

Town of Nekimi, Winnebago County

Chapter 18: Land Division & Subdivision Regulations

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July 12, 2000

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December 20, 2017

Town of Nekimi, Winnebago County  
Chapter 18: Land Division & Subdivision Regulations

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## Article I: INTRODUCTION

### 18.001 Authority.

- A. This Chapter was adopted under the statutory authority granted pursuant to the Village Powers of the Town of Nekimi by Chapters 60.10(2)(c), 60.22(3), 61.34(1), and 236.45, Wis. Stats. This Chapter was adopted by the Town Board on December 20, 2017, under the statutory powers granted by Chapters 61.35 and 62.23, Wis. Stats.
- B. This Chapter shall be interpreted and enforced by the Town Board, Town of Nekimi.

18.002 Adoption. The Town Board, by this Chapter, adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town Board to regulate and approve certain land divisions and certified surveys in the Town of Nekimi. Pursuant to Chapter 236.45(4), Wis. Stats., a public hearing was held before the adoption of this Chapter and notice of the hearing was given by publication of a Class 2 notice, under Chapter 985, Wis. Stats.

18.003 Title. This Chapter shall be known and cited as the “Land Division and Subdivision Regulations, Town of Nekimi, Winnebago County, Wisconsin.”

18.004 Purpose and Intent. The purpose of this Chapter is to promote the public health, safety and general welfare of the Town of Nekimi, and to:

- A. Ensure that residential development in the Town occurs in an orderly manner.
- B. Preserve the rural character, scenic vistas, and natural beauty of the Town.
- C. Supplement County, State, and Federal land division controls.
- D. Encourage the most appropriate use of the land throughout the Town.
- E. Minimize the impact to the public resulting from the division of large tracts into smaller parcels of land in the Town.
- F. Provide the best possible environment for living in the Town.
- G. Avoid congestion and provide adequate ingress and egress on the streets and highways to ensure that the design of the street system will not have a negative long-term effect on neighborhood quality, traffic flow, and safety in the Town.
- H. Realize goals, objectives, policies, and development standards set forth in plans, codes, and ordinances adopted by the Town.
- I. Further the orderly layout and use of land.
- J. Secure safety from fire, panic and other dangers.
- K. Provide adequate light and air to prevent the over-crowding of land.
- L. Facilitate the division of larger parcels into smaller parcels of land.
- M. Enforce the goals and policies set forth in the Town of Nekimi Comprehensive Plan, as adopted and amended from time to time, including:
  - 1. Require conservation design for all Plats within the ‘Transitional Residential’ area as identified on the Future Land Use Map.
  - 2. Require conservation design for all Minor Land Divisions within the ‘Transitional Residential’ area as identified on the Future Land Use Map.
  - 3. Conserve the value of prime agricultural soils.
  - 4. Protect and preserve natural resources, wildlife habitat, and open space to the greatest degree possible.
- N. Provide for administration and enforcement of this Chapter by the Town Board.

18.005 Abrogation and Greater Restrictions.

- A. It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.
- B. In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

18.006 through 18.009 Reserved for Future Use.

## Article II: GENERAL PROVISIONS

18.010 Jurisdiction. The jurisdiction of this Chapter shall include all lands within the Town of Nekimi. However, in no instances shall the provisions of this Chapter apply to:

- A. Transfers of interest in land by will or pursuant to court order.
- B. Leases for a term not to exceed ten years, mortgages or easements.
- C. Sale or exchange of parcels of land between owner of adjoining property if additional lots are not thereby created and the resultant lots are not reduced below the minimum size required by these regulations, the County Zoning Ordinance or other applicable laws or ordinances. For the purpose this section, an additional lot is deemed to be created if the parcel being sold or created is combined with the adjoining parcel by means of a new legal description in accordance with Section 18.011.

18.011 Combining Lots. Lots shall be combined into one parcel when one or more of the following occurs:

- A. A use, structure, or structural addition that occupies more than one lot under the same ownership.
- B. Existing substandard lots on record platted according to Chapter 236, Wis. Stats., when in the determination of the Town, the intent of the district will not be maintained at the time of construction.

18.012 Combining Description. Land described Section 18.011 shall be combined into one parcel by Certified Survey Map procedures and recorded in the County Register of Deeds Office.

18.013 Compliance. Divisions of land located within the jurisdictional limits of these regulations which results in a land division, Replat or Condominium Plat as defined herein shall not be entitled to recording and/or improvements to the land unless it is in compliance with all the requirements of this Chapter and:

- A. Applicable County zoning regulations, building code, sanitary code, erosion control regulations, and other land division regulations.
- B. Applicable local ordinances.
- C. Chapter 236, Wis. Stats.

18.014 Land Suitability. No land shall be divided which is held unsuitable for any proposed use as recommended by the Plan Commission for approval by the Town Board for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community. In its recommendation to the Board, the Plan Commission in applying the provisions of this Chapter shall in writing, cite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the applicant an opportunity to present evidence regarding such suitability at a public hearing. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.



18.015 Variances.

- A. In any particular case where it can be shown that by reason of exceptional topographic or other physical conditions, strict compliance with any requirement of this Chapter would cause practical difficulty by exceptional and undue hardship, the Plan Commission may recommend to the Board to relax such requirement to the extent deemed just and proper so as to relieve such difficulty or hardship, provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of this Chapter or the desirable general development of the Town.
- B. The Plan Commission shall conduct a public hearing to permit parties of interest to comment on the variance request.
- C. The applicant shall be responsible for payment of a hearing fee as established by the Town Fee schedule. The Plan Commission shall then fix a reasonable time and place for the hearing. Notice of the time and place of such hearing shall be given by Class 1 notice, as per the requirements of Chapter 985, Wis. Stats. A copy of such notice shall be mailed by certified mail to all property owners within 300 feet of the subject site as listed on official tax property rolls as of the date of application shall be notified by first class mail with an Affidavit of Mailing at least ten days prior to the date of such hearing.
- D. A majority vote of the entire membership of the Plan Commission shall be required to recommend any modification to these regulations and any modification thus granted shall be entered in the minutes of the Plan Commission setting forth the reasons which, in the opinion of the Plan Commission, justified the modification.
- E. The Town Board shall receive the recommendation of the Plan Commission and, by majority vote, affirm, reverse, or modify the Plan Commission's recommendation
- F. Shoreland Notice and Decision.
  - 1. Written notice shall be given to the appropriate District Office of the Department of Natural Resources at least ten days prior to consideration by the Plan Commission.
  - 2. Written notice of the decision shall be submitted to the appropriate District Office of the Department of Natural Resources within thirty days of the decision.

18.016 Violations. No person shall build upon, divide, convey, record or monument any land in violation of this Chapter or the Wisconsin Statutes. No permit shall be issued authorizing the building on or improvement of any subdivision, Replat or Condominium Plat within the jurisdiction of this Chapter and not of record as of April 15, 1969, until the provisions and requirements of this Chapter have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin Statutes.

18.017 Penalties.

- A. Recordation improperly made shall be subject to the provisions of Chapter 236.30, Wis. Stats.
- B. Conveyance of parcels in unrecorded plats shall be subject to the provisions of Chapter 236.31, Wis. Stats.
- C. Monuments disturbed or not placed shall be subject to the provisions of Chapter 236.32, Wis. Stats.
- D. An assessor's plat may be ordered by the Town when a subdivision is created by successive divisions as provided in Chapter 236.31(2), Wis. Stats.

18.018 Appeals. Any person aggrieved by an objection to a plat or failure to approve a plat may appeal therefrom as provided in Chapter 236.13(5) and Chapter 62.23(7), Wis. Stats.

18.019 Severability. If any division, section, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.

18.020 Disclaimer of Liability. The Town does not guarantee, warrant or represent that only those areas delineated as floodlands on Certified Survey Maps, subdivision maps, or Condominium Plats will be subject to periodic inundation, nor does the Town guarantee, warrant or represent that the soils shown to be unsuitable for a given land use from tests required by this Chapter are the only unsuitable soils within the jurisdiction of this Chapter. The Town asserts that there is no liability on the part of the Town, the Town Board, or the Town's Planning Commission or its employees for flooding problems, sanitation problems or structural damage that may occur as a result of reliance upon or compliance with this Chapter.

18.021 Fees. The Applicant shall pay the Town all required fees at the specified time. Fees shall be established in the Town of Nekimi Fee Schedule from time to time by resolution of the Town Board.

18.022 through 18.029 Reserved for Future Use.

### Article III: MINOR LAND DIVISIONS

18.030 When Required. When it is proposed to divide land into at least two but not more than four parcels or building sites or when it is proposed to create by land division not more than four parcels or building sites within a recorded Subdivision Plat without changing the exterior boundaries of the block, parcel or outlot, the Owner shall subdivide by use of a Certified Survey Map.

18.031 Submittal of a Certified Survey Map. Creation of a minor land division shall be by Certified Survey Map and shall be submitted to the Town Clerk for distribution. The Certified Survey Map shall be prepared according to Chapter 236.34, Wis. Stats., and shall show clearly on its face those items listed in this section. In addition, the names of all landowners within 500 feet of any property line of proposed area shall be listed on a separate sheet submitted with the Certified Survey Map.

18.032 Required Information. The Certified Survey Map shall show clearly on its face the following:

- A. Existing buildings, watercourses, and drainageways.
- B. Floodplain and wetland delineations as applicable.
- C. Existing and proposed public roads.
- D. Existing and proposed easements.
- E. Date of the map with a graphic scale.
- F. Name and address of the person for whom the survey was made.
- G. An owner's and Treasurer's certificate and approval signature of the Town of Nekimi Chairperson and Clerk after approval by the Town Board in accordance with Chapter 236.21(3), Wis. Stats., shall be the only approvals required for recording unless additional approvals are necessary for dedication purposes.
- H. The Town may require that any parcel of land divided from an agricultural parent parcel intended for the purpose of constructing a principal dwelling be located at the periphery of the parent parcel so as to preserve to the greatest degree practicable the functional agricultural use of the parent parcel.
- I. Location and extent of permanently preserved open space as required under Section 18.033 of this Chapter.

18.033 Conservation Certified Survey Maps. All new parcels of two or more acres in size within the 'Conservation Residential Area' as established on the Future Land Use Map of the Town of Nekimi Comprehensive Plan and created via Certified Survey Map, Plat of Survey, or similar mechanism shall contain no less than 30% of the total parcel area as permanently preserved open space.

- A. The Town Board shall have final approval over the onsite location of the proposed open space.
- B. When practicable, such open space shall be comprised of existing woodlands, wetlands, grasslands, or other significant natural features.
- C. When no such natural features are existent onsite, the Town shall require a restoration plan be approved for the open space.
- D. Open space within a Conservation Certified Survey Map shall be preserved via a conservation easement, or similar mechanism, as approved by the Town Board.

