

## CHAPTER 3

### Subdivision Controls

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
14-3-1	General Provisions.	2016-10	06/06/16
14-3-2	Definitions.		
14-3-3	Application Procedure and Approval Process.	2005-01 2016-10	04/19/05 06/06/16
14-3-4	Requirements for Design and Improvements.	2005-01 2006-03 2006-12 2016-10	04/19/05 05/02/06 12/19/06 06/06/16
14-3-5	Ownership and Management of Common Open Space and Common Facilities.		
14-3-6	Repealed.	2005-20 2006-02 2016-10	12/20/05 01/17/06 06/06/16

#### SEC. 14-3-1 GENERAL PROVISIONS.

- (a) **Title.** These regulations shall officially be known, cited, and referred to as the Conservation Subdivision Ordinance of the Town of Caledonia, Wisconsin (hereinafter “Ordinance”).
- (b) **Intent and Purposes.** This Ordinance is adopted for the following purposes:
- (1) To guide the future growth and development of the community in accordance with the Village’s adopted Comprehensive Plan, as amended from time-to-time.
  - (2) To preserve the rural character of the Town through the permanent preservation of meaningful open space and sensitive natural resources, including those areas identified in the Town’s resource inventory maps.
  - (3) To protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and manage primary and secondary environmental corridors.
  - (4) To ensure that appropriate conservation lands will be identified, protected and restored during the development design process to meet future community needs for storm water management, floodwater storage, and ground water recharge.
  - (5) To provide for a diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups.
  - (6) To use ecological planning principles in the design, construction and long-term management of conservation developments.
  - (7) To allow housing to be concentrated on portions of a parcel in order to protect, preserve and restore environmentally-sensitive areas or agriculture-productive areas on other portions of the parcel.

- (8) To preserve scenic views by minimizing visibility of new development from existing roads.
  - (9) To provide buffering between residential development and non-residential uses.
  - (10) To provide commonly owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.
  - (11) To preserve significant archaeological sites, historic buildings and their settings.
  - (12) To protect and preserve an interconnected network of open space throughout the Town, and to help establish effective Buffers around working farms and along boundaries of existing protected lands (such as parks).
- (c) **Statutory Authorization.** This Ordinance is adopted pursuant to the authority contained in section 236.45 of the Wisconsin Statutes.
- (d) **Jurisdiction.** Jurisdiction of these regulations shall include all lands within the corporate limits of the Town of Caledonia, Wisconsin.  
The Ordinance does not apply to:
- (1) Transfers of interests in land by will or pursuant to court order.
  - (2) Cemetery plats under section 157.07 of the Wisconsin Statutes.
  - (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 Ordinance or other applicable laws or ordinances.
  - (4) Assessors' plats made under section 70.27 of the Wisconsin Statutes, but such assessors' plats shall comply with sections 236.15(1)(a)--(g) and 236.20(1), (2)(a)--(c), of the Wisconsin Statutes.
- (e) **Applicability and Compliance.** It is the goal of the Village in adopting this Ordinance that development within the Village shall occur through Conservation Subdivisions wherever possible whether residential or of another nature. Accordingly, compliance with this Ordinance is mandatory for any proposed Subdivision that has not received preliminary plat approval as of the effective date of this Ordinance. This Ordinance applies to a land division of a Parent Parcel of three (3) acres or more by a Subdivider where the land division creates five (5) or more new parcels or building sites by successive division within a five (5) year period. The number of new parcels that can be created by the land division of the Parent Parcel shall be consistent with the Village's adopted Comprehensive Plan, as amended from time-to-time, and applicable Racine County and State regulations and requirements.
- (1) No person shall divide any land under the provisions of this Ordinance without compliance with all requirements of this Ordinance and the following:
    - a. The provisions of Wis. Stats. ch. 236 and Wis. Stats. Section 80.08.
    - b. The rules of the Wisconsin Department of Commerce, contained in Chapter COMM 83 of the Wisconsin Administrative Code, for land divisions not served by public sewer.
    - c. The rules of the Division of Transportation Infrastructure Development, Wisconsin Department of Transportation, contained in Chapter TRANS 233 of the Wisconsin Administrative Code, for subdivisions that abut a state trunk highway or connecting street.
    - d. The rules of the Wisconsin Department of Natural Resources contained in

Chapters NR 115, 116, 117, 151 and 216 of the Wisconsin Administrative Code for shoreland, shoreland-wetland, and floodplain management.

- e. All applicable local and county regulations including zoning, subdivision, sanitary, utility, building and official mapping ordinances.
- f. All other applicable rules contained in the Wisconsin Administrative Code.
- g. All provisions of Title 18 of the Code of Ordinances for the Village that are not in conflict, contradictory, or inconsistent with the provisions of this Ordinance.

(f) **Condominium Plats.** A condominium plat prepared under Chapter 703 of the Wisconsin Statutes, which creates five (5) or more new units from a land division of a Parent Parcel of three (3) acres or more by successive division within a five (5) year period, shall be reviewed by the Town in the same manner as a Conservation Subdivision as set forth in this Ordinance and shall comply with the applicable design standards and required improvements of this Ordinance.

(g) **Abrogation and Greater Restrictions.**

(1) **Public Provisions.** These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

(2) **Private Provisions.** These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement impose duties and obligations more restrictive than these regulations, and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

(h) **Interpretation.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly in favor of the Town to promote the purposes for which they are adopted.

(i) **Separability.** If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered. It shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Town Board of the Town hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

(j) **Enforcement, Violations, Penalties.**

(1) **Violations.** It shall be unlawful to build upon, divide, convey, record, or monument any land in violation of this Ordinance or state law, and no person shall be issued a building permit by the Town authorizing the building on or improvement of any

subdivision within the jurisdiction of this Ordinance not of record as of the effective date of this Ordinance until the requirements of this chapter have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this Ordinance or applicable state law.

- (2) **Penalties.** Penalties for violation of this Ordinance shall be as follows:
- a. Any person who fails to comply with this chapter shall, upon conviction, be subject to the penalties as provided by the Town.
  - b. Recordation improperly made has penalties provided for in section 236.30 of the Wisconsin Statutes.
  - c. Conveyance of lots in unrecorded plats has penalties provided for in section 236.31 of the Wisconsin Statutes.
  - d. Monuments disturbed or not placed have penalties as provided for in section 236.32 of the Wisconsin Statutes.
  - e. Assessor's plat made under Section 70.27 of the Wisconsin Statutes may be ordered by the Town as a remedy at the expense of the Subdivider when a subdivision is created by successive divisions.
- (3) **Appeals.** Any person aggrieved by an objection to a plat or a failure to approve a plat under this Ordinance may appeal therefrom, as provided in sections 236.13(5) and 62.23(7)(e) 10, 14, and 15, of the Wisconsin Statutes, within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable, or discriminatory.

(k) **Modifications or Waivers.**

- (1) **Authority; Application.**
- a. Where, in the judgment of the Town Board, it would be inappropriate to apply literally the provisions of this Title because an exceptional circumstance exists, the Town Board may waive or modify any requirements to the extent deemed just and proper.
  - b. Application for any such modification or waiver shall be made in writing by the Subdivider at the time when the initial application required under Section 14-3-3 is filed for consideration, along with the Modification or Waiver Checklist, stating fully all facts relied upon by the Subdivider, and shall be supplemented with maps, plans, or other additional data that may aid the Town Board in the analysis of the proposed project.
  - c. Conservation principles shall be applied in all Subdivisions. Any relief granted shall be done so without impairing the intent and purpose of this Chapter or the desirable general development of the Village in accordance with the Village's adopted Comprehensive Plan, as amended from time-to-time.
- (2) **Considerations.** The Town Board shall consider the following factors, in addition to any other factors deemed relevant by it:
- a. Whether the request for a waiver or modification, if granted, would be consistent with the general intent of the Chapter.
  - b. Whether the request for a waiver or modification, if granted, would adversely affect property owners in the surrounding area.

- c. Whether the request for waiver or modification, if granted, would benefit the Subdivider’s project in a way that is not consistent with the Town's interests.
  - d. Whether Subdivider is in full compliance with other applicable ordinances and agreements with the Town.
  - e. Whether, instead of granting the request for a waiver or modification, the Chapter itself should be changed to accommodate the kind of situation presented by the Subdivider.
  - f. Whether the conditions upon which the request for a modification or waiver is based are unique to the situation or property for which the modification or waiver is sought and are not applicable generally to other situations or property.
  - g. Whether the request for modification or waiver, if granted, would be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- (3) **Granting by Town Board.**
- a. The Town Board, if it approves of the modification or waiver of the application of this Chapter or any portion of it, shall do so by written resolution and shall instruct the Town Engineer to notify the Subdivider.
  - b. A majority vote of the Town Board shall be required to grant any modification or waiver to this Chapter. The reasons why such modification or waiver was granted shall be set forth in the resolution.
  - c. Conservation principles shall be applied in all Subdivisions. Any relief granted shall be done so without impairing the intent and purpose of this Chapter or the desirable general development of the Town in accordance with the Town Land Use Plan.
- (4) **Past Non-Compliance Not Waived.** A waiver or modification that is granted pursuant to a written request as described in this Section shall not waive any fines, forfeitures or other penalties that may have accrued due to violations of this Chapter that took place prior to the date of the request being granted, unless specifically stated otherwise in the decision of the Town Board.
- (l) **Fees.** The Town Board may, by resolution, establish reasonable fees for the administration of this Ordinance.
- (m) **Checklists.** The Town Board may, by motion or resolution, provide for checklists to be created and utilized for the administration of this Ordinance.

**SEC. 14-3-2 DEFINITIONS.**

The following definitions shall be observed and applied, except when the context clearly indicates otherwise. Words used in the present tense shall include the future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular form. The word “shall” is mandatory and the word “may” is permissive.

