands being dedicated and/or reserved for future acquisition.
- D. Date, scale, and names and addresses of surveyor, owner, and subdivider.
- E. Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowage, and wetlands.
- F. Floodland and shoreland boundaries and the contour line at a vertical distance of two feet above the elevation of the one-hundred-year recurrence interval flood or where such data is not available, at a vertical distance of five feet above the elevation of the maximum flood of record.
- G. Acreage of each lot.
- H. The location of critical watersheds, environmental corridors and DNR mapped wetlands.

- I. Any additional information as may be required by the county or the Town.

§ 235-30. Certificates for certified survey map.

The surveyor shall certify on the face of the map that he has fully complied with all the provisions of this chapter. The Town shall also certify its approval on the face of the map. Dedication of streets and other public areas shall require the owner's certificate and the mortgagee's certificate in substantially the same form as required by § 236.21(2)(a), Wis. Stats.

§ 235-31. Recordation.

The final plat and the original certified survey map shall be recorded with the County Register of Deeds after all the required certificates are placed thereon.

§ 235-32. General requirements for subdivision.

The proposed subdivision shall conform to the provisions of Ch. 236, Wis. Stats.; all applicable ordinances of the Town, including the Town of Erin Land Use Policy Plan and Chapter 360, Zoning; and design and construction standards as established by this chapter and/or Chapter 162, Building Construction, and standards.

§ 235-33. Street design.

General considerations:

- A. Arrangement. In any new subdivision, the street layout shall conform to the arrangement, width, and location indicated on the Official Map, including the Town of Erin Land Use Policy Plan, the Established Street and Highway Width Map of Washington County, or the component neighborhood development plan of the governmental unit. In areas for which such plans have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. The subdivision shall be designed so as to provide each lot with satisfactory access to a public street. Streets should be designed to fit the natural features of the site, to preserve features such as topography, vegetative cover and the natural drainage system.
- B. Construction standards. All streets to be constructed shall conform to the minimum construction requirements of the Town of Erin. However, no construction shall begin until all approving authorities have approved the preliminary plat.
- C. Street construction specifications. The following are the minimum requirements for the construction and acceptance of Town streets in the Town of Erin:
 - (1) All profiles of streets are to be submitted to the Town Engineer for approval prior to proceeding with any street grading operations. Street grades shall

conform to the Town Subdivision Ordinance.

- (2) The center of the roadbed shall be on the center line of the land dedicated for road purposes. The grade of said roadbed shall conform to the approved profiles. On dead-end streets (culs-de-sac), a turnaround of one-hundred-twenty-foot diameter shall be provided with a forty-five-foot radius surfaced top. Temporary culs-de-sac shall be surfaced to a width determined by the Town Board. When land developed adjoins a temporary cul-de-sac, it shall be the responsibility of the developer to remove the temporary cul-de-sac to create a continuous roadway.
- (3) Prior to the request for street inspection for acceptance by the Town, the subdivider shall furnish the Town Engineer a written certification from the subdivider's surveyors stating that the streets conform to the grades as indicated on the profile maps which have been approved.
- (4) When grading operations are completed on any Town street and prior to placement of any gravel, the Town Engineer shall be notified five working days in advance to inspect the roadbed and determine if the roadbed is ready for gravel.
- (5) Streets shall be constructed as per typical street cross section for the Town of Erin, Exhibit A.¹⁷
 - (a) Subgrade preparation.
 - [1] Remove unstable material such as topsoil, muck soil and peat.
 - [2] Rock to be excavated to a point at least 20 inches below finished grade of roads and eight inches below ditch grades. Undrained pockets in the rock shall be drained before the base material is installed.
 - [3] The road ditches shall be constructed as per typical street cross-section, Exhibit A.
 - (b) Base material.
 - [1] Road subgrade shall be surfaced with five inches of compacted one-and-one-half-inch crushed lime stone or, if permitted by the Town, 1 1/2 inches of crushed gravel, containing at least 60% crushed stone for the first application.
 - [2] The second application shall be five inches of compacted three-fourths-inch crushed gravel containing at least 60% crushed stone. If additional gravel is required in the judgment of the Town Board or Town Engineer to stabilize the road, the same shall be furnished and installed to the satisfaction of the Town before acceptance at no cost to the Town.

¹⁷. Editor's Note: Exhibit A is on file at the Town Clerk's office.

[3] If gradation tests are necessary for acceptance by the Town, such testing shall be done at the developer's expense.

(c) Road surface.

[1] A two-inch-thick bituminous concrete base course, gradation No. 2 per Wisconsin State Highway Commission Specifications, shall be applied.

[2] The bituminous materials used shall be asphalt type AC having a penetration of 85-100 at 77° F.

[3] Bituminous materials for the base course shall be 4% to 6% of the composite mix unless otherwise specified by the Town.

[4] The first shoulder application as shown on the Town's typical cross section shall then be applied, compacted in place and dust-proofed with one application of SCO at 0.25 gallon per square yard. This material shall consist of three-fourths-inch crushed gravel.

[5] After one year, the developer shall correct defects in road or subbase and then install a two-inch-thick bituminous concrete surface course, gradation No. 4, per Wisconsin State Highway Commission Specifications.