- 18.034 Monumenting. All Certified Survey Maps shall be monumented in accordance with Chapter 236.34(1)(b), Wis. Stats.. In addition, metal fence posts shall be placed next to all monuments within a Certified Survey Map in an undeveloped area.
- 18.035 Certificates. The Surveyor shall certify on the Certified Survey Map that he or she has fully complied with all the provisions of this Chapter and Chapter 236, Wis. Stats. The Town Board shall certify its approval on the Certified Survey Map upon review of all taxes having been paid. Dedication of streets and other public areas shall require the owner's certificates and mortgagee's certificates in substantially the same form as required by Chapter 236.21, Wis. Stats.
- 18.036 Testing. The Town may require that borings and/or soundings be made in designated areas to ascertain subsurface soil, rock and water conditions including the depth to bedrock and the depth to groundwater table. All developments shall comply with the provisions of Chapters SPS 383 and SPS 385 of the Wisconsin Administrative Code relative to sanitary systems. All appropriate data shall be submitted with the Certified Survey Map.
- 18.037 Review and Decision. The Town shall, within 90 days of the date of submission of the Certified Survey Map application, unless mutually extended by both parties, review the application and map against the applicable standards of this Chapter, and approve, approve conditionally, or reject the application and map based upon a determination of conformity or non-conformity with the standards.
- 18.038 Recordation. All Certified Survey Maps, upon receipt of final approval by the Town Board or its designees, shall be recorded in the Office of the Register of Deeds by the land divider at the cost of the land divider within twelve months after the last approval and 36 months from the first approval.
- 18.039 Filing of True Copy of Certified Survey Map. The Subdivider shall file one (1) copy of the recorded Certified Survey Map on reproducible paper with the Town Clerk.
- 18.040 through 18.049 Reserved for future use.

## Article IV: CONCEPT PLAN

- 18.050 Application. Any Owner who divides land via a Plat, Replat, or Condominium Plat shall first submit to the Town Clerk an Application for Concept Plan on a form provided by the Town.
- 18.051 Purpose. This Concept Plan is intended to inform the Owner of the purpose and objectives of this Chapter, the comprehensive plan, comprehensive plan components, and duly adopted plan implementation devices of the Town and to otherwise assist the Owner in planning the development. In so doing, the Owner will gain a better understanding of the subsequent required procedures.
- 18.052 Concept Map. Along with the application the Owner shall submit to the Town Clerk 10 copies of a concept map no larger than 11 x 17 inches. The concept map shall show all of the following:
- A. A reasonably accurate drawing of the boundaries of the proposed subdivision, including the tax keys for all relevant parcels.
  - B. All contiguously owned land.
  - C. A north arrow and date, the scale, and a reference to a section corner.
  - D. The general location of the following, if relevant:
    - 1. Slopes exceeding 12%.
    - 2. Hydrographic Features, including surface waters, floodways/floodplains, wetlands, and drainageways.
    - 3. Land cover types, such as woodlands, wetlands, agricultural, etc.
    - 4. Existing and proposed buildings and structures and uses.
    - 5. Water wells, sanitary systems, and other features pertinent to the land division.
    - 6. Existing roads, highways, developments, trails, and driveways and distances to the nearest adjoining highways, roads, or driveways on all sides of the proposed site.
    - 7. Secondary conservation areas as identified in Section 18.091 of this Chapter.
    - 8. Location and size of all proposed lots and outlots.
- 18.053 Plan Commission Review.
- A. The Town Clerk shall review the Application and Concept Map for completeness, including payment of any required application fees, within 10 working days of receipt. The Town Clerk shall thereafter notify the Owner if the Application is determined by the Town Clerk to be complete or incomplete. The Town Clerk shall provide written reasons for any alleged incompleteness of the application with the notification. The Town Clerk shall, within five working days after filing, transmit the copies of a complete Application to the Plan Commission and Town Board.
  - B. The Town Clerk shall send to the Owner an agenda of the scheduled date of the Plan Commission meeting to review and consider the Concept Map no later than seven days prior to the date of the meeting.
  - C. The Owner or the Owner's designee shall attend the meeting and present the proposed concept map to the Plan Commission for its consideration.
- 18.054 Through 18.059 Reserved for future use.

## **Article V: PRELIMINARY PLAT**

### **18.060 Submission of Preliminary Plat.**

- A. Submission. Before submitting a Final Plat for review, the Subdivider shall submit a Preliminary Plat prepared by a registered land surveyor, a letter of application, and the necessary fees at least 15 days prior to the meeting of the Plan Commission at which action is desired. The Preliminary Plat shall be prepared in accordance with this Chapter, and the Preliminary Plat shall comply with the procedures for approval of plats of Chapter 236, Wis. Stats.
- B. Referral of Preliminary Plat to Objecting Agencies. The Subdivider shall, pursuant to Chapter 236.12, Wis. Stats., submit an original drawing of the Preliminary Plat directly to Objecting Agencies and one copy to East Central Wisconsin Regional Planning Commission. It shall be the responsibility of the Subdivider to submit the additional copies required by this Chapter.
- C. Referral of Preliminary Plat to Town. The Subdivider shall file 10 paper copies of the Preliminary Plat and one copy on ledger size paper, plus a digital copy of the plat file in PDF or compatible form on Compact Disc, fees as set forth in the Town of Nekimi Fee Schedule, and the necessary applications with the Town Clerk. The Town Clerk shall retain one copy of the Preliminary Plat and ledger copy, plus the Compact Disc and forward the other eleven copies to the following:
  - 1. Three copies to the Town Board.
  - 2. Five copies to the Plan Commission.
  - 3. One copy to the Building Inspector.
  - 4. One copy to Planning Staff.

### **18.061 Preliminary Plat Review and Decision.**

- A. Notification. The Town Clerk shall schedule a public hearing before the Plan Commission when a Preliminary Plat within the Town is filed and shall cause notices of the proposed Preliminary Plat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed Preliminary Plat and to the owners of all properties within 500 feet of the exterior boundaries of the proposed Preliminary Plat at least 14 days prior to the Plan Commission meeting at which action is desired.
- B. Review and Decision by Plan Commission. The Plan Commission shall, within 60 days of the date of the filing of a Preliminary Plat with the Town Clerk, recommend approval, conditional approval, or rejection of such plat to the Town Board unless the time is extended by agreement in writing between the Town and the Owner.
- C. Review and Decision by Town Board. After receipt of the Plan Commission's recommendation, the Town Board shall, within 90 days of the date of the filing of a Preliminary Plat with the Town Clerk, approve, conditionally approve, or reject such plat unless the time is extended by agreement in writing between the Town and the Owner. The Subdivider shall be notified in writing by the Town Clerk of approval, any conditions of approval, or the reasons for rejection.
- D. Failure to act. Failure of the Town Board to act within ninety 90 days, or extension thereof, constitutes an approval of the Preliminary Plat, unless other authorized agencies object to the Preliminary Plat.
- E. Effect of approvals. Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat, or the Final Plat of Phase One of the Preliminary Plat, is submitted within six months of Preliminary Plat approval and conforms substantially to the Preliminary Plat layout, and all conditions imposed as part of the Preliminary Plat approval have been satisfied, the Final Plat shall be entitled to approval with respect to such layout.

- F. Preliminary Plat Amendment. Should the Subdivider desire to amend the Preliminary Plat as approved, the Subdivider may resubmit the amended plat which shall follow the procedure for Preliminary Plats in this Chapter, plus the fee.

18.062 Technical Requirements for Preliminary Plats.

- A. General. A Preliminary Plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor, shall comply in all respects with the requirements of Chapter 236, Wis. Stats., shall comply with the design standards set forth in Article IX of this Chapter, shall be provided digitally on Compact Disc in a PDF compatible format, shall be prepared on reproducible paper of good quality at a scale of not more than 100 feet to the inch, and the Preliminary Plat shall show correctly on its face the following information:
  - 1. Title or name under which the proposed subdivision is to be recorded. Such title shall not be the same or similar to a previously recorded plat, unless the plat is an addition by the same owner to a previously recorded plat and is so stated on the plat.
  - 2. "Preliminary Plat" shall be clearly marked on the plat.
  - 3. Property location of the proposed subdivision by government lot, quarter section, township, range, county, and state.
  - 4. Date, scale, and north arrow.
  - 5. Names, addresses, and telephone numbers of the owner, Subdivider, and land surveyor preparing the plat.
  - 6. Entire area contiguous to the proposed plat owned or controlled by the Subdivider shall be included on the Preliminary Plat even though only a portion of said area is proposed for immediate development. The Plan Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Chapter and undo hardship would result from strict application thereof.
  - 7. General location sketch showing the location of the subdivision within the U.S. Public Land Survey section oriented on the sheet in the same direction as the main drawing.
- B. Plat Data. All Preliminary Plats shall show the following:
  - 1. Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
  - 2. Locations of all existing property boundary lines, structures including the use and setback dimensions to existing and proposed property lines, driveways, lakes, streams and water courses, marshes, wetlands, rock outcrops, wooded areas, railroad tracks and other significant features within the tract being subdivided or immediately adjacent thereto. Delineation of all wetlands, shoreland/wetlands, isolated natural areas and primary environmental corridors shall be based on field staking by an agency or firm certified to make such delineation by the Federal Government or the Wisconsin Department of Natural Resources.
  - 3. Location, right-of-way width, and names of all existing and proposed streets, alleys or other public ways, easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
  - 4. Location and names of any adjacent subdivisions, parks and cemeteries and owners of record of abutting platted and unplatted lands.
  - 5. Reference to an established bench mark on USGS datum.
  - 6. Type, width, and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations. All elevations shall be based on the verified datum plan of the USGS.
  - 7. Location, size, and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of public and private manholes, catch basins, hydrants, electric and

communication facilities, whether overhead or underground and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sanitary or storm sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations. All elevations shall be based on the verified datum plan of the USGS.