- (a) **Base Development Yield.** The number of dwelling units authorized by the Plan Commission for the Conservation Subdivision, not including any dwelling units authorized as a result of a development yield bonus.
- (b) **Buffer.** An area of land that serves as a protective barrier for an environmentally sensitive area, natural viewshed or agricultural lands.
- (c) **Common Open Space.** Undeveloped land within a Conservation Subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development, or for the preservation, restoration and management of historical, agricultural or environmentally sensitive features. Common Open Space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historical structures and archaeological sites including Indian mounds and/or such recreational facilities for residents as indicated on the approved development plan. It shall be restored and managed, as appropriate, and a Stewardship Plan shall be prepared for the open space.
- (d) **Common Facilities.** Those facilities which are designated, dedicated, reserved, restricted or otherwise set aside for the use and enjoyment by residents of the development.
- (e) **Condominium.** A community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirements of the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes. A condominium is a legal form of ownership of real estate and not a specific building type or style.
- (f) **Conservation Easement.** A non-possessory interest in real property designed to protect natural, scenic and open space values in perpetuity as defined in Wis. Stats. §700.40 (Uniform Conservation Easement Act) and Section 170(h) of the Internal Revenue Code.
- (g) **Conservation Subdivision.** A development in which dwelling units are concentrated and/or clustered in specific areas in order to allow other portions of the development to be preserved for common open space, including restoration and management of historical, agricultural or environmentally sensitive features.
- (h) **Density Factor.** The number of dwelling units permitted per acre according to the Village's adopted Comprehensive Plan, as amended from time-to-time, the Village's ordinances, and applicable Village zoning regulations.
- (i) **Development Envelopes.** Areas within which pavement and buildings will be located.
- (j) **Ecological Restoration.** To protect, enhance, recreate or remediate functional and healthy plant and animal communities. Ecological restoration is accomplished by implementing a Stewardship Plan for uplands, wetland areas, and aquatic resource areas, which include specific remedial and management activities for sustainable maintenance of each of these areas and the planting of those varieties of plants that are indigenous to the area.
- (k) **Flag Lots.** A lot with access to the public street only by a narrow strip of land, easement, or private right-of-way and with insufficient frontage to be considered a buildable lot. Flag lots generally are not considered to conform to sound planning principles.
- (l) **Floodplains.** Those lands, including the floodplains, floodways, and channels, subject to inundation by the 100-year recurrence interval flood or, where such data are not available, the maximum flood of record.
- (m) **Homeowners' Association.** A community association, incorporated or not incorporated, combining individual home ownership with shared use or ownership of common property or Common Facilities.

- (n) **Net Density.** The number of dwelling units permitted in the Conservation Subdivision prior to calculating and adding any Development Yield Bonus under section 14-3-4(b). This number is obtained by performing the following calculation:
- (1) Derive the net acreage for the Parent Parcel by subtracting from the gross acreage of the Parent Parcel the acreage consisting of the following existing features: street rights-of-way, restrictive utilities rights-of-way, floodplains, wetlands, slopes greater than 12% in environmentally sensitive areas and slopes of 20% in all other areas, streams, ponds, lakes, and reserved street rights-of-way or accepted dedications of streets and those areas held to be unsuitable under subsection 14-3-4(a).
  - (2) Determine the Density Factor as permitted for the Parent Parcel from the Village's adopted Comprehensive Plan, as amended from time-to-time, and zoning requirements applicable to the Parent Parcel, taking into account the Village preference, if any is indicated in the Village's adopted Comprehensive Plan, as amended from time-to-time, for a Density Factor consistent with the surrounding neighborhood;
  - (3) Multiply the net acreage result under sub. (1) the applicable Density Factor under sub. (2) to obtain the Net Density for the Parent Parcel.
- (o) **Non-Profit Conservation Organization.** Any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.
- (p) **Parent Parcel.** The existing parcel of record, as of the effective date of this Ordinance.
- (q) **Primary Environmental Corridor.** A concentration of significant natural resources at least 400 acres in area, at least two miles in length, and at least 200 feet in width, as delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.
- (r) **Professional Ecological Services.** An individual or firm with professional qualifications to prepare and implement an ecological Stewardship Plan for upland, wetland areas, and aquatic resource areas, including specific remedial and management activities for sustainable management of each of these areas and the planting of those variety of plants that are indigenous to the area.
- (s) **Secondary Environmental Corridor.** A concentration of significant natural resources at least 100 acres in area and at least one mile in length. Where such corridors serve to link primary environmental corridors, no minimum area or length criteria apply. Secondary Environmental Corridors are delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.
- (t) **Shoreland.** Shoreland shall mean those areas abutting a lake, pond, wetland, river or stream as classified and within the distances specified under NR 151.12(5)(d) of the Wisconsin Administrative Code.
- (u) **Stewardship Plan.** A comprehensive management plan for the long term enhancement and sustainability of natural ecosystems (uplands - including forests, prairies, meadows, wetlands, shorelands, lakes, river systems and similar ecosystems). Such plans shall include but not be limited to management goals, implementation and monitoring schedules, identification and description of measures to be taken should degradation of the system(s)

- be noted, and programs for the removal and control of invasive vegetation species.
- (v) **Storm water Treatment Train.** A combination of physical and biological features that are constructed or planted to convey, cleanse, and enhance storm water quality before the remaining water is released to receiving waters.
  - (w) **Subdivider.** Any person, corporation, partnership, association, individual, firm, trust or agent dividing or proposing to divide land resulting in a Conservation Subdivision.
  - (x) **Subdivision.** The division of a lot, outlot, parcel or tract of land by the owner thereof, or his/her agent, for the purpose of transferring ownership or of building development, where the act of division of a Parent Parcel of three (3) or more acres creates five (5) or more parcels or building sites or the act of division of a Parent Parcel of three (3) or more acres creates five (5) or more new parcels or building sites by successive division within a five (5) year period. In determining the number of parcels or building sites created by the division of land, the remnant parcel, if any, shall count as one of the parcels or building sites created by said division.
  - (y) **Woodlands.** Upland areas at least one acre in extent covered by deciduous or coniferous trees as delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.
  - (z) **Yield Plan.** The Subdivider's plan for the number of units for a parcel.

### SEC. 14-3-3 APPLICATION PROCEDURE AND APPROVAL PROCESS

- (a) **Initial Conference.** Before submitting an application for a Conservation Subdivision, the Subdivider shall schedule an appointment and meet with the Village's Engineering Department to discuss the procedure for approval of a Conservation Subdivision, including submittal requirements and design standards. The Village's Engineering Department shall notify the Village Board and Plan Commission of such appointment, and one member of the Village Board and one member of the Village Plan Commission, along with the Village's Zoning Administrator, may participate in the Initial Conference and Initial Application process. Subdivider shall also notify the proposed Conservation Easement holder of this meeting and request their participation. Any costs incurred related to the participation of the proposed Conservation Easement holder are the sole responsibility of the Subdivider and shall be paid directly by Subdivider to the proposed Conservation Easement holder.
- (b) **Initial Application.** After the initial conference, the Subdivider shall submit the Initial Application Checklist and a series of maps and descriptive information to the Engineering Department according to the criteria set forth below. Mapping for the initial application can be done in any combination of features as long as individual map components can be distinguished and the relationship between map components can be determined.
  - (1) **Inventory and Mapping of Existing Resources.** The Subdivider shall include the following mapped at a scale of no less than one inch = 50 feet:
    - a. Topographic contours at 2-foot intervals.
    - b. United States Department of Agriculture, Natural Resource Conservation Service soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems. Identification of hydric soils (wetland soils). Type and stability of bedrock should also be noted, particularly in



- Karst areas and areas with high potential for ground water contamination due to fractured bedrock or the presence of arsenic and mercury.
- c. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas (using existing data from local, state and federal sources; i.e., no new field work is required), wetlands, natural swales, drainage ways, and slopes of 12% or greater.
  - d. Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a caliper of more than 24 inches measured four feet off the ground. The inventory shall include comments on the health and condition of the vegetation. Woodlands shall be classified as deciduous, coniferous, or mixed. Use Wisconsin land or comparable cover type classifications and do on-site cover type analysis.
  - e. Known critical habitat areas for rare, threatened or endangered species.
  - f. Views of the site, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.
  - g. Mapping of offsite adjacent ecological, hydrological, recreational and cultural resources.
  - h. Unique geological resources, such as rock outcrops and glacial features.
- (2) **Development Yield Analysis.** The Subdivider shall submit a development yield analysis, including a Yield Plan, showing the Net Density. The development yield analysis may also include any development yield bonus(es) which may be applicable under section 14-3-4(b)(2).
- (3) **Site Analysis and Concept Plan.** Using the inventory provided in section 14-3-3(b)(1), the development yield analysis provided in section 14-3-3(b)(2), and applying the design standards specified in section 14-3-4 of this Ordinance, the Subdivider shall submit a concept plan including at least the information set forth below at a scale of no less than one inch = 50 feet. The concept plan shall be submitted as an overlay to the inventory map.
- a. Open space areas indicating which areas are to remain undeveloped, areas for interior open space, and trail location.
  - b. Boundaries of areas to be developed and proposed general street and lot layout.
  - c. Number and type (i.e., single-family, multi-family) of housing units proposed.
  - d. Proposed methods for and location of water supply, storm water management (e.g., best management practices) and sewage treatment.
  - e. Inventory of preserved and disturbed natural features and prominent views.
  - f. Preliminary Development Envelopes showing areas for lawns, pavement, buildings, and grading.
  - g. Proposed methods for ownership and management of open space.
  - h. Formal open spaces indicating parks, easements, trail routing and drainage easements.
  - i. Integration of Ecological Restoration, Buffers, and Storm water Treatment Train.

