Chapter 135

SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Troy as indicated in Article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Pian Commission — See Ch. 21, Art. I.
Building construction — See Ch. 27.
Farmland and open space preservation – See Ch. 52.
impact fees — See Ch. 70.
Mobile homes and mobile home parks — See Ch. 92.
Roads and driveways — See Ch. 125.
Utilities — See Ch. 149.
Zoning — See Ch. 170.

ARTICLE I

Subdivision and Farm Plan Regulations

[First Adopted 2-13-1978; comprehensively amended on 09-11-2014; §§ 4-6 amended on 9-10-2015, effective 9-24-2015; §§ 1-6, 8, 9 and 19 amended on 06-09-2016, effective on July 1, 2016]

§ 135-1. Statement of Purpose and Authority.

A. The purpose and intent of this Article is to promote the public health, safety and general welfare by regulating the subdivision of land in the Town of Troy in a manner that will protect agricultural practices and land use in the Town by directing nonagricultural development to locations less well suited for agricultural uses and purposes. Agricultural and nonagricultural development shall be regulated so as to occur in a well-designed and orderly manner and located so as to provide the best possible environment for those who live and work in the Town. Adequate provisions shall be made for public services required as a result of subdivision and/or development activity, and all initial public improvements made necessary due to development and subdivision activity shall be designed and constructed by developers at private expense and in accordance with Town requirements. In this way, measured amounts and kinds of development can be accomplished in the Town in a way that preserves the most productive and beneficial tracts of farmable land in the Town and that also preserves the rural atmosphere of the Town by requiring and protecting adequate open space in plats approved by the Town.

B. The primary use of land in the Town has historically been agricultural. It is the central policy of this Article to regulate new nonagricultural development activity in the Town in a manner that preserves significant areas of prime farmland in the Town for agricultural uses and preserves the right to farm, recognizing that viable development of land for agricultural purposes and uses will occur on the large tracts utilized under conventional agricultural practices and on smaller tracts where smaller scale, more intensive or specialty agricultural activity, such as organic farming, truck or market farming, specialty crops, specialty animals, hobby farms, community-supported agricultural plots and the like, can

be economically successful agricultural uses, whether located on parcels larger or smaller than 35 acres in size. This central policy is served in this Article by the establishment of regulations that:

(1) Allow measured development of land for nonagricultural uses while preserving the desirable agricultural areas in the Town by creating incentives and requirements intended to direct nonagricultural development to areas less well suited for agricultural purposes and uses and better suited for platting and nonagricultural development, recognizing that the nonagricultural development of land permanently remove it from availability for future agricultural uses regardless of zoning;

(2) Encourage major subdivision design that creates and permanently preserves and protects c o mm unity-o w ned open space within such subdivisions in order to better maintain the rural atmosphere of the Town;

(3) Can permanently preserve large and small tracts of prime farmland, thereby protecting them from future nonagricultural development, by establishing a program that permits the transfer of development rights from desirable farming areas by encumbering such areas with conservation easements that permanently prevent future subdivision and nonagricultural development, allows areas better suited for residential development to be subdivided at greater densities and areas of commercial development to have higher proportionate areas of hard surface than otherwise allowed under Town ordinances by transferring development rights to such areas, and in so doing create the potential for equitable private compensation of landowners who choose transfer development rights off their eligible land; andsuprere

(4) Oversee the measured and limited conversion of large parcels of exclusive ag-zoned land in the Town from agricultural purposes and uses under Farm P lan requirements that permanently protect those portions of larger parcels best suited for agricultural uses by placing them under conservation easements that prohibit intensive subdivision and/or nonagricultural development of the best farmable areas and by creating a system of regulations for the development of the remainder of the parcel that encourages incorporating open space to preserve the rural atmosphere in the Town and to better allow the peaceful and productive coexistence of agricultural and nonagricultural development uses in the Town.

C. This A rticle is enacted pursuant to the Town of Troy's authority and powers, both expressly conferred and inferable under Wis. Stats. Chapters. 59, 60, 61, 62, 66, 91, and 236, and all other applicable statutes or common law whether now in force or as may be enacted in the future. It is also intended to advance the eight main goals of the Town's 1992 Growth Management Plan, albeit in a manner not anticipated at the time that certain of the Plan's objectives and policies were being developed, and to advance the goals of and be consistent with the Town's current Comprehensive Plan. Although nonagricultural development can occur in or close to areas zoned exclusive ag, all such development shall be undertaken in the manner that best protects prime farmland in the Town and keeps it available for agricultural purposes and uses through the application of the regulations and landowner choices established herein.

§ 135-2. Definitions.

A. Words and phrases related to zoning and subdivision of land and used in this Article shall be as defined in the Town Zoning Ordinance and as defined in this Article.

B. As used in this Article, the following terms shall have the meanings indicated:

(1) AGRICULTURAL PURPOSE/USE/DEVELOPMENT – General farming, including beekeeping, egg production, floriculture, fish or fur farms, dairy, licensed game management farms, forest management, domestic livestock, poultry raising, sod farming, roadside stands selling only produce from the farm operation on the premises by members of the farm family, nurseries, greenhouses, vegetable raising, raising of crops and other similar uses, including placing land in federal programs for commodity payments or enrolling land in the conservation reserve program under 16 U.S.C. §§ 3831 to 3836 but excluding farms operated for the disposal or reduction of garbage, sewage, rubbish or offal. All other development are nonagricultural.

(2) BUFFER SPACE – Undeveloped area(s) in any major subdivision that cannot be further subdivided and is/are owned in common by the owners of the subdivision lots and where the primary purpose is to separate residential areas from areas being preserved for agricultural uses. Buffer spaces may also serve as open acres.

(3) BULB OF CUL-DE-SAC – The area of a cul-de-sac rear of a line tangent to points where the radius of the bulb meets the point of curve or reverse curve. See Exhibit A.

(4) CLUSTER SUBDIVISION – A subdivision in which the lots sizes are reduced below those otherwise required in the zoning district in which the development is located, in return for the permanent preservation of undeveloped land.

(5) CONSERVATION EASEMENT – An enforceable nonpossessory interest in real property imposing any limitation or affirmative obligation, the purposes of which include permanently protecting farmland so as to better preserve the rural character of the Town of Troy; permanently preserving scenic vistas and environmentally significant areas, including wetlands, lakes, streams and woodlots; creating and preserving open areas around significant environmental areas and agricultural areas; protecting the Town of Troy from the encroachment of neighboring cities; permanently restricting land divisions, subdivision and/or residential, commercial or industrial development; permanently retaining or protecting natural, scenic or open space values of real property; permanently assuring the availability of real property for agricultural, forest, recreational or open space use; permanently protecting natural resources; maintaining or enhancing air or water quality; and/or permanently preserving the historical, architectural, archaeological or cultural aspects of real property.

(6) CROPS – Cultivated plants including but not limited to field crops such as corn, wheat, oats, barley, hay, potatoes and dry beans; fruits such as apples, grapes, cranberries, cherries and berries; vegetables such as tomatoes, sweet corn, carrots and squash; plants raised for culinary, medicinal or aesthetic purposes such as flowers, herbs, spices, ornamental shrubs and trees and ginseng; plants raised for energy production such as switch-grass; and plants raised for textile use, such as cotton or bamboo.

(7) CUL-DE-SAC – A dead-end road with a circular turn-around at the end for vehicular use.

(8) DENSITY – The acreage-to-dwelling unit ratio used to calculate the maximum number of dwelling units allowed in an area for which nonagricultural development is planned, and based on the zoning classification of the land that was in effect on July 1, 1999. Density is the ratio of the number of

dwelling units allowable under this Article in the area being subdivided to the total number of acres actually being subdivided. In single-family residential developments, the number of dwelling units and the number of buildable lots will usually be the same. Density for residential and non-residential development purposes is initially determined in the same manner, by calculating the number of buildable lots that can be created and assuming that one dwelling unit will be placed on each such lot. In non-residential development, the density calculation is then used to determine the area available for hard surface in accordance with Section 9 of this Article and as described in the Town Zoning Ordinance. Land owned by the developer and used for pre-existing and contiguous public roads can be added to the total number of acres actually being subdivided for the purpose of calculating the density ratio and the resulting number of allowable dwelling units in the area being subdivided.

{9} DWELLING UNIT – A self-contained living unit consisting of sleeping quarters, bathroom(s) and kitchen, more than one of which may be located in one building.