[6] Bituminous material for this course shall be 5% to 8% of the composite mix unless otherwise specified by the Town.

[7] The final shoulder application as shown on the Town's typical cross section shall then be applied, compacted in place and dust-proofed with one application of SCO at 0.35 gallon per square yard. This material shall consist of three-eighths-inch limestone chips or three-fourths-inch maximum size limestone traffic bound material as specified by the Town.

- (6) Streets will not be accepted by the Town before May 1 or after November 1 except by permission of the Town Engineer.
- (7) The Town Board shall have final acceptance of any Town street. Before final acceptance of any Town street, the owner or developer must furnish sufficient proof to the Town as the Town Board may require that all costs for the street construction have been paid for by said owner or developer.
- (8) The cost of all engineering work, street signs, culvert posts and guard rails, as required by the Town, shall be paid by the developer. Street names must be of Irish origin.
- (9) The developer shall execute a surety bond or letter of credit to the Town to be approved by the Town Attorney for the entire construction of the proposed roads and ditches. The bond or letter of credit shall include all construction along with all applications as required above and it shall be in an amount determined as adequate by the Town. This bond shall remain in effect until

approval of said roads has been given by the Town.

- (10) Zoning Ordinance. The plat shall conform in every respect to the requirements of Chapter 360, Zoning, that have jurisdiction over the area where such plat is located. The plat shall show the width and center line profile of all those streets proposed to be dedicated.
 - (11) Land Use Policy Plan. The plat shall conform in every respect to the goals, standards, policies, and criteria of the Town of Erin Land Use Policy Plan.
 - (12) Plats abutting the Kettle Moraine Scenic Drive must include a deed restriction that the removal of vegetation along the perimeter of the site fronting the roadway will be minimized.
- D. Culvert installation and roadway access. No person shall make any excavation or fill or install any culvert or make any other alteration in any Town highway or in any manner disturb any highway without an access permit therefor from the Town Board of Erin.
- (1) Application.
 - (a) Every application for a permit for excavation or fill, installation of a culvert, or any other alteration in any Town highway shall be upon forms provided by the Zoning Administrator and shall be accompanied by such surveys, drawings or other material and information as may be required by the Town Board in the filing of the application. Any requests for a permit for excavation or fill, installation of a culvert or any other alteration on other than Town highways shall be obtained from the highway authority maintaining the highway.
 - (b) Following the filing of permit application, the Zoning Administrator shall refer it to the Town Board or its designee for its review and recommendation of the work proposed on the permit. The recommendations of the Town Board or its designee shall be that the permit be granted subject to specific terms and conditions or that it be denied.
 - (2) Limitations and standards.
 - (a) No access to a roadway shall be permitted within 100 feet of the intersection of the right-of-way lines on an arterial street intersecting with another arterial street, or within 50 feet of the intersection of the right-of-way lines of any other street intersecting with an arterial street.
 - (b) In acting upon applications for access permits the Town Board or its designee shall, giving due regard to road surfaces, topography, visual obstructions, road grades, speed limits, traffic patterns and the development of nearby areas, determine whether the proposed access location is consistent with public safety, sound planning principles and the logical extension of roads and public service.

- (3) Culvert size. All culverts, drain pipes, or other similar conduits placed on, in and along the public right-of-way of the Town road to provide private driveway access or for any other reason shall be of sufficient size and constructed in such manner and of such materials as to provide adequate provision for the flowage of water naturally accumulating or flowing along the ditches and rights-of-way of such roads. Such culverts shall not be less than 15 inches in diameter and shall be of sufficient length so as to prevent injury to persons or property in the use of the roadways or the entrances to or exits from the roadways over and across such culverts, provided that no culvert shall be less than 24 feet nor more than 40 feet in length. The Town Board is vested with the authority to determine the size and length of the culvert required in excess of the minimums herein prescribed. End culvert pieces or sections, when required, shall be of the type designated by the Town Board.
 - (4) Driveway openings shall be separated by a minimum distance of 30 feet and shall be at least 15 feet from any lot line.
 - (5) Where, due to particular circumstances, the Town Board determines that the culvert is not needed at the time of initial approval but may be needed at a future time, the Town Board may postpone the requirements for a culvert, provided that the property owner gives the Town, pursuant to § 66.0627, Wis. Stats., an acceptable waiver and consent for the imposition and collection of special charges related to the future installation of such culvert.¹⁸
- E. Culvert installation. The Town shall provide and install each culvert placed in the right-of-way of a Town road. The culvert shall be installed in accordance with the access permit and with sufficient gravel placed thereon to afford safe ingress and egress prior to the use thereof.
- F. Repairs and replacement of existing culverts. The Town Board shall investigate existing culverts or other drainpipes placed within the right-of-way of the Town roads and, if it determines that an existing culvert is not properly maintained, has deteriorated or been damaged so as to impede the proper flowage of water, it may order the culvert to be repaired or to remove same and replace it with a culvert meeting the requirements of this chapter.
- G. Road or right-of-way damage.
- (1) The permit holder shall be liable for all damages to the road surface or any portion of the road right-of-way which may result from any ingress or egress of the culvert, or any portion of the right-of-way abutting the property described on the permit.
 - (2) If any culvert is installed or any excavation, fill or any other alteration is made in violation of this chapter, the highway may be restored to its former condition by the Town and cost of materials, labor, and equipment incurred by

18. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

the Town shall be billed to the abutting property owner and, if not paid within 30 days, shall be a special assessment to be collected as a tax against the real estate property.