- (4) **General Location Map.** The Subdivider shall submit a map showing the general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within 500 feet of the tract. This information may be presented on an aerial photograph at a scale of no less than 1 inch: 400 feet.
  - (5) **Evidence of Ownership and Survey Required.** Subdivider shall submit a report of title from a title company acceptable to the Town showing current ownership of the property proposed to be developed and all encumbrances, together with copies of all easements, covenants, liens and any other encumbrances, defects or clouds on the title appearing in the public record or known to the Subdivider or owner of record and shall provide a land survey by a registered land surveyor showing encumbrances of record including the requirements as specified in this Sec. 14-3-3. A copy of the report of title and survey shall be delivered to the Town Attorney and the proposed Conservation Easement holder at the same time it is delivered to the Town Engineer.
  - (6) **Phase I Environmental Site Assessment.** Subdivider shall have a Phase 1 Environmental Site Assessment in compliance with ASTM Standard E1527-00 “Standard Practice for Environmental Site Assessments: Phase 1 Environmental Site Assessment Process” and shall provide a copy of the assessment to the Town and to the proposed Conservation Easement holder. All costs incurred for this assessment shall be the responsibility of Subdivider.
- (c) **Reimbursement of Engineering, Planning, Legal and Administrative Costs and Payment of Land Division Fee.**
- (1) The Subdivider and Town shall enter into a pre-development agreement requiring the Subdivider to pay to the Town all reasonable costs for engineering, planning, legal and administrative expenses incurred by the Town in:
    - a. processing, reviewing, revising, and approving conceptual, preliminary or final development plans, including certified survey maps, preliminary and final plats; and
    - b. processing, reviewing, revising, drafting and approving any agreements, easements, deed restrictions or other documents associated with the proposed subdivision or development.
  - (2) Such costs shall include the costs of its own engineers, attorneys, inspectors, agents, sub-contractors and employees. The cost for Town employees’ time shall be based upon the classification of the employee and the rates established by the Town Board, from time to time, for each such classification.
  - (3) At the time of the submission or review of a conceptual plan, certified survey map, or preliminary plat, the Subdivider shall deposit with the Town Treasurer the sum of three thousand dollars (\$3,000.00) in the form of cash. A Land Splitter shall deposit a one thousand dollar (\$1,000.00) cash deposit with the Town Treasurer at the time of submission of a certified survey map. The Town shall apply such funds toward payment of the above costs. If at any time said deposit becomes insufficient to pay expenses incurred by the Town for the above costs, the Subdivider shall deposit required additional amounts within fifteen (15) days of written demand by the Town Engineer. Until the required funds are received, no additional work or review will be performed by the Town as to the development plan under

consideration. The Town may also reject any pending certified survey map, preliminary or final plat for non-payment of the costs under this section. Within 60 days after final approval of the plat or certified survey map, and execution of any documents by all parties, or upon abandonment of the conceptual plan, certified survey map or plat and prior to final approval, (including abandonment due to rejection by any reviewing agency), the Town shall furnish the Subdivider with a statement of all such costs incurred by it with respect to such conceptual plan, certified survey map or plat. Any excess funds shall be remitted to Subdivider, and any costs in excess of such deposit shall be paid by the Subdivider. Any interest earned on said deposit shall remain the property of the Town to partially offset administrative expenses associated with planning and development.

- (4) In addition to reimbursement of the above costs, the Subdivider shall be responsible for payment to the Town of a land division fee in the amount of \$100.00 per parcel created. Said fee shall be submitted at the time of execution by the Subdivider of the Development Agreement required below.

(d) **Review of Initial Application.**

(1) **Engineering Department Review.**

- a. The Engineering Department shall make the determination of whether the initial application is complete. Within 60 days following the filing of a complete initial application, the Engineering Department shall meet with the Subdivider to review the initial application. As a condition of further review of the initial application, concept plan, preliminary plat or final plat, the Subdivider shall and hereby does grant permission for Town officials, employees and agents to enter upon the subject property in furtherance of their official duties.
- b. Staff from appropriate county and state agencies may also be requested by the Town to review the application.
- c. The Engineering Department shall schedule a visit to the site with the Subdivider and notify the Plan Commission, the Town Board and the proposed Conservation Easement holder of the site visit date and time. This visit shall be to review the existing features of the site and the concept plan. The visit shall occur prior to or as part of the meeting.
- d. Within 30 days following the meeting under paragraph a, the Engineering Department shall provide a written report informing the Subdivider of any additions, changes, or corrections to the concept plan submitted as part of the initial application.

(2) **Plan Commission Review.**

- a. Before submission of a preliminary plat, the Subdivider or Subdivider's agent shall meet with the Plan Commission to review and discuss the concept plan, and to permit members of the public an opportunity to speak as to the plan. Subdivider is required to provide written notice of the Plan Commission meeting to the owners of all adjacent and abutting parcels, including across the street, road or highway, to the Parent Parcel at least seven days in advance of the meeting. The notice must be sent by regular U.S. mail. The Subdivider shall prepare the list and mailings complete with postage and deliver the same to the Town Engineer at least 15 days prior to

the meeting. The Town Engineer shall verify completeness and shall mail the notices prior to the meeting. The cost for such written notice shall be borne by the Subdivider.

- b. The Plan Commission shall establish a recommended Base Development Yield for the Subdivision as follows: The Plan Commission shall approve the recommended Net Density, or establish an adjusted recommended Net Density by making adjustments based on consideration of the natural features of the site, available details from the Village’s adopted Comprehensive Plan, as amended from time-to-time, available or anticipated infrastructure, and the density of the surrounding areas. Where applicable, the Base Development Yield may also be adjusted at this step to include any Development Yield Bonus(es) available pursuant to section 14-3-4(b)(2).

(3) **Town Board Action.**

- a. After receipt of the Plan Commission’s recommended Base Development Yield for the Subdivision, the Town Board shall approve, approve conditionally, modify or reject such recommendation and shall state, in writing, conditions of approval or modification or reasons for rejection. The Town Engineer shall communicate to the Subdivider the action of the Town Board.
- b. The Town Board’s action under this section is based on limited information submitted to date and any Base Development Yield approved is subject to adjustments by the Town based on new and/or additional information received during the preliminary and/or final plat review process.

- (e) **Preliminary Plat Review and Approval Procedures.** Following review and comment of the Engineering Department on the initial application, the Subdivider or Subdivider’s agent shall file with the Engineering Department an application for review and approval of a preliminary plat by the Town Plan Commission with the checklist, along with two 22”x30” and thirty-five 11”x17” copies of the preliminary plat. One additional copy of the preliminary plat shall be provided to the Town Attorney and to the proposed Conservation Easement holder. The Town Engineer may require, in his or her discretion, the submittal of road, grading and/or drainage plans or preliminary concept plans thereof at the time of submission of the preliminary plat. No preliminary plat will be accepted for review unless the Subdivider has complied with Sec. 14-3-3, Initial Application. If the preliminary plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed.

- (1) **Referral.** Administrative staff and utility commission reviews. The Engineering Department shall provide copies of the preliminary plat to Town department heads, to the appropriate objecting agencies under Wis. Stats. Section 236.12, and to the appropriate utilities for their review and comment. The Town staff and utility comments will be forwarded to the Town Plan Commission and Town Board for consideration during the review process.
- (2) **Town Plan Commission Review and Informational Meeting.** The Town Clerk shall give notice of the Plan Commission’s review of the preliminary plat by listing it as an agenda item in the Plan Commission’s meeting notice. The notice shall include the name of the applicant, the address of the property in question, and the

requested action. Property owners within 300 feet of the proposed land division shall receive written notice of the Plan Commission’s review. The notice must be sent by regular U.S. mail. The Subdivider shall prepare the list and mailings complete with postage and deliver the same to the Town Engineer at least 15 days prior to the meeting. The Town Engineer shall verify completeness and shall mail the notices prior to the meeting. The Town Clerk may schedule an informational meeting on the preliminary plat. If the Town does schedule an informational meeting, it shall provide notice under the same parameters as notice for the Plan Commission’s review above.

- (3) **Plan Commission Recommendation.** After review of the preliminary plat and discussions with the Subdivider on changes and the kind and extent of public improvements that will be required, the Plan Commission shall recommend to the Town Board disapproval, approval, or conditional approval of the preliminary plat within 60 days of the filing date. Any preliminary plat recommended for approval shall include conditions, to the extent applicable, of a Development Agreement, Conservation Easement, and Stewardship Plan in forms acceptable to the Town Board and in compliance with the Town Ordinances.
- (4) **Board Action.** After receipt of the Town Plan Commission’s recommendation, the Town Board shall, within 90 days of the date the preliminary plat was filed with the Engineering Department, approve, approve conditionally, or reject such preliminary plat and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the Subdivider, failure of the Town Board to act within 90 days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The Engineering Department shall communicate to the Subdivider the action of the Town Board. If the preliminary plat is approved, the Engineering Department shall endorse it for the Town Board. Any preliminary plat approved shall include conditions, to the extent applicable, of a Development Agreement, Conservation Easement, and Stewardship Plan in forms acceptable to the Town Board and in compliance with the Town Ordinances.
- (5) **Effect of Approval.** Approval of a preliminary plat shall be valid for twenty-four months from the date of approval or conditional approval. Subject to section 236.11(1)(b), Wis. Stats., approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the Plan Commission and Town Board at the time of its submission.
- (6) **Amendment.** If the Subdivider desires to amend the preliminary plat as approved, the Subdivider may resubmit the amended plat, unless the amendment is, in the opinion of the Town Board, of such scope as to constitute a new plat, in which case it shall be refiled. The Town reserves the right to require an additional fee where, in the opinion of the Town Board, such amendment requires significant additional Town resources.
- (f) **Preliminary Plat Requirements.** The preliminary plat shall be prepared by a licensed land surveyor or engineer at a convenient scale not less than one (1) inch equals one hundred

(100) feet. A preliminary plat shall be prepared in accordance with applicable state statutes, the Racine County Code of Ordinances and this Ordinance. More than one (1) sheet may be used to present the information required in this section:

- (1) **Name of the Proposed Subdivision.** The proposed name of the subdivision shall not duplicate or be alike in pronunciation of the name of any plat previously recorded in the County.
- (2) **Project Ownership and Development Information.**
  - a. Name, address, and telephone number of the legal owner of the Parent Parcel and, if applicable, agent of the property.
  - b. Name, address, and telephone number of the professional person(s) responsible for subdivision design, for the design of public improvements, and for surveys.
  - c. Date of preparation.
- (3) **Existing Site Conditions.** Provide this information on a property survey map.
  - a. Boundary line of the proposed site and all property to be subdivided. Include all contiguous land owned or controlled by the Subdivider.
  - b. Location, width, and names of all existing platted streets and rights-of-way to a distance of 300 feet beyond the site.
  - c. Show the type, width and condition of street improvements; railroad or major utility rights-of-way, parks and other public open spaces, location and widths of existing snowmobile or other recreation trails; and permanent buildings and structures to a distance of 300 feet beyond the site, if any.
  - d. Location, widths, and names of all existing public and private easements to a distance of 300 feet beyond the site.
  - e. Identify by name and ownership boundary lines of all adjoining lands within 100 feet of the proposed plat.
  - f. Topographic data including contours at vertical intervals of not more than 2 feet. Elevation values shall be based on the National Geodetic Vertical Datum of 1929 (NGVD 29) or the North American Datum of 1988 (NAVD 88) or future adjustments to NAVD 88 as defined by the National Geodetic Survey, if applicable for that parcel, and should also be so noted on the plat.
  - g. Significant natural resource features on the site, including: jurisdictional wetlands, floodplains, watercourses, existing wooded areas, slopes of 12% or greater, drainage ways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission and official mapping on file with Racine County, and other natural resource features, views and other prominent visual features. Where steep slopes may be present, the Town may require a survey by a Registered Land Surveyor of the areas containing slopes. This survey shall be referenced to the proposed cross-section of the adjacent road.
  - h. Burial sites categorized under Wis. Stats. Section 157.70, Indian mounds, national and state register listed properties, and locally designated historic properties.
  - i. Existing soil classifications including identification of poor, hydric soils.
  - j. Legal description of the property.
  - k. Existing zoning classifications for land in and abutting the subdivision.