{10} EXCLUSIVE AG ZONING – Refers to lands located in what the St. Croix County Zoning Map of the Town, dated July 1, 1999, identified as its Exclusive Agricultural District.

{11} FARMETIE – A lot created by the subdivision of land for residential or agricultural purposes, with the combined area of all farmettes included in the major or minor subdivision in which the lot will be located averaging not less than one lot per 12 acres, and with each lot having a minimum size of six acres. Farmette lots shall not be further subdivided and shall contain no more than one dwelling unit. Creating farmette lots does not by itself trigger the open acres requirement.

{12} FARM PLAN – A landowner's proposal to preserve the best farmland in an existing farm for agricultural uses and purposes in part by using a conservation easement that limits subdivision and/or nonagricultural development in such area and that also designates other Plan area for subdivision into lots less than 35 acres in size and/or for nonagricultural development for location on less desirable farmland in the Plan area, all in conformity with the requirements of § 135-8 of this Article. Only land zoned exclusive ag on July 1, 1999, or parcels not so zoned but 35 acres or greater in size and containing adequate areas of prime farmland such that its preservation can advance the central policy of this Article, may be the subject of a Farm Plan. All Farm Plans require Plan Commission review, recommendation and Town Board approval prior to implementation. Implementation of a Farm Plan leads to rezoning, nonagricultural uses including subdivision, encumbrance of some portion of the land with a conservation easement and/or transfers of development rights activities as authorized by this Article. Different owners of contiguous land that was zoned exclusive ag on July 1, 1999, may prepare and submit a joint Farm Plan. A Farm Plan may be submitted for less than all land of an owner. Roads do not sever contiguity for purposes of any Farm Plan.

(13} HARD SURFACE- Commercial or industrial zoned area on which is located building footprint(s), delivery area(s}, new interior service road{s), parking lot(s}, sidewalks, unloading and loading facilities and outdoor storage.

(14) LOT – A parcel of land (excluding outlots) created by subdivision for use as a site for one or more dwelling units, as a parcel for conveyance or as a building site of any kind. Areas of a lot subject to public or private rights-of-way or easements, including but not limited to roads, driveways (other than a driveway serving only the lot whose area is being measured), trails, recreation or conservation areas, stormwater drainage, ponding and/or retention areas and utility easements and structures (other than the area for underground utilities serving only structures within the subdivision) are excluded from any

calculations of minimum lot size under this Article.

(15) MAJOR SUBDIVISION – The division of land into lots, parcels or tracts of land for the purpose of building development or transfer of ownership, resulting in the creation of five or more lots that are 35 acres or smaller in size by one-time or successive lot creation within a period of five years.

(16) MINOR SUBDIVISION – The division of land into lots, parcels or tracts of land for the purpose of building development or transfer of ownership, resulting in the creation of four or fewer lots that are 35 acres or smaller in size, by one-time or successive lot creation within a period of five years.

(17) OPEN ACRES – Acreage included within the sixty-percent area of a 40/60 Farm Plan and in any subdivision that is dedicated and use-restricted in perpetuity by restrictive covenant or conservation easement as undeveloped acreage, adjacent to subdivision lots and/or accumulated and grouped within a subdivision to provide walking paths, nature trails, wildlife habitat, forests, prairies, parks, farmland, farmland buffers, and other similar undeveloped uses. Compatible, private recreational uses for the benefit of the homeowners' association members may be allowed with Town Board approval. Open acre parcels shall not be further subdivided and are not necessarily outlots.

(18) OUTLOT – A parcel of land, other than a lot or block, so designated on a plat or certified survey map and for which no development is allowed, other than that which supports permitted uses in open acres.

(19) PRIME FARMLAND – Land with a composite score of 91 or higher applying the USDA's LESA (Land Evaluation and Site Assessment) program and methodology as applied by St. Croix County to land in the Town and shown on the map on page 12 of the County's Comprehensive Plan/Agriculture and Farmland Preservation dated January 3, 2012.

(20) SHARED DRIVEWAY – That part of a driveway that serves two lots from the public road and ending at the point where the driveway splits to serve each separate dwelling unit. Also referred to as "joint driveways."

(21) SITE PLAN - Information that must be provided to and approved by the Town Board as part of Farm Plan review and approval for non-agricultural development of land subject to Exclusive Ag Zoning when subdivision is not involved.

(22) SUBDIVISION, SUBDIVIDED or SUBDIVIDING – These terms refer to both minor (sometimes referred to as "certified survey maps" or "CSMs") and major subdivision activities and plans for the purpose of transfer of ownership or building development where the act of subdivision will create or result in one or more lots or building sites of 35 acres or less.

§ 135-3. Applicability; effect of other laws.

This Article shal apply to all subdivisions of land and to all nonagricultural development and/or rezoning of land for purposes of nonagricultural development that occur or are proposed to occur within the geographic limits of the Town of Troy. Land in the Town is under the concurrent jurisdiction of St. Croix County, which also has a Subdivision Ordinance. The Town Zoning Ordinances also apply. In

the extraterritorial plat approval jurisdiction areas of the Town, the subdivision ordinances of the Cities of River Falls or Hudson also apply. Joint powers agreements pursuant to Wis. Stats. § 66.0301 may also affect the manner in which Town, County and City ordinances apply to development involving subdivision. Where the standards herein differ from the standards of another applicable ordinance, the more restrictive standard shall apply.

§ 135-4. Approving Authority; Plat or Certified Survey Map Required; Violations.

A. The approving authority under this Article for all subdivision of land shall be the Town Board of the Town of Troy, acting after considering the advice and recommendations of the Plan Commission of the Town of Troy, except for administrative review of certain CSMs, when and as set forth in this Ordinance. St. Croix County and the City of River Falls may also exercise subdivision jurisdiction.

B. A plat or certified survey map approval by the Town Board shall be required prior to the division of land in the Town of Troy into one or more new lots, parcels or tracts when the lots, parcels or tracts being created are subdivisions, unless the subdivision falls within the exemptions listed in Wis. Stats. § 236.03{2) or 236.45{2)(am)1 to 3. Subdivisions falling under the exemption in Wis. Stats. §236.03{2)(am)3. and described in Section 13-1B.3.a.3) of St. Croix County's Subdivision Ordinance are instead subject to Town administrative review and approval under §135-5.A. to verify continued compliance with Town ordinances. [Administrative review provisions effective 9-24-2015]. Site plans are required for all nonagricultural development of land not involving subdivision.

C. The following activities are declared to be violations ofthis Article:

(1) To convey, offer to convey or contract to convey a CSM or subdivision lot, tract or parcel within such a CSM or subdivision without having had the CSM or subdivision approved by the Town Board.

(2) To record a certified survey map, a plat or a metes and bounds description of a lot, thereby attempting to create a CSM or subdivision, without such CSM or subdivision having been first approved by the Town Board.

(3) To fail to comply fully with this Article or any other Town ordinance regulating the transfer of development rights or any other aspect of the development of land.

(4) To fail to comply fully with all permit or approval conditions or requirements made by the Town Board during its review and action on any certified survey map, subdivision plat or site plan.

(5) Any violation of Wis. Stats. Ch. 236.

(6) Anyone attempting to claim a Town Board approval exemption is subject to citation and prosecution under this Ordinance if administrative review determines that the claimed exemption is not available.

(7) To excavate, grub trees, clear ground or move earth on land included in a CSM or shown on a preliminary plat without first providing a performance guarantee to the Town as security for completion of specified public improvements shown on a CSM or preliminary plat, PUD or site plan.

§ 135-5. Requests for Approval; Review Procedure.

A. Application Procedure; Information Required; When Application has Been Submitted. The developer or owner shall meet with the Town Plan Commission for advance informal concept review of any proposed major subdivision, for planned unit developments {PUDs) and for nonagricultural development plans not involving subdivision. Concept review is optional for other subdivision activity. Concept approval is not binding on the Town Board as to the subdivision or other approval process. Application materials for Town Board approval for any subdivision of land shall be provided to the Town Board and the Town Plan Commission. Application materials shall be prepared and submitted in conformity with current Town requirements, available in written form from the Town Clerk-Treasurer. Checklists detailing the information required and general application deadline requirements for land use requests shall be available from the Town Clerk- Treasurer. Developers and owners should contact the St. Croix County Community Development Department at or prior to Town application.