8. All lands reserved for future public dedication or reserved for the common use of property owners within the plat. If property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the plat. A note shall be placed on the face of the plat noting ownership and maintenance of all common use areas and that deed restrictions are on file at the County Register of Deeds' office.
9. Special restrictions required by the Town and any other agency relating to access control along public ways, the provision of planting strips, access restrictions, reservation of wetlands and environmental corridors, more restrictive yard requirements, or special restrictions for environmentally significant lands.
10. Corporate limit lines within the exterior boundaries of the plat or immediately adjacent thereto.
11. Existing zoning and proposed use on and adjacent to the proposed subdivision.
12. Building setback lines.
13. Normal and high-water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom, all based on the verified datum plan of the USGS.
14. Floodland and shoreland boundaries and the contour line lying a vertical distance of two feet above the elevation of the 100-year recurrence interval flood.
15. Location and results of soil boring tests within the exterior boundaries of the plat conducted in accordance with Chapter SPS 385 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service. The results of such tests shall be submitted along with the Preliminary Plat.
16. Location and results of percolation tests within the exterior boundaries of the plat conducted in accordance with Chapter SPS 383 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service. The results of such tests shall be submitted along with the Preliminary Plat.
17. Approximate dimensions of all lots together with proposed lot and block numbers assigned in consecutive order. The area in square feet of each lot shall be provided.
18. Location and approximate dimensions and size of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring platting.
19. Approximate radii of all curves.
20. Any proposed lake and stream access with a drawing clearly indicating the location of the proposed subdivision in relation to access.
21. Any proposed lake and stream improvement or relocations.
22. Meander lines if a subdivision borders a lake or stream shore, the distances and bearings of a meander line shall be shown.
23. Tabulation of gross area, street area, other dedicated and reserved area, net subdivided area, number of lots, average lot size, typical lot dimensions and lineal feet of streets.
24. A draft of all types of restrictions/covenants placed on the land.
25. Where the Plan Commission finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the Preliminary Plat, it shall have the authority to request in writing such information from the Subdivider.



C. Conservation Subdivisions. In addition to the information required in Article V of this Chapter, a Preliminary Plat for a Conservation Subdivision shall include all of the information identified in Article VIII of this Chapter.

18.063 Drainage Plans. Drainage Plans shall meet the requirements as set forth by Winnebago County and shall be reviewed and approved by Winnebago County. Where Plan Commission finds that additional information is required relative to a particular problem presented by a proposed development in order to review the drainage plan, they shall have the authority to request in writing such information from the Subdivider.

18.064 Phases. The Preliminary Plat shall include all phases of the proposed development.

18.065 through 18.069 Reserved for future use.

## Article VI: FINAL PLAT

### 18.070 Submission of Final Plat.

- A. Submission. The Subdivider shall submit a Final Plat prepared by a registered land surveyor, a letter of application and the necessary fees at least 15 days prior to the meeting of the Plan Commission at which action is desired. The Final Plat shall be prepared in accordance with this Chapter and the Final Plat shall comply with the procedures for approval of plats in Chapter 236, Wis. Stats.
- B. Referral of Final Plat to Objecting Agencies. The Subdivider shall, pursuant to Chapter 236.12, Wis. Stats., submit the original drawing of the Final Plat directly to ANY Objecting Agencies and one copy to East Central Wisconsin Regional Planning Commission. It shall be the responsibility of the Subdivider to submit the additional copies required by this Chapter.
- C. Referral of Final Plat to Town. The Subdivider shall file 10 copies of the Final Plat and one copy on ledger size paper, plus a digital copy of the plat file in PDF or compatible form on Compact Disc, fees in the Town of Nekimi Fee Schedule, and the necessary applications with the Town Clerk. The Town Clerk shall retain one copy of the Final Plat and ledger copy, plus the Compact Disc and forward the other copies to the following:
  - 1. Three copies to the Town Board.
  - 2. Five copies to the Plan Commission.
  - 3. One copy to the Building Inspector.
  - 4. One copy to Planning Staff.
- D. Referral of Final Drainage Plan to Town. The Plan Commission may request that copies of the Final Drainage Plan be reviewed and approved by the Plan Commission. Any such approval shall at a minimum meet all Winnebago County drainage requirements. The Subdivider shall file eight copies and one ledger copy, plus a digital copy of the plan file in PDF form by Electronic Mail or Compact Disc of the Final Drainage Plan with the Town Clerk. The Town Clerk shall retain one copy of the Final Drainage Plan, ledger copy, and the Compact Disc and forward the other copies to the Plan Commission.

### 18.071 Final Plat Review and Decision.

- A. Notification. The Town Clerk shall schedule a public hearing before the Plan Commission when a Final Plat within the Town is filed and shall cause notices of the proposed Final Plat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed Final Plat and to the owners of all properties within 500 feet of the exterior boundaries of the proposed Final Plat at least 14 days prior to the Plan Commission meeting at which action is desired.
- B. Review and Decision by Plan Commission.
  - 1. The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this Chapter and all applicable ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it.
  - 2. The Plan Commission shall, within 45 days of the date of the filing of a Final Plat with the Town Clerk, recommend approval, conditional approval, or rejection of such plat to the Town Board unless the time is extended by agreement in writing between the Town and the Owner.
- C. Review and Decision by Town Board.
  - 1. After receipt of the Plan Commission's recommendation, the Town Board shall, within 60 days of the date of the filing of a Final Plat with the Town Clerk, approve, conditionally approve, or reject such plat unless the time is extended by agreement in

writing between the Town and the Owner. Any conditions indicated on a conditional approval shall be completed prior to the affixing of Town signatures on the Final Plat. The Subdivider shall be notified in writing by the Town Clerk of approval, conditional approval, or the reasons for rejection.

2. If the Subdivider fails to submit the Final Plat or Final Plat of a phase of the Preliminary Plat within 36 months of the first approval of the Preliminary Plat, the Town Board may refuse the Final Plat and the Subdivider may be required to recommence the entire procedure for Preliminary Plat approval.
  3. If the Subdivider fails to submit a Final Plat of subsequent phases of the Preliminary Plat within 24 months of the approval of the Preliminary Plat by the Town Board, the Town Board may refuse the Final Plat and the Subdivider may be required to recommence the entire procedure for Preliminary Plat approval.
- D. Failure to Act. Failure of the Town Board to act within 60 days, the Plat shall be deemed approved, provided the time having not been extended and no unsatisfied objections having been filed, and all fees required from the Subdivider having been paid.
- E. Partial Platting. If permitted by the Town Board, the approved Preliminary Plat may be platted in phases with each phase encompassing only that portion of the approved Preliminary Plat which the Subdivider proposes to record at one time; however, it is required that each phase be Final Platted pursuant to Article VI herein and be designated as a phase of the approved Preliminary Plat.
1. If the plat is to be developed in phases, the amount of any assurance shall be limited to the phase currently being constructed.

#### 18.072 Requirements for Final Plats.

- A. Plat Data. A Final Plat prepared by a registered land surveyor, shall meet all requirements of Chapter 236.20, Wis. Stats., and shall show the following:
1. Exact length, width, bearing, and purpose of utility and/or drainage easements.
  2. All lands reserved for future public dedication or reserved for the common use of property owners within the Plat. If property reserved for common use is located within the subdivision, provisions and plans for its use and maintenance shall be submitted with the plat. A note shall be placed on the face of the plat noting ownership and maintenance of all common use areas and that deed restrictions are on file at the County Register of Deeds' office.
  3. A note on the face of the plat noting ownership and maintenance obligations of all drainage swales, easements, retention and detention ponds or other facilities shall be required.
  4. Special restrictions required by the Town and any other agency relating to access control along public ways, the provision of planting strips, access restrictions, reservation of wetlands and environmental corridors, more restrictive yard requirements, or special restrictions for environmentally significant lands.
  5. Setback or building lines as listed in Chapter 23: Zoning Regulations of the Winnebago County General Code.
  6. Location, including exact dimension, bearing, and size, of any sites to be reserved or dedicated for parks, playgrounds, drainage ways, or other public use, or which are to be used for group housing, retail centers, church sites or other non-public uses not requiring platting.
  7. Where the Plan Commission finds that additional information is required relative to a particular problem presented by the proposed subdivision in review of the Final Plat, they shall have the authority to request in writing such information from the Subdivider.

8. All of the information identified in Chapter 18.091 conservation subdivisions.
- B. Homeowners Association. The legal instruments creating a homeowners association for the ownership and/or maintenance of common lands in the subdivision shall be filed with the Final Plat.
- C. Surveying and Monumenting. All Final Plats shall meet all the surveying and monumenting requirements of Chapter 236.15, Wis. Stats. In addition, metal fence posts shall be placed next to all monuments within the plat.
- D. Wisconsin Coordinate System. All Final Plats shall comply in all respects with the requirements of Chapter 236.18, Wis. Stats., referenced to the Winnebago County Coordinate System NAD83, 1991 corrected, south zone 4803.
- E. Certificates. All Final Plats shall provide all the certificates required by Chapter 236.21, Wis. Stats., and in addition, the surveyor shall certify that he or she has fully complied with all the provisions of this Chapter, as follows:
  1. Surveyor's certificate of compliance with statute.
  2. A clear and concise description of the land surveyed, divided and mapped.
  3. Owner's certificate.
  4. Certificate of taxes paid.
  5. Approval certification of the various approving authorities.
  6. Town Clerk's certification that the Plat has been submitted as required by law.
- F. Recordation. The Final Plat shall only be recorded with the County Register of Deeds after the certificates of the Wisconsin Department of Administration, of the Town Board, of the surveyor, and those certificates required by Chapter 236.21, Wis. Stats. are placed on the plat. The plat, upon receipt of final approval by the Town Board or its designees, shall be recorded in the Office of the Register of Deeds by the land divider at the cost of the land divider within twelve months after the last approval and 36 months from the first approval.
- G. Filing of True Copy of Plat. The Subdivider shall file one copy of the recorded Final Plat on reproducible paper with the Town Clerk.

18.073 through 18.079 Reserved for future use.

**Article VII: REPLATS, ASSESSOR'S PLATS, CONDOMINIUM PLATS, AND OTHER PLATS**

18.080 Replat.

- A. Except as provided in Chapter 70.27(1), Wis. Stats., when it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the Subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in Chapters 236.36 through 236.44, Wis. Stats. The Subdivider, or person wishing to replat, shall then proceed as specified for Articles V and VI of this Chapter.
- B. The Town Clerk shall schedule a public hearing before the Plan Commission when a Preliminary Plat of a replat of lands within the Town is filed and shall cause notices of the proposed Replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed Replat and to the owners of all properties within five hundred (500) feet of the exterior boundaries of the proposed Replat at least fourteen (14) days prior to the Plan Commission meeting at which action is desired.

18.081 Assessor's Plat. An Assessor's Plat made under Chapter 70.27, Wis. Stats. may be ordered by the Town Board at the expense of the subdivider when a subdivision is created by successive divisions.

18.082 Condominium Plats.

- A. General. It is the intent of this section to regulate condominiums as it is related to zoning and for the division of land for the purpose of establishing a Condominium Plat.
- B. Preliminary Consultation. Prior to submitting an application for review of a Condominium Plat the applicant shall comply with the Requirements of Article IV of this Chapter.

