

TITLE 14

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CHAPTER 75

LAND DIVISION AND SUBDIVISION REGULATIONS

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LAND DIVISION AND SUBDIVISION REGULATIONS

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[History: renum. from ch. 28, 12/04/74.]

State Law Reference: Chapter 236, Sections 59.69 and 144.26, Wis. Stats.

75.01 AUTHORITY. These regulations are adopted under the authority granted by section 236.45 of the Wis. Stats.

[History: am., OA 35, 1996-97, pub. 03/14/97; am., OA 3, 1997-98, pub. 10/20/97.]

75.02 PURPOSE AND INTENT. The purpose of this chapter is to promote the public health, safety and general welfare of the county, and it is designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision for transportation, water, sewerage, surface drainage, schools, parks, playgrounds and other public requirements; and, to facilitate the further re-subdivision of larger parcels into smaller parcels of land.

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

75.04 REPEAL. All other ordinances or parts of ordinances of Dane County inconsistent or in conflict with this chapter, to the extent of inconsistency or conflict only, are hereby repealed.

75.05 TITLE. This chapter shall be entitled the "Land Division and Subdivision Regulations, Dane County, Wisconsin".

75.06 DEFINITIONS. For the purpose of this chapter certain words or phrases used herein are defined as follows:

(1) *Certified survey map.* A map of land division, not a subdivision, prepared in accordance with section 236.34 of the Wis. Stats. and in full compliance with the applicable provision of this chapter. A certified survey map has the same legal force and effect as a subdivision plat.

- (2) *Committee.* The Dane County Zoning and Land Regulation Committee, or successor committee.
- (3) *Easement.* An easement is a non-possessory permanent interest in land that gives the holder the right to use land owned by another for a specific use, without profit.
- (4) *Extraterritorial plat approval jurisdiction.* The unincorporated area within three (3) miles of the city limits of a city of the first, second or third class if the city has a subdivision ordinance or official map, or within one and one half (1½) miles of the corporate limits of a city of the fourth class or a village, if the city or village has a subdivision ordinance or official map.
- (5) *Land divider.* Any person, firm, corporation or other entity requesting review or action on a land division.
- (6) *Land division.* A division of a parcel of land which is not a subdivision and which creates less than five lots, parcels or building sites of 35 acres each or less in area, regardless of whether the act of division also creates one or more lots, parcels or building sites on 35 acres or more.
- (7) *Master plan.* A plan for guiding and shaping the growth or development of Dane County, or of a community or area in Dane County, which has been adopted by a governmental unit of Dane County and whose preparation is authorized by the Wis. Stats.
- (8) *Official map.* A map indicating the location, width, extent of the existing and proposed streets, highways, parkways, parks and playgrounds adopted by the municipalities in Dane County, in accordance with section 62.23(6) of the Wis. Stats.
- (9) *Parcel.* Contiguous lands under the control of a subdivider or subdividers not separated by streets, highways or railroad rights-of-way.
- (10) *Plat.* A map of a subdivision.
- (10a) *Shared Driveway Easement.* An easement between two or more property owners that declares a portion of land to serve as a shared driveway.
- (10b) *Shared Driveway Easement Agreement.* A written agreement between two or more property owners that specifies each owner's rights and responsibilities regarding the creation, use and maintenance of a shared driveway easement.
- (11) *Shoreland area.* All lands within 300 feet of a shoreline of navigable rivers or streams and 1,000 feet of the shoreline of navigable lakes and ponds or flowages to the landward side of the flood plain, whichever is greater. For the purpose of this chapter, the term *navigable waters* applies to all nonintermittent streams indicated on the 7.5 minute series of the United States Geological Survey Quadrangles, all lakes and all ponds over 15 acres in surface area as listed in "Surface Water Resources of Dane County," published by the Wisconsin Conservation Commission, 1961.
- (12) *Street.* A public way for vehicular or pedestrian and vehicular traffic.
- (a) *Arterial streets and highways:* streets which provide for rapid movement of concentrated volumes of traffic over relatively long distances between the activity areas.
- (b) *Principal arterials:* streets serving the major interstate and interregional traffic corridors. These routes provide the highest level of mobility under a high degree of access control.
- (c) *Primary arterials:* streets serving major regions or connecting several significant cities and intercommunity corridors within the metropolitan area. These routes provide for a high degree of mobility under a high degree of access control.

- (d) *Standard arterials*: streets which more commonly provide for intermediate length trips, thus serving through traffic movement in trade areas or feeding traffic to the primary and principal arterials from lower activity areas not served by such routes.
- (e) *Collector streets*: streets which provide for moderate speed movement within large areas. They are basically local streets which usually, because of more directness of routing and higher capacity than other local streets, receive higher volumes of traffic to be distributed from or collected toward nearby arterial streets.
- (f) *Connectors*: streets which perform a semi-arterial function as well as serving as distribution and land access streets.
- (g) *Distributors*: streets which gather and distribute traffic from and to the local streets and adjacent lands.
- (h) *Local streets*: streets designed for low speeds and volumes which provide access from low traffic generating areas to collector and arterial streets.
- (i) *Marginal access streets*: streets which are parallel and adjacent to arterial streets and highways and which provide access to abutting properties.
- (j) *Alleys*: streets which provide secondary means of access for vehicular services to the back or side of property otherwise abutting a street.
- (k) *Cul-de-sac streets*: streets closed at one end with turn-arounds.
- (L) *Dead-end streets*: streets closed at one end without turn-arounds.
- (13) *Subdivider*. Any person, firm, corporation or other entity requesting review or action on a subdivision.
- (14) *Subdivision*. A division of a parcel of land where the act of division creates either:
- (a) Five or more lots, parcels or building sites of 35 acres each or less in area; or
- (b) Five or more lots, parcels or building sites of 35 acres each or less in area by successive divisions within a period of five years.
- (c) All area calculations are to be exclusive of any dedications, rights-of-way, easements or reservations.
- (15) *Subdivision, Type I*. A subdivision located outside of a town sanitary district or a utility district or a subdivision located within such a district in which sanitary sewer facilities will not be available within two (2) years from the date of the submission of the final plat.
- (16) *Subdivision, Type II*. A subdivision located within a town sanitary district or utility district in which public sanitary sewer facilities are available or will be available within two (2) years from the date of the submission of the final plat.
- (17) *Utility easement*. An easement to place, replace, maintain or move utility facilities.
- (18) *Lot*. A land area of 35 acres or less.
- [History: (2) am., Sub. 1 to OA 20, 1990-91, pub. 01/03/91; (3) rep., OA 3, 1997-98, pub. 10/20/97; (6), (14) and (18) am., OA 32, 1997-98, pub. 04/30/98; (2) am., (3), (10a), and (10b) cr., OA 12, 2013-14, pub. 09/24/13.]