{1) An application for any Town Board approval under this Article shall not be deemed to have been validly submitted to the Town until a written application, signed by the applicant or an authorized representative and accompanied by any applicable Town land use application or other checklist, all required materials and fees has been personally delivered to the Town Clerk/Treasurer, Town Attorney and Town Engineer and the receipt of the application has been acknowledged by the Plan Commission at its regularly monthly meeting following the delivery of all materials to designated Town personnel. The Town Board, Town Plan Commission, the Town Attorney or Town Engineer can require an applicant to provide additional information at any time where site characteristics or other unique circumstances make it appropriate to do so. At the time an application is delivered to the Clerk-Treasurer, the applicant shall also provide all information and written materials required to allow the Town Clerk-Treasurer to notify all adjoining landowners of what development and/or rezoning action is being proposed. The applicant/developer is responsible for providing all such materials at least 25 days before a Plan Commission meeting so that the Town Clerk-Treasurer can process and mail said notices at least 20 days before the Town Plan Commission meeting at which said proposal for subdivision of land will be considered.

{2) The Town Board shall reject any subdivision plat, CSM or site plan approval requests which have not been reviewed by nor recommendation received from the Plan Commission prior to being submitted to the Town Board for action, except that administrative, staff-level review and approval without Plan Commission recommendation or Town Board action shall be available at minimal cost for those CSMs meeting the exemption criteria in Wis. Stats. § 236.45(2){am)3., and in St. Croix County's Subdivision Ordinance § 13-1.B.3.a.3) and when all of the following are true [Administrative CSM review provisions effective 9-24-2015]:

(a) driveway configurations and locations meet Town ordinance requirements;

(b) lot sizes and dimensions meet Town ordinance requirements;

(c) either all area in the lots shown on the CSM is part ofthe same previously approved Farm Plan or all such area is entirely outside such a Farm Plan;

(d) no area shown on the CSM is adversely affected for its intended use by a recorded conservation easement;

(e) no area shown on the CSM is adversely affected for its intended purpose by a recorded development rights permit or by recorded restrictive covenants;

(f) no new exceptions to Town design standards are proposed or shown on the CSM; and

(g) no new public improvements or publicly maintained storm water management devices are proposed or shown on the CSM.

The purposes of the administrative review are to verify that lots sizes and dimensions meet the requirements of this Ordinance and to avoid partial encumbrance of such lots or inadvertent public dedications.

(3) As a condition for accepting the dedication of public streets, alleys or other ways on a plat or CSM, or for allowing private streets, alleys or other ways on a final plat or CSM, the Town requires developers to complete the construction of all public and/or private improvements to Town specifications under Town inspection. Without limitation because of enumeration, such public or private improvements may include sewerage, water mains and laterals, erosion control and stormwater management or treatment facilities, design, construction, grading and improvement of public ways such as streets, alleys, sidewalks, and trails, street lighting and other facilities for the public benefit of those occupying the subdivided space or Town residents in general, such as hydrant, pumping and other fire-fighting and prevention installations, playing fields, playgrounds and related facilities for the benefit of the public.

(4) All public or private improvements and related facilities shown in a preliminary plat, CSM, PUD or site plan shall be completed in a manner acceptable to the Town as a condition of final plat approval or final CSM approval by the Town. This requirement may be modified by the developer, property owner if different, project mortgages and the Town in a developers agreement pursuant to Article Ill of this Chapter, which agreement shall be completed and executed prior to preliminary plat approval, final CSM, PUD or site plan approval.

B. Approvals.

(1) Action Deadlines for Plats. The Town Board shall approve or conditionally approve or reject plat applications within 90 days of submittal of a valid application for preliminary plat approval and within 60 days in the case of submittal of a valid application for final plat approval, said submittal to be made in accordance with Subsection A(l) of this Section. Plat approval time limits shall be extended only upon written agreement between the Town and all of the applicants or authorized representatives, or at the request of the applicants 'or authorized representatives and agreement of the Town Board as shown in Town minutes. Site plans are required for any nonagricultural development not involving subdivision of land, and are subject to the same action deadlines as apply to plats.

(2) Developer's Agreement Required. Nonagricultural development not involving subdivision of land, PUD, preliminary plat and CSM approval by the Town shall be conditioned on all landowners and developers entering into a developer's agreement for all development and subdivision activity where public improvements will be built and dedicated and/or stormwater management methods or erosion control devices are proposed or required. Developer's agreements shall be acknowledged and

executed by alt project mortgagees. Any such agreement shall be made available to the County Zoning Administrator.

(3) Phasing of Subdivision Plats. An applicant may seek Town approval to develop land being proposed for subdivision and install the required public infrastructure and stormwater management devices thereon in phases. The request to develop a subdivision in phases shall be part of a n application for preliminary plat approval for the entire area being proposed for phased development. In deciding whether to approve a developer or owner's request to develop a preliminary plat in phases, the Town shall base its decision on its evaluation of whether the proposed phasing plan can be completed within a reasonable time, so that all planned public infrastructure, stormwater management devices and other facilities will be designed, built and installed to Town, County and State requirements, and in a timely manner. To do so, the Town shall, at a minimum, consider the following c r ite r ia : (a) the financial capacity and responsibility of the developer, including the extent of the developer's personal resources being committed to the proposed project; (b) outside financing sources' commitment, and the duration and extent of outside financing available to the developer; (c) whether all phases of the subdivision will be completed within three years of preliminary plat approval;and (d) whether the area for which phasing is being proposed is either too small to merit such an approach or so large that it cannot be completed within a three year period. All facilities and public improvements serving the phase for which approval is being requested shall be designed, built and operational in each phase as the phase is completed and able to be connected to and work with all other phases in the subdivision as later phases are completed. These requirements may be modified in a developer's agreement when it is in the interest of the Town and its residents to do so.

(4) Preliminary Plats.

(a) No preliminary plat application shall be considered or acted upon by the Town Plan Commission or the Town Board until all material required to evaluate the preliminary plat has been submitted.

(b) Preliminary plats submitted for approval shall show or be accompanied by the following information:

[1] Legal description, identity of all owners of record, identity of any proposed contract purchaser and any other beneficial owner, including current or planned mortgagees, and name, address and telephone number of the subdivider and person to be contacted concerning the plat, if different.

[2] Existing zoning of property.

[3] Proposed subdivision name.

[4] The exterior boundary, showing bearings and distances with a mathematical closure of one in 30,000 feet. All interior lots shall show distances to the nearest foot. The drawing shall be to a scale of not more than 100 feet to an inch with a graphic scale and North arrow shown on its face.

[S] Proposed public roads to be located adjacent to and/or within the property. For all proposed public roads, show:

[a] Location of curb and gutter sections.

[b] Location of retaining walls.

[c] That developer has ability to convey full ownership of road right-of-way areas to Town.

[6] The location, right-of-way widths, and names of any existing roads or other public ways, easements, railroad or utility rights-of-way, and any existing access controls.

[7] Location and names of adjacent plats, certified survey maps, parks and cemeteries, underscored with a dotted or dashed line, and. existing zoning of adjacent parcels.

[8] Area of each lot shall be shown as follows:

[a] The applicable Town of Troy building line setback requirements shall be drawn for each lot.

[b] The net buildable project area must be listed in tabular form for each lot.

[c] Pre-existing public road on area owned by the Town, County or State and contiguous to newly created lots is not allowed to be included in the area of newly created lots and shall not be used to offset the amount of required open acres.

[9] Driveway locations on collector, subcollector and access roads

[10] Arterial, collector, subcollector and access roads that will connect to nonplatted areas pursuant to a Town plan for future roads shall be laid out and built to the border of the platted area with a temporary cul- de-sac located at the boundary line of the plat. Road locations shall have taken into account the topography of the neighboring property. Proof of notification to the neighboring property owners as to the location of the proposed road must be provided by the developer.

[11] Utility easement locations.

[12] Location of any proposed lighting.

[13] Stormwater management detention areas, drainage easements, upstream and downstream drainage analysis, etc., as determined by engineering analysis.

[14] Soil borings and percolation test site locations.

[15] The location of existing property lines, buildings, drives, streams and watercourses, ponds, lakes, wetlands, rock outcrops, wooded areas, and other significant features within the proposed subdivision, including monumentation.

[16] The water elevations of adjoining lakes, ponds or streams at the date of the survey and the ordinary high-water mark, typical stream valley cross-sections, stream channels, and flood areas from HUD or FEMA, maps and floodplain zoning maps. Ordinary high-water marks shall be verified by DNR or its designated agent.

[17] The contours at vertical intervals of not more than two feet for a slope less than 20% and five feet for a slope of 20% or more. Lands with slopes of 20% or greater shall be shown with cross-hatch markings or otherwise clearly indicated. Lands located in the St. Croix Lower Riverway Zoning District with slopes of 20% or greater and lands with slopes of 12% but less than 20% shall be differentially shown with cross-hatch markings or otherwise clearly indicated.