18.083 Minor Condominium Plats.

- A. Submittal. Creation of a minor Condominium Plat shall be by Certified Survey Map. The Certified Survey Map shall be submitted to the Plan Commission. Such map shall be prepared according to 236.34 and 703.11, Wis. Stats., and the map shall show clearly on its face the following:
  - 1. All existing buildings, watercourses, drainage ditches and other features pertinent to division of property.
  - 2. Location of access to public road.
  - 3. Date of the map with a graphic scale.
  - 4. Name and address of the person for whom the survey was made.
  - 5. An owner's certificate and approval signature of the Town Board, after recommendation by the Plan Commission, and Treasurer's certificate in accordance with Chapter 236.21(3) Wisconsin Statutes, shall be the only approvals required for recording unless additional approvals are necessary for dedication purposes.
- B. Fee. An application fee as set forth in the Town Fee Schedule shall be paid in full at the time of application.
- C. Review and Approval. The Town Board, after receiving the recommendation of the Plan Commission, shall within 90 days of the date of submission unless mutually extended by both parties, review the application and map against the applicable standards of this Chapter, and approve, approve conditionally or reject the application and map based upon a determination of conformity or non-conformity with the standards.

18.084 Major Condominium Plat.

- A. Submittal.
  - 1. The applicant shall prepare a Preliminary Condominium Concept Map consistent with the requirements of Article IV of this Chapter. The Applicant shall provide the Town with 10 copies of the Preliminary Condominium Plat.
  - 2. In addition, Condominium Plats located with the jurisdictional authority of Chapter 23: Zoning of the Winnebago County General Code shall submit an application for a conditional use permit with the County.
- B. Fee.
  - 1. An application fee as set forth in the Town of Nekimi Fee Schedule shall be paid in full at the time of submittal of the Preliminary Plat.
  - 2. Exemption. Condominium plats which are located within the jurisdictional authority of Chapter 23: Zoning of the Winnebago County General Code requiring conditional use permit according for planned unit developments are exempt from this fee.
- C. Preliminary Plat Requirements. Refer to the provisions of Article V of this Chapter.
- D. Preliminary Plat Review and Decision.
  - 1. In order to facilitate public comment, the Plan Commission shall notify all property owners within 300 feet of the subject site with a meeting agenda concerning the subject site utilizing first class mail with an affidavit of mailing at least five days prior to the date of such meeting. The Plan Commission shall conduct a meeting to review the Plat for conformance with this Chapter and all other ordinances, rules, regulations which affect the Plat. At this meeting the Plan Commission shall permit the public to comment on the proposed plat. The Town Board, after receiving a recommendation from the Plan Commission, shall either approve, approve conditionally, or reject the Preliminary Plat within 90 days of submittal.
  - 2. Exception. Condominium plats which are located within the jurisdictional authority of Chapter 23: Zoning of the Winnebago County General Code and developed according as a planned unit development shall adhere to the review and approval procedures for conditional use permits.
- E. Surveying. All Final Plats shall meet all the surveying requirements of Chapter 703.11, Wis. Stats.
- F. Certificates. All Final Plats shall provide the surveyor's certificate required by Sec. 703.11(4) Wisconsin Statutes, and in addition, the surveyor shall certify that he has fully complied with all the provisions of this Chapter and shall provide a certificate to the Plan Commission, for Town Board approval.
- G. Fee.
  - 1. An application fee as set forth by the Town of Nekimi Fee Schedule shall be paid in full at the time of submittal of the Final Plat.
  - 2. Exemption. Condominium Plats which are located within the jurisdictional authority of Chapter 23: Zoning of the Winnebago County General Code requiring conditional use permit according for planned unit developments are exempt from this fee.
- H. Final Plat Review and Decision.
  - 1. The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any condition of approval of the Preliminary Plat, this Chapter and all ordinances, rules, regulations which may affect the Final Plat.
  - 2. The Town Board, after receiving the recommendation of the Plan Commission, shall, within 60 days of the date of filing of the Final Plat, approve, approve conditionally or reject the plat, unless the time is extended by agreement with the applicant.

- I. Recordation. After the Final Plat has been approved by the Plan Commission, the Town Board and any other approving agencies, the applicant shall record the plat with the County Register of Deeds in accordance with Chapter 703.11, Wis. Stats.
- J. Modifications. Modifications to either a Condominium Plat or declaration shall require review by the Plan Commission and approval by the Town Board. If the Planning Commission determines the modification to substantially modify the original approval, it may require resubmittal for review and Town Board approval as if it were a new submittal according to the provisions of this section.

18.085 through 18.089 Reserved for future use.

## Article VIII: CONSERVATION SUBDIVISIONS DESIGN STANDARDS

18.090 General. Article VIII is intended to provide the Town with the capability to preserve rural character, natural resource areas, farmland, and other large areas of open land, while permitting residential development consistent with the Conservation Residential land use category as defined on the Future Land Use map of the Town of Nekimi Comprehensive Plan. Further, this Article is intended to:

- A. Preserve the rural character through the permanent preservation of meaningful open space and sensitive natural resources.
- B. Preserve scenic views by minimizing views of new development from existing roads.
- C. Provide commonly owned open space areas for passive and/or active recreational use by residents of the development and, where specified, the larger community.
- D. Provide for a diverse array of parcel sizes, housing choices and to accommodate a variety of age and income groups.
- E. Provide for buffering between the higher density land uses near the northeast and eastern boundary of the Town and less developed, predominantly agricultural areas to the south and west.
- F. Protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors.

18.091 Secondary Conservation Areas. Secondary conservation areas are defined as those natural, cultural, and historical resources within the Town that are not otherwise protected by federal, state, or county laws, regulations, or ordinances. Secondary conservation areas are resources that should be preserved when possible and/or economically feasible. The final determination of secondary conservation areas within a given development will be made by the Plan Commission and Town Board. Secondary conservation areas in the Town of Nekimi may include, but are not necessarily limited to:

- A. Stream corridors within 100 feet of the ordinary high-water mark.
- B. Wetlands.
- C. Critical wildlife habitat.
- D. Mature and/or diverse woodlands, wherein 20% or more of the trees have a diameter-at-breast-height (DBH) of 18 inches or more.
- E. Large trees with a DBH of 36 inches or greater, when deemed to be healthy and structurally sound by a qualified source.
- F. Prime agricultural lands.
- G. Important farmsteads.
- H. Historic structures or places.
- I. Structurally-sounds barns, silos, fence lines, and other such examples of Nekimi's agricultural heritage.
- J. Other unique features as may be identified by the Town Board and Plan Commission.

18.092 Open Space Standards. A Conservation Subdivision shall meet the following open space standards:

- A. Minimum open space. Open space shall be a minimum of 40 percent of the gross tract area (GTA) and include all primary conservation areas and any secondary conservation areas required by the Plan Commission or Town Board.
- B. Location. The required open space should be situated, when practicable, to take advantage of the site's natural, historic, and cultural features, to preserve scenic views, and to be



contiguous with existing or proposed open spaces outside of the proposed subdivision. Environmentally sensitive areas must be included within the preserved open space. The size and shape of the areas established as open space shall be sufficient and suitable for agricultural, natural resource protection, recreation, or other intended use and should remain as large and contiguous as the property will allow.

- C. Not more than 30% of the required open space may consist of Active Recreation Land unless prior approval has been received from the Plan Commission.
- D. The Plan Commission encourages, and may require, that each Conservation Subdivision include an internal trail system providing access to each lot owner. Any section of the trail system identified for potential future public use as part of an integrated Town trail network shall be dedicated to the Town.
- E. Designation of Open Space. All open space areas shall be clearly delineated on the plat as an outlet or outlets, and clearly designated as open space on the face of the plat. Each outlet shall be accessible by public road or by an easement for ingress and egress to a public road. The Town may require a separate instrument to be recorded with the Winnebago County Register of Deeds regarding restrictions on use, maintenance, ownership and transfer of ownership. The Town, or a designee approved by the Town, shall be noted as a benefited party for enforcement purposes.
- F. Ownership of Open Space. Unless otherwise approved by the Town, open space outlets shall be owned and maintained by a Homeowners' Association. All documents and instruments relating to the ownership, use, and maintenance of open space shall be reviewed and approved by the Town. A Homeowners' Association shall be created and operated under the following provisions:
  - 1. The Owner shall submit all documentation in connection with the creation of a Homeowners' Association and its powers, duties and responsibilities for Town review prior to approval.
  - 2. The Homeowners' Association shall be created as a separate legal entity by the owner, with its bylaws, organization and responsibilities contained in a document recorded with the Winnebago County Register of Deeds.
  - 3. Membership in the Homeowners' Association shall be mandatory for all lot owners and their successors and assigns.
  - 4. The Homeowners' Association shall be authorized to levy fees and assessments against all lots in an amount sufficient for payment of real estate taxes and to discharge its duties and responsibilities.
  - 5. Unpaid fees and assessments by any lot owner shall become and remain a lien on the lot until paid, with the Homeowners' Association authorized to bring any action against a lot owner for the collection of fees and assessments.
  - 6. Modification of any bylaws shall require approval of the Town.

#### 18.093 Common Facilities.

- A. Designation of Common Facilities. All common or community facilities such as drainage detention and retention facilities, clustered wastewater treatment systems, and community well systems, as applicable, shall be clearly delineated on the plat as an outlet or outlets, and shall be clearly designated as to specific use, on the face of the plat. Each outlet shall be accessible by public road, or by an easement for ingress and egress to a public road.
- B. Ownership of Common Facilities. Unless otherwise approved by the Town, community facility outlets shall be owned and maintained by a Homeowners' Association. All documents and instruments relating to the use and maintenance of common facilities shall be reviewed and approved by the Town. The Homeowners' Association shall be subject to the requirements of Chapter 18.092.F.1 through 6 above.

18.094 Maximum Permitted Dwelling Units. Conservation Subdivisions shall utilize the following steps in determining the maximum permitted dwelling units.

A. Calculate the Gross Tract Area (GTA). This shall be the total acreage of the property.  
**GTA: \_\_\_\_\_ acres**

B. Calculate Primary Conservation Areas (PCA). This acreage shall be determined using the criteria presented below. The data supplied within this calculation shall be substantiated with sufficient plans and data.