75.07 JURISDICTION IN UNINCORPORATED AREAS. The provisions of this chapter shall apply in all unincorporated areas of Dane County.

[History: 75.08 resc., 21 OA-9, pub. 7/6/21.]

75.09 COMPLIANCE WITH ORDINANCES, STATUTES, REGULATIONS AND PLANS. Any subdivider dividing land which results in a subdivision shall prepare a plat of the subdivision. Any land divider dividing land which results in a land division shall prepare a certified survey map. Any such plat or certified survey map shall be prepared in accordance with the requirements of this chapter and with any of the following which may be applicable:

- (1) The provisions of chapter 236 and section 80.08 of the Wis. Stats.
- (2) The rules of the division of health contained in Wis. Admin. Code chapter H 65, if the subdivision is not served by public sewer.
- (3) The rules of the division of highways, Wisconsin State Department of Transportation contained in Wis. Admin. Code chapter Hy 33, if the subdivision abuts a state trunk highway or connecting street.
- (4) The rules of the Wisconsin Department of Natural Resources contained in Wis. Admin. Code chapter NR 116 for flood plain management program.
- (5) All county ordinances and regulations.
- (6) All master plans and master plan components.
- (7) The official maps of any municipality or governmental unit having jurisdiction.
- (8) The rules and bylaws of the State of Wisconsin Department of Regulation and Licensing.

75.10 DEDICATION OF LANDS FOR STREETS AND PUBLIC WAYS. Whenever a parcel to be divided as a subdivision or as a land division contains all or in part, a street, drainageway or other public way, which has been designated in a master plan or in an official map adopted under section 62.23 of the Wis. Stats., such street or public way may be required to be platted and dedicated in the location and width indicated in the master plan or official map, unless otherwise provided in this chapter.

75.11 DEDICATION OF LANDS FOR PUBLIC RECREATION WITHIN RESIDENTIAL PLATS.

- (1) *Dedication as a condition of plat approval.* The committee shall require the dedication of land or monies in lieu of land for public recreation purposes as follows:
 - (a) The subdivider shall designate on every new preliminary plat of a residential subdivision, an area of land suitable for park or playground purposes, and shall dedicate said land to the public where the town agrees to accept the land. The amount of land to be provided shall be at least 1,750 square feet of land for each proposed residential dwelling unit within the plat. However, the total amount of land dedicated for public purposes or otherwise provided for meeting the objections of sections 75.10 and 75.11 need not exceed one-third (1/3) of the total (gross) area of the plat.
 - (b) Where the town agrees to accept money for park or recreation purposes in lieu of land, the specific amount of money shall be set as a general standard by the respective town board, but in no case should the minimum amount be less than the last official equalized value of the required public land area (1,750 square feet of land for each proposed residential dwelling unit within the plat).

75.12 RESERVATION OF LANDS FOR PARKS, PLAYGROUNDS, SCHOOL SITES OR PUBLIC SITES. Whenever a parcel to be divided as a subdivision or a land division contains all or in part a site which has been designated on a master plan or official map as a park, playground, school site or other public site and the area of the site shown in the master plan or the official map is greater than the area, if any, required by section 75.11, the excess area shall be reserved for a period of two (2) years from the date of approval of the final plat or certified survey map for acquisition by the governing body or other appropriate agency having the authority to purchase the property.

75.13 LAND SUITABILITY. No land shall be divided or subdivided for a use which is held unsuitable by the committee for reason of flooding or potential flooding, soil limitations, inadequate drainage, incompatible surrounding land use or any other condition likely to be harmful to the health, safety or welfare of the future residents or users of the area, or harmful to the community or the county.

(1) Information required. Except as provided herein, the committee shall determine such unsuitability at the time the preliminary plat is considered for approval under this chapter. The subdivider shall furnish such maps, data and information as may be necessary to make a determination of land suitability. In addition to the data required to be submitted with the preliminary plat, the subdivider may be required to submit some or all of the following additional information for development located in an area where flooding or potential flooding may be a hazard:

(a) Two copies of an aerial photograph or two maps prepared by a registered land surveyor or engineer, which, in either case, accurately shows the location of the proposed development with respect to:

1. flood plain zoning district limits, if present,
2. channel or stream fill limits and elevations, and
3. flood proofing measures taken or proposed to be taken.

(b) Two copies of a typical valley cross-section showing:

1. the channel of the stream,
2. the flood plain adjoining each side of the channel,
3. cross-sectional area to be occupied by the proposed development, and
4. high water information.

(c) Two copies of a profile showing the slope of the bottom of the channel or flow line of the stream.

(d) Such other data as may be required.