[18] The location, dimensions and recordable legal description of all land proposed to be used for parks, playgrounds, open acres, buffer space, and conservation easement areas.

[19] Where applicable, an explanation of how development rights will transfer into the subdivided area with specific density calculations explaining the operation of the transfer and a specific designation of the source, size and number of development rights being used to increase densities in all receiving areas shown in the platted area.

[20] Dimensions, size and numbers of all lots. When assigning lot numbers for certified survey maps, lot numbers shall not be repeated in any quarter-quarter section or government lot. Where applicable, size shall be indicated with inclusion and exclusion of rights-of-way and areas below the ordinary high-water mark of navigable waters.

[21] All requests for exception to design standards must be shown and listed on the preliminary plat.

[22] Density calculations of subdivision and, if land is being rezoned from exclusive agriculture, identification of which farm plan election is being implemented and an overlay of Farm Plan areas.

[23] Calculations for open acres including claimed offset against required open acre area for developer-owned, pre-existing contiguous public road area and/or for new road that will be offered for dedication by the developer and conservation easement area calculations where applicable.

{24] Proposed general easement and restrictive covenant documents, developer-requested use terms for all conservation easements and proposed homeowner association bylaws documents.

[25] Any proposed phasing plan, including the location, dimensions and area of each proposed phase, phasing sequence and timetable, how public infrastructure will be designed, constructed and operate in each phase to be self-sufficient until connected and connect to adjoining phases, including showing the basic location of future roads in all phases, the location of all temporary cul-de-sacs, how and where stormwater management devices will be constructed and drain each phase, including the location of all temporary and permanent installations, and a timetable for completion of each proposed phase, which timetable, once approved, shall not be modified by the developer without Town approval. (2011)

[26] Other documents and information as required by the Town Board, Town Plan Commission, Town Attorney or Town Engineer, which shall initially include for all major subdivisions an owners title insurance policy commitment or certificate of title from an abstract company and the developer's proposed amount and form of performance and maintenance guarantee for the public improvements shown on the plat.

(c) Site plans are required for any nonagricultural development not involving subdivision of land, shall

show and provide all information described in §135-5 B.(4)(b)[1], [2], [4]-[7], [9]-[19], [22]-[24] and [26] and require Plan Commission review and recommendation and Town Board approval.

(5) Final Plats.

(a) If the final plat for the entire area of the preliminary plat is not submitted for approval within 36 months of preliminary plat approval by the Town, the Town may refuse to approve the final plat, or it may extend the time for submission of the final plat in a developer's agreement when the Town determines that the interests of the Town are served by doing so. All final plats shall be recorded within twelve months after the date of the last approval of the plat and within 36 months after the first approval. Final plats submitted for approval shall show the following information in a format that also complies with all applicable state and county requirements:

[1] A surveyor's compliance certificate, pursuant to Wis. Stats. §236.21.

[2] Subdivision name.

[3] Property lines with bearings and distances, graphic scale and North arrow.

[4] New public roads and rights-of-way adjacent to and within the property with dedication to the Town of full ownership rights.

[5] The location, right-of-way widths and names of any existing roads or other public ways, easements, railroad or utility rights-of-way, and any existing access controls.

[6] Location and names of adjacent plats, certified survey maps, parks, and cemeteries, underscored with a dotted or dashed line, and existing zoning of adjacent parcels.

[7] Area of each lot shall be shown as follows:

[a] With applicable Town of Troy building line setback requirements shown for each lot.

[b] With net buildable area listed in tabular form for each lot.

[c] Pre-existing, developer-owned, contiguous public road area shall be shown as dedicated to the public where possible and acceptable to the Town and shall not be included in the area of any lot.

[8] Driveway locations for collector, subcollector and access roads.

[9] Utility easement locations.

[10] Arterial, collector, subcollector and access roads that will connect to nonplatted areas pursuant to a Town plan for future roads, laid out and built by the subdivider to the border of the platted area with a temporary cul-de-sac located at the boundary line of the plat. Road locations shall have taken into account the topography of the neighboring property. Neighboring property owners shall have been previously notified by the developer ofthe location of all such roads.

[11] Stormwater management detention areas, drainage easements, upstream and downstream drainage analysis, etc., as determined by engineering analysis.

[12] The location of existing property lines, buildings, drives, streams and watercourses, ponds, lakes, wetlands, and other significant features, including monumentation, within the proposed subdivision.

[13] The water elevations of adjoining lakes, ponds or streams at the date of the survey and the ordinary high-water mark and typical stream valley cross-sections, stream channels, and flood areas from HUD or FEMA, maps and floodplain zoning maps. Ordinary high-water marks shall be verified by DNR or its designated agent and be shown with benchmarks.

[14] Land areas with twenty-percent slope and lands with greater than twelve-percent slope shall be shown with cross-hatch markings or otherwise clearly indicated. Land areas with slope of 20% or greater shall be shown with cross-hatch markings or otherwise clearly indicated. Lands located in the St. Croix Lower St Croix Riverway Zoning District with slope of 12% but less than 20% shall be shown with cross-hatch markings or otherwise clearly indicated.

[15] The location, dimensions and designation of all land being dedicated for parks and playgrounds or being conveyed for use as open acres, buffer space, and conservation easement areas.

[16] Dimensions, size and numbers of all lots. Where applicable, size shall be indicated with inclusion and exclusion of rights-of-way and areas below the ordinary high-water mark of navigable waters.

[17] All approved exceptions to design standards must be shown and listed on the plat.

[18] Areas in which further subdivision is not allowed and areas encumbered by restrictive covenants or conservation easements must be shown and listed on the plat.

(b) Four copies of the final plat with original signatures shall be provided. When the Town Board approves the final plat of a major subdivision, the Town Chairperson shall certify Town approval on the plat document in the space provided for that purpose, and the Town Clerk-Treasurer shall sign the certificate on the plat concerning taxes or special assessments, where no such taxes or assessments are unpaid. A copy of the final plat with the signed certificate shall be sent to the County Zoning Administrator in accordance with Subsection B(S).

(6) Transmission of Subdivision Approvals to County by Town. No certified survey map or final subdivision plat shall be approved by the Town Board until all approved exceptions to design standards, easements, covenants, developer's agreements, homeowners' association Articles of incorporation and bylaws, development rights transfer requests or such other information or commitments as required by the Town have been provided in final form that is satisfactory to the Town, signed and agreed to by the owners, developers or mortgagees, as appropriate. All such signed documents shall be provided by the developer with the final plat when it is delivered to the County.

C. Disapprovals. When the Town Board determines not to approve a major subdivision, its reasons for denial shall be stated in the Board's meeting minutes and a copy thereof given to the

applicant/developer within 10 days of Board action.

D. Reconsideration. A request for reconsideration of a certified survey map or plat application, or a new application that is similar to a previously rejected application in that the circumstances or conditions that caused the rejection have not changed, shall not be placed before the Plan Commission or the Town Board unless a substantial change of circumstances has occurred since last Town action on the application. A change of ownership or the passage of time without additional conditions or circumstances is not a substantial change of circumstances.

E. Extension of time periods. If the time for action on a plat by the Town Board is extended by agreement with or at the request of the subdivider, the Town shall notify the County Community Development Department of such extension.

F. The developer shall provide a true and complete copy of the recorded final plat by delivering it to the Town Clerk/Treasurer within fifteen (15) days of recording it.

G. Appeals. Any person aggrieved by the failure of the Town Board to approve a plat may appeal to Circuit Court, as provided in Wis. Stats. Ch. 236.

§ 135-6. Standards for All Subdivisions, PUDS and Nonagricultural Development.

A. No land shall be subdivided or otherwise converted to nonagricultural development which is held unsuitable for such use by the Town Board for reason of potential for flooding, inadequate drainage, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage capability; lands being of greater suitability for another use, or any feature or circumstance likely to result in the imposition of unreasonable costs to remedy severe and avoidable problems or to be harmful to the health, safety or general welfare of the current and/or future residents ofthe subdivision or the community.

B. All nonagricultural development and subdivision of land shall be designed and constructed to adequately protect the public safety, health and general welfare and to permit the efficient provision of public services in a manner consistent with the central policy of this Article. The Town Board may impose reasonable additional and site-specific requirements and conditions upon its approval of any subdivision or site plan to accomplish these objectives.