- 1. All lands located within existing street rights-of-way: \_\_\_\_\_ acres
- 2. All lands located within existing easements: \_\_\_\_\_ acres
- 3. All lands located within a floodplain: \_\_\_\_\_ acres
- 4. All lands within environmentally sensitive areas, as identified by Winnebago County and/or the Wisconsin Department of Natural Resources: \_\_\_\_\_ acres
- 5. All lands located within wetlands: \_\_\_\_\_ acres
- 6. All of the land area having slopes 12% or greater: \_\_\_\_\_ acres

**Total PCA (sum of 1 through 6 above): \_\_\_\_\_ acres**

C. Calculation of Adjusted Tract Area (ATA). The ATA shall equal the GTA minus the PCA.  
**ATA: \_\_\_\_\_ acres**

D. Calculation of Secondary Conservation Areas (SCA). The SCA shall be a minimum of 40% of the GTA and shall include, but is not necessarily limited to:

- 1. Stream corridors within 100 feet of the ordinary high-water mark: \_\_\_\_\_ acres
- 2. Wetlands: \_\_\_\_\_ acres
- 3. Critical wildlife habitat: \_\_\_\_\_ acres
- 4. Mature and/or diverse woodlands, wherein 20% or more of the trees have a diameter-at-breast-height (DBH) of 18 inches or more: \_\_\_\_\_ acres
- 5. Large trees with a DBH of 36 inches or greater, when deemed to be healthy and structurally sound by a qualified source: \_\_\_\_\_ acres
- 6. Prime agricultural lands: \_\_\_\_\_ acres
- 7. Important farmsteads: \_\_\_\_\_ acres
- 8. Historic structures or places: \_\_\_\_\_ acre
- 9. Structurally-sounds barns, silos, fence lines, and other such examples of Nekimi’s agricultural heritage: \_\_\_\_\_ acres
- 10. Other unique features as may be identified by the Town Board and Plan Commission: \_\_\_\_\_ acres

**Total SCA (sum of 1 through 10 above): \_\_\_\_\_ acres**

E. Net Development Area (NDA). The NDA shall equal no more than 60% of the GTA unless otherwise approved by the Plan Commission and Town Board.  
**NDA: \_\_\_\_\_ acres**

F. Calculation of Permitted Dwelling Units (PDU). The maximum number of permitted dwelling units in a Conservation Subdivision shall equal the ATA multiplied by 1.1, provided that no lot is smaller than 20,000 square feet. If the calculation of PDU results in a figure ending in .5 or greater, it shall be rounded up to the next whole number. If the calculation of PDU results in a figure ending in .4 or lower, it shall be rounded down to the next whole number.

**PDU: \_\_\_\_\_**

18.095 Conservation Subdivision Concept Plan.

- A. Prior to the filing of an application for the approval of a Preliminary Plat for a Conservation Subdivision, the Owner shall consult with the Plan Commission in order to obtain their review, advice and assistance in the preparation of a Preliminary Plat. Such consultation shall be termed the 'concept plan' stage of the land division procedure and shall include submittal of a Concept Map consistent with the requirements of Section 18.052 of this Chapter.
- B. The Plan Commission shall either reject the concept plan giving reasons for such rejections or approve the concept plan and make recommendations. Such review and approval of the concept plat shall constitute approval of the concept plat only and shall not be deemed an approval of the layout and design of the proposed subdivision plat.
- C. Through the concept plan procedure it is expected that the Owner and Plan Commission will reach mutual conclusions regarding the general design and objectives of the proposed development. The Owner will also gain a better understanding of subsequent plat review and approval procedures.

18.096 Through 18.099 Reserved for future use.

## Article IX: GENERAL DESIGN STANDARDS

18.100 Street Arrangement. The applicant shall dedicate land for and improve streets as provided herein.

- A. Streets shall conform to any applicable official map ordinance in effect. In areas for which an official map has not been completed, the street layout shall recognize the functional classification of various street types and shall be developed and located in proper relation to existing and proposed streets, with due regard to topographical conditions, natural features, utilities, land uses and public convenience and safety.
- B. All land divisions shall be designed so as to provide each lot with satisfactory access to a public street as provided herein.
- C. The following conditions shall apply for street arrangement in all proposed land divisions:
  1. Arterial Streets. Arterial streets shall be arranged so as to provide ready access to centers of employment, high-density residential areas, centers of government activity, community shopping areas, community recreation and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
  2. Collector Streets. Collector streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the major street and highway system and shall be properly related to special traffic generators such as schools, churches and shopping centers and other concentrations of population; and to the major streets into which they feed.
  3. Minor Streets. Minor streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems and to require the minimum street area necessary to provide safe and convenient access to abutting property.
  4. Street Intersections.
    - a. Streets shall intersect each other as nearly as possible at right angles and not more than two streets shall intersect at one point unless approved by the Town Board upon recommendation of the Plan Commission.
    - b. The number of intersections along major street and highways shall be held to a minimum. Wherever practicable the distance between such intersections should not be less than 1,200 feet.
    - c. Street jogs with centerline offsets of less than 125 feet shall not be approved.
  5. Proposed Streets. Proposed streets shall extend to the boundary lines of the tract being divided, unless prevented by topography or other physical conditions or unless, in the opinion of the Town Board or Plan Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision or for the advantageous development of adjacent land tracts. Such streets shall terminate with a temporary turnaround of 120 feet right-of-way diameter and a roadway of not less than 90 feet in diameter.
  6. Arterial Street and Highway Protection. Whenever the proposed land division contains or is adjacent to a major street or highway, adequate protection of residential properties is required. Adequate protection is met by limiting access and separating through and local traffic and shall be provided by reversed frontage, with screen planting contained in a non-access reservation along the rear property line or by the use of frontage streets.
  7. Reserve Strips. Reserve strips controlling access to streets or alleys shall be prohibited except where their control is definitely placed with the Town or County.

8. Alleys. Alleys may be require in commercial and industrial districts to provide for off-street loading and service access, but shall not be approved in residential districts unless required by unusual topography or other exceptional conditions. Dead-end alleys shall not be approved and alleys shall not connect to a Federal, State or County Trunk Highway.
9. Street Names. Street names shall not be duplicated or be similar to existing street names and existing street names shall be projected or continued wherever possible.

18.101 Street Design Standards.

- A. The minimum right-of-way of all proposed streets shall be as specified on any applicable street plan officially adopted by the Town or County or, if no width is specified, the minimum right-of-way width shall be as required by the Town Board.
- B. Minimum roadway width and surface width of all new land division roads shall comply with the Town Road Standards contained in Chapter 86.18, Wis. Stats., unless the Town Board deems, by reason of special circumstances, that other roadway widths are necessary to provide for the safety of town residents or contribute to other desired town purposes.
- C. Cul-de-sac streets designed to have one end permanently closed should not normally exceed 600 feet in length. Such streets shall terminate in a circular turnaround having a minimum right-of-way radius of 60 feet and a minimum roadway radius of 45 feet.
- D. Street grades shall comply with town road standards contained in Chapter 86.26, Wis. Stats., however, the minimum grade shall be no less than 1/2 of one percent. Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth and general leveling of the topography.
- E. Radii of curvature - When a continuous street centerline deflects at any one point by more than 10 degrees, a circular curve shall be introduced having a radius of curvature on such centerline of not less than 100 feet on minor streets.
- F. Half streets shall be prohibited except where:
  1. The other half has already been dedicated.
  2. Its alignment is shown on an officially adopted street plan.
- G. Where practical, street shall be constructed to include four-foot paved shoulders designed for use as a bike path or pedestrian trail.
- H. Road paving shall conform to the Town Road Paving Standards

18.102 Ingress and Egress on Limited Access Highways. Where a tract, lot or parcel of land abuts a County controlled limited access highway, defined in Chapter 7 of the Winnebago County General Code, access shall be provided by one of the following:

- A. Access control permit issued by the County Highway Department.
- B. Easement to use an existing access. If access is provided by an easement to use an existing access, then the following provisions shall apply:
  1. The parent parcel having an existing access shall allow access to each subsequent parcel.
  2. Each subsequent parcel shall allow access to each additional subdivided parcel, not to exceed the maximum spacing requirements of Chapter 7 of the Winnebago County General Code.
  3. Setback requirements will be applicable to the zoning classification of he parcel as defined in Chapter 23 of the Winnebago County General Code, and shall be measured from the edge of easement.
  4. Easement right-of-way shall be a minimum of 60 feet in width, and shall not include public right-of-way (overlap) within the easement width.

- C. Frontage road dedicated to the public having an approved access.
- D. Variance approved by the Winnebago County Board of Adjustment.

18.103 Limited Access Highway and Railroad Right-of-Way. Whenever the proposed land division contains or is adjacent to a limited access highway or railroad right-of-way, the design shall provide the following treatment:

- A. When residential lots within the proposed land division back upon the right-of-way of an existing or proposed limited access highway or railroad, the following restriction shall be lettered on the face of the plat: "Direct vehicular access to (Name of Road) from lots abutting such road is prohibited".
- B. Commercial and industrial districts should provide, on each side of the limited access highway or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than 150 feet.
- C. Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street, highway or collector street which crosses such railroad or highway, shall be located at a minimum distance of 250 feet from such highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.
- D. Minor streets immediately adjacent and parallel to railroad right-of-way should be avoided.

18.104 Blocks. The widths, lengths and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic and the limitations and opportunities of the topography.

- A. Length. Blocks in residential areas should not as a general rule be less than 500 feet nor more than 1,500 feet in length unless otherwise dictated.
- B. Width. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic or where lots abut a lake or stream. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning provisions for such use.

18.105 Utility Easements. All utility lines for electric power and telephone service shall be placed on mid-block easements along rear lot lines whenever carried on overhead poles, except where lots abut a lake or stream or where such location is deemed infeasible with regard to engineering by the utility company involved.

18.106 Lots. 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 should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the building contemplated.

- A. Side lot lines should 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.
- B. Double frontage and reversed frontage lots shall be prohibited, except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
- C. Lot frontage.