- (3) All debris carried onto any Town highway shall be removed by the responsible party immediately or be subject to the provisions of § 86.07, Wis. Stats.

H. Culvert fees.

- (1) Every application for an access permit shall be accompanied by a fee, as established by the Town Board in the Town Fee Schedule, to cover administration expenses, including an inspection of the location of the proposed access.¹⁹
- (2) Upon approval, the applicant shall pay a fee, as established by the Town Board in the Town Fee Schedule, for the normal installation of a fifteen-inch-by-twenty-four-foot culvert. An additional cost shall be assessed for all installations in excess of the minimum herein described.²⁰
- (3) The property owner shall pay the actual costs for the repair or replacement of an existing culvert as ordered by the Town Board.²¹

I. Street classifications.

ARTERIAL STREETS — Provide for efficient, safe, and direct connection to, or separation of, neighborhoods; for circulation to destination outside the residential area.

- (1) Where a subdivision or minor land division abuts or contains an existing or proposed major highway of primary classification, the Commission may require a frontage road, or a nonaccess reservation along the property contiguous to such highway, or other treatment as may be necessary for adequate protection of residential properties and to separate minor and arterial traffic.
- (2) Where the proposed subdivision or minor land division abuts the arterial street, the width as required on the Established Street and Highway Width Map shall be dedicated. If the division abuts only one side of the arterial, 1/2 of the width as required shall be dedicated. Where the division abuts both sides of the arterial, the entire width, as required, shall be dedicated.

COLLECTOR STREETS — Provide for circulation to serve local traffic moving between minor streets and arterial streets.

MINOR STREETS — Provide access and service to abutting properties.

19. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

20. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

21. Editor's Note: Original Sec. 1.46, Subsection I, Penalties, which previously followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now § 235-43, Violations and penalties.

CUL-DE-SAC — Designed as permanent installation and not to be extended at any time, shall normally not be longer than 600 feet, except where topographical and particular conditions warrant an extension and will be subject to approval of the Plan Commission and the Town Board. The closed end shall have a paved turning diameter of at least 90 feet and a right-of-way diameter of 120 feet.

ALLEYS — Alleys shall be provided in commercial and industrial districts, except that the Commission may waive this requirement, where other provisions are made for service access, such as off-street loading and parking adequate for the uses proposed. Alleys shall be prohibited in residential areas unless necessary because of exceptional circumstances. Dead-end alleys shall be avoided. Alleys shall have a minimum of 30 feet.

HALF STREETS — Streets which are only a portion of the required width and are usually platted along property lines. These half streets shall be prohibited, except where it is deemed essential for the reasonable development of the subdivision in conformity with the other requirements of these regulations and where the Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided, the other half of the street shall be platted within such tract.

J. Street width.

- (1) The right-of-way of all streets shall be no less than 66 feet.
- (2) Existing street grades. The plat shall show the location, width, and existing, and recommended center line profiles of all existing streets, or highways within a distance of 1,320 feet from the boundaries of said plat or from the boundaries of the forty-acre, quarter-quarter section, if the property being platted does not include all of the quarter-quarter section of which it is a part.
- (3) All materials and major streets shall comply with the requirements of the Established Street and Highway Width Map of Washington County.

K. Street grades. The grades of collector streets shall not exceed 8%, while minor streets shall not exceed 12%, unless necessitated by exceptional topography and approved by the Town in unusual areas where topography or natural conditions warrant.

L. Sight distances. Proper sight distances must be provided with respect to both horizontal and vertical alignment. Measured along the center line, five feet above grade, this sight distance must be 500 feet for arterials, 300 feet for collectors, and 100 feet for minor streets.

M. Curves. The minimum radii, or curvature on the center line shall be 300 feet for collectors, and 100 feet for minor streets. A tangent shall be introduced between reverse curves and shall be at least 100 feet long on collector streets.

N. Street names. Street names shall be required for all proposed public streets and shall not duplicate, or be confused with, the name of an existing street within the county. Streets that are extensions, or that are proposed to be aligned with existing named streets, must bear the names of these streets. Street signs shall be provided and erected by the subdivider at all intersections, and shall be of a standard design used

by the municipality. The subdivider shall be responsible, further, for providing and the erection of any other traffic directional and warning signs as prescribed by the Wisconsin Uniform State Traffic Signing Manual. Street names must be of Irish origin.

§ 235-34. Intersection design.