(2) Division of environmental protection assistance. When a proposed subdivision is located in an area where flooding or potential flooding may be a hazard, the committee shall transmit to the division of environmental protection, Wisconsin Department of Natural Resources, one set of the information required and shall request that agency to provide technical assistance in determining whether the land is suitable or unsuitable for the use and development proposed and, if unsuitable, whether certain modifications, limitations, improvements or other conditions on the development can overcome the land suitability.

(3) Committee decision. In applying the provisions of this section, the committee shall, in writing, recite the particular facts upon which it bases its conclusion that the land is unsuitable for the intended use or development and afford the subdivider an opportunity

to present evidence and the means of overcoming such unsuitability, if he or she so desires. Thereafter, the committee may affirm, modify or withdraw its determination of unsuitability.

(4) *Flood areas.* Where a proposed subdivision is located wholly or partly in an area where flooding or potential flooding may be a hazard, the committee shall apply the following standards in addition to all other requirements in the approval of plats and certified survey maps:

(a) The development shall be in accordance with flood plain management standards of the division of environmental protection, Wisconsin Department of Natural Resources.

(b) Building sites must be filled to a height and area sufficient to provide protection from the regional flood as defined by and according to the standards of said division of environmental protection.

(c) It shall be assumed that the development will be carried out so as to not have an adverse effect on flood flows or storage capacity of the flood plain, as determined in accordance with standards of said division of environmental protection.

(4m) *Airport affected areas.* Where a proposed subdivision is located wholly or partly within an airport affected area as set forth in s. 78.11, D.C. Ords., the committee shall require, as a condition of its approval, the following notation be placed on the plat or certified survey map which creates the subdivision: "Lands covered by this [plat] [certified survey map] are located within an area subject to heightened noise levels emanating from the operation of aircraft and equipment from a nearby airport."

(4n) *Airport height limitation zones.* Where a proposed subdivision is located wholly or partly within an area subject to height limitations, as set forth in s. 78.03, D.C. Ords., the committee shall require, as a condition of its approval, the following notation be placed on the plat or certified survey map which creates the subdivision: "Lands covered by this [plat] [certified survey map] are within an area subject to height limitations owing to the operation of aircraft and equipment from a nearby airport. Owners of lands within the area covered by this [plat] [certified survey map] are required by law to restrict the height of trees, other vegetation and man-made structures to less than the height limitations set forth in that certain map dated April 24, 2008, entitled 'Height Limitation Zoning Map, Dane County Regional Truax Field, Madison, Wisconsin', said map being on file in the Dane County Clerk's office."

(5) The subdivider, as a part of the pre-application procedures, may request a determination of land suitability providing that he or she shall provide all necessary maps, data and information needed for such a determination.

(6) The subdivider may appeal the determination of land suitability as provided by section 62.23(7)(e)10-15 of the Wisconsin Statutes.

[History: (4m) and (4n) cr., Sub. 1 to OA 35, 1999-2000, pub. 08/11/00; (4n) am., OA 14, 2008-09, pub. 10/02/08.]

[Note: Article 2 of Sub. 1 to OA 35, 1999-2000, provided as follows: "The amendment(s) made by Article 1 shall first be applied to plats and certified survey maps pending but not yet approved as of the day after publication of this adopted amendment."]

75.14 EXCEPTIONS. The provisions of this chapter shall not apply to:

- (1)** Transfers of interests in land by will or pursuant to court order;
- (2)** Leases for a term not to exceed 10 years, mortgages or easements; or

(3) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this chapter, the zoning ordinance (chapter 10) or other applicable laws or ordinances.

75.15 PRELIMINARY PLAT.

(1) *Pre-application procedure.* Prior to filing an application for approval of a preliminary plat, the subdivider shall consult with the staff of the committee for advice and assistance and for the purpose of reviewing the procedures and requirements of this chapter and other ordinances and any plans or data which may affect the proposed development.

(2) *Procedure.*

(a) *Application.* Prior to submitting a final plat for approval, the subdivider shall prepare a preliminary plat and file a written application for its approval with the committee. The application shall include all data required by this chapter and shall be accompanied by ten copies of the plat.

(b) *Coverage of preliminary plat.* The preliminary plat shall cover the entire contiguous area owned or controlled by the subdivider even if only a portion is proposed for development.

(c) *Committee decision.* The committee shall, within 90 days from the date submitted, approve, approve conditionally or reject the preliminary plat based on a determination as to its conformance with the provisions of this chapter, unless the time is extended by agreement with the subdivider. Failure of the committee to act within the 90 days, or extension thereof, constitutes an approval of the preliminary plat. The committee shall forward one copy of the plat to the town in which the proposed plat is located. Additionally, where applicable, the committee shall forward one copy of the plat to the municipality having extraterritorial jurisdiction granted by section 236.10(1)(b)2 of the Wisconsin Statutes.

(3) *Plat and data submission requirements.* Each preliminary plat shall be based upon a survey by a registered land surveyor at a scale of not more than 100 feet to one inch and shall show correctly on its face:

(a) The date, graphic scale and north point.

(b) The name of the proposed subdivision.

(c) The name, address and telephone number of the person to be contacted regarding the plat.

(d) The location of the proposed subdivision by government lot, quarter section, section, township, range and county.

(e) A scaled drawing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey, and the total acreage encompassed thereby.

(f) The location and names of adjacent subdivisions, parks and cemeteries.

(g) The location, right-of-way width and names of any existing or proposed streets, alleys or other public ways, easements and railroad and utility rights-of-way included within or adjacent to the proposed subdivision.

- (h) The location of existing property lines, buildings, drives, streams and water courses, lakes, marshes, rock outcrops, wooded areas and other similar significant features within the parcel being subdivided.
- (i) The water elevations of adjoining lakes or streams at the date of the survey and approximate high and low water elevations.
- (j) The contours at vertical intervals of not more than two (2) feet for a slope less than 5% and five (5) feet for a slope of 5% or more.
- (k) The location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainage ways or other public uses, or which are to be used for group housing, shopping centers, church sites or other uses not requiring lotting.
- (L) All existing and proposed land use and zoning included within or adjacent to the proposed subdivision.
- (m) Approximate dimensions of all lots and lot and block numbers.
- (n) When requested by the committee, a draft of a protective covenant whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development.