1. Unless otherwise required, all newly created lots shall have a minimum frontage of 33 feet on a public street, and where applicable, a minimum frontage of 33 feet on navigable water.
2. A Certified Survey Map or Plat creating a new parcel without frontage on a public street shall contain one or more of the following statements:
  - a. Areas under County Zoning Jurisdiction. Applications for County zoning permits for residential structures (principal or accessory) and all other principal structures, except agricultural, shall not be considered for approval until the parcel meets the public street frontage and lot width requirements of the applicable non-agricultural zoning district.
  - b. Areas under Town Zoning Jurisdiction:
    - (1) Applications for County sanitary permits shall not be considered for approval until the parcel has a minimum of 33 feet of frontage on a public street.
    - (2) Provision for a proposed CSM or plat for a parcel containing a valid sanitary permit. A parcel containing a valid sanitary permit shall not be further subdivided unless the newly created parcels maintain or create a minimum of 33 feet of frontage on a public street for the area containing the sanitary permit.
- D. Area and dimensions of lots shall conform to the requirements of Chapter 23 of the Winnebago County General Code. Whenever a tract is subdivided into parcels with area in excess of the zoning requirements, such parcels should be arranged and dimensioned so as to allow re-division of any such parcels into normal lots in accordance with the provisions of this Chapter.
- E. Lots should be designed and a suitable proportion between width and depth. Neither long narrow nor wide shallow lots are normally desirable. Normal depth should not exceed 2 ½ times the width nor be less than 150 feet.
- F. Width of lots shall conform to the requirements of Chapter 23 of the Winnebago County General Code.
- G. Corner lots shall be designed with extra width to permit adequate building setback from both streets.
- H. Garage lots shall be established only in accordance with Chapter 23 of the Winnebago County General Code. In addition, the following standards shall be required of all garage lots:
  1. The garage lot shall be located directly across from the "house lot".
  2. The garage lot must be deed restricted by separate instrument to the house lot, said restriction to be submitted for recording at the time of submittal of the Certified Survey Map. The restriction shall specify that it is a perpetual restriction that may only be removed by written authorization of the Winnebago County Zoning Office at such time as the garage lot is being enlarged so as to meet other buildable lot standards.

18.107 Building Setback Lines. Building setback lines shall conform to the requirements established in Chapter 23 of the Winnebago County General Code.

18.108 Surface Water Drainage. Purpose. The intent of this section is to protect property and structures from damage caused by increased surface water runoff due to commercial, industrial, and residential development of the land. Surface water runoff after development shall not exceed the peak rate/volume of flow at predevelopment conditions. The 25-year storm frequency for Winnebago County shall be the basis to determine preconstruction, and the 50-year storm frequency for post-construction, surface water runoff. A drainage plan shall include, but not be limited to, the following:

- A. Based upon the 25-year return period storm for Winnebago County.

- B. Include soil types, infiltration characteristics of the soil, amount of available detention area, type of vegetative cover, amount of impervious cover, and time response to runoff.
- C. Compatible with County and Township natural drainageways and easements.
- D. Identify bridges, regional drainage patterns; water boundaries; pipes, culverts, catch basins, waterways, ditches, detention and retention basin; and indicate respective size, dimensions, and grades of each.
- E. All drainageways and associated structures shall lie within maintenance easements and be so indicated on Final Plats.
- F. Direction of the surface water flow by arrows.
- G. Designed in accordance with the United States Department of Agriculture Technical Release No. 55 Urban Hydrology for Small Watersheds and County, City, Village or Township standards, or whichever is more restrictive.
- H. Calculations showing pre- and post-construction surface water runoff.
- I. A statement as to how runoff resulting from construction will affect downstream areas and adjacent property owners.
- J. Indicate methods that will be used to protect downstream areas and adjacent property owners from damage caused by increased by surface water runoff.
- K. A covenant shall be recorded with the Final Plat in the Winnebago County Register of Deeds Office. Covenant shall state:
  - 1. Maintenance of all drainageways and associated structures within the subdivision are the sole responsibility of the property owners of the subdivision, unless otherwise noted on the plan or required by the Town.
  - 2. Upon failure of the property owner(s) to maintenance of the drainageways and associated structures, the County and/or Township retains the right to perform maintenance and/or repairs shall be equally assessed among the property owner(s) of the subdivision with a drainage covenant.

18.109 Surface Water Drainage Restrictions. To the extent practicable, no drainageway contained within a drainage easement shall be disturbed, except as provided in Section 1.61(3), in accordance with the following:

- A. No artificial obstruction may be constructed, planted or maintained within any man-made or natural drainageway so that such obstructions impede the natural flow of water and/or diminishes the natural aesthetic quality of the drainageway.
- B. Lot boundaries shall be made to coincide with new and/or preexisting man-made and natural drainageways to avoid the creation of lots that can be built upon by altering such drainageways.
- C. Exceptions. Surface water shall not be regarded as unduly retained or diverted if:
  - 1. The retention or diversion results from a technique, practice, or device deliberately installed as part of an approved sedimentation or storm water runoff control plan.
  - 2. The retention or diversion is not substantially different in location or degree than that experienced by the development site in its predevelopment stage, unless such retention presents a danger to health or safety.
  - 3. The retention or diversion results from the actions of natural obstructions, whereby maintenance shall be performed by the property owner.
  - 4. The retention or diversion has been allowed or required by the Winnebago County Planning and Zoning Department, and noted on the approved drainage plan.

18.110 Through 18.119 Reserved for future use.





## Article X: DEDICATIONS AND IMPROVEMENTS

### 18.120 Dedication and Reservations of Land.

- A. Whenever a tract of land to be divided embraces all or any part of a street, the adopted Town, regional and County comprehensive plans or adopted plan components, such public way shall be made a part of the plat and either dedicated or reserved by the applicant in the locations and dimensions indicated on such plan.
- B. Whenever a proposed park, playground, public access, open space site or other public land, other than streets or drainageways, designated in the adopted Town, regional and County comprehensive plan components is embraced, all or in part, in a tract of land to be divided, such proposed public lands shall be made a part of the plat and shall either be dedicated to the public or reserved for acquisition at undeveloped land costs for a period not to exceed three years between the applicant and the public agency having jurisdiction. If the reserved land is not acquired by such public agency within the above time limit, the land shall be released to the owner.

### 18.121 Improvements.

- A. No construction or installation of improvements shall commence in a proposed subdivision until the Preliminary Plat has been approved by the Town Board based on Plan Commission recommendation.
- B. Before recording the Final Plat with the County Register of Deeds, the applicant shall enter into a contract or other arrangement agreeable with the Town agreeing to install all required public improvements and shall file with such contract a surety bond or other satisfactory security meeting the approval of the Town Board as a guarantee that such improvements will be completed by the subdivider or his subcontractors within the time limit established by the Town Board.
- C. Unless specifically provided in writing by the Town Board, no road subject to dedication under a Plat or CSM shall be deemed accepted by the Town until the road is constructed to Town standards and accepted by resolution of the Town Board.

### 18.122 Plans. The following plans and accompanying construction specifications shall be required by the Town Board before authorization of construction or installation of improvements:

- A. Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- B. Installation of street signs meeting the approval of the Town Board at all intersections.
- C. Sanitary sewer plans, if within an area of sewer availability, and profiles showing the locations, grade, sizes, elevations and materials or required facilities.
- D. Surface water drainage facilities, which may include curb and gutters, catch-basins and inlets, road ditches and channels, as may be required to provide adequate surface drainage for the subdivision.

### 18.123 Inspection. The applicant prior to commencement of any work within the land division, shall make arrangements with the Town Board to provide for adequate inspection. The Town Board shall inspect and approve all completed work prior to approval of the Final Plat or release of the sureties.

18.124 Public Sanitary Sewerage and Private Sewage Disposal Systems. The appropriate means of providing wastewater treatment shall be determined by the Town Board and Plan commission in consultation with the applicant.

18.125 through 18.129 Reserved for future use.

**Article XI: DEVELOPMENT AGREEMENT AND GUARANTEE**

18.130 Development Agreement. As a condition of a Certified Survey Map or Final Plat approval for any land division or subdivision that involves the dedication of any public improvement, the owner shall enter into a Development Agreement with the Town that requires financial security for all improvements to be dedicated. Such financial security shall be in the form of cash escrow, a performance bond, or a letter of credit and in an amount of 120 percent of the estimated total cost to complete the public improvements. The Development Agreement shall also require the owner to warrant and guarantee all improvements against defects due to faulty materials or workmanship that appear within one year from the date of acceptance, except that improvements constructed between November 15 and May 1 shall be guaranteed for a period of three years from the date of acceptance.

18.131 through 18.139 Reserved for future use.

## Article XII: PARK DEDICATION, RESERVATIONS, AND IMPROVEMENTS

### 18.140 Park Dedication Requirements.

- A. Dedication of Sites. When feasible and compatible with the Comprehensive Plan and any Comprehensive Outdoor Recreation Plan, the subdivider shall provide and dedicate to the public adequate land to provide for park, playground, trail, recreation and open space needs of the land development within the Town of Nekimi. The location of such land to be dedicated shall be determined by the Town Board. Where the dedication is not compatible with the Comprehensive Plan and Comprehensive Outdoor Recreation Plan, or for other reasons is not feasible as determined by the Town Board, the subdivider shall, in lieu thereof, pay to the Town a fee as established by the Town Board in the Town of Nekimi Fee Schedule.
- B. Dedication of Parks, Playgrounds, Trails, Recreation and Open Spaces. The subdivider shall dedicate sufficient land area to provide adequate parks, playgrounds, trails, recreation and open spaces to meet the needs to be created by and to be provided for the land division, subdivision or comprehensive development. The minimum dedication shall be one acre for each 25 potential dwelling units or fractions thereof.
- C. Combination of Residential Uses. Where a combination of residential uses is intended, the minimum dedication shall be the sum obtained by adding the potential residential units intended for single-family and two-family dwellings, and the potential residential units intended for multi-family dwellings. Where a definite commitment is made to the Town by the developer with respect to those portions of the project intended for single family, duplex and multi-family dwellings, the dedication shall be based upon the maximum dedications which the zoning classification of the parcel will permit.
- D. Minimum Size of Park and Recreation Land Dedications.
  - 1. In general, land reserved for parks, playgrounds, recreation and open spaces purposes shall have an area of at least one acre of contiguous land. Where the amount of land to be dedicated is less than one acre, the Town Board may require that the recreation area be located at a suitable place on the edge of the proposed major subdivision or planned unit development so that additional land may be added at such time that the adjacent land is subdivided.
  - 2. Land dedicated for the purpose of establishing trails shall be shown as an easement on the Preliminary and Final Plats. The minimum width of the easement shall be no less than 30 feet wide. Widths greater than 30 feet may be required in certain circumstances as determined by the Plan Commission. Neither end of the easement may result in a dead-end, unless a future connection has been identified or may be reasonably established. Up to 100% of the total land area of the granted easement may be counted towards the overall dedication requirement.
  - 3. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield or for other recreation purposes, and shall be relatively level and dry. A recreation site shall have frontage on one or more streets for public access. The Town Board shall make the final determination of suitability.
- E. Fees in Lieu of Land Dedication. See Chapter 18.141.
- F. Limitations. A subdivider shall not be required to dedicate more than one-fifth (1/5) of the total area of the plat to meet the objectives of this Section.
- G. Suitability of Lands. Town Board shall have sole authority to determine the suitability and adequacy of parklands proposed for dedication. Drainageways, wetlands or areas reserved for streets shall not be considered as satisfying land dedication requirements.
- H. Access to Dedicated Land. All dedicated land shall have frontage on a public street and shall have public access.