- A. Streets shall intersect at right angles, and not more than two streets shall intersect at one point.
- B. Intersections must be approached on all sides by grades not to exceed 4% for a distance of at least 50 feet in length, unless exceptional topography would prohibit these grades.
- C. The minimum turning radius at an intersection shall not be less than 40 feet.
- D. Intersection visibility requirements. At all intersections of streets or alleys, no fence, hedge, wall, sign or other structure shall be erected, placed, planted or allowed to grow in such a manner as to impede more than 10% of the vision area between a height of 2 1/2 feet and 10 feet above the established intersection of streets or alleys in the area bounded by the street lines and a line joining points along said street lines 150 feet from the point of intersection. In the case of major streets and highways, intersecting with other arterial streets or railways, the corner cutoff distances establishing a triangular vision clearance space shall be increased to 250 feet. Intersection visibility triangles shall be specified and shown on the final plat.
- E. If a proposed street is to enter a town, county, or state arterial, and it is deemed a hazardous entrance by the governing body having jurisdiction over the road, it will be the responsibility of the subdivider to correct the potential hazard through an agreement with the governing body, or else relocate the proposed entrance to a more suitable location.
- F. The following distances between intersections must be observed:
 - (1) Minor and collector streets may not empty into state and federal highways at intervals less than 1,300 feet and into arterials less than 1,000 feet. They shall be in alignment with existing and planned streets entering the above highways from the opposite side. The plat must show that each street or highway provided in said plat will make a direct connection with all existing streets or highways in adjoining plats, or properties, and will make connection by a street, or extension, with all streets, or highways within a distance of 1,320 feet from the boundaries of said plat.
 - (2) If the intersections on minor and collector streets are not in alignments, the distance between streets opening up on opposite sides of any existing, or proposed, streets must be at least 150 feet measured along the intersecting center line. Where the streets enter on the same side, the intersection distances measured from the center line shall be at least 300 feet.

§ 235-35. Blocks and lots.

- A. The length, width, and shapes of blocks shall be determined by provisions for building sites suitable to meet the needs of the type of use contemplated; Zoning Ordinance requirements pertaining to lot size and dimensions; needs for convenient access; circulation, control and safety of street traffic; limitation and opportunities of topography. Block length shall normally not exceed 2,000 feet or be less than 600 feet in length.
- B. The dimensions of the lots must conform to Chapter 360, Zoning. Corner lots shall be 20% wider than the one-hundred-fifty-foot minimum width. Where the required minimum average width of lots is greater than 150 feet, corner lots shall not be required to be increased in width.
- C. All lots must abut a public street for at least 66 feet. However, under special conditions a private road may be utilized in accordance with § 360-12D of Chapter 360, Zoning.
- D. Lot lines shall be a right angle, or radial to the street lines. Double frontage shall be avoided, except where essential to provide separation of the development from traffic arteries or to overcome particular topographic and orientation disadvantages. Where residential lots abut a railroad right-of-way, arterial highway, commercial, or industrial district, additional depth shall be provided for the lot in an amount equal to at least 20% of the minimum depth which would normally be required. All lots shall be designed with a suitable proportion between width and depth. Neither long, narrow, or wide, shallow lots are normally desirable. Depth of lots shall not be less than 200 feet.
- E. Where a tract of land is divided into lots that abut agricultural lands, the subdivider shall be responsible for construction of a legal fence. Such a fence shall be maintained by the owners of the individual lot unless written agreement to the contrary is presented to the Town Board for consideration and approval.²²
- F. Lots created in environmental corridors shall be configured to respect the natural land forms and woodlands so that the natural system is preserved.
- G. Within environmental corridors, any construction of driveways and houses shall be designed to minimize the removal of trees and other natural vegetation.
- H. All new subdivisions on unwooded or highly exposed parcels of land may be approved on the condition that deed restrictions on each lot in the subdivision require the planting of deciduous and evergreen trees on each lot, and a landscape zone should be planned into the development so that the visual quality of the Town of Erin is preserved. The standards for landscape zones are:
 - (1) The Town Plan Commission may require, at its discretion, that newly created subdivisions which are highly visible from public rights-of-way and/or highly scenic areas within the Town, such as Holy Hill and the Loew's Lake

22. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Preservation Area, include specific plans for integrating the proposed development into the natural landscape of the Town. A plan for a landscape screen must be reviewed and approved by the Town before the subdivision is recorded. This review shall consider potential overhanging of trees across property lines at maturity of trees.

- (a) The developer has two options for fulfilling the landscape screening requirement:
 - [1] The developer shall construct a landscape screen on the perimeter of the subdivision at the time the subdivision is created; or
 - [2] The developer shall require that each parcel on the perimeter of the subdivision include a landscape screen. The landscape screen shall be constructed on each parcel on the perimeter of the subdivision before the construction of buildings on these parcels occurs. It shall be the responsibility of the subdivider to ensure that the landscape screen is constructed by individual parcel owners in the subdivision.
 - (b) Regardless of whether the developer chooses the option in Subsection H(1)(a)[1] or [2] above, he/she must guarantee, in the form of a bond, deed restriction or covenant, that the landscape integrating landscape screen requirement will be fulfilled prior to the construction of any buildings on parcels on the perimeter of the subdivision. The bond, deed restriction or covenant must be reviewed and approved by the Town Plan Commission before the subdivision is recorded.
- (2) The landscape screen must include vegetation of a size and type that will disrupt views of residential homes within the subdivision from areas outside of the subdivision. Further, the landscape screen must ultimately blend into the natural landscape of the Town. The landscape screen must include a mixture of deciduous and evergreen trees that will provide year-round screening. The Town may consult with a landscape architect or forester in reviewing the landscape screen plan of a proposed subdivision. The cost of this consultation will be billed to the developer.
 - (3) Existing vegetation shall be preserved to the greatest extent possible when developing a new subdivision.
 - (4) One deciduous tree shall be planted and maintained every 50 feet by the developer or purchaser of the land in the street yard of each lot in a newly created subdivision if that subdivision is unwooded or highly visible (as determined by the Town Plan Commission) from public rights-of-way or scenic areas within the Town. These trees shall be 1 1/2 inch caliper at the time of planting.
- I. Notwithstanding any other Town of Erin land use regulations to the contrary, no more than two flag lots shall be permitted to abut each other at the roadway and the overall density for adjoining flag lots shall be 6.5 acres for a total of 13 acres. The