C. Each lot in a subdivision shall have usable access to a street or road which connects the lot to an existing public street, road or highway.

D. The Town shall further specify the requirements to be met in subdivisions and nonagricultural development concerning road and other improvements, such as street signs, streetlights, culverts, posts and guardrails, in Chapter 125, Article II, Road Standards, of this Code and in the developer's agreement between the Town and developer that shall be required whenever such public improvements will be dedicated to the public as part of the subdivision and/or development project. The cost of all public improvements attributable to the subject development activity shall be paid by the subdivider.

E. All new utility installations shall be completed in conformity with Chapter 149, Utilities, Article I, Installation, of this Code.

F. Stormwater management and erosion control measures during and after construction shall conform to the Wisconsin Department of Natural Resources Technical standards for construction, post-construction and turf management and to any additional requirements in this Article. See Subsection H.

G. Subdivision Design Standards.

All Subdivided Parcels and Nonagricultural Development Shall Comply With All Applicable Design Standards:	Minor Subdivision	Major Subdivision Lot Size Size and Any Parcel 2.5 Acres and Over	Lot Size Under 2.5 acres
1. Right-of-way (a) Local roads (width) (feet) (b) Cul-de-sac (diameter) (feet)	66 160	66 160	66 160
2. Minimum adjacent driveway separation, measured from center line to center line at point where driveways connect to edge of paved Class E local road (feet)	42	42	32
3. Paved driveway required (where required, must be paved within 2 years of occupancy)	No	Yes, but only the first 50 feet from point where driveway connects to a public road	Yes
4. Shared driveways allowed	Yes, and shared portion must be paved	Yes, and shared portion must be paved	No
5. Average ratio of average lot depth to average lot width.	3:1	3:1	2.5:1
6. Minimum front lot width at right-of-way (if no cul-de-sac) (feet)	150	150	100

All Subdivided Parcels and Nonagricultural Development Shall Comply With All Applicable Design Standards	Minor Subdivision	Major Subdivision Lot Size Size and Any Parcel 2.5 Acres and Over	Lot Size Under 2.5 acres
7. Minimum front lot width at right-of-way (if on cul-de-sac) (feet) Note: Width at cul-de-sac right-of-way may be reduced by an exception to design standard if the front line setback is measured from the place at which the required lot width can be found, parallel to the cul-de-sac right-of-way	120	120	120
8. Minimum lot width at front building line (feet)	150	150	132
9. Setback. Unless waived by the Town Building Inspector, a registered land surveyor shall mark each lot's or parcels front and side minimum building line setbacks at or prior to building permit issuance.	Yes	Yes	Yes
9.(a) Minimum front building line setback from right-of-way (feet)	150	150	75 when lot frontage is on access road.
9.(b) Minimum front building line setback from paved road surface (feet) [greater of 9.(a) or 9.(b)]	170	170	95

All Subdivided and Nonagricultural Development Parcels Shall Comply With All Applicable Design Standards	Minor Subdivision	Major Subdivision Lot Size Size and Any Parcel 2.5 Acres and Over	Lot Size Under 2.5 acres
9.(c) Minimum side building line setback (feet) Note: May be reduced by an exception to design standards to 10 feet on lots Vii acres or less, if the distance to the nearest building on the adjoining lot is SO feet or more; may be reduced to 25 feet on lots over 2.S acres, if the distance between the next nearest building on the adjoining lot is 100 feet or more, all subject to 9(e) notice requirement.	50 Yes	50 Yes	2S Yes
9.(d) Minimum rear building line setback (feet) Note: May be reduced by an exception to design standards to 10 feet on lots 2.5 acres or less, if the distance to the nearest building on the adjoining lot is SO feet or more; may be reduced to 25 feet on lots over 2.S acres, if the distance between the next nearest building on the adjoining lot is 100 feet or more, all subject to 9(e) notice requirement.	50 Yes	50 Yes	25 Yes

All Subdivided Parcels and Nonagricultural Development Shall Comply With All Applicable Design Standards	Minor Subdivision	Major Subdivision Lot Size Size and Any Parcel 2.5 Acres and Over	Lot Size Under 2.5 acres
9.(e) Where an exception to design standard is granted for a particular lot or parcel changing a side or rear setback line, an affidavit shall be recorded by the Town Clerk-Treasurer attaching to the affected adjoining lot or parcel and explaining in detail how far in from the presumptive setback line the Town Board action has moved the actual setback line. No such exception to design standards shall be granted without the consent of the adjoining landowner.	Yes	Yes	Yes
9.(f) Corner lots must meet building line setbacks from both roads.	Yes	Yes	Yes
10. Maximum number of lots on bulb of cul-de-sac			
10.(a) Number of lots allowed with this setback	3 if 150-foot setback	3 if 150-foot setback	4 if 75-foot setback
10.(b) Number of lots allowed with this setback	4 if 220-foot setback	4 if 220-foot setback	5 if 110-foot setback
10.(c) Setback selected for cul-de-sac frontage applies to entire road frontage of lot adjoining cul-de-sac	Yes	Yes	Yes
11. Maximum percentage of garage entrances facing street	N/A	N/A	70%

H. Stormwater Management for Land Disturbing Activities. As part of site plan, preliminary plat and CSM review, and upon the advice and recommendation of the Town Engineer, the Town Board shall review and approve a written Stormwater Management Plan, prepared by the developer and in conformity with all applicable requirements of Wis. Admin. Code Ch. NR 151 and the DNR's Stormwater Post-Construction Technical Standards, developed and to be implemented for each post-construction site. The Town Engineer's review and recommendations to the Plan Commission and Town Board concerning Stormwater Management Plans proposed by the developer shall be conducted and proposed to require site-specific compliance with the most stringent and protective measures in all of the following standards:

(1) TOTAL SUSPENDED SOLIDS. Best Management Practices ("BMPs") shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site, by design, to reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls.

(2) PEAK DISCHARGE. By design, BMPs shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development condition for the 2-year, 10-year, 25-year, and 100-year, 24-hour design storm applicable to the post-construction site.

(3) INFILTRATION. BMPs shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable to infiltrate 25% of the post-development runoff from the 2 year -24 hour design storm with a type II distribution. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

(4) PROTECTIVE AREAS.

(a) "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface.

[1] For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 75 feet.

[2] For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.

[3] For lakes, 50 feet.

[4] For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

[S] For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.

[6] For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

(b) Impervious surface areas shall be kept out of protective area to the maximum extent practicable. The Stormwater Management Plan shall contain a written site specific explanation for any parts of the protective area that are disturbed during construction.

(c) Where land disturbing construction activity occurs within a protective area and where no impervious surface is present, adequate sod or self-sustaining vegetative cover shall be established and maintained, sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upstream overland flow areas under sheet flow conditions. Non-vegetative materials such as rock rip-rap may be employed on the bank as necessary to prevent erosion such as on steep slopes or where high velocity flows occur.

I. Architectural and Aesthetic Design Standards.

(1) The Town of Troy contains beautiful landscapes of rolling farmland, prairie and forest. The residents of the Town of Troy have consistently and by significant majorities indicated their desire that the Town preserve its rural atmosphere and prevent the unattractive appearances and land uses of typical suburban major subdivisions or nonagricultural development in the Town.

(2) In part, the purpose of the setback and dimension regulations of this Article is to promote more rural, as opposed to suburban, residential subdivision developments, especially with reference to discouraging development of nonclustered major subdivisions with no commonly held buffer space or open acres. Building setbacks from the road and adjacent lot building separations are important factors, especially on culs-de-sac, in creating less crowded, more rural appearing subdivisions and for nonagricultural development in general.

(3) Where specific features and topography in a subdivision or nonagricultural development area allow it, exceptions to design standards on setbacks may be permitted, provided that the exception does not lessen the appearance of separatiori provided by the setback regulations.

(4) Exceptions to design standards will not be granted for awkwardly shaped, non-setback-conforming lots being created solely to allow a developer or owner the theoretical maximum number of lots allowed under the density standards of this Article.

(5) The density ratios that apply to nonagricultural development, to residential subdivisions and the setback design standards in this Article are intended to encourage the design of major subdivisions and nonagricultural development that is more open, rural and less suburban in style, and are taken in part from similar design standards used in other areas to create more a.pen and rural appearing development. However, density ratios and dimensional design standards only partially promote attractive rural residential subdivisions and nonagricultural development that also must coexist well with ongoing agricultural operations. The location of subdivisions and nonagricultural

development in relation to the use and topography of the greater parcel of land from which it is taken and the specific location of lots, roads and buildings within subdivisions and areas of nonagricultural development are also important.