- I. Utility Extensions. The subdivider shall install or provide for installation of water and sanitary sewer lines to the property line of all dedicated land, where such services are to be provided to the adjacent properties.

18.141 Park Fees.

- A. Authorization. This Section is authorized under Chapter 66.0617, Wis. Stats. The provisions of this article shall not be construed to limit the power of the Town to adopt such article pursuant to any other source of local authority or to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article.
- B. Purpose. The purpose of this article is to facilitate the adequate provision of parks, playgrounds and land for athletic fields by imposing impact fees upon developers to pay for the Capital Costs of public facilities that are necessary to accommodate land development. The park impact fee ensures that the cost of providing park and recreational sites and facilities necessary to serve the additional families brought into the community may be most equitably apportioned on the basis of the additional need created by the construction and occupancy of new dwellings.
- C. Park Impact fees imposed; due date for payment; building permit.
  1. Impact fees are hereby imposed on all residential developments and land divisions within the Town of Nekimi.
  2. Park impact fees shall be due in full within 14 days of the issuance of a building permit.
  3. The effective date of a building permit is the date on which all impact fees imposed under this article are paid in full, and unless all impact fees are paid in full within 14 days after issuance as required by Chapter 66.0617(6)(g), Wis. Stats., said building permit shall expire 15 days after issuance.
- D. Applicability; amount of fee; annual adjustment; disposition of revenue.
  1. Any developer creating a land division for residential development or constructing additional residential dwelling units within the Town shall pay a fee to the Town to provide for the Capital Costs necessary to accommodate the park facilities needs of land development, except as provided in Chapter 18.141.F.
  2. The amount of the fee per residential dwelling unit to be constructed or created by the proposed development as determined by the Town Board and as identified in the Town of Nekimi Fee Schedule, subject to adjustment pursuant to Chapter 18.141.E, shall be as follows:
    - a. For single-family or two-family residential development, the fee per dwelling unit shall be the fee listed in the adopted Town of Nekimi Fee Schedule.
    - b. For multifamily residential development, the fee per dwelling unit shall be the fee listed in the adopted Town of Nekimi Fee Schedule.
  3. Such fees collected by the Town shall be placed in a special fund which shall be separate from the general fund of the Town and shall be used exclusively for the particular Capital Costs for which the fee was imposed.
  4. Such fees shall be expended by the Town for the aforesaid purpose within seven years of the date of payment or such fee amount paid along with any interest accumulated shall be refunded to the current owner(s) of the property with respect to which such fee was imposed.
  5. In order to ensure that these fees remain equitable, the impact fees described herein shall automatically adjust on an annual basis on January 1 of each year by the percentage increase or decrease in the North Central Region Consumer Price Index, September percent change, or 3%, which ever is greater.

- E. Fee Reduction. Any impact fee imposed under this article shall be reduced to compensate for Capital Costs otherwise imposed by the Town upon the land development subject to this article for the same particular public facilities for which an impact fee has been imposed under this article, including by way of special assessments, special charges or any ordinance adopted thereunder or any other items of value. Impact fees imposed under this article shall also be reduced to compensate for moneys received from the federal or state government specifically to provide or pay for the public facilities for which the impact fees under this article are imposed.
- F. Exemption. The lawful new construction of a single-family dwelling structure razed or to be razed within one year of the issuance of a building permit for the new construction as part of the new construction project shall be exempt from the fees imposed under this article. Any new construction of a single-family dwelling structure upon a single parcel of land involving the demolition of a preexisting residential structure upon such single parcel of land, which project is similar to but not exactly as described above, may be found to be exempt upon application to the Town Board and a finding by the Town Board that such project does not bear a rational relationship to the need for new, expanded or improved public facilities required to serve such development. Such application shall be made to the Town Board prior to the payment of any fees under this article.
- G. Administration and review. The Town Board shall, as part of its annual budget process, review the impact fees imposed under this article. The revenue and expenditure totals for each impact fee must also be included in the Town's annual budget, and a summary of the revenue and expenditure totals for each impact fee must be made available in the Town's annual budget summary required under Chapter 65.90(3)(a), Wis. Stats.
- H. Appeals. Any developer upon whom an impact fee is imposed under this article shall have the right to contest the amount, collection or use of the impact fee to the Town Board, provided that the developer files a written notice of appeal in the Town Clerk's office within 15 days of the building permit approval upon which the impact fee is imposed. Such notice of appeal shall be titled "Notice of Appeal of Impact Fee" and shall state the developer's name, address, telephone number, address (if available) and legal description or tax parcel identification number of the land development upon which the impact fee is imposed, and a statement of the nature of and reasons for the appeal. The Town Clerk shall schedule the appeal for consideration by the Town Board at a regular meeting as soon as reasonably practicable under the circumstances and shall notify the developer of the time, date and place of such meeting, in writing, by regular mail deposited in the mail no later than at least three days before the date of such meeting. Upon review of such appeal, the Town Board may adjust the amount, collection or use of the impact fee upon just and reasonable cause shown.

18.142 through 18.149 Reserved for future use.

## Article XIII: DEFINITIONS

18.150 Definitions. In the construction of this Chapter, the definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

- A. Words defined. When not inconsistent with the context, words used in the present tense include the future, and words in the singular number include the plural number. The word “shall” is always mandatory.
1. Adjusted tract area – The area of the total parcel proposed for subdivision minus any primary conservation areas.
  2. Block - A group of lots existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name through which it may be identified.
  3. Building - A structure having a roof supported by columns or wall. When separated by division walls from the ground up and without openings, each portion of each building shall be deemed a separate building.
  4. Certified Survey or Certified Survey Map - A map of a minor land division prepared in accordance with sec. 236.34, Wis. Stats., and in full compliance with the applicable provisions of this Chapter.
  5. Common element - The common facilities in a condominium.
  6. Common Facilities - All the real property and improvements set aside for the common use and enjoyment of the residents of a cluster development, including, but not limited to, buildings, open space, private streets, parking areas, walkways, recreation area, drainage easements, and any utilities that service more than one unit, such as sewerage and well facilities.
  7. Common Open Space - Undeveloped land within a conservation design 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. Common Open Space shall not be part of individual residential parcels, and shall be substantially free of structures, but may contain such recreational facilities for residents as are shown on the approved development plan.
  8. Comprehensive Plan – The official guide for the physical, social, and economic growth of a municipality, properly enacted or adopted according to statute, which is now or may hereafter be in effect.
  9. Conditional Approval – Approval of a land division, subject to the land division meeting certain requirements as determined by the Plan Commission.
  10. Condominium - A form of ownership combining individual unit ownership with shared use and ownership of common property or facilities, established in accordance with the requirement of Chapter 703 of the Wisconsin Statutes. Common areas and facilities are owned by all members of the condominium association on a proportional, undivided basis. A condominium is a legal form of ownership and not a specific building type or style.
  11. Condominium Agreement - A legal agreement outlining the management of the common open space.
  12. Conservation Areas, primary – The primary conservation areas are those areas that are automatically set aside when determining open space for conservation development subdivisions. The following are areas of primary conservation: all lands located within existing street Right-of-Ways, all lands located within existing Utility and Railway Right-of-Ways, all lands located within floodplain, all lands located within wetlands, all slopes of 12% or greater.



13. Conservation Areas, secondary – Those areas identified in, but not limited to, Section 18.091 of this Chapter.
14. Contiguous – Lots are contiguous when at least one lot line of one lot touches a lot line of another lot; a corner-to-corner connection is not considered contiguous.
15. Conservation easement - A type of protective covenant the boundary lines of which are graphically depicted on the face of a Certified Survey Map, Preliminary Plat, Final Plat and/or Condominium Plat used to conserve and preserve a natural resource feature that is protected, in perpetuity, under the provisions of this Chapter.
16. Conservation subdivision - A subdivision where open space is the central organizing element of the subdivision design and one that identifies and permanently protects all primary conservation areas and all or some of the secondary conservation areas within the boundaries of the subdivision and retains a minimum of 40% of the gross tract area as protected open space.
17. County - Reference to County shall mean Winnebago County and shall include any agency, department or committee thereof.
18. Deed restriction – A restriction on the use of a property set forth in a deed or other instrument of conveyance, including, but not limited to, a restrictive covenant, conservation easement, transfer of development rights, or any restriction placed on undeveloped land as a condition for the division or development of the undeveloped land.
19. Developer – A person that constructs or creates a land development.
20. Development – The act of building structures or installing improvements.
21. Development Agreement (or Developers Agreement) – An agreement entered into by and between a Subdivider and the Town, with respect to any approved land division, which provides, among other things, for the design, construction and installation of required public improvements, the payment for such public improvements, dedication of land or acceptance of the dedication of completed public improvements, restrictive covenants running with the land, or other matters relating to land division, to development and use of land included in the land division or to the administration and enforcement of the agreement.
22. Dwelling Unit – The building, or group of rooms within a building, where one person or a group of persons resides as a family unit.
23. Easement – A grant by a property owner for use of a whole or portion of a parcel of land by the public or any person for any specific purpose or for purposes of access, constructing and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, other transmission lines, storm sewer, storm drainage ways, gas lines, or other service utilities.
24. Final plat - The map of plan of a subdivision and any accompanying material as described in Article VI of this Chapter.
25. Floodplain – The land adjacent to a body of water which has been or may be hereafter covered by floodwater including, but not limited to, the regional flood.
26. Frontage - The length of the front property line of the lot, lots or tract of land abutting the right-of-way of a public street road or highway.
27. Frontage street - A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.
28. Grade - The slope of a road, street or other public way, specified in percent.
29. Gross Tract Area – The entirety of the parcel proposed for subdivision, including all primary and secondary conservation areas.
30. High Water Elevation – The average annual high water level of a pond, stream, lake, flowage, or wetland referred to an establish datum plane or, where such elevation is not available, the elevation of the line up to which the presence of water is so frequent as to

leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic or vegetative characteristics.