[History: (2)((b) and (c) am., OA 3, 1997-98, pub. 10/20/97.]

75.16 FINAL PLATS.

- (1) *Procedures.* If the preliminary plat has been approved or been approved conditionally, the subdivider may submit ten (10) copies of the final plat, together with payment to the county surveyor's office of an amount sufficient to cover the cost of printing six copies of the recorded plat. All improvements required by this chapter shall be made or guaranteed in a manner described in section 75.20 of this chapter. If the final plat meets the requirements of this chapter, if it has been submitted within six months from the approval date of the preliminary plat and if, in the case of preliminary plats given conditional approval, the conditions have been met, the committee shall approve the final plat of the subdivision within sixty (60) days from the date submitted.
- (2) *Requirements.* All final plats shall comply with the requirements of chapter 236 of the Wisconsin Statutes.

75.17 CERTIFIED SURVEY MAPS.

- (1) *Procedure.*
- (a) *Application.* Any land divider who shall divide land located in an unincorporated area of Dane County which results in a land division shall prepare a certified survey map in accordance with section 236.34 of the Wisconsin Statutes and all of the requirements in this chapter which may apply. All certified survey maps shall be submitted to the committee for approval and shall, after approval, be recorded in the office of the Dane County Register of Deeds.
- (b) *Committee decision.* The committee shall, within thirty (30) working days after submission, approve, approve conditionally, or reject the certified survey map based on a determination as to its conformance with the provisions of this chapter. Authority to approve certified survey maps may be delegated by the committee to the planning staff serving the committee. In the event of rejection or conditional approval, the land divider may appeal the decision of the planning staff to the committee.

(2) *Preliminary plat requirement.* A preliminary plat, prepared in accordance with section 75.15, shall be submitted for review and approval prior to an approval of a certified survey map unless the preliminary plat requirement is specifically waived by the committee.

(3) *Data submission requirements.* Each certified survey map shall be prepared by a registered land surveyor at a scale of not more than 400 feet to one inch. The certified survey map shall be submitted by a letter of transmittal enclosing six (6) copies of the map. All certified survey maps shall include:

(a) The name and address of the individual dividing the lands.

(b) The date of the survey.

(c) A metes and bounds description referenced to a line and a corner of the U.S. Public Land Survey, or referenced to an adjoining recorded plat.

(d) The locations, rights-of-way widths and names of existing or proposed streets, alleys or other public way; easements and railroad and utility rights-of-way included within or adjacent to the proposed land division.

(e) The locations of existing property lines, buildings, drives, streams and water courses, lakes, marshes and other significant features within the parcel(s) being created. Buildings or structures and their locations on the parcels shall be dimensioned to the nearest 0.1 foot where the locations of such buildings or structures will be critical in relation to proposed property boundaries or to zoning yard requirements.

(f) The area(s) of the parcel(s) being created.

(g) Utility easements where requested.

(h) The approximate locations of existing on-site sewage disposal systems.

(i) Access restrictions where applicable.

(j) When dedication of lands is required, a governmental jurisdiction certificate of acceptance provided legibly on the face of the map.

(k) When dedication of lands is required, an owner's certificate of dedication prepared in accordance with section 236.34(1)(e) of the Wisconsin Statutes provided legibly on the face of the map.

(L) The following certificate provided legibly on the face of the map: "Approved for recording per Dane County Zoning and Land Regulation Committee action of _____, by _____, Authorized Representative."

(m) The following certificate provided legibly on the face of the map: "As owners we certify that we caused the land described on this certified survey map to be surveyed, divided, mapped and dedicated as represented on this certified survey map. We also certify that this certified survey map is required by sec. 75.17(1)(a), Dane County Code of Ordinances, to be submitted to the Dane County Zoning and Land Regulation Committee." The certificate shall be signed by the owner, the owner's spouse and all persons holding an interest in the fee of record or by being in possession and, if the land is mortgaged, by the mortgagee of record and the signatures shall be authenticated or acknowledged in accordance with s. 706.06 or s. 706.07, Wis. Stats.

[History: (1)(b) am., 02/19/76; (3)(L) am. and (3)(m) cr., Sub. 1 to OA 20, 1990-91, pub. 01/03/91; (3)(L) and (m) am., 21 OA-9, pub. 7/6/21.]

[75.18 reserved.]

[History: 75.18 rep., OA 3, 1997-98, pub. 10/20/97.]

75.19 DESIGN STANDARDS. In approving or disapproving any plat or certified survey map, the committee shall apply the standards set forth in this section.

(1) *Streets.*

(a) The arrangement, character, extent, width, grade and location of all streets shall conform to all official maps, may be required to conform to master plans, and shall be related to: existing and planned streets; topographic conditions; existing natural features including streams, lakes and tree growth; public convenience and safety; existing and proposed uses of land served by such streets; and the most advantageous development of adjoining uses.

(b) The arrangement of streets in a subdivision shall provide, where possible, for the continuation or appropriate projection of existing or proposed collector and arterial streets in the area.

(c) Local streets shall be laid out so as to discourage their use by through traffic.

(d) Where a subdivision abuts or contains an existing or proposed arterial street, the committee may require marginal access streets, reverse frontage lots with screen planting contained in a non-access reservation along the rear of the property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(e) The number of intersections along arterial streets shall be held to a minimum. Wherever practicable the distance between such intersections shall be not less than 1200 feet.

(f) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the committee may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall also be determined with regard to the requirements of approach grades and future grade separation.

(g) Street jogs with centerline offsets of less than 150 feet shall be avoided.