- l. Total acreage of the proposed site, Base Development Yield and Net Density calculations.
  - m. Provide graphic scale, north arrow, and date.
  - n. Conservation Easements.
  - o. Restoration zones, including association land included in native landscaping, Buffers, and drainage easements.
- (4) **Subdivision Design Features.** Provide this information on the Preliminary Plat.
- a. Layout of proposed streets, showing right-of-way widths, pedestrian walkways, types of improvements, street surface widths, and proposed street names.
  - b. Locations and type of proposed public easements (i.e. drainage, utility, pedestrian, public access to waterways, etc.); and all Conservation Easements.
  - c. Layout of proposed blocks and lots within the plat.
  - d. Basic data regarding proposed and existing (if applicable) lots and blocks, including numbers, dimensions, area.
  - e. Minimum front, side and rear yard building setback lines for all lots.
  - f. Indication of the use of any lot.
  - g. Location and size of all proposed and existing sanitary sewer lines and water mains, proposed community sewer and water system, or individual on-site septic systems and potable water sources.
  - h. Location and size of all proposed and existing storms sewers (lines, drain inlets, manholes), culverts, retention ponds, swales, infiltration practices and areas, and other storm water facilities within the plat and to a distance of 100 feet beyond the site.
  - i. Common Open Space areas, other than pedestrian ways and utility easements, intended to be dedicated or reserved for use by the residents of the development, including the size of such area or areas in acres. Provide information on the conditions, if any, of the dedication or reservation.
  - j. Proposed preservation, if any, of historical buildings and structures.
  - k. Development Envelopes showing areas for grading, lawns, pavement and buildings.
  - l. Stewardship Plan and management plan for restoration and long-term management of the Common Open Space areas.
- (5) **Preliminary Construction Plans.** Provide information on one or more sheets.
- a. Plan and Profile. Proposed street centerline profile grades, showing the existing and proposed profile grade lines.
  - b. Grading and Erosion Control Plan. A plan showing existing and proposed grades, drainage patterns, and storm water facilities. The plan shall show the location and extent of grading activities in and adjacent to the plat, overall area of the site in acres, total impervious surface area of project, total pervious area, stockpile locations, erosion and sediment control facilities, and a schedule for erosion and sediment control practices, including site specific requirements to prevent erosion at the source. Major trees to be preserved, with a diameter of four (4) inches or more measured twelve (12) inches above ground level, shall be shown on the preliminary grading and

erosion control plan. Adequate measures for protecting major trees shall be shown on the plan.

- c. Provisions for sewage disposal, water supply, storm water management, and flood control.
- (6) **Easements.** No plat or subdivision shall be accepted by the Town unless the same provides for an easement across the rear twelve (12) feet of each lot abutting upon a lot in the same plat subjected to a similar easement, making in all an easement of twenty-four (24) feet. The easement shall be established for the installation of all public utilities. In the event such lot does not abut upon a lot subjected to a similar easement, such non-abutting lot shall be subject to an easement of at least twelve (12) feet in width for the same purposes as hereinbefore set forth. In the event compliance with this requirement is not practicable in the opinion of the Town Board, the Town Board may waive the requirements herein provided. The Subdivider shall dedicate such other lands or grant such other easements as the Town Board determines to be reasonably required in accord with the Wisconsin Statutes, to provide for public utilities and public uses and needs with respect to such subdivision development.
- (g) **Development Agreement.** Prior to or as a condition of the acceptance of the subdivision final plat or a final certified survey map that includes public improvements, the Subdivider shall enter into a Development Agreement with the Town that includes, but is not limited to, the following terms and conditions:
- (1) The roads and highways and appurtenances thereto shall be constructed at the expense of Subdivider in accordance with the provisions of Section 14-2-4 and 14-3-4(c)(5) of the Code of Ordinances of the Town of Caledonia which are in effect at the time of such construction.
  - (2) In such cases where the Subdivider shall own the land adjoining the roads and highways, the Subdivider shall agree to prohibit the planting of shrubs or trees or the installation of fences of such construction as would obstruct vision on curves and intersections within such distances from the edge of the highway as is prescribed by the Town Board.
  - (3) Sanitary and water mains and laterals, and storm water drainage facilities shall be installed by Subdivider prior to submission of the roads to the Town for acceptance.
  - (4) The Subdivider shall agree to indemnify and hold the Town and its agents harmless from and against claims related to the performance of work at or for the construction site.
  - (5) The Subdivider's principals shall be personally responsible for reimbursement of costs to the Town in the event the Subdivider does not proceed with the actual installation of the subdivision improvements.
  - (6) The Subdivider shall be responsible for payment of the Town's costs, disbursements and attorney's fees in the event the Town brings legal action to enforce compliance with the agreement and a final determination is made in favor of the Town.
  - (7) The Subdivider shall grant its permission and make application, in advance, for the vacation of the plat in accordance with Chapter 236 of the Wisconsin Statutes



- in the event improvements to the subdivision, for which the Subdivider is responsible, are not completed within five years of final plat approval.
- (8) The terms and conditions of the agreement shall extend to the heirs, administrators, successors in title and assigns of the Subdivider, including personal liability. However, Subdivider may not assign its rights, duties and responsibilities under this Agreement to any other third party without first obtaining the prior written consent of the Town.
  - (9) The Subdivider shall convey all necessary easements, including a Conservation Easement as required under sec. 14-3-5 of the Town’s Code of Ordinances.
  - (10) The Subdivider shall install at its expense such other improvements and facilities specified by the Town Board which are required in the subdivision to properly service such subdivision with sewer, water, drainage and public access to, within and from such subdivision.
  - (11) Other terms that the Town and Subdivider shall deem appropriate.
- (h) **Final Plat Review and Approval Procedures.** A final subdivision plat shall be filed in accordance with the following:
- (1) **Final Plat.** The Subdivider shall prepare a final plat; a checklist; and letter of application in accordance with this Ordinance and shall file 20 copies of the plat and the application with the Engineering Department at least 21 days prior to the meeting of the Plan Commission at which action is desired. Copies of the final plat shall also be filed with the Town Attorney, the proposed Conservation Easement holder and with the Racine County Planning and Development Department in accordance with the Racine County Code of Ordinances. The owner or Subdivider shall file the final plat not later than two years after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the Subdivider and for good cause granted by the Town. The Subdivider or Subdivider’s agent shall also submit at this time a current certified abstract of title or such other evidence as the Town may require showing ownership or control in the applicant. Preparation of the final plat shall be in accordance with applicable state statutes, the Racine County Code of Ordinances and this Ordinance. If the Final Plat is not complete or is not submitted in accordance with applicable statutes or ordinances, it shall not be considered filed.
  - (2) **Objecting Agencies.** The Subdivider or the Subdivider’s agent shall submit the original plat to the Plat Review Section, Wisconsin Department of Administration, which shall forward two copies to each of the agencies authorized to object under section 236.12(2) of the Wisconsin Statutes. The department shall have the required number of copies made at the Subdivider’s expense.
  - (3) **Final Construction Plans.** Simultaneously with the filing of the final plat, the owner shall file with the Engineering Department four copies of the final, approved plans and specifications of public improvements required by the Town.
  - (4) **Installation, Protection and Management Plans.** The Subdivider shall also submit a Stewardship Plan prepared by a Professional Ecological Service for areas to be protected and/or into which native vegetation will be introduced. The Town may provide information to guide the Subdivider and the Town will set minimum standards and a format for the Stewardship Plan by resolution from time-to-time. The Town shall approve the Professional Ecological Service to be used; the Town’s

approval shall not be unreasonably withheld. The Stewardship Plan shall be reviewed by the proposed easement holder if it has a qualified ecologist on staff and acceptable to the Town. If the proposed easement holder does not have a qualified staff person, then the plan shall be reviewed by a qualified professional ecologist acceptable to the Town and unaffiliated with the drafter of the Stewardship Plan. The reviewer shall provide a written report and any recommended revisions to the Town Engineer at the time the Final Plat is submitted for approval. The plan shall be revised, if deemed necessary by the Town Board prior to consideration of the Final Plat. Any costs incurred for the review of the Stewardship Plan by the Easement holder or a qualified professional ecologist shall be the responsibility of the Subdivider. The final Stewardship Plan shall be submitted to the Plan Commission, along with the written report, for its information and reference, when it reviews the Final Plat.

- (5) **Referral of Final Plat.** The Engineering Department shall provide copies of the final plat to Town department heads and to the appropriate utilities for their review and comment. The Town staff and utility comments will be forwarded to the Town Plan Commission and Town Board for their consideration during the review process. Prior to the referral of the final plat by the Town Engineer, final drainage plans must have received their necessary approvals.
- (6) **Town Plan Commission Review.**
- a. The Plan Commission shall examine the final plat as to its conformance with the preliminary plat; any conditions of approval of the preliminary plat; this Ordinance; and all applicable ordinances, rules, regulations, the Stewardship Plan, for information only, and Village's adopted Comprehensive Plan's elements that may affect it and shall recommend approval or rejection of the final plat to the Town Board.
  - b. The Plan Commission shall, within 30 days of the date of filing of the final plat with the Engineering Department, recommend approval or rejection of the final plat and shall transmit the final plat and application along with its recommendations to the Town Board. Any condition of approval of the preliminary plat that has not been complied with shall remain a condition if the final plat is approved by the Town Board. Plats with incomplete or inadequate information shall be rejected unless an extension of the review period is requested by the Subdivider and agreed to in writing by the Plan Commission.
- (7) **Town Board Review and Approval.** The Engineering Department shall provide a copy of the final plat, the recommendation of the Plan Commission, a draft of the proposed Conservation Easement and the Stewardship Plan to the Town Board for its review, consideration and possible approval. The Town Board shall, within 60 days of the date of filing the original final plat with the Engineering Department, approve, or reject such plat unless the time is extended by agreement with the Subdivider. Any condition of approval of the preliminary plat that has not been complied with shall remain a condition if the final plat is approved by the Town Board. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the Subdivider. The Town Board may not inscribe its approval on the final plat unless the Engineering

Department certifies on the face of the plat that the copies were forwarded to objecting agencies as required in this section, the date thereof, and that no objections have been filed within 20 days or, if filed, have been met.