minimum lot size for one of the flag lots shall be 1.5 acres. Modification to lot configuration and clustering of house building sites may be allowed, provided that:
[Added 3-15-1999]

- (1) A conditional use permit is required by the Plan Commission.
- (2) The number of building sites or land divisions does not increase above that which is reasonably obtainable with strict adherence to the design standards in this chapter. This does not mean the hypothetical maximum, but means what is economically and prudently reasonable with the site and land features. This number of lots shall be conceptually approved and recommended by the Plan Commission and recommended to the Town Board, and is final and not appealable.
- (3) Conservation easements, deed restrictions, common lands, parks, or other such preservation methods may be used to prohibit future land divisions or achieve the benefit to the community.
- (4) When economic benefit or hardship is the issue, it must be with (or to) the land and surrounding area. Economic benefit to the land developer or a developer's hardship is not cause for approval consideration.

§ 235-36. Easements.

- A. Pedestrian easements or dedications, at least 20 feet in width, shall be required where deemed necessary to provide access to playgrounds, parks, schools, shopping centers, or other community facilities.
- B. Utility easements shall be provided as may be deemed necessary by those utility companies having installations in the plat. The utility companies shall review all plats to determine whether easements will be necessary and where they should be required.
- C. Where a subdivision is traversed by a drainageway or stream, an adequate easement shall be provided as deemed necessary by the Town Engineer. The location, width, alignment, and improvement of such drainageway or easement shall be subject to approval by the Town Engineer or the county, and parallel streets or parkways may be required in connection therewith. Where necessary, stormwater drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically accommodate maximum potential volumes of flow, subject to review and approval by the Town Engineer. Where deemed necessary, the Town may require these channels to be enclosed with pipe.
- D. Cross easements allowing frontage road access between businesses may be required, as deemed necessary, by the Town Plan Commission so that clustering of commercial development can be facilitated.

§ 235-37. Survey monuments.

The subdivider shall install survey monuments in accordance with the requirements of §

236.15, Wis. Stats.

§ 235-38. Required installation for subdivisions.

Prior to final approval by the Town, the subdivider will provide and dedicate the following facilities and improvements, all of which facilities and improvements must be installed or provided for within the time required by the Town Board as defined in § 235-33 of this chapter and show proof of compliance with applicable ordinances of Washington County:

- A. Streets graded and surfaced according to the standards of the local municipality along with the street right-of-way as established by this chapter.
- B. Deposit for repairs. Prior to the acceptance of the final plat by the Town Board, the subdivider shall deposit with the Treasurer of the Town a sum of money equal to \$0.50 per linear foot of streets to be accepted by the Town as a part of the acceptance of such plat and to be held by the Town as a fund against which to charge the expenses of repairs which the Town is required to make to such streets in such subdivision within 12 months from the date of acceptance of the plat. The decision of the Town Board shall be final and, at the end of such twelve-month period, any money remaining in such fund and not used for repairs shall be refunded to the subdivider.
- C. Facilities for distribution of electric, telephone and gas utility service located within a subdivision shall be installed underground except where the Town finds that adverse soil conditions or problems of utility distribution make such installation prohibitively expensive or impractical. Transformer junction boxes, meter points, or similar equipment may be installed upon the ground surface. Any landscape screening plan required for such aboveground equipment shall be submitted to the Town for approval.
- D. Payment to contractors. The subdivider shall furnish the Town Board evidence of all the contractors who have furnished labor, equipment, or materials for work done on any plat, including the roads therein, that the same have been paid or adequate provision is made for payment in full before the final plat shall be accepted.
- E. All open cuts or ground shall be topsoiled to a depth of four inches and seeded or turfing in a manner as to prevent excessive water runoff or erosion and sedimentation on adjoining lands. As soon as grading and cutting are complete, the developer shall plant grass, rye or sod in order to reduce excessive erosion and runoff. In no case shall more than 10 acres of soil be exposed at one time nor any bare soil be left exposed for more than four months.
- F. In the event the aforesaid facilities and improvements have not been fully installed at the time the plat is submitted to the local municipality for final approval, the subdivider shall file with the local Clerk a cash bond approved by the Town to amply cover the cost of completing said facilities and improvements in an amount deemed adequate by the Town.
- G. All other improvements to be installed shall be at the direction of the Town or in

accordance with local ordinances.