(h) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.

(i) Streets shall be laid out so as to intersect as nearly as possible at right angles, no street shall intersect any other street at less than 75 degrees, and not more than two streets shall intersect at one point.

(j) Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the committee under conditions approved by said committee.

(k) All street rights-of-way shall be of the width specified on applicable official plans and official maps or, if not specified therein, they shall not be less than the width specified in section 75.19(1)(o) below.

(L) The minimum radius of curvature on the centerline shall be as specified in section 75.19(1)(o) below.

(m) The maximum street grade shall be as specified in section 75.19(1)(o) below.

(n) The design of the vertical alignment of the centerline shall be based on the minimum safe stopping sight distance in accordance with the design standards of the American Association of State Highway Officials.

(o) Streets

	Principal & Primary Arterials	Standard Arterials & Collectors	Local	Marginal Access
Minimum Right-of-Way	120	80	66	50
Minimum Right-of-Way Width in Feet	120	80	66	50
Minimum Radius of Curvature in Feet of Centerline	450	250	150	
Maximum Grade	6%	8%	10%	

(p) Cul-de-sacs shall not exceed 1000 feet in length and shall provide a turn-around with a minimum right-of-way radius of 60 feet. The traveled way within the cul-de-sac shall provide a minimum radius of 40 feet.

(q) Dead-end streets shall not be permitted without suitable turn-around. Appropriate arrangements shall be made for those parts of temporary turn-arounds outside of street right-of-way to revert to the abutting property owners at such time as streets shall be extended.

(r) In commercial and industrial zoning districts, alleys or other definite and assured provisions shall be made for off-street parking, loading and service access consistent with and adequate for the uses proposed. The width of alleys shall be not less than 21 feet. Alleys shall not be permitted in residential areas.

(s) Half streets shall be prohibited except where necessary for continuity of the street plan in the area.

(t) Street names:

1. The committee may disapprove the name of any street shown on a plat which has already been used elsewhere in the area or which, because of similarity to the name of another street, may cause confusion.

2. Where a street maintains the same general direction except for curvilinear changes for short distances, the same name shall continue for the entire length of the street.

3. A name which is assigned to a street which is not presently a through street, due to intervening land over which a street extension is planned, shall be continued for the separate portions of the planned through street.

4. The name of the projection of a street shall continue the same suffix as the street even if the projection terminates in a cul-de-sac.

5. Access roads and highways served by them shall have the same street names and designation.

6. Approval of street names on a preliminary plat will not reserve the street name nor shall it be mandatory for the committee to accept it at the time of final platting.

7. All street names shall be consistent with chapter 76 of the Dane County Ordinances.

(2) *Utility easements.*

(a) Easements across lots or along rear or side lot lines shall be provided for utilities where necessary, shall be at least 6 feet wide on each side of lot lines, and shall be designated as "utility easement" on the plat or certified survey map. The committee shall solicit the recommendations of the utility companies regarding utility easement needs to service the subdivision.

(b) In residential subdivisions, lots shall be served by underground electric, cable TV and telephone utility lines unless waived by the committee. Land disturbed by such installation shall be restored.

(c) Where utility facilities are to be installed underground, the utility easements shall be graded to within six (6) inches of the final grade by the subdivider prior to the installation of such facilities, and earth fill, piles or mounds of dirt shall not be stored on such easements.

(d) All utility lines for electric power and telephone service when carried overhead on poles shall be placed in utility easements unless waived by the committee.

(e) Utility facilities when installed on utility easements, whether overhead or underground, shall not be closer than one (1) foot to a property line or three (3) feet to any monument.

(f) Where a subdivision is served by an existing overhead facility, the facility may be utilized and improved with the approval of the committee.

(3) *Drainageway easements.* Where a subdivision is traversed by a water course, drainageway, channel or stream, there shall be provided an adequate drainageway easement as required by the committee. The location, width, alignment and grading of such easements shall be of such a width and design to accommodate the anticipated discharge from the property being subdivided and also the anticipated runoff that will occur when property at a higher elevation in the drainage basis is developed.

(4) *Setbacks.* Where the lots abut navigable waters, building setback lines for all buildings and structures, except piers, marinas, boathouses and similar uses, shall be shown on the plat and shall not be less than 75 feet from the normal high-water line.

(5) *Blocks.*

(a) The length, width and shape of blocks shall be suited to the planned use of the land, the applicable zoning requirements, the needs for convenient access, control and safety of street traffic, and the limitations and opportunities of topography. Block lengths in residential areas shall not, as a general rule, be less than 600 feet in length between street lines unless dictated by exceptional topography or other limiting factors of good design.

(b) Blocks shall have sufficient widths to provide two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.

(c) Pedestrian ways or cross walks, not less than ten (10) feet in width, shall be provided near the center and entirely across any block 900 feet or more in length where deemed essential to provide adequate pedestrian circulation or access to schools, shopping centers, churches or transportation facilities.

(6) *Lots.*

(a) The size, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. Lots should be

designed to provide an esthetically pleasing building site and a proper architectural setting for the buildings contemplated.

(b) Every lot or parcel shall front or abut a public street to promote safe ingress/egress and facilitate the possible development of a public right-of-way that could service additional lots. The required frontage shall be provided through fee ownership, except as provided in section 75.19(8). Lots shall maintain a minimum frontage of 66 feet connecting directly onto a public street at a location where the driveway shall be constructed in compliance with all other applicable local, state, and federal regulations. Cul-de-sac lots shall provide a minimum of 30 feet of frontage on a public street.

(c) Lot width as measured from the building setback line and lot area for residential development shall conform to the requirements of the county zoning ordinance but shall not be less than specified below:

	Type 2 Subdivision (Served by Public Sewer)		Type 1 Subdivision (Not Served by Public Sewer)	
	Area in Sq. Ft.	Width in Ft.	Area in Sq. Ft.	Width in Ft.
Lots located in shoreland areas	10,000	75	20,000	100
Lots not located in shoreland areas	8,000	60	20,000	100

(d) Side lot lines shall be substantially at right angles or radical to street lines.