31. Homeowners Association – A Wisconsin membership corporation which serves as an association of homeowners within a Subdivision or Certified Survey Map having shared common interests, responsibilities with respect to costs and upkeep of common private property of a Subdivision or Certified Survey Map. Such common property includes private recreation and open space areas within the Subdivision or Certified Survey Map.
32. Impact fees – Cash fees imposed upon a developer under Chapter 18.141 of this Chapter.
33. Improvement, public - Any sanitary sewer, storm sewer, drainage ditch, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip, off-street parking area or other facility for which the County or Town may ultimately assume the responsibility for maintenance and operation.
34. Land Development – The construction or modification of improvements to real property that creates additional residential dwelling units within the Town or that results in nonresidential uses that create a need for new, expanded or improved public facilities within the Town.
35. Land division - The act or process of dividing land into two or more parcels.
36. Lot - Designated parcel tract or area of land established by plat, subdivision or as otherwise permitted by law to be used, developed or built upon as a unit, and containing the minimum frontage, width, and area sufficient to meet building, parking, setback, open space, sanitary, or other requirements.
37. Lot, area - The total square footage lying within the peripheral boundaries of a parcel of land. In any zoning jurisdiction, the area of a lot specifically excludes:
  - a. The right-of-way of a public or private street.
  - b. Areas of navigable water.
38. Lot, corner - A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135 degrees or less measured on the lot side.
39. Lot, legal - A unit of land existing under a single ownership which complies with the applicable basic district standards for the Zoning District in which such lot is situated or meets the definition of a "lot of record" of this Chapter, which is provided with the minimum frontage upon a public road, and which complies with all applicable Subdivision and laws and ordinances.
40. Lot, through - A lot which has a pair of opposite lot lines among two parallel streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.
41. Lot, width - The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth. On irregularly (non-perpendicular) shaped lots, the width shall be the average width of the lot computed according to ILHR 85, Wisconsin Administrative Code. Lot width shall be measured at the street setback line applicable to the zoning district the parcel is located within. In the shoreland jurisdiction, the lot width shall also be measured at the shore yard setback line applicable to the zoning district the parcel is located within. At least 50% of the lot shall be greater than or equal to the required lot width.
42. Lot lines - The peripheral boundaries of a parcel of land.
43. Lot of record - A legal lot of record shall mean a lot legally created and recorded in the Winnebago County Register of Deeds Office prior to or according to the Winnebago County Subdivision Ordinance of May 1, 1969, meeting applicable State, County Zoning, and Subdivision laws and ordinances.

44. Major Condominium Plat - Condominiums in which land is allocated into parcels or building sites, whether the individual portions of land are defined as "units" or "limited common elements", are subject to review and approval of this Chapter if five or more parcels or building sites of five acres or smaller in size and created within any five year period from a lot parcel or tract which existed on the effective date of this Chapter.
45. Major land divisions - The creation of five or more parcels or building sites of five acres or smaller in size by successive divisions within a period of five years. Within the classification of major land division, there shall be subclassifications of:
  - a. Subdivision, Town - (Subdivisions satisfying this classification are subject to Town and County review, and do not require State review). The subdivision of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where:
    - (1) The act of division creates five or more parcel or building sites, each of which is larger than one and one-half acres and which is five acres or smaller in size; or,
    - (2) Five or more parcels or building sites of which is larger than one and one-half acres and which is five acres or smaller in size and created by successive divisions within a period of five years.
  - b. Subdivision, County - (Subdivisions satisfying this classification, are subject to County review, and do not require State review). The subdivision of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where:
    - (1) The act of division creates five or more parcel or building sites, each of which is larger than one and one-half acres and which is five acres or smaller in size; or,
    - (2) Five or more parcels or building sites of which is larger than one and one-half acres and which is five acres or smaller in size and created by successive divisions within a period of five years.
  - c. Subdivision, State - (Subdivisions satisfying this classification are subject to mandatory State review under Chapter 236 of the Wisconsin Statutes in addition to County review under the Winnebago County Ordinance). The division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where:
    - (1) The act of division creates five or more parcels or building sites of one and one-half acres each or less in area; or,
    - (2) Five or more parcels or building sites of one and one-half acres each or less in area are created by successive divisions within a period of five years.
46. Major Condominium Plat - Condominiums in which land is allocated into parcels or building sites, whether the individual portions of land are defined as "units" or "limited common elements", are subject to review and approval of this Chapter if one but not more than four parcels or building sites of five acres or smaller in size are created within any five year period from a lot parcel or tract which existed on the effective date of this Chapter.
47. Minor land division - The creation of one but not more than four parcels or building sites which divide land into a parcel or parcels of five acres or smaller in size. Minor land divisions shall be created by Certified Survey Maps. Not more than four parcels may be created by means of minor land division procedures within any five year period from a lot, parcel or tract which existed on the effective date of this Chapter.
48. Minor street - A street used or intended to be used primarily for access to abutting properties.

49. Net Developable Area – The area of the tract in a Conservation Subdivision that can be divided into parcels.
50. Obstruction, driveway - This Chapter refers to two different types of obstructions:
  - a. Artificial obstruction - Any obstruction other than a natural obstruction that is capable of reducing the carrying capacity of a stream or drainageway or may accumulate debris and thereby reduce the carrying capacity of a stream; such as fences, dams, planted trees and shrubs, and any other obstructions instituted as a result of human activity.
  - b. Natural obstruction - Includes any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within the stream or drainageway by a non-human cause.
51. Official map – A map adopted pursuant to Chapter 62.23, Wis. Stats. for the precise designation of the right-of-way line and site boundaries of streets, highways, parkways, parks, and playgrounds, both existing and proposed.
52. Open space – A natural or manmade landscaped area not occupied by any structures, buildings, or impervious surfaces.
53. Owner – Any person having proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the land under this Chapter.
54. Outlot - A remnant parcel of land not to be used for building purposes, so designated on the plat.
55. Parcel - Lot created by a division of land. A parcel(s) which is owned, controlled or managed as a single entity shall be treated as a single tract, unless separated by a public road and navigable and non-navigable waters. A parcel is created as of the date the deed, land contract, lease, etc., is recorded with the Register of Deeds Office.
56. Plan Commission – The Plan Commission of the Town of Nekimi.
57. Plat – A map, graphics, or drawing which graphically delineates the boundary of land parcels for the purpose of identification and record title. The plat is a recorded, legal document and must conform to all Wisconsin Statutes and this Chapter.
58. Preliminary Plat - A map showing the salient features of a proposed subdivision submitted to the Plan Commission and County Planning and Zoning Committee for purposes of preliminary consideration as described in Article V of this Chapter.
59. Property line – The legal boundaries of a parcel of property that may or may not coincide with platted lot lines or street right-of-way.
60. Public way - Any public road, street highway, walkway, drainageway or part thereof.
61. Recreation Land, Active – Areas that are altered from their natural state to accommodate organized athletic activities (e.g. soccer, football, baseball, golf). Active Recreation Lands may also require the installation of equipment (e.g. playground apparatus, riding stables, shooting ranges, golf ranges, etc.).
62. Recreation Land, Passive – Areas that are left in a natural state with minimal alteration for scenic enjoyment (e.g. walking/hiking trail) and outdoor activities with minimal impact on the landscape (e.g. birding, hunting).
63. Replat – The process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat, Certified Survey Map, or part thereof. The legal dividing of a large block, lot, or outlot within a recorded subdivision plat or Certified Survey Map without changing exterior boundaries of said block, lot, or outlot is not a Replat.
64. Restrictive (or restricted) Covenant – A deed restriction on the use of the land usually set forth in the deed that is binding upon subsequent owners of the property.
65. Setback – The required distance a structure must be located from a lot line, easement, right-of-way, adjacent building, or other feature as indicated in this Chapter.

66. Shoreland jurisdiction - The area within 1,000' of the ordinary high water mark of a navigable lake, pond or flowage; or within 300' of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.
67. Slope – The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.
68. State – State of Wisconsin.
69. Street – A dedicated right-of-way affording primary access by pedestrians or vehicles to abutting property. Streets shall include, but are not necessarily limited to the following:
  - a. Alley – A local way, intended mainly to provide secondary access for vehicular traffic to abutting properties.
  - b. Arterial street – A street designated for large volumes of traffic.
  - c. Cul-de-sac – A short local street having one (1) end open to traffic and being permanently terminated by a vehicle turnaround.
  - d. Collector street or feeder street – A street intended to carry traffic from local streets to an arterial street and to provide circulation within neighborhood areas.
  - e. Dead-end street – Any local street, other than a cul-de-sac, which has only one (1) outlet.
  - f. Half Street – A road right-of-way of less than 66 feet located on the boundaries of a subdivision.
  - g. Limited access street – A street to which entrances and exits are provided only at controlled intersections and access is denied to abutting properties.
  - h. Local street or minor street – A street designated primarily to provide direct access to abutting properties, usually residential.
  - i. Marginal access street or service road – A local street parallel and adjacent to a street, which provides access to abutting properties and protection from through traffic.
  - j. Major street - Arterial and collector roads primarily intended for through traffic with a secondary function for direct access.
70. Subdivider – Any person, firm, or corporation, or agent thereof, dividing, or proposing to divide, land resulting in a subdivision, condominium, minor land division (Certified Survey Map), or Replat.
71. Surveyor – A land surveyor registered by the State of Wisconsin.
72. Street, private - The right-of-way of any private road, highway, lane, street, access easement, easement, etc., where the defined street or easement provides access to more than one parcel or principal structure.
73. Street, public - The right-of-way of any street, road, highway, lane, etc., dedicated to the public which generally provides access to abutting properties.
74. Town - Shall mean the Town Board, Plan Commission, Town Clerk, Building Inspector, or any other duly authorized representative thereof.
75. Tract - A contiguous area of land which exists or has existed in single ownership.
76. Variance – A departure from the terms of this Chapter as applied to a specific building, structure, or parcel of land, which the Plan Commission may permit, pursuant to this Chapter.

Town of Nekimi  
Winnebago County, Wisconsin

AN ORDINANCE ADOPTING  
CHAPTER 18: LAND DIVISION & SUBDIVISION REGULATIONS

Ordinance No. 1220-2017

STATE OF WISCONSIN  
Town of Nekimi, Winnebago County

SECTION I – TITLE AND PURPOSE

The title of this ordinance is the Town of Nekimi Comprehensive Plan Ordinance. The purpose of this ordinance is for the Town of Nekimi, Winnebago County, Wisconsin, to lawfully adopt the amended Town of Nekimi Land Division & Subdivision Regulations.

SECTION II – AUTHORITY

The Town Board of the Town of Nekimi, Winnebago County, Wisconsin, has authority under its village powers under Chapter 60.22, Wis. Stats., to adopt this ordinance.

SECTION III – ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the Nekimi Town Board of Supervisors on a roll call vote with a quorum present at its regularly scheduled meeting on December 20, 2017 the Town of Nekimi does hereby adopt the amended Chapter 18: Land Division & Subdivision Regulations.

SECTION IX – EFFECTIVE DATE

This ordinance is effective on publication or posting.

The Town Clerk shall properly post or publish this ordinance as required under Chapter 60.80, Wis. Stats.

Adopted this 20<sup>th</sup> day of December, 2017.

  
Glen Barthels, Chairman

12/20/2017  
Date

Attest:

  
Kelsey Barthels, Clerk

12/20/2017  
Date