- H. The adequacy of such facilities and improvements and their proper installation shall be subject to approval of the Town prior to approval of the final plat. Such approval or recommendation for approval by the Town shall be submitted to the county prior to final approval by the county. Construction or installation of improvements shall not commence until the preliminary plat and the construction plans have been approved by all agencies having authority to review the plat. All work or improvements to the subdivision shall also be subject to inspection by the Town to determine conformance with any applicable requirements.
- I. Stormwater runoff from new development within the watershed which drains into Druid Lake shall be detained on site. Further, stormwater runoff on newly developed lands shall not exceed the amount of stormwater runoff on these lands prior to the time they were developed. If it is not possible to detain water on site, downstream improvements to the channel may be required of the developer to prevent flooding caused by the project. The natural state of watercourses, swales, floodways or right-of-way shall be preserved as nearly as possible. The design period is the fifty-year storm.
- J. Special attention shall be given to soil erosion prevention measures during construction within new subdivisions. It is recommended that all development plans be reviewed by the Soil Conservation Service. In cases where special problems related to soil erosion or stormwater drainage may arise, the Town may require review by a professional consultant selected by the Town and paid for by the applicant as per § 235-44G and H of this chapter.

§ 235-39. General considerations.

Where the Town finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variation will not have the effect of nullifying the intent and purpose of these regulations and any development plans of any municipal agency.

§ 235-40. Other conditions.

In granting variances and modifications from these regulations, the Town Plan Commission and Town Board may require such other conditions which will, in its judgment, secure the objectives of this chapter.

§ 235-41. Planned development.

The standards and requirements of these regulations may be modified by the Town Board in the case of a plan and program for a group housing project, a complete community or a neighborhood unit which, in the judgment of the Town Plan Commission, provides adequate public spaces and improvements for circulation, recreation, light, air, and service needs of the tract when fully developed and populated and which also assures conformity with the zoning regulations of the municipality in which the development

occurs.

§ 235-42. Single-family cluster subdivision. [Added 10-17-2005 by Ord. No. 05-12]

A. Purpose and intent.

- (1) It is the purpose and intent of this section of the Town of Erin Land and Subdivision Development Ordinance to enhance community character through the preservation of open space within residential developments; minimize the environmental and visual impacts of new development on critical natural resources and historically and culturally significant sites and structures; provide an interconnected network of permanent open space; encourage a more efficient form of development that consumes less open land and conforms to existing topography and natural features; reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation; permit clustering of houses and structures which will reduce the amount of infrastructure, including paved surfaces and utility lines; and provide flexibility for creativity in developments.
- (2) This district is intended to provide for the development of agricultural and other open space at least 40 acres (or a quarter-quarter, whichever is smaller) in area into single-family residential lots and subdivisions at a gross density that does not exceed one dwelling unit per five or seven acres (subject to local density requirement), with a minimum lot size of 1.5 acres and a maximum lot size of three acres.
- (3) The general conditions and requirements that apply to all subdivisions are covered elsewhere in this chapter. This section will generally cover the exceptions that are specific to cluster subdivisions.

B. Permitted principal uses.

- (1) Single-family dwelling units with attached or detached garages.
- (2) Existing single-family farmstead dwellings.

C. Conditional uses.

- (1) Other agricultural or recreational uses occurring on open space areas or outlots requiring the installation of buildings, structures, or other facilities, or grading or other land disturbing activities resulting in a total amount of land disturbance greater than the maximum allowed in this district. These uses are permitted only with permission of the Town Board.
- (2) Commercial storage contained within barns or other agricultural structures existing on the effective date of this section, in order to provide for an adaptive and compatible reuse or promote the preservation of such structures.
- (3) Home occupations as provided for in Chapter 360, Zoning.

D. Parcel size and lot size.

- (1) The development of individual residential lots shall be limited to parcels within this district that are not less than 40 gross acres (or a quarter-quarter, whichever is smaller). Existing rights-of-way shall not be included in the determination of gross parcel size.
 - (2) Lot sizes may vary between a minimum of 1.5 acres and a maximum of three acres.
- E. Building setbacks, yards, building coverage, and lot disturbance. A minimum two-hundred-foot setback or buffer yard is required between the right-of-way lines for all state, county and existing Town roads and the nearest property line of all developed lots.
- F. Open space requirements.
- (1) The outlot shall be preserved as open space in one or more open space areas that are either designated, dedicated, reserved, or restricted for public or private use or enjoyment by property owners and/or occupants of adjoining land. Said open space shall not include areas required for public highways, roads or streets.
 - (2) Open space areas shall be comprised of:
 - (a) Undevelopable and indivisible outlots owned in equal undivided interest by the owners of the other lots or parcels within the subdivision plat or certified survey map (CSM) as tenants in common (see Subsection G, Open space area ownership and maintenance requirements, herein) and designated as such on the subdivision plat or certified survey map (CSM) for the parcel being developed and in the deed of conveyance for each lot or parcel; and/or
 - (b) Portions of lots or parcels under individual ownership within the development that are deed restricted against further development, division and for perpetual open space or natural resource protection, agricultural, and/or recreation use, provided:
 - [1] Said deed restricted open space areas shall not include those portions of a lot or parcel required for yards or building setbacks;
 - [2] The allowance for open space areas on individual lots or parcels is proposed to accommodate an agricultural operation or activity or a recreational use.
- G. Open space area ownership and maintenance requirements.
- (1) Open space areas may be dedicated to and accepted by the Town if said open space areas are contained in an adopted park/open space/conservancy plan.
 - (2) Unless otherwise dedicated to the Town for public use as required herein, all open space areas counted toward the satisfaction of the minimum open space requirements shall be subject to conservation and/or other open space preservation easements regulating the protection of said open space areas from