(e) Corner lots shall have an extra width of 10 feet over the minimum requirement to permit adequate building setbacks from side streets.

(f) In case a parcel is subdivided into smaller parcels, such parcels shall be arranged as to allow the re-subdivision of any such parcels into normal lots in accordance with the provisions of this chapter.

(g) Lot lines shall follow political and zoning boundary lines rather than cross them.

(h) Double frontage, of reverse frontage lots, shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

(i) Depth and width of properties reserved or laid out for commercial or industrial use shall be adequate to provide for the off-street parking and service facilities required by the type of use and development contemplated.

(7) *Planned developments.*

(a) *Waiver of requirements and standards.* The requirements and standards of this chapter may be waived by the committee for planned developments providing such proposed developments shall be planned as a unit, be appropriate to the site and location, shall be of sufficient size to permit the unified development of the area, shall not conflict with other laws or requirements or with the purpose or intent of this chapter, and is approved by the committee. In addition, continued provision, maintenance and use of

open space, recreation areas, services and amenities shall be assured in a manner acceptable to the committee.

(b) *Coverage.* It is the intent of this section to permit, in addition to other types of planned development, cluster subdivisions and planned unit developments with owner-occupied row housing and with privately-owned common property comprising a major element of the development.

(8) *Standards and procedures for ingress/egress access via shared driveway easement.* To promote the clustering of residential lots, preservation of farmland, and efficient use of land, the committee may approve exceptions to the frontage requirement of section 75.19(6)(b) where the committee finds that the exception protects the public health, safety, and welfare, but only in towns where the town board has previously voted to adopt policies to allow such exceptions. The zoning and land regulation committee and town board may approve the creation of lots with access provided by a shared driveway easement, in lieu of fee-title frontage onto a public right-of-way, provided all of the following criteria are met, and carries out the purposes stated in s. 75.19(6)(b):

(a) The committee shall not approve any exception to the frontage requirement of section 75.19(6)(b) without finding that the exception is consistent with applicable town comprehensive plans adopted by the county board, town land/subdivision ordinances, and the Dane County Comprehensive Plan.

(b) The shared driveway easement shall be a minimum of 66 feet wide, and encompass the entire length of the driveway that will service the lot or lots.

(c) No more than four (4) lots, whose principal use is residential, may be served by a shared driveway easement including the lot on which the easement is located. Shared driveway easements shall not be extended to service additional lots.

(d) If two or more lots are proposed to be served by a shared driveway easement, including the lot on which the easement is located, at least one of the lots must have a minimum of 66 feet of frontage connecting directly onto a public street at a location where the driveway shall be constructed. The committee may waive this requirement by granting a variance under s. 75.21.

(e) A legal description of the shared driveway easement must be prepared by a registered land surveyor. The shared driveway easement shall be shown on the Certified Survey Map and include, at a minimum, the data submission requirements of section 75.17(3)(d), (g), (h), and (i). The committee may require that additional data be provided to ensure compliance with the provisions of this section.

(f) The shared driveway easement shall constitute a covenant running with the land, and must comply with the following:

1. A shared driveway easement must be set forth in a shared driveway easement agreement. The shared driveway easement agreement must be approved by the town board and the zoning and land regulation committee, and recorded with the Dane County Register of Deeds in compliance with secs. 706.05 and 59.43(2m) of the Wisconsin Statutes.

2. A shared driveway easement agreement must name the affected town and Dane County as co-holders of the easement, with full enforcement rights.

3. A shared driveway easement agreement must contain the following:

- a. A provision stating that the shared driveway must be maintained to provide adequate access to emergency vehicles, school buses and other equipment, as determined by the town engineer, local fire department and EMS service.
- b. A provision that addresses the year-round maintenance of the shared driveway, allocates the costs of maintenance among the property owners, their heirs, successors, and assigns, and determines which property owner or owners shall decide when maintenance or repair is necessary.
- c. A provision authorizing either the town, at its sole discretion, or Dane County to inspect and conduct repair work on the shared driveway, at the expense of the property owners, if such owners fail to adequately maintain the driveway.
- d. A provision consenting to the dedication of a future town road right-of-way within the shared driveway easement, at any time if the town, in its sole discretion, accepts it.
- e. A provision requiring that buildings constructed on the parcel(s) be setback from the shared driveway easement as specified in section 10.17(3)(b).
- f. A provision granting permanent, unimpeded access to the lots served by the shared driveway easement for emergency service responders, utility services, and other access which could be had by a public road.
- g. A provision prohibiting any modifications to the shared driveway easement agreement without the written preapproval of the town and the Dane County zoning and land regulation committee.
- (g) The shared driveway shall be constructed according to applicable town driveway construction standards and located entirely within the boundaries of the shared driveway easement.
- (h) The property owner(s) shall be responsible for all costs associated with the shared driveway easement.
- (i) Accesses onto public rights-of-way must comply with applicable provisions of town, county, or state access regulations, including intersection improvements or acceleration lanes as determined by the town engineer, Dane County Public Works, Highway and Transportation Department or the Wisconsin Department of Transportation, as appropriate.
- (j) Gates, fences, or other obstructions on shared driveways are prohibited.
- (k) Shared driveway easements shall not be named, and lots accessed by the shared driveway easement must comply with numbering requirements of Chapter 76, Dane County Code, based on their location with respect to the access point of the easement onto a public road.

[History: (1)(t) am. 02/19/76; (6)(b) am., (8) cr., OA 12, 2013-14, pub. 09/24/13.]