- a. The Town Board shall, when it determines to approve a final plat, give at least ten days' prior written notice of its intention to the municipal clerk of any municipality within 1,000 feet of the final plat.
- b. If the Town Board fails to act within 60 days, without a time extension and no unsatisfied objections having been filed, the plat shall be deemed approved.
- c. Recordation. After the final plat has been approved by the Town Board and required improvements either installed or a contract and sureties ensuring their installation is filed, the Engineering Department shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the Subdivider for recording with the county register of deeds, along with all Conservation Easements and deed restrictions. The final plat can be recorded when it has received all required approvals pursuant to applicable state statutes, the Racine County Code of Ordinances and this Ordinance. The register of deeds cannot record the plat unless it is offered within six months from the date of the Town Board's final approval and within 24 months after the first approval.
- d. Copies. The Subdivider shall file eight copies of the recorded final plat with the Engineering Department for distribution to the approving agencies, affected sanitary districts, and other affected agencies for their files. Subdivider shall also provide a copy of the recorded final plat to the Conservation Easement holder and Town Attorney.

(i) **Final Plat Requirements.**

- (1) A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply with the requirements of section 236.20 of the Wisconsin Statutes, with the Racine County Code of Ordinances, and this Ordinance.
- (2) Additional information. In addition to the information required by section 236.20 of the Wisconsin Statutes, the final plat shall show correctly on its face, have attached to it, or submitted with it, the following:
  - a. Exact length and bearing of the centerline of all streets.
  - b. Exact street width along the line of any obliquely intersecting street.
  - c. Exact location and description of utility and drainage easements.
  - d. Railroad rights-of-way within and abutting the plat.
  - e. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat, including public access to waterways.
  - f. Restrictions relating to access control along public ways.
  - g. Setback or building lines.
  - h. Any restrictive covenants, deed restrictions, or conservation easements for the proposed subdivision.
  - i. The legal instruments detailing the ownership of the Common Open Space, as required in section 14-3-5.

- j. All final plats shall meet all the surveying and monumenting requirements of section 236.15 of the Wisconsin Statutes.
  - k. State plane coordinate system. Where the plat is located within a quarter section, the corners of which have been relocated, monumented, and coordinated by the Town, the plat shall be tied directly to two of the section or quarter corners so relocated, monumented, and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat.
  - l. Certificates. All final plats shall provide all the certificates required by section 236.21 of the Wisconsin Statutes. In addition, the surveyor shall certify that the surveyor has fully complied with all sections of this chapter.
  - m. Recording. The final plat shall be recorded as required by Wisconsin Statutes section 236.25.
- (j) **Certified Survey Maps.** Conservation Subdivisions shall not be created by certified survey maps under section 236.34 of the Wisconsin Statutes.

#### SEC. 14-3-4 REQUIREMENTS FOR DESIGN AND IMPROVEMENTS.

- (a) **Land Suitability.** No land shall be developed which is held to be unsuitable for any proposed use if identified as environmentally sensitive. Areas identified as environmentally sensitive include, but are not limited to the following existing features:
- (1) All areas mapped as Floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources, or other public or private entity.
  - (2) All wetlands, as defined in NR 103.02(5) of the Wisconsin Administrative Code, including buffers as required under NR 151 of the Wisconsin Administrative Code and Sec. 14-3-4(c)(2)(d).
  - (3) All areas within 75 feet of the ordinary high-water mark of navigable streams and lakes, as identified by Wisconsin Department of Natural Resources.
  - (4) All areas having slopes greater than 20 percent and slopes between 12% and 20% in environmentally significant areas as determined by the Town Board upon recommendation of the Plan Commission and Town Engineer.
  - (5) Areas that are known to provide habitat for rare, threatened or endangered species.
  - (6) Burial sites and Indian mounds.
  - (7) Drainageways that contain running water during spring runoff, during storm events or when it rains. A 25 foot Buffer from the edge of the drainageway shall be included.
- Areas determined to be environmentally sensitive may be included as Common Open Space in a Conservation Subdivision but shall not be included in the development yield analysis in section 14-3-3(b)(2) or in the Net Density calculations in section 14-3-2(n) unless otherwise included or excluded in those sections. These lands shall be identified as an outlot or other designation that indicates the land is not available for development.
- (b) **Development Yield.** The number of residential units for a parcel shall be determined in accordance with the following:

- (1) The Base Development Yield shall be established as provided in sections 14-3-3(b)(2) and 14-3-3(d), excluding adjustments for any development yield bonus under subsection (2) below, and as defined in section 14-3-2(a).
- (2) **Development Yield Bonus.** The Base Development Yield may, at the discretion of the Town, be increased by the addition of a development yield bonus or bonuses if the development complies with one or more of the following standards. Each standard provides a Development Yield Bonus of up to 5% of the Base Development Yield unless otherwise indicated. The maximum bonus permitted is 20%. The new development yield, including the bonus, shall be determined by conventional rounding principles such that if the development yield bonus results in a number of .5 or greater, this number is rounded to the next highest whole number. The standards are as follows:
  - a. Up to a five percent (5%) bonus for providing *public* trail connection by linking new trails within the development to existing local or regional *public* recreational trails, parks, primary or secondary environmental corridors, or other recreational facilities acceptable to the Town Board.
  - b. Providing for connection of internal open spaces, whenever possible, and connection with existing or potential open space lands or adjoining parcels outside of the development.
  - c. Providing affordable housing, to include a minimum of 15 percent of all units that would be affordable to moderate-income households, as defined by the U.S. Department of Housing and Urban Development and as applicable to the Town’s demographics. Affordable housing refers to the value equal to 80% of the median value of houses in the local area.
  - d. Providing for more than 75% of the lots within a neighborhood to abut significant open space on at least one side. A bonus under this subsection shall be prorated on the basis for 1% of each 5% over the minimum as follows:
    - 80% = 1% bonus
    - 85% = 2% bonus
    - 90% = 3% bonus
    - 95% = 4% bonus
    - 100% = 5% bonus
  - e. Preserving in its entirety any portion of a primary or secondary environmental corridor which is within the subdivision.
  - f. Preservation of additional Common Open Space in areas not served by public sanitary sewer and located outside of the approved sewer service area. A bonus under this subsection shall be prorated on the basis of the following:
    - 65% = 2%
    - 70% = 3%
    - 75% = 4%
    - 80% = 5%

- g. Preservation of additional Common Open Space within the approved sewer service area. A bonus under this subsection shall be prorated on the basis of the following:

45% = 2%

50% = 3%

55% = 4%

60% = 5%

- h. Up to a five percent (5%) bonus for providing improved public parks, public open space, or public facilities acceptable to the Town Board.
- (3) For those areas that are subject to a range of permitted density as set forth on the Village’s adopted Comprehensive Plan, as amended from time-to-time, the Development Yield shall not exceed the maximum allowable density permitted under the plan for that area.

(c) **Performance Standards.**

(1) **General Considerations.**

- a. Conservation Subdivisions shall identify a conservation theme or themes. Their themes shall be identified at the time of the initial application. Conservation themes may include, but are not limited to, forest stewardship, water quality preservation and enhancement, farmland preservation, natural habitat restoration, viewshed preservation, archaeological and historic properties preservation, integration of ecological resources or passive recreational uses in development. The Town Board, upon recommendation of the Plan Commission, shall have the authority to specify which areas shall be preserved.
- b. The residential lot shall be large enough to accommodate a house and two-car garage. House design should minimize the visible obtrusiveness of the garage from the street view, including, but not limited, to the use of set-back or side-entry design garages, where possible.
- c. Conservation Subdivisions shall preserve, restore (if needed), and/or create environmentally sensitive areas such as wetlands, natural habitats for rare, threatened and endangered species, woodlands, shorelands, rain gardens, prairies, meadows, primary or secondary environmental corridors, parklands and viewsheds and establish plans and the means to restore (if needed), manage and maintain such areas.
- d. Common Open Space shall, to the extent practicable, include open space areas in addition to water bodies, ponds, or mapped wetlands that have been identified.
- e. Reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin. The U.S. Department of Interior’s Standards for Rehabilitation of Historic Properties shall apply unless the Town Board determines otherwise for good cause.
- f. Conservation Subdivisions shall consider impacts from abutting Subdivisions that have Stewardship Plans in place and the interaction of that Stewardship Plan with the proposed Common Open Space design and features.

(2) **Residential Lot Requirements**

- a. Areas to be served by public sanitary sewer shall be zoned for a Planned Unit Development (PUD) per Title 16 of the Village's Code of Ordinances and shall comply with the Village's adopted Comprehensive Plan, as amended from time-to-time. The principal building setbacks, front-footage requirements, accessory building setbacks, rear lot line, and maximum building height shall be as established for a PUD.
- b. Areas not served by public sanitary sewer shall be zoned C-2 (Upland Resource Conservation District) and shall require a conditional use permit (C-2) per Title 16 of the Village's Code of Ordinances and shall comply with the Village's adopted Comprehensive Plan, as amended from time-to-time. The front-footage requirements, principal building setbacks, accessory building setbacks, rear lot line, and maximum building height shall be as established for a C-2 development. Areas not served by sewer shall have a maximum Net Density of one dwelling unit per five acres unless the Subdivision receives a bonus under subsection 14-3-4(b)(2).
- c. All areas shall comply with the following:
  - i. The size, shape and orientation of lots shall be appropriate for the location of the Subdivision and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated.
    - a) **Shape.** Lots shall be approximately rectangular, with the exception of lots located on a curved street or on a cul-de-sac turnabout.
    - b) **Flag Lots.** Flag Lots shall not be approved.
  - ii. The ratio of the length of the entire side of a residential lot to the frontage on the public street or at the setback line, whichever is greater, of a lot shall not be greater than 2.5:1.
  - iii. Side lot lines, where practical, shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
  - iv. Every lot shall front or abut on a public street and obtain access by such public street or other officially approved means of access.
  - v. Most lots shall have access from interior local streets. However, any existing farmstead that is to be preserved that has a driveway, as part of the historic landscape and that does not access a local street, should also be preserved; and a farmstead that requires a driveway that does not access a local street should be allowed.
  - vi. Lots shall be configured to minimize the amount of impervious surface including road length and width required for the subdivision.
  - vii. Development Envelopes shall be configured to minimize loss of woodlands. However, when the objective is to preserve prime farmland soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than 20 percent of a single lot is cleared for