further development and/or division. Such easements shall be reflected on the subdivision plat or certified survey map (CSM) and contained in a restrictive covenant or other legal instrument reviewed and approved by legal counsel for the Town. Said instruments shall ensure that all such easements are held privately and in perpetuity by the individual property owner and a nonprofit membership corporation or other legal entity, e.g., homeowners' association, and that the developer, individual property owner, or other legal entity is responsible for the ownership, perpetuation, care, and maintenance of all such open space areas.

- (3) Said instrument shall legally describe and identify as to location, size, and use of the open space area(s) subject to the conservation or other open space preservation easement, compulsory membership and compulsory assessment provisions for all property owners within the subdivision (when applicable) for the perpetual care and maintenance of said open space area(s).
- (4) Once a legal instrument for permanent protection has been placed upon the open space, the Town of Erin Tax Assessor shall reassess the value of the open space according to state classifications with the limitation of the development restrictions in mind.

H. Cluster development design criteria. The design and layout of residential lots or parcels and open space outlots should to the greatest extent possible satisfy the following:

- (1) Individual lots, parcels and outlots shall be designed and arranged to minimize the destruction or alteration of natural resource features located within the parcel(s) proposed for development. In order of priority, open space outlots should include the following natural resource, open space and agricultural features in whole or in combination in order to maximize preservation of the Town's rural character:
 - (a) Lakes, ponds, rivers, streams, wetlands, shorelands and floodplains.
 - (b) Woodlots and forests.
 - (c) Steep slopes (greater than 12%).
 - (d) Other areas located within environmental corridors as designated on the Town's Land Use Plan Map.
 - (e) Other areas comprised of wet, poorly drained and organic soils.
 - (f) Prairies.
 - (g) Primary, secondary and other farmlands as designated in the Washington County Farmland Preservation Plan.
 - (h) Other drainage and stormwater facilities.
- (2) Open space areas should be designed and arranged as contiguous areas.

- (3) Open space areas to be owned in common by all lot owners within the development should be designed and arranged to:
 - (a) Provide a perimeter buffer not less than 50 feet in width between residential lots within the subdivision and adjoining property.
 - (b) Provide for the continuation between existing and future open space areas on adjoining properties.
 - (c) Provide at least one pedestrian-type accessway or easement from each public subdivision street to each open space area within the development that is not less than 30 feet in width.
 - (d) Provide a minimum open space buffer not less than 200 feet in width between the nearest property line for any residential lot and all state, county and existing Town roads.
 - (e) Provide a minimum open space buffer not less than the following between the nearest property lines for any residential lot and the perimeter boundary of all wetlands currently inventoried and designated by the Wisconsin Department of Natural Resources (DNR), Army Corps of Engineers (ACOE), and/or Wisconsin Natural Resources Conservation Service (NRCS):
 - [1] Isolated wetlands: 50 feet.
 - [2] Connected wetlands: 75 feet.
- (4) Residential lots should be arranged within the parcel(s) being developed in order to:
 - (a) Minimize potential conflicts with adjoining agricultural uses and operations.
 - (b) Minimize the number of abutting residential lots so that no more than two lots abut any other lot.
 - (c) Ensure that individual lots abut an open space and that every lot shall have access to all open spaces within the development.
- (5) Individual lots, parcels and outlots should be designed and arranged to minimize the amount of land required for additional public roads while providing for the future extension of public streets to adjoining vacant land.
- (6) Roads within the subdivision will all be public roads and must meet Town specifications or engineered equivalency. The Plan Commission would have the ability to modify road widths within the cluster subdivision.
- (7) Culs-de-sac. Consistent with the design and layout of cluster subdivisions, the length of culs-de-sac may exceed 600 feet, subject to the approval of the Plan Commission and the Town Board.

I. Incentives. Developers who opt to develop a cluster subdivision would be granted a

density bonus of 10% (rounded to the nearest whole number), equivalent to a minimum of one additional lot that could be created from a given parcel that meets the minimum-size requirement (forty acres or a quarter-quarter, whichever is smaller).

J. Application process.

- (1) Preapplication meeting with the Town's Zoning Administrator to discuss the property subject of the proposed development, the Town's zoning requirements, the review process and fee schedule, as well as other review agencies and their review and approval requirements.
- (2) The developer should come to this session with a very rough sketch plan.
- (3) Site resource inventory prepared by developer. This should include generalized soil types, designated wetlands, steep slopes, topography, environmental corridors, existing roads, easements, significant historic, architectural features, unique land features, etc.
- (4) Do a site walk with as many of the following officials who can attend a scheduled "walkabout" at an assigned date and time: Town Board, Plan Commission, Town Planner/Engineer, DNR official, County Planner, DOT/Highway, SEWRPC. The purpose of this "walkabout" is to familiarize the staff with the subject property and to identify any features, characteristics or issues that may need special attention or study as the application process proceeds.
- (5) Presubmittal conference between developer and Zoning Administrator. Following completion of the above, the plan may be submitted to the Plan Commission for conceptual approval. A public hearing is scheduled at this stage.
- (6) Covenant restrictions pertaining to the outlot shall be submitted to the Plan Commission and Town Board for review and approval.