75.20 REQUIRED IMPROVEMENTS. All subdivisions shall meet the requirements of this section.

- (1) *Survey monuments.* The subdivider shall install survey monuments in accordance with the requirements of section 236.15 of the Wisconsin Statutes.
- (2) *Public water supply.* If public water service is available, water mains shall be installed so as to provide service to each lot within the subdivision.
- (3) *Sewage disposal system.*

- (a) In Type I subdivisions, provision for private sewage disposal systems shall be as specified by Wis. Admin. Code chapter H65 and the Dane County Sanitary Ordinance, chapter 46.
- (b) In Type II subdivisions where public sanitary sewers are available at the time of platting, sanitary sewers shall be provided to each lot within the subdivision.
- (c) In Type II subdivisions where public sanitary sewers are not available at the time of platting, provision for private sewage disposal systems shall be as specified by Wis. Admin. Code chapter H65 and the Dane County Sanitary Ordinance, chapter 46. In addition, the sanitary sewers shall be provided to each lot within the subdivision.
- (d) For purposes of this chapter, determinations of whether sewer facilities will not be available to the subdivision within a period of two (2) years shall be made by the committee after review of sewer facilities, plans and programs affecting the area in which the subdivision is located.
- (4) *Grading and surfacing.* All streets shall be graded and surfaced in accordance with plans, specifications and requirements of the Dane County Highway Commission and the affected town. Where applicable, surfacing is to include asphalt paving.
- (5) *Storm water drainage facilities.* Storm water drainage facilities of a size and design that will adequately accommodate design volumes of flow and which will present no hazard to life or property shall be installed in accordance with plans and specifications approved by the committee.
- (6) *Erosion control.* The subdivider shall cause all gradings, excavations, open cuts, side slopes and other land surface disturbances to be mulched, seeded, sodded or otherwise protected so that erosion, siltation, sedimentation and washing are prevented. The committee may request the subdivider to submit an erosion control plan that specifies measures that will be taken to assure the minimization of erosion problems. The erosion control plan may be reviewed by the soil conservation district to determine the adequacy of the proposed measures. Guidelines, standards and specifications contained within the publication "Minimizing Erosion in Urbanizing Areas" will provide a framework for the development, review and implementation of the erosion control plan.
- (7) *Street lights.* Street lights shall be provided in accordance with applicable town specifications.
- (8) *Street signs.* Street signs shall be provided in accordance with applicable town specifications.
- (9) *Installation of improvements.* The improvements specified herein shall be installed and approval of a final plat shall be given only after the work has been completed or there shall have been filed with the appropriate governmental jurisdiction or with the committee, one of the following:
- (a) A duly completed and executed continuing surety bond in an amount sufficient to complete the work with surety satisfaction to the appropriate governmental jurisdiction or the committee.
- (b) A certified check, in an amount sufficient to complete the work, drawn on an approved bank and available to the appropriate governmental jurisdiction or the committee. As the work progresses the governmental jurisdiction or the committee may permit the exchange of said check for another check of sufficient amount to complete the remaining improvements agreed upon. If the improvements are not completed within the

specified time, the governmental jurisdiction or committee may use the bond or the certified check to complete the remaining work provided for.

(c) Other collateral satisfactory to the appropriate governmental jurisdiction or the committee in an amount sufficient to complete the work.

[History: (7) and (8) cr., 02/19/76.]

75.21 VARIANCES.

(1) Where the committee finds that unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done; provided that public interest is secured and that such variation will not have the effect of nullifying the intent and purpose of these regulations.

(2) Any modifications or variance thus granted shall be entered in the minutes of the committee setting forth the reasons which, in the judgment of the committee, justified the modification or variance.

75.22 FEES.

(1) A subdivider submitting a preliminary plat for review under s. 236.11(1)(a), Wis. Stats., shall pay to the Dane County Treasurer a fee of \$600.00, to assist in defraying review costs.

(2) A subdivider submitting a final plat for approval under s. 236.11(2), Wis. Stats., shall pay to the Dane County Treasurer a fee of \$220.00 per lot for each lot in the final plat.

(3) A subdivider submitting a certified survey map for approval under s. 75.17(1) shall pay to the Dane County Treasurer a fee of \$220.00 per lot for each lot in the certified survey map.

(4) In addition to the fees set forth in subs. (2) and (3), there is imposed a digital mapping maintenance fee of \$45.00 per lot.

(5) Any person seeking a determination by the County Land Division Review Officer as to the applicability of Chapter 75 to a particular parcel or parcels shall pay a fee of \$100.00.

(6) Any person seeking a variance from the land/subdivision ordinance by the committee, shall pay a fee of \$100.00.

(7) A subdivider submitting a shared driveway easement agreement for approval under s. 75.19(8) shall pay a fee of \$200.

[History: rep. and recr., 05/20/76; am., Sub. 2 to OA 8, pub. 12/12/86; (1) and (2) am., Sub. 1 to OA 20, 1990-91, pub. 01/03/91; (1) and (2) am., OA 35, 1996-97, pub. 03/14/97; am., OA 20, 2000-01, pub. 03/19/01; 75.22 am., Sub. 1 to OA 16, 2001-02, pub. 03/07/02, eff. 03/08/02; am., OA 18, 2006-07, pub. 11/30/06, eff. 01/01/07; (5) cr., OA 29, 2007-08, pub. 11/12/07; (1)-(3) am., OA 30, 2008-09, pub. 11/26/08, eff. 01/01/09; (6) cr., Sub. 1 to OA 23, 2010-11, pub. 12/02/10; (7) cr., OA 12, 2013-14, pub. 09/24/13; (1)-(4) am., 2018 OA-24, pub. 11/20/18.]

75.23 VIOLATIONS AND PENALTIES.

(1) Any subdivider, subdivider's agent, person, firm, company or corporation, that violates any of the provisions of this chapter shall be subject to a forfeiture of not less

than one hundred (100) dollars, nor more than five hundred (500) dollars and costs. Each day that a violation is permitted to exist shall constitute a separate offense.