- the construction of a dwelling, driveway, garage, storage building, well, and private on-site waste treatment system.
- viii. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate Buffers between agricultural uses and residential structures.
  - ix. Lots shall be adjacent to or around one or more of the following:
    - a) A central green or square; and/or
    - b) A physical amenity such as a meadow, a stand of trees, a stream or other water body, or some other natural or restored feature.
  - x. Perimeter fences shall not be allowed within lots. Perimeter fences are those fences that enclose or surround a portion or all of a lot. Subdivider shall include this restriction in the deed restrictions for the Subdivision. Non-perimeter, decorative fences in the front yard that are not higher than four (4) feet, fences for equestrian livestock, and fences surrounding in-ground pools as required by Section 15-1-20.05 of the Town's Code of Ordinances may be approved by the Town Board. This section shall not be deemed to prohibit non-perimeter, decorative entranceways for driveways to individual lots. All fences must comply with the requirements of Chapter 5 of Title 15 of the Town's Code of Ordinances to the extent applicable. The purpose of this section is to avoid the interruption of open space views found in Conservation Subdivisions.
  - xi. To the extent possible, Development Envelopes should be screened from peripheral public roads or other visually prominent areas and should not be located on ridges or hilltops.
  - xii. A Buffer of native vegetation shall be maintained around open water areas pursuant to subsection d. below, unless a specific common beach or grassed area is identified.
  - xiii. Storm water management.
    - a) Minimize the use of curb and gutter and maximize the use of open swales.
    - b) Roof down spouts should drain to porous surfaces, rain barrels, or rain gardens
    - c) Peak discharges during the 2 and 10 year storm events shall be no more than the corresponding discharges under predeveloped conditions.
    - d) The development should have storm water management practices and facilities designed to capture at least 80% of the post-development sediment load on an annual basis.
    - e) Landscape plantings should be used to increase infiltration and decrease runoff where soil conditions are suitable and building foundation problems or sanitary sewer infiltration problems will not be created.



- f) Preserve natural open drainage systems and incorporate them into the storm water management system of the subdivision where permitted by the Department of Natural Resources guidelines.
  - d. **Shoreland Lots.**
    - i. Lots contained within Shoreland areas shall be subject to the setback requirements as provided for in NR 151.12(5)(d) of the Wisconsin Administrative Code. All Buffers shall comply with NR151 and NR 216 of the Wisconsin Administrative Code and this ordinance and if these regulations differ, the most restrictive requirements shall govern. Impervious surfaces shall not be placed within the setback areas unless specifically allowed by the Town Board upon recommendation of the Town Engineer and Plan Commission.
    - ii. A plan must be implemented by the Subdivider to preserve or establish a vegetative Buffer that covers at least 70% or greater of the setback area that is nearest to the water pursuant to NR 151.12(5)(d)(3)(b). The plan shall contain the following information:
      - a) location of vegetative Buffer;
      - b) number, type and size of proposed native vegetation to be installed or identification of existing plant/materials to be maintained;
      - c) installation schedule/deadline;
      - d) erosion control measures;
      - e) maintenance plan to replace dead/diseased vegetation;
      - f) before and later supplemented to include after photographs of vegetative Buffer area; and
      - g) description of how the project is to be implemented.
    - iii. The plan shall be included in the Stewardship Plan if the Shoreland area is within Common Open Space or if the Shoreland area is within a lot, then the plan shall be included in the Homeowners Association's covenants, conditions and restrictions in perpetuity.
  - e. **Lighting.** Lighting design shall take into account surrounding properties and shall minimize the visual impact of the artificial lighting on those properties to the extent possible to maintain the rural night sky. All lighting on any properties within the Conservation Subdivision shall comply with applicable Town and County ordinances. All lighting shall be shielded lighting and full cut-off luminary.
- (3) **Residential Dwellings Siting Standards**
- a. Residential dwellings shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
  - b. Residential dwellings shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the Department of Natural Resources.

- c. Whenever possible, Common Open Space shall connect with existing or potential Common Open Space lands on adjoining parcels and local or regional recreational trails, public parks, or public open spaces.
- d. Residential dwellings should be sited to achieve the following goals, to the extent practicable.
  - i. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
  - ii. Minimize disturbance to woodlands, wetlands, grasslands, primary or secondary environmental corridors, mature trees or other significant native vegetation.
  - iii. Prevent downstream impacts due to runoff through adequate on-site storm water management practices.
  - iv. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
  - v. Protect archaeological sites and existing historic buildings and/or structures or incorporate them through adaptive reuse.
- e. Landscaping around the proposed residential dwellings may be necessary to reduce off site views of residences.

(4) **Open Space Design**

- a. Common Open Space. The minimum Common Open Space required shall be owned and managed under one of the alternatives listed in section 14-3-5, as approved by the Town. The uses within the Common Open Space shall be accessible, as specified in the Conservation Easement and Stewardship Plan, to the residents of the development. These uses may also be available to the general public providing the proper approvals are received. The required Common Open Space shall be restricted from further land divisions and development, as specified in Section 5.
- b. Common Open Space shall be designated as part of the development. The minimum required Common Open Space is:
  - i. 60% of the gross acreage in unsewered areas; or
  - ii. 40% of the gross acreage in sewerred areas.
- c. Common Open Space Conservation Ranking (in order of significance). This subsection identifies areas which the Town believes should be preserved in order of significance. Some of these areas may otherwise require protection under other sections of this ordinance. The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and/or provide the best opportunities to restore and enlarge the best quality natural features of each particular site.
  - i. First priority will be given to intact natural communities, rare, threatened and endangered species, primary or secondary environmental corridors, natural and restored prairies, agricultural lands, Woodlands, significant historic and archaeological properties, and slopes of 12% or greater.
  - ii. Second priority will be given to areas providing some plant and wildlife habitat and Common Open Space values.

- iii. Third priority will be given to areas providing little habitat but providing viewshed, recreation, or a sense of Common Open Space.
- d. The following areas or structures may be located within the Common Open Space area and shall be counted toward the overall Common Open Space percentage required:
  - i. Parking areas for access to and use of the Common Open Space developed at a scale limited to the potential users of the Common Open Space.
  - ii. Privately-held buildings or structures provided they are accessory to the use of the Common Open Space.
  - iii. Shared septic systems and shared potable water systems located on Common Open Space.
- e. Road rights-of-way shall not be counted towards the required minimum Common Open Space, except that Common Open Space within landscaped cul-de-sac islands and medians of boulevards that are located within the rights-of-way may be counted upon recommendation by the Plan Commission and approval of the Town Board.
- f. Open spaces less than 25 feet in width or 100 feet in length shall not be accepted toward meeting the required minimum Common Open Space except for Buffer strips along streets, landscaped cul-de-sac islands, and the medians of boulevards.
- g. That portion of Common Open Space designed to provide plant and animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
- h. Accessible Common Open Space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archaeological sites.
- i. A pathway system connecting Common Open Space areas accessible to neighborhood residents and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall, if applicable, be identified in the plan.
- j. The design shall provide for the connection of internal open spaces, whenever possible, and connection with existing or potential open space lands or adjoining parcels outside of the development.
- k. **Buffers Required.** The following distance Buffers are required within Common Open Space in rural Subdivisions outside of the approved sanitary sewer service area unless the Town Board upon recommendation of the Plan Commission determines otherwise:
  - i. From existing perimeter arterial streets a minimum of 100 feet.
  - ii. From all other existing perimeter streets a minimum of 50 feet.
  - iii. From parcel boundaries a minimum of 50 feet.
  - iv. From cropland or pastureland a minimum of 50 feet.
  - v. From barnyards and buildings, housing and livestock a minimum of 200 feet.
  - vi. From dwellings in other Subdivisions a minimum of 200 feet.

- vii. From floodplains a minimum of 75 feet.
- viii. From wetlands as required under Sec. 14-3-4(c)(2)(d) and NR 151 of the Wisconsin Administrative Code.
- viii. From active recreations areas and trails a minimum of 50 feet.

Landscaping of mixed trees and shrubs should be required in Buffer areas, where necessary, to screen new housing, to screen existing incompatible development, to preserve scenic views, or to otherwise enhance the rural landscape as seen from existing perimeter roads and from within the Subdivision.

- 1. **Common Open Space in Condominium Plats.** In Condominium plats where the Subdivider proposes a Condominium in which the unit will encompass only the Building Pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, the side, back and front yards shall not be counted toward the required minimum Common Open Space.

- i. **Purpose.** The purpose of this section is to not include side, back and front yards as Common Open Space because inclusion of these areas does not fulfill the definitional requirement of Common Open Space or meet the purposes of this ordinance.

- ii. **Definitions.** For the purposes of this subsection, the following shall mean:

- a) **Building Pod.** The area of a lot including the house, garage, patio, deck, air conditioning unit and other similar improvements attached or abutting the house.
- b) **Building Envelope.** The area of a lot including a Building Pod in addition to setbacks of seven and one-half (7.5) feet for each side of the Building Pod and twenty-five (25) feet each for the front and back yards.

- iii. **Calculation.** If the Subdivider is proposing a Condominium in which the lot will encompass only the Building Pod and the remaining areas will be limited common areas and/or facilities or common areas and/or facilities, then one of the following shall not be counted toward the minimum Common Open Space requirements:

- a) If the actual square footage of the Building Pod and Building Envelope are not known, subtract Four Thousand (4,000) square feet for each proposed unit, the calculation being: # of units multiplied by 4,000 square feet for the total amount of square feet not to be included in Common Open Space.
- b) If the actual square footage of the Building Pod is known, then perform the following: (1) Calculate the total area of setbacks around the Building Pod of seven and one-half (7.5) feet for each side yard and twenty-five (25) feet each for the front and back yards for each proposed unit; and (2) Add together the total area encompassing the setbacks for each

unit for the total amount of square feet not to be included in Common Open Space.

(5) **Road Standards**

The road design standards have been developed based on the functional classification of each road and in accordance with the American Association of State Highway and Transportation Officials guidelines. The Village shall have the authority to designate the road design and location for the roads within the Subdivision. All road designs shall comply with Title 18 of the Village’s Code of Ordinances.