K. Ownership. Each lot shall have an undivided fractional interest in the open space, the numerator of which shall be one and the denominator of which shall be the total number of lots in the declaration. All deeds and other conveyances of any lot shall be deemed to include such undivided interest in the open space.

L. Duties and responsibilities of the association.

- (1) The duties and responsibilities of the association shall be as follows:
 - (a) To provide for the maintenance of the improvements in the open space, including the stormwater management and drainage facilities located within the open space. This work shall be performed in accordance with written guidelines and standards established by the developer, as well as generally accepted sound maintenance practices.
 - (b) To establish rules and regulations governing the use and enjoyment of the open space.

- (c) To enforce the provisions of the subdivision declaration.
 - (d) To grant utility and drainage easements.
 - (e) To levy and collect assessments, with each owner paying a pro rata share of the total.
- (2) The association agreement will be enforced by the Town, if needed, and any expenses billed back to the property owners.

§ 235-43. Violations and penalties.

- A. It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this chapter or the Wisconsin Statutes, and no person, firm or corporation shall be issued a zoning or building permit authorizing the building upon, or improvement of any subdivision, minor land division or replat within the jurisdiction of this chapter which is not of record as of the effective date of this chapter until the provisions and requirements of this chapter are fully met.
- B. Any person, firm or corporation who fails to comply with the provisions of these regulations shall, upon conviction thereof, forfeit not less than \$25, nor more than \$200 and the cost of prosecution for each violation and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.²³

§ 235-44. Fees.

The subdivider shall pay to the Town all fees as hereinafter required and at the times specified.

- A. Preliminary plat review fee. To assist in defraying the cost of review, the subdivider shall (at the time of first application for approval of any preliminary plat) pay a fee as established by the Town Board in the Town Fee Schedule. A reapplication fee as established by the Town Board in the Town Fee Schedule shall be paid at the time of reapplication for approval of any preliminary plat which has been previously reviewed.²⁴
- B. Certified survey map review fee.²⁵
- (1) A preliminary or proposed certified survey map review fee as established by the Town Board in the Town Fee Schedule to defray the cost of review shall be paid by the person(s) requesting the land division at the time of presentation.
 - (2) To assist in defraying the costs of review, the subdivider shall (at the time of

23. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

24. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

25. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

application for approval of a certified survey map) pay a fee as established by the Town Board in the Town Fee Schedule.

- C. Improvement review fee. The subdivider shall pay a fee equal to the actual cost to the approving authorities for checking and reviewing all improvement plans and specifications.
- D. Inspection fee. The subdivider shall pay a fee equal to the actual cost to the approving authorities having jurisdiction for such inspections deemed necessary to assure that the construction of the required improvements are in compliance with the plans, specifications and ordinances of the approving authority having jurisdiction or any other governmental authority.
- E. Final plat review fee. To assist in defraying the cost of the Town Plan Commission, the Town Board and the Town Attorney in reviewing said plat or map, the subdivider shall (at the time of first application for approval of said plat) pay an amount as established by the Town Board in the Town Fee Schedule in addition to the fees provided elsewhere in this chapter. A reapplication fee as established by the Town Board in the Town Fee Schedule shall be paid at the time of reapplication for approval of any final plat which has previously been reviewed.²⁶
- F. Engineering fee. The subdivider shall pay a fee equal to the actual cost to the approving authority having jurisdiction for all engineering work incurred by the approving authority having jurisdiction in connection with the plat. The minimum fee shall be as established by the Town Board in the Town Fee Schedule. Engineering work shall include the preparation of construction plans and standard specifications. The approving authority having jurisdiction may permit the subdivider to furnish all, some or part of the required construction plans and specifications, in which case no engineering fees shall be levied for such plans and specifications.²⁷
- G. Administrative fee. The land divider shall pay a fee equal to the cost of any legal, administrative or fiscal work which may be undertaken by the Town in connection with the plat or certified survey map. Legal work shall include the drafting of contracts between the Town and the subdivider. These fees may also include the cost of obtaining professional opinions, including, but not limited to, attorneys, engineers, landscape architects, and land planners, requested by the Town Board or Plan Commission in connection with the land division being considered.
- H. Engineering, inspection, legal, and consulting fees. The developer shall pay all engineering, inspection, consulting and legal fees incurred by the Town for services performed by or on behalf of the Town in conjunction with the design, inspection and review of any preliminary plat, certified survey, final plat or contract, with the drafting of legal documents and with such inspections as the Town Engineer deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications, and ordinances of the Town or any other

26. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

27. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

governmental authority. Consulting, engineering, inspection and legal fees shall be actual costs to the Town. Such fees may be billed and paid monthly. The Town may withhold building permits until the bill has been paid or a payment schedule has been arranged.

§ 235-45. Amendments.

The Town Board may, upon recommendation of the Town Plan Commission, amend, supplement, or repeal any of these regulations after notice and public hearing.