(2) Compliance herewith shall be enforced by injunctive order at suit of the county. It shall not be necessary to prosecute for forfeiture before seeking an injunction.

[History: 75.23 am., OA 29, 2011-12, pub. 01/30/12.]

[75.24-75.49 reserved.]

SUBCHAPTER II CONDOMINIUM PLAT REVIEW

75.50 REVIEW OF CONDOMINIUM INSTRUMENTS; SUBCHAPTER II. Sections 75.50 through 75.99, inclusive, constitute subchapter II.

75.51 AUTHORITY. These regulations are adopted under the authority granted by section 703.115, Wis. Stats.

75.52 JURISDICTION. The provisions of this subchapter shall be applicable to all condominium instruments to be recorded in Dane County, including those involving lands within a city or village. In lieu of county review, a city, village or town located in Dane County may review condominium instruments consistent with this ordinance for land located within its municipal boundaries.

75.53 PURPOSE AND INTENT. The purpose of this subchapter is to require the review of condominium instruments before recording by the Dane County Register of Deeds.

75.54 DEFINITIONS. For purposes of this subchapter certain words and phrases used herein are defined as follows:

(1) *Condominium* means property subject to a condominium declaration established under chapter 703, Wis. Stats.

(2) *Condominium instruments* means the declaration, plats and plans of a condominium together with any attached exhibits or schedules, and any amendments or addendums that modify a recorded condominium declaration or plat, as defined in chapter 703, Wis. Stats.

(3) *Declarant* means any individual, firm, association, syndicate, partnership, corporation, guardian, attorney, trust, condominium declarant or any other legal entity commencing proceedings under the provisions of this subchapter to record a condominium instrument with the Register of Deeds.

(4) *Department* means the Dane County Department of Planning and Development or the designated official of a city, village or town within Dane County conducting review of condominium instruments under the authority of this ordinance.

(5) *Unit* means any part of a condominium intended for independent use or private ownership, including one or more cubicles of air at one or more levels of space or one or more rooms or enclosed spaces located on one or more floors, or parts thereof, which

can be conveyed for separate individual use. A unit may include two or more noncontiguous areas.

75.55 PROCEDURE FOR REVIEW AND APPROVAL OF CONDOMINIUM INSTRUMENTS.

(1) *Submittal.* The declarant shall submit one copy of the final condominium instrument along with the required fee and application to the Department. Digital copies will be accepted. The application must include:

- (a) The name of the condominium;
- (b) The parcel number(s) of property being subjected to the condominium;
- (c) The name, address and telephone number of the property owner(s);
- (d) The name, address and telephone number of the person to be contacted regarding the condominium;
- (e) A statement as to whether this is an expandable condominium and, if so, a description of all lands subject to expansion and the total number of units planned;
- (f) A statement as to whether limited common elements such as garages, parking spaces, storage units, boat slips and anything else other than the actual unit will be available for separate conveyance;
- (g) A list of proposed private road names, if any;
- (h) Any amendments and/or addendums must include a statement that clearly defines what the proposed amendment is; and
- (i) For any condominium that is recorded prior to November 1st of any year there will be included a statement of how the tax bills will be dealt with for the current year. Either the developer will receive the entire tax bill or individual tax bills will be prepared for each unit. For any condominium recorded after the November 1st deadline, the entire tax bill will be sent to the developer.

(2) *Review.* A review of the condominium instruments will be performed pursuant to chapter 703, Wis. Stats. All condominium instruments shall include:

- (a) The expansion area, clearly defined on both the condominium plat and in the condominium declaration;
- (b) Any existing easements affecting the condominium, clearly labeled on the plat;
- (c) The location of all limited common elements that may be sold to parties other than the unit owner to which they are assigned, clearly defined and labeled; and
- (d) A list of proposed private road names and their locations.

(3) *Fees.* If reviewed by Dane County, a base fee of \$165 plus \$25 per unit, not to exceed a total fee of \$1,000, will be applied to each set of condominium instruments and to any amendments or addendums that add new units to the condominium. Cities, villages or towns may set a different fee for review of condominium instruments under this ordinance.

(4) *Approval.* Within ten (10) business days of submitting an application, instrument and payment the Department shall approve or reject the condominium instruments as provided by sec. 703.115(1)(b), Wis. Stats. The declarant or agent shall be notified in writing of any condition of approval as well as staff recommendations, or all specific reasons for rejection. Any conditional approval shall be valid for one year from the date of written notification. Approval of the condominium will be indicated by signing and sealing a county certificate on the instrument.

(5) *Resubmission.* If the Department rejects a condominium instrument, the declarant may resubmit the condominium instrument in conformance with this subchapter. The resubmitted condominium instrument shall be reviewed following the procedures set forth in this section. An additional fee shall not be required unless the changes in the condominium instruments, in the opinion of the Department, constitute a new full review. If the declarant's resubmission resolves the reason for rejection of the condominium instrument and does not create new reasons for rejection, the Department shall approve the resubmitted condominium instrument.

(6) *Recordation.* A condominium instrument may be recorded with the Dane County Register of Deeds if:

(a) The condominium instrument bears a certificate of approval by the Department pursuant to sub. (4); or

(b) The condominium instrument was submitted to the Department for approval and more than ten (10) business days have elapsed since submission and the condominium instrument has not been rejected under sub. (4).

[History: (3) am., OA 30, 2007-08, pub. 11/12/07; (3) am., 2018 OA-24, pub. 11/20/18.]

[75.56-75.99 reserved.]

[History: Subch. I titled and Subch. II cr., Sub. 1 to OA 5, 2007-2008, pub. 08/10/07.]

END OF CHAPTER