(6) a. **Sewage and Water Facilities for Subdivisions Located Outside Urban Service Area.**

- i. All Subdivisions located outside the boundaries of the Sanitary Sewer Service Area for the City of Racine and Environs as set forth by the Southeast Wisconsin Regional Planning Commission in the most recent edition of Community Assistance Planning Report No. 147, and approved or requested amendments thereto, (“Urban Service Area”) shall be provided with adequate sewage treatment facilities meeting the standards of the Village and the permit requirements of Racine County and the Wisconsin Department of Commerce and Department of Natural Resources.
- ii. When a private common sewage treatment and disposal unit is used, it shall be jointly owned and maintained by the lot owners of the lots serviced. The Village shall have no ownership interest in this type of sanitary sewer system. The Subdivider, or its successors and assigns, shall be responsible for all maintenance of the system and its cost, and shall bear the costs of alterations to the system necessitated by any improvements to the streets under which any of the sewer lines run. The Subdivider, or its successors and assigns, shall have the private on-site wastewater treatment system (POWTS) inspected annually or more frequently if required by Racine County, by a qualified consultant with a written report being delivered to the Homeowner’s Association and Village.
- iii. Water, for Subdivisions located outside the Urban Service Area shall be provided by individual on-site wells or by one or more community wells meeting the permit requirements of the State of Wisconsin and the Village. The use of shared or community wells is encouraged. Plans for shared or community wells shall include a wellhead protection plan with separation distances for the zone of influence and sources of pollution. Where the Village Board approves of the addition of the parcel being subdivided to the applicable utility district or sanitary district in accordance with state statutes, the subdivision shall be served by municipal water facilities.

b. **Sewage and Water Facilities for Subdivisions Located Within the Urban Service Area; Service by Caledonia Sewer Utility District No. 1 and**

### **Caledonia Water Utility District No. 1**

- i. All Subdivisions located within the Urban Service Area for Caledonia Sewer Utility District No. 1 and Caledonia Water Utility District No. 1 shall be served by municipal sewer and water facilities owned and operated by the District. All sewer and water facilities shall be installed in accord with the following:
  - a) All work, including installation of laterals, shall be performed under contracts between the Village and the construction contractor. The letting and awarding of such contracts shall be in accordance with state law relating to the letting of contracts by municipalities for public work. All plans and specifications as to such sewer or water work shall be prepared by the Utility District Engineer. The Utility District Engineer shall perform all engineering construction and inspection services with respect to such sewer and water work.
  - b) The Subdivider shall pay the cost of such work, including the installation of laterals and hydrants and including engineering, inspection, legal and administrative expenses. Payment shall be made as provided in subparagraph 1. below or, at the option of the Village, as provided in subparagraph 2. below.
    1. The Subdivider shall pay to the Village 100% of the estimated cost of such work prior to the commencement thereof. An adjustment upward or downward of such cost either in the form of a further payment by the Subdivider or a refund by the Utility District, shall be made within thirty (30) days after the approval of the final payment to the contractor and receipt of all statements of expenses by the Utility District.
    2. The Subdivider shall execute a waiver of special assessment notices and hearings thereon and agree that the Village may finance the cost of installation of the sewer and/or water systems by the levy of special assessments in such amounts as to each parcel of land as are determined by the Village Board to be equitable and in accordance with law. Such special assessments shall bear interest as determined by the Village Board and such special assessments for sewer and/or water shall be payable in as many equal annual installments, not to exceed ten (10), as determined by the Village Board, the first of which shall be due and payable on the tax roll of the next succeeding year.

- c) The estimated cost of the work for the purposes of Section 14-3-4(c)(6)b above shall be determined by the Utility District or its designee, and for the purposes of determining special assessments under Section 14-3-4(c)(6)b above shall be determined by the Village Board, and sections 66.0703(2) and 66.0703(3) of the Wisconsin Statutes as amended from time to time shall apply thereto in either case. The Subdivider shall not be compelled to bear the cost of mains in the subdivision in excess of the size and depth as needed to serve such subdivision which are installed to transmit sewage from other sources, in addition to the subdivision. The Utility District Engineer shall determine the cost of such differences as will be borne by the Village and/or Utility District.
- d) The Subdivider or lot owner of record shall pay to the Village Treasurer for the benefit of the applicable Utility District such sewer and/or water connection charges as are currently being charged by the utility district at the time a building permit is secured. These connection fees are in addition to the permit fees payable to the Plumbing Inspector for sewer and water connections.
- e) In each and every case wherein such subdivision is not located adjacent to existing sanitary sewer and/or water mains, or storm water drainage facilities, which are of such size and construction as will adequately service the subdivision, the Subdivider shall agree to pay all or such percentage of the cost, including engineering, legal, and administrative costs, of the sanitary sewer and/or water mains, or storm water drainage facilities, which must be constructed to service said subdivision, including the acquisition costs of easements, as the Village Board shall determine to be equitable and financially feasible for the Village. The sum due shall be estimated by the Utility District and shall be due and payable at the time of the approval of the final plat by the Village Board; provided that the Subdivider shall be liable for any costs in excess thereof. The Village Board and/or applicable Utility District may enter into contracts with third persons who desire to connect up to such line, whereby such third persons will pay to Subdivider an equitable proportion of such cost computed on a lineal foot-basis.
- f) The agreement shall provide that it shall create personal liability to the Subdivider for the costs and charges incurred by the Village and/or Utility District for the installation of required improvements and that without the agreement the Village would refuse the approval of the final plat, and that

- any plat approval is conditioned upon the execution of the agreement.
- g) The agreement shall provide that the Subdivider guarantees the payment of each and every installment of special assessments on each and every parcel of land in said subdivision, and within ten (10) days after default in the payment of any installment the Subdivider agrees to pay to the Village said unpaid installment, together with interest and penalties, if any, on each and every parcel of land in said subdivision.
  - h) The agreement shall further provide that the Subdivider will not sell any land subject to special assessments and in the event of sale of any piece or parcel of land by deed, land contract, or otherwise, after special assessments have been levied, Subdivider shall, within ten (10) days after such sale, pay to the Village any and all remaining unpaid installments, together with interest and penalties, if any, affecting the land so sold.i) The agreement shall further provide that the Subdivider, in the event of sale of any piece or parcel of land by deed, land contract, or otherwise prior to the time special assessments have been levied, shall, within ten (10) days after receipt of notice by the Town of the fact that special assessments have been levied, pay to the Town any and all of such special assessments, together with interest and penalties, if any, affecting the land so sold.
  - i) The agreement shall further provide that the Subdivider, in the event of sale of any piece or parcel of land by deed, land contract, or otherwise prior to the time special assessments have been levied, shall, within ten (10) days after receipt of notice by the Village of the fact that special assessments have been levied, pay to the Village any and all of such special assessments, together with interest and penalties, if any, affecting the land so sold.
  - j) The agreement shall further provide that its terms and provisions shall extend to the heirs, administrators, successors in title and assigns of the Subdivider. The agreement shall further provide that personal liability shall extend to successors in title and assigns of the Subdivider.
  - k) The agreement shall set forth other pertinent provisions contained above in section 14-3-3(g).
- ii. As a complete alternative to installing sewer and water facilities in accord with 14-3-4(c)(6)b.i, the Subdivider may choose to privately design and construct such facilities, subject to entering into an agreement with the Village and District which shall include, but is not limited to, the following terms and conditions:
- a) Pertinent provisions set forth above in sections 14-3-3(g).



- b) The District shall review and approve all design and construction plans.
  - c) The contractor chosen by the Subdivider must be approved by the District, which approval shall not be unreasonably withheld, and the contractor shall be a party to the agreement.
  - d) The District's engineer shall inspect all work performed. The District's engineer shall have the right and full authority to stop work that is not in conformity with the approved plans and specifications.
  - e) The Subdivider shall post an irrevocable letter of credit to guarantee performance. Such security shall cover 120% of the estimated cost of the project. Such estimated cost shall be provided by the District's engineer. From time to time, during the course of the construction work, the District may release at the request of the Subdivider pro rata portions of the letter of credit, based upon the percentage of completion of the project. At least 20% of the amount of the letter of credit, however, shall be retained through the letter of credit during the one year guarantee time period.
  - f) Guarantee by Subdivider for one year beyond date of acceptance of work. Upon acceptance, the sewer and/or water facilities become the property of the District.
  - g) The Subdivider shall pay all of District's engineering, planning, legal and administrative costs pertaining to the project..
  - h) The District, Village and the District's engineer shall be added as additional insureds to insurance policies covering the work and project.
- iii. Any request for modification or waiver of the above provisions shall be made and considered in accordance with Section 14-3-1(k) of the Village's Code of Ordinances. In considering a modification or waiver request, the Plan Commission and Village Board shall also consider the criteria set forth by Resolution of the Village Board.
- c. **Sewage and Water Facilities for Subdivisions Located Within the Urban Service Area; Service by other Utility Districts.** All subdivisions located within the Urban Service Area for other Village utility districts shall be served by municipal sewer and water facilities on such terms as are acceptable to the applicable utility district commission.
- (7) **Storm Water Management.**
- a. Conservation Subdivisions shall comply with all rules and regulations of the Town's storm sewer utility districts, as set forth in Title 9 of the Town's Code of Ordinances, and the Town's Construction Site Erosion Control Ordinance contained in Title 15, Chapter 2 of the Town's Code of

Ordinances.

- b. Conservation Subdivisions shall comply with other applicable town, county, state and federal requirements pertaining to storm water. To the extent there is a conflict among the provisions of the various jurisdictions, the more stringent provision shall govern.
- c. **Drainage.** The Town Board, as a condition precedent to the acceptance of the subdivision plat, may require the Subdivider to construct and install such storm water drainage facilities as the Town Board determines to be reasonably necessary, to provide for the ultimate drainage of, through or from the subdivision to a proper drainage outlet or to prevent the flooding or saturation of lands within the subdivision or within the vicinity of the subdivision. The facilities required shall be as indicated on the Town of Caledonia Comprehensive Drainage Plan, or other alternative methods consistent with NR151 and NR216 of the Wisconsin Administrative Code and employing ecological planning and conservation principles, unless in the judgment of the Town Board circumstances require more extensive facilities. Should the subdivision disrupt any natural existing drainage course, the Subdivider is responsible for relocating this course to the satisfaction of the Town Engineer and allowing the natural flow of storm water.

(8) **Other Utilities.**

- a. The Subdivider shall cause gas, electrical power, and telephone and other communication facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision or condominium.
- b. Plans indicating the proposed location of all gas, electrical power, telephone, and other communications, distribution and transmission lines required to serve the subdivision or condominium shall be submitted to the Town Engineer.

(9) **Street Signs.**

The Subdivider shall install at the intersection of all streets proposed to be dedicated a street sign of a design specified by the Town Engineer. The Town may require additional signs to be installed within the Subdivision as it deems necessary. The Subdivider shall be liable for all costs associated with the procurement and installation of street signs within or adjacent to the subdivision. However, the Town shall procure and install the street signs.