(6) The design standards in this Article are intended to guide developer/applicants in designing and locating nonagricultural development and subdivisions so as to preserve to the greatest extent possible the natural and existing terrain, forest and conservation areas, thereby maintaining a more open and rural setting. Such regulations are consistent with providing for the health, safety and welfare of existing and future residents of the Town of Troy. These architectural and aesthetic design standards shall apply to all nonagricultural development and to all subdivision of land in the Town:

(a) Conservation areas such as forests, ponds, prairies and streams shall be preserved to the greatest extent possible while still allowing construction within or adjacent to these areas.

(b) Natural terrain shall remain unaltered except where required for roads, stormwater management, erosion control and other required infrastructure improvements. Grading, excavation and soil disturbing plans shall be explained to the Town Board and Plan Commission as part of the site design or concept and subdivision approval process.

(c) Local roads may be the minimum required width unless a greater width is required for safety reasons. Rural-type Town roads without curbs are preferred. Concrete curbed roads will be allowed only when required for proper stormwater management and road design, as determined by the Town Engineer.

(d) Soil absorption fields, culverts and retention ponds are preferred over storm sewers for stormwater runoff control. Public sidewalks are not usually desired in residential subdivisions where lots are one acre or larger in size.

(e) Streetlights are not ordinarily compatible with the rural character of the Town. Any public streetlighting provided by the developer shall be limited to what is minimally required for safety and shall require Town approval. The Town may require developers to install special lights to minimize light pollution.

(f) The developer shall provide signs and monuments consistent with the design parameters of the nonagricultural development or subdivision and as required by the Town. Signs and monument location, design and construction shall be approved by the Town but their maintenance and repair shall be the responsibility of the developer, the homeowners association or owner.

(g) Landscaped or naturally wooded center islands are normally required for all cul-de-sacs. Fully paved cul-de-sacs with no islands are not normally desirable but may be permitted, depending on considerations related to the terrain and overall design of the nonagricultural development or subdivision.

(h) Paths, fields, ponds, plantings, berms and other landscaping techniques should be used and may be required by the Town to maintain the rural atmosphere, to screen the nonagricultural development or subdivision and to create visual separation between adjacent land uses.

(i) Developers are expected to avoid locating lots immediately adjacent to existing collector and/or arterial roads unless it can be demonstrated that existing or proposed screening will substantially lessen the visual impact of the development as viewed from existing roads.

(j) Developers should avoid locating rows of multistory walkout houses on the ridge tops unless well screened by existing or proposed vegetative cover.

(k) Lots in a major subdivision and areas of nonagricultural development fronting on collector or arterial roads should not use such roads for public road access. Minor subdivisions on such roads shall use shared driveways for access to reduce the number of driveways entering collector and arterial roads.

(7) These architectural and aesthetic design are outcome-based and are not to be construed or used as a means to prevent the subdivision or nonagricultural development of land. It is the obligation of a developer/applicant to explain to the Town Board and Plan Commission how the subdivision or nonagricultural development site plan/proposal complies with these standards and to explain where and why an application does not comply with these standards. Because of the impact of topography on design, the Town may allow exceptions from these architectural and design standards that the Town Board finds consistent with creating attractive rural subdivisions or areas of nonagricultural development.

J. Minor subdivisions are subject to all of the same requirements and standards as are contained in this Article for major subdivisions unless specifically stated otherwise in a separate part of this Article.

K. Certified survey maps for which exemption from Town Board review and approval is sought pursuant to § 135-4.B. cannot add land located in adjoining Farm Plan area unless an entire lot is so located, nor can such lots be partially encumbered by a conservation easement or by restrictive covenants. [Effective 9-24-2015]

§ 135-7. Standards in Areas Zoned for Agricultural-Residential Use on July 1, 1999.

In addition to the other requirements of this Article, the requirements in this Section of this Article apply to the subdivision of parcels of land zoned ag-residential on July 1, 1999. Owners of such parcels that are also eligible to transfer development rights shall proceed with a Farm Plan under § 135-8 in order to apply for a permit to transfer development rights under § 135-9. Owners of such parcels also can elect to proceed under § 135-8 of this Article even where no § 135-9 transfer of development rights is possible. Where no Farm Plan is required or requested on a nonexclusive ag zoned land, the following requirements apply:

A. Density Ratio. The density ratio shall not exceed one dwelling unit for each 3.0 acres of area being subdivided.

B. Minimum Lot Size.

(1) No dwelling unit shall be located on any lot of less than 2.5 acres in size except as allowed in

Subsection B(2} or C or as allowed due to an incoming transfer of development rights duly permitted under § 135-9.

(2) Cluster Subdivision Option. A subdivision design meeting all of the following requirements may be approved by the Town despite having lot sizes smaller than those required under Subsection B(l):

(a) Minimum lot size: one acre.

(b) Maximum density ratio: one dwelling unit for each three acres of area being subdivided, and included in the area of the certified survey map or plat.

(c) A minimum additional area of one acre per lot to ser\te as open acres.

(d} Areas that will be dedicated to the Town and used for new public roads and rights-of-way in the area being subdivided can be combined with area used for open acres to meet the required density ratio.

(e) Open acres in the area being subdivided shall be owned by a homeowners' association, created by the developer at the time of platting, with membership to consist of the owner(s) of each lot in the subdivision. All open acre areas shall be placed under restrictive covenants or a conservation easement in favor of the homeowners' association that permanently prevents further subdivision and protects such areas from additional residential, commercial or industrial development, in perpetuity.

C. Single Lot Split Exception. Notwithstanding anything to the contrary contained in this Section, an owner of a lot not located in a major subdivision and legally created prior to July 31, 1996, that contains an area of no less than 5.0 acres and no more than 6.0 acres may divide said lot subject to a maximum density ratio of one dwelling unit per 2.5 acres of land and with a minimum lot size of 2.0 acres. Except for Subsection B(2}, all other requirements of this Article shall apply to such subdivision of land.

§ 135-8. Standards in Areas Zoned for Exclusive Agricultural Use on July 1, 1999.

A. Policy. Significant tracts of land in the Town are zoned for exclusive agricultural uses to protect farmland from claims of nuisance by nonfarm residents and to help land so zoned qualify for available state and federal programs. Increasing development pressure makes it appropriate to respond in measured fashion to the increased pressure to develop land zoned exclusively for agricultural uses and purposes while avoiding the public harm that comes from excessive development in predominantly rural area such as increased traffic congestion, groundwater degradation, increased and uncontrolled stormwater flows and erosion, increased need for public protection and emergency services, loss of open space and residential homeowner or non-residential owners' objections to farming practices. There is also harm to the public to be reduced or avoided that is caused by a foreseeable increase in Town expenses due to the higher service requirements of residential property as compared to farm property, the cost of which is shared by all taxpayers in the Town.

(1) It is the stated preference of the citizens of the Town that land zoned exclusive ag should be preserved and kept available in its current state of development for agricultural uses and as open space. This is also consistent with the Town's Growth Management Plan and its current Comprehensive Plan in

which, and since 1992, the Town has had the stated policy of discouraging nonfarm development in agricultural areas. Surveys conducted within the Town have directed the Town Board to act to preserve and protect the best farmland from development while still providing the owners of the ag-zoned farmland with viable economic alternatives to non-farm development, to avoid the public harm caused by the loss of irreplaceable farmland when its use changes to other than agricultural and open space uses.

(2) To this end, pursuant to the Town's exercise of village powers in furtherance of the health, safety and welfare of the citizens, pursuant to the Town's authority to regulate the subdivision of land as authorized by Wis. Stats. Ch. 236, and pursuant to the Town's authority over zoning all proposals to subdivide and/or to otherwise develop land for nonagricultural uses that is located in the Town of Troy and was zoned exclusive ag on July 1, 1999, shall be subject to the regulations of this Section in addition to all other applicable requirements and regulations of this Article.

B. Applicability; Base Map. This section applies to all development of land for nonagricultural uses and to all applications to subdivide land in the Town of Troy for any purpose into parcels of 35 acres or less where the land was zoned exclusive ag on July 1, 1999. Ownership and size of exclusive ag-zoned parcels for purposes of this section shall be determined as of July 1, 1999. The Town Plan Commission shall develop a base map and records for this purpose, based on the official zoning map, ownership records and zoning records of St. Croix County. Once developed and approved by the Town Board, said map shall be presumed correct as to zoning, ownership and parcel size.