- (10) **Street Lights.** Ornamental street lights shall be required within the Subdivision, except that standard street lights shall be placed at the entrance to the Subdivision. The installation, maintenance and repair costs for said lights shall be the sole responsibility of the Subdivider, or its successors and assigns, until the street is accepted by the Town Board. The Subdivider shall install streetlights in areas deemed necessary in the judgment of the Town Engineer or the controlling agency. The Town Engineer may require a lighting design plan to be submitted. Said lights must be approved by the Town and WE Energies. The Subdivider shall also be responsible for payment of the applicable street light fee per light, as set by resolution of the Town Board from time to time, which fee represents the cost of operating each light for the first three years of operation. This section applies in

both rural and urban areas, although the purpose and intent of this section is to avoid an urban appearance in rural areas.

- (11) **Street Trees.**
- a. The Subdivider shall plant or provide funding for the planting of one tree of a species approved by the Plan Commission of at least two inches in diameter measured at six inches above the top of the root ball at an average spacing of 40 feet or less along the frontage of each side of all streets proposed to be dedicated. If curb and gutter are present, the required trees shall be planted in the area between the property line and curb in accordance with plans and specifications approved by the Town Engineer. If drainage swales are utilized within the right-of-way, the trees shall be planted outside of the right of way. A mixture of trees shall be chosen from an approved species list provided by the Town. The purpose of this section is to eventually achieve a vegetative canopy over the right of way. Regular spacing, however, can have a strong urban appearance; to avoid this in rural areas, the Town may permit trees to be grouped in irregular and informal patterns. Trees should be planted along streets in front of dwelling units, but not necessarily along streets that pass through Common Open Space as such placement can produce the appearance of an urban park instead of a natural rural area. Existing healthy trees should be permitted to fulfill the street tree requirement.
  - b. The requirement for street trees may be waived by the Plan Commission if substantial alternative landscaping, including natural features, is to be provided along the frontage of all streets in the Conservation Subdivision in accordance with a landscaping plan approved by the Town Plan Commission and Town Engineer.
- (d) **Security and Financial Guarantee.** The Town Board, as a condition precedent to the acceptance of the subdivision plat, may require the Subdivider to file cash, letter of credit or a performance bond with the Town guaranteeing compliance with the terms and conditions of the contract specified herein. Such security shall be in such amount and with such sureties as shall meet with the approval of the Town Board. The amount of the security shall in no way limit the Subdivider's liability.
- (e) **Sales and Construction.** No owner of any land abutting upon any road or highway or part thereof, accepted as a part of a subdivision pursuant to the terms of this Ordinance or abutting upon, adjacent to or crossed by any drainage easement, drain, or other improvement required as a condition of plat approval shall offer for sale any of such land nor shall any building permits be issued by the Town with respect to such land, unless and until such proposed drainage easement, drain or other improvement and first binder course of asphalt and installation of curb and gutter, if applicable, shall have been constructed according to the terms and provisions of this Ordinance and the conditions of plat approval. No building permit shall be issued for any subdivision prior to submission by the Subdivider of as-built grading plans for the subdivision to the Town Engineer.

**SEC. 14-3-5 OWNERSHIP AND MAINTENANCE OF COMMON OPEN SPACE AND COMMON FACILITIES.**

- (a) **Alternatives.** The designated Common Open Space and/or Common Facilities may be owned and managed by one or a combination of the following subject to Town Board approval:
- (1) A Homeowners' Association.
  - (2) A Condominium Association established in accordance with the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes.
  - (3) A Non-Profit Conservation Organization.
  - (4) The Town or another governmental body empowered to hold an interest in real property.
  - (5) An individual who will use the land for Common Open Space purposes as provided by a Conservation Easement.
- (b) **Conservation Easement.** Common Open Space and/or Common Facilities shall be subject to a Conservation Easement conveyed to a qualified holder.
- (c) **Homeowners' Association.** A Homeowners' Association shall be established if the Common Open Space and/or Common Facilities are proposed to be owned by a Homeowners' Association. Membership in the association is mandatory for all purchasers of homes in the development and their successors.

The Homeowners' Association bylaws, guaranteeing continuing management of the Common Open Space and/or other Common Facilities, and the declaration of covenants, conditions and restrictions of the Homeowners' Association shall be submitted for approval to the Town as part of the information required for the preliminary plat. The Homeowners' Association bylaws or the declaration of covenants, conditions and restrictions of the Homeowners' Association shall contain the following information:

- (1) The legal description of the proposed Common Open Space;
  - (2) A description of Common Facilities;
  - (3) The restrictions placed upon the use and enjoyment of the Common Open Space and/or Common Facilities;
  - (4) Persons or entities entitled to enforce the restrictions;
  - (5) A mechanism to assess and enforce the common expenses for the Common Open Space and/or Common Facilities including upkeep and management expenses, real estate taxes and insurance premiums;
  - (6) A mechanism to implement restoration, maintenance and management of the Common Open Space and/or Common Facilities;
  - (7) A mechanism for resolving disputes among the owners or association members;
  - (8) The conditions and timing of the transfer of ownership and control of Common Open Space and/or Common Facilities to the Association;
  - (9) Any other matter the Subdivider deems appropriate.
- (d) **Condominium Association.** If the Common Open Space and/or Common Facilities are to be held under the Condominium Ownership Act, Chapter 703 of the Wisconsin Statutes, the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the Common Open Space and/or Common Facilities. The condominium instruments shall be submitted for approval to the Town as part of the information required

for the preliminary plat and shall include the information specified under subsection 14-3-5(c)(1)-(9). All Common Open Space and Common Facilities shall be held as a “common element” as defined in section 703.02(2) of the Wisconsin Statutes.

- (e) **Non-Profit Conservation Organization.** If the Common Open Space and/or Common Facilities are to be held by a Non-Profit Conservation Organization, the organization must be acceptable to the Town. The conveyance to the Non-Profit Conservation Organization must contain appropriate provisions for reversion or succession to a subsequent Non-Profit Conservation Organization or other acceptable entity in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.
- (f) **Public Dedication of Common Open Space.**  
The Town may accept the dedication of a Conservation Easement or fee title to the Common Open Space and/or Common Facilities, provided:
  - (1) The Common Open Space and/or Common Facilities are as accessible to the residents of the Town as they are to members of the general public.
  - (2) The Town agrees to and has access to maintain and manage the Common Open Space and/or Common Facilities.
- (g) **Separate Ownership.** An individual may hold fee title to the land while a Non-Profit Conservation Organization or other qualified organization holds a Conservation Easement prescribing the acceptable uses and obligations for the Common Open Space and/or Common Facilities.
- (h) **Stewardship Plan.** Every Conservation Subdivision must include a plan that provides a means to properly manage the Common Open Space in perpetuity and the long-term means to properly manage and maintain all Common Facilities. The plan shall be approved by the Town in conjunction with the Development Agreement prior to or as a continuing condition of final plat approval and shall be in the format as set by resolution of the Town Board from time to time and shall comply with subsection 14-3-3(h)(4).
  - (1) The plan shall do the following:
    - a. Designate the ownership of the Common Open Space and/or Common Facilities in accordance with section 14-3-5(a).
    - b. Establish necessary regular and periodic operation and management responsibilities.
    - c. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
    - d. Include a land Stewardship Plan specifically focusing on the long-term management of Common Open Space lands. The land Stewardship Plan shall include a narrative, based on the site analysis required in section 14-3-3(b) describing:
      - i. Existing conditions including all natural, cultural, historic, and scenic elements in the landscape. This baseline documentation of existing site conditions shall be agreed upon at the time of execution of the Conservation Easement.
      - ii. The proposed end state for each Common Open Space area; and the measures proposed for achieving the end state.
      - iii. Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion; and measures for restoring historic features and habitats or ecosystems.

- iv. The operations needed for managing the stability of the resources for five (5) years, including but not limited to: mowing schedules; weed control; planting schedules; assessment schedule; and clearing and cleanup. At the Town’s discretion, the applicant may be required to place in escrow sufficient funds for the management and operation costs of the Common Open Spaces and/or Common Facilities for a maximum of five (5) years.
  - v. Education component for educating the homeowners on the Stewardship Plan and status of the Common Open Space. The holder of the Conservation Easement shall determine the content of the educational component; however, the holder shall hold an educational meeting with the homeowners at least annually after the annual assessment is conducted.
  - vi. Any Stewardship Plan of an abutting Subdivision that has a Stewardship Plan in place and addressing any impact that Stewardship Plan may have on the proposed Subdivision.
  - e. If ownership is vested in a Homeowner’s Association or a Condominium Association, then the Association must contract with a competent contractor, such as a Professional Ecological Service, as approved by the Town to oversee and sustain the plan. The Town’s approval shall not be unreasonably withheld.
  - f. Any Stewardship Plan that incorporates burning as a means of managing Common Open Space shall require approval by the Fire Chief. The Subdivider or its successors and assigns shall be responsible for complying with Sec. 5-2-20 of Town’s ordinances and for reimbursing the Town for costs related to attendance, by the Fire Department, during any approved open burning, to ensure safety of persons and property.
- (2) In the event that the organization established to own and manage the Common Open Space and/or Common Facilities, or any successor organization, fails to manage all or any portion of the Common Open Space and/or Common Facilities in reasonable order and condition in accordance with the management plan and all applicable laws, rules, and regulations, the Town may serve written notice upon such organization and upon the residents and owners of the Common Open Space and/or Common Facilities, setting forth the manner in which the organization has failed to manage the Common Open Space and/or Common Facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Ordinance, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The Town may enter the premises and take corrective action.
- (3) The costs of corrective action by the Town shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the Common Open Space and/or Common Facilities and shall become a lien on said properties. The Town, at the time of entering upon such Common Open Space and/or Common Facilities for the purpose of management, shall file a notice of such

lien in the office of the County Register of Deeds upon the properties affected by such lien.

- (4) Stewardship Plans may be amended by the owner identified under section 14-3-5(a) with the approval of the Town Board.
- (5) The Town may require the Common Open Space to be inspected and assessed annually by the holder of the Conservation Easement or an independent professional ecologist or may contract with an independent individual, organization, or business, for a periodic assessment of the Common Open Spaces and/or Common Facilities of the development to ensure compliance with the Stewardship Plans. The cost for this periodic assessment of the Common Open Spaces and/or Common Facilities shall be specially assessed, equally against the properties that have the right of enjoyment of the Common Open Spaces and/or Common Facilities and shall become a lien on said properties if not paid.

**SEC. 14-3-6 REPEALED.**