C. Farm Plan Requirement, Purpose and Proportionality Election.

{1) Requirement. All owners of land located in the Town of Troy that was zoned exclusive ag on July 1, 1999, and who seek to rezone and/or to develop land for nonagricultural uses or to subdivide any portion of land sought to be rezoned into lots of 35 acres or less in size shall, either prior to rezoning and/or as part of the subdivision or site plan approval process, submit a Farm Plan for review by the Plan Commission and approval by the Town Board.

(a) The Farm Plan shall describe the plans for nonagricultural development and/or subdivision in adequate detail and shall include a declaration of the specific proportionality election required under Subsection C{3) herein and a declaration of any transfers of development rights planned to be made pursuant to § 135-9 herein, disclosing source and manner of use of such development rights. No Farm Plan shall be considered or approved by the Town Board that attempts to use a proportionality election or to transfer development rights in a manner not permitted under this Article.

(b) Farm Plans shall be written, shall include a map of survey showing the areas planned for protection and for development and shall include the full and specific development plan being proposed. Where a PUD or a major subdivision is being proposed, Farm Plan approval shall be processed as an additional component of PUD or preliminary plat approval. Farm Plans shall identify all contiguous acres owned by the landowner(s) in relationship to any lesser amount of land already subdivided or being sought to be subdivided or used for nonagricultural development. Farm Plans shall conform to all other applicable requirements of this Article. The Town shall always have the right to request additional relevant information to be provided by the landowner(s).

(2) Purpose. The purpose of a Farm Plan is to establish a farm-based program that protects the best farmable land and keeps it available for agricultural uses and to locate proposed development for nonagricultural uses in Farm Plan areas most appropriate for nonagricultural purposes in a manner that provides the open space essential to maintaining the rural atmosphere of the Town and that can allow farming and development to peacefully coexist. Whenever nonagricultural development of land is proposed for exclusive ag-zoned land,, an appropriate amount of the best farmable land shall be protected permanently under a conservation easement that ensures that only strictly limited subdivision of land or development can occur in designated Farm P Ian areas which are then preserved for agricultural uses and/or as open space. Measured nonagricultural development may then be approved only in those areas of the Farm Plan less well suited for agriculture uses. All conservation easements developed and put in place as part of an approved Farm Plan shall partially or entirely prohibit further subdivision or site development for nonagricultural purposes and shall maintain the availability of the subject area for agricultural and open space uses as defined in this Article, except in areas of environmental sensitivity where uses may be more limited, depending on individual circumstances.

(3) Farm Plan Proportionality Election. A Farm Plan must conform to all requirements of this Article and elect one ofthe following development and preservation proportionality program choices:

(a) Forty/Sixty Program Choice.

[1] Forty percent of the area in the Farm Plan, including the best farmable land in the Plan area, shall be encumbered by a conservation easement that permanently prevents further subdivision and nonagricultural development beyond that allowed herein and preserves in perpetuity the availability of the land for agricultural uses and as open space. Within the 40% of the best farmland being placed under conservation easement, one farmette lot can be created for up to the first 12 acres of land so protected, plus one additional farmette lot for each additional full 12 acres in the area of the Plan being placed under conservation easement.

[2] The remaining 60% of the area of the Farm Plan can be proposed for Town subdivision approval or for nonagricultural development under a plan meeting all of the following requirements:

[a] Density ratio: one dwelling unit for each three acres of area being subdivided and included in the area of the certified survey map or plat.

[b] Minimum lot size: one acre.

[c] A minimum additional area of one acre per available lot to serve as buffer space between residential and protected agricultural uses and/or as open acres shall be included in the sixty-percent portion of the farm plan area being proposed for subdivision.

[d] Area owned by the developer and used for existing, contiguous public road and area that will be used for new public road and right-of-way and included in the plat can be combined with area used for open acres to meet the required density ratio for the Farm Plan.

[e] The open acres located in the sixty-percent portion of the Farm Plan area proposed for subdivision shall be owned by a homeowners' association, which shall have been created by the developer as a Wisconsin corporation or LLC before final plat approval. The homeowners' association

shall have exclusive responsibility for the maintenance and management of all open acres in the subdivision and for all stormwater management devices and/or erosion control measures that are placed in open acres or that are placed on a privately owned lot in the subdivision but that serve more area than the lot on which located. All such open acre areas shall be placed by the developer under restrictive covenants or conservation easements in favor of the homeowners' association that permanently prevent further subdivision and prevent residential, commercial or industrial development in such open acre spaces, in perpetuity. Public roads included as open acres in proportionate or acreage calculations shall not be included in the area conveyed to a homeowners' association.

[f] Farm Plan area proposed for commercial development may create 1.5 acres of hard surface for every lot that would otherwise be available for residential subdivision.

{b) Fifty/Fifty Program Choice.

[1] Fifty percent of the area included in the Farm Plan, including the best farmable land in the Plan area, shall be encumbered by a conservation easement that permanently prevents further subdivision and nonagricultural development beyond that allowed herein and preserves in perpetuity the availability of the land for agricultural uses and as open space. Within the 50% of the best farmland being placed under conservation easement, one farmette lot can be created for up to the first 12 acres of land so protected, plus one additional farmette lot for each additional full 12 acres in the area of the Plan being placed under conservation easement.

[2] The remaining 50% of the area of the Farm Plan can be proposed for Town subdivision approval or for nonagricultural development under a plan meeting all of the following requirements:

[a] Density ratio: one dwelling unit for each three acres of area being subdivided and included in the area of the certified survey map or plat.

[b] Minimum lot size: 2.5 acres.

[c] New roads and public rights-of-way installed in a subdivision shall be designed and laid out to best separate and serve as a visual and spatial transition area between the subdivided areas and protected agricultural use and/or open space areas.

[d] In addition to the setback requirements established in this Article, in any area being proposed for residential subdivision or nonagricultural development under this proportionality election, houses on lots and nonagricultural buildings adjoining such road/separation areas shall be located to be as far from the protected agricultural use and open space areas as possible to further minimize the impact of said houses and buildings on agricultural uses in protected areas.

[e] Farm Plan area proposed for commercial development may create 1.5 acres of hard surface for every lot that would otherwise be available for residential subdivision.

D. Standards for All Farm Plans.

(1) Farmette lots created pursuant to any Farm Plan approved by the Town Board shall not be further subdivided for any purpose at any time, except as allowed under § 135-9 of this Article. The availability of § 135-9 to facilitate additional subdivision activity is limited to the time when a subdivision is initially platted and approved by the Town.

(2) In Farm Plan areas that will be placed under conservation easement and divided into farmette lots, homeowner's association membership is required for all such lots when permitted by the Town Board to be less than three acres in size, and when otherwise necessary to provide for equitable management and maintenance of stormwater management and/or erosion control facilities serving more than one such lot in a conservation easement area.

(3) Landowner(s) whose Farm Plans are approved by the Town Board shall execute and deliver the conservation easement(s) prior to Town approval of a certified survey map, preliminary plat or site plan as to all Farm Plan areas being so protected. Said conservation easement shall restrict all future subdivision other than to create the allowable number of farmette lots under the applicable proportionality election or as may be allowable after an incoming transfer of development rights. In non-residential, nonagricultural development, conservation easements shall prohibit subdivision as applicable and may establish the available quantity of hard surface acres.

(4) All nonagricultural development and subdivision activities shall strictly conform to the Farm Plan approved by the Town Board. Any proposed changes to an approved Farm Plan shall meet all requirements of this Article and shall be approved by the Plan Commission and Town Board prior to implementation. The Town Board and Plan Commission can reconsider approval of a Farm Plan program choice at the owner's request or on their own motion only until the required conservation easement has been recorded. Once conservation easements are recorded, the proportionality election in a Farm Plan becomes irrevocable.

(5) The requirement of a Farm Plan when subdivision, nonagricultural development and/or rezoning are being proposed for land zoned exclusive ag is in addition to the other requirements of this Chapter and any other Town ordinance.

(6) The Town shall hold a Farm Plan conservation easement in trust for the landowner and shall not record it until the necessary rezoning associated with the development of Farm Plan area has been enacted by the Town and approved by St. Croix County.

(7) Conservation easements shall be in favor of and enforceable by the Town, shall be drafted by the Town Attorney, shall be executed by all current owners of the encumbered land, approved by all affected mortgagees, and entered into by any person or entity with whom or which the owners have entered into any agreement for the sale of any land included in the Farm Plan or that holds an interest in the land that is affected by the easement.

(8) Conservation easements conveyed to the Town pursuant to this Article shall be held in trust and in perpetuity by the Town and/or by other units of government or eligible public agencies, nonprofit organizations or land trusts to whom the Town Board may by agreement transfer enforcement rights, but always for the benefit of Town citizens and the greater public. Conservation easements held by the Town

shall be managed, administered and enforced by the Town. No conservation easement enforcement rights shall be transferred by the Town to any other unit of government, public agency, nonprofit organization or land trust except by action of the Town Board.

(9) An owner of property zoned exclusive ag who builds a dwelling or creates a lot on land zoned exclusive ag and as authorized by § 170.F.2.(a)(6} of the Town's Zoning Ordinance need not prepare and submit a Farm Plan at the time Town approval is sought for any related subdivision activity; however, the amount of acreage for future Farm Plan purposes shall include the land used for the said dwelling or lot, and the area to be protected under any future Farm Plan shall be calculated based on the farm area including any such dwelling or lot.

E. When land zoned exclusive ag on July 1, 1999, and belonging to different owners is combined into a single Farm Plan, all landowners involved shall provide the Town with a written agreement to comply with all duties owed to each other in order to comply with the Farm Plan requirements submitted with their Farm Plan proposal.

F. Landowners who submit a Farm Plan that fully conforms to this Article, who obtain approval of the Farm Plan by the Town Board and who request Town rezoning, nonagricultural development site plan or residential subdivision approvals based on the specific terms of an approved Farm Plan shall receive rezoning approval from the Town for the stated development purpose of the Farm Plan and Town approval of an application for any related subdivision of land or site plan prepared in conformity with the Farm Plan under all but the most unusual circumstances. While this is not to be construed as a release by the Town of its obligation to exercise good judgment on behalf of the citizens of the Town by independently deciding on such requests, a plan to rezone, subdivide or for a nonagricultural development site plan in conformity with an approved Farm Plan and the other requirements of this Article is consistent with the central policy of this Article in all but the most unusual of circumstances.

§ 135-9. Transfer of Development Rights (TOR).

A. Purpose. The transfor of development rights program is established to facilitate the voluntary, market-driven and permanent preservation of the best farmable land in the Town of Troy by allowing owners of such parcels to transfer development rights from their best farmable land to areas better suited for residential development; to preserve land from which development rights are transferred in perpetuity for agricultural uses and as open space; to preserve such land by allowing other land better suited for residential subdivision to be developed at greater densities by transferring development rights from agricultural areas to more suitable areas for which subdivision is proposed; and in this fashion to guide residential development to areas more appropriate for it and away from the best farmable land. Transfer of development rights can also be used to facilitate the desired preservation of the best farmable land when used during nonagricultural development for commercial purposes in designated areas of the Town to provide for greater hard surface area than would otherwise be allowed in the Town. The Town hereby establishes this program by which approved transfers of development rights can be made when authorized by permit issued by the Town Board of the Town of Troy.

B. Definition of Terms. For purposes of this section, and such other areas of this Article as may be necessary to implement this Section, certain words or phrases used herein are defined as follows:

DEVELOPMENT RIGHT — The ability under this Article to subdivide a parcel of land in a manner meeting the required density ratio for one dwelling unit, as established by the density ratio in effect for that particular parcel following any required Farm Plan election.

INTRAFARM TRANSFER — A transfer of development rights where the sending and receiving areas involved in the transfer are parcels in the same previously approved Farm Plan, with approved proportionality election under § 135-8C{3).

RECEIVING AREA — A parcel of land in the Town to which development rights are transferred pursuant to a Town permit.

SENDING AREA — A parcel of land in the Town from which development rights are removed for transfer to another area in the Town or to be held for transfer at a later time.

TRANSFER OF DEVELOPMENT RIGHT — The permanent removal, followed by receipt or holding, of development right(s) when approved by the Town Board and authorized by Town permit.

C. General Program Requirements.

(1) All transfers of development rights affecting land in the Town of Troy require a permit from the Town Board, which permit shall attach to sending and receiving parcels of land, be recorded and constitute an enforceable interest in land.

(2) Each dwelling unit added to a receiving area in excess of the applicable density ratio for the receiving area requires the incoming transfer of one development right.

(3) Development rights transferred into a receiving area cannot more than double the dwelling unit density ratio that would otherwise apply.

(4) Residential lots created by transfer of development rights into the sixty-percent area of a 40/60 Farm Plan do not require creation of additional open acres beyond what was required before the incoming transfer of development rights. For each such lot created by development right transfer, one acre may be subtracted from the quantity of open acres that would otherwise be required under this Article so long as the density ratios in Subsection E of this Section are still met.

(5) Additional non-residential lots cannot be created by transfer of development rights. Non-residential lots and nonagricultural development in land located in the Land Eligible for Commercial Rezoning (LECR) Overlay District as shown on the Official Zoning Map of the Town's Zoning Ordinance are eligible for incoming transfers of development rights to increase the amount of hard surface area. The extent to which hard surface area can be increased and the manner of determining the maximum number of development rights that can be transferred into a non-residential lot is described in §§ 170.K.3. and 170.P.4.d) ofthe Town's Zoning Ordinance.

(6) Dwelling unit densities used to determine the number of development rights available for sending and/or receiving areas are those in effect following all Farm Plan proportionality elections and Plan approvals for the affected parcels.

(7) Development rights transfer for residential lot creation and for creation of additional hard surface on non-residential lots and nonagricultural development areas not involving lot creation on a 1:1 basis under the sending and receiving areas' density ratios in effect after all related Farm Plan approvals. Thus, the development right available from one farmette lot will transfer one development right elsewhere even though the lot that the development right being transferred will create may be smaller than the farmette lot from which it came.

(8) Development rights can be transferred from a designated sending area only if the receiving area lots into which the development rights will be transferred are no larger than would have been allowed under the Farm Plan proportionality election applicable to the designated sending area.

(9) Parcels not zoned exclusive ag are eligible for a TDR permit only if:

(a) The parcel from which development rights will be transferred is 35 acres or more in size;

{b) The parcel is the subject of an approved Farm Plan meeting the requirements of §135-8 of this Article that establishes the number and location of development rights that may be created and the number of development rights that may be transferred into the parcel; and

(c) The parcel will receive an incoming transfer of development rights. Parcels zoned ag-residential and electing to proceed under Section 135-8 and/or Section 135-9 shall not send, bank or otherwise sell or transfer any development rights arising from the subject parcel. All development rights arising from the subject property shall be used on the subject parcel or, with Town approval, on contiguous parcels that are part of an integrated, larger development. Development rights may be transferred into the subject parcel, subject to the requirements of this Article and specifically of §135-8 and §135-9.

(10) lntrafarm transfers of development rights are permitted only when development rights are transferred from Farm Plan areas required to be placed under conservation easement to Farm Plan areas where more dense subdivision is allowed.

(11) lntrafarm transfers may operate to remove additional development rights from areas already encumbered by a conservation easement. When this occurs, a conservation easement addendum shall be recorded to implement the further outgoing transfer of development rights.

(12) No permit shall be issued for the incoming transfer of development rights in quantities that would cause combined density outcomes to exceed the requirements of this Article or those portions of Town Ordinances to which it refers.

D. TDR Permit. No transfer of development rights affecting land in the Town of Troy shall be permitted without the landowner having first applied for and received a permit from the Town.

(1) Sending Development Rights. The owner of land in the Town proposing to transfer development rights from a sending area shall apply for a Town permit by submitting an application for review and recommendation by the Plan Commission and for action by the Town Board containing all of the following information:

(a) Identity of all sending area owners, developers and mortgagees;

(b) An approved Farm Plan covering the sending area;

(c) Legally sufficient and recordable description of the property to be placed under conservation easement when development rights are transferred from it;

(d) Density calculation, quantity, type and location of development rights being proposed for transfer;

(e) Density calculation, quantity, type and location of development rights that will remain with the sending area following the transfer;

(f) Legally sufficient and recordable description of the recervrng area where the development rights will be transferred, or a statement establishing that the development rights will be held for later transfer, with identification of all proposed holders or receiving area owners and mortgagees;

(g) A statement explaining how the central policy of this Article is served by making the proposed transfer of development rights; and

(h) Such other or further information as the Town Plan Commission, Town Board, Town Engineer or Town Attorney shall require.

(2) Receiving or Holding Development Rights. An individual or entity proposing to hold development rights or all owners of land in the Town proposing to receive development rights shall apply for a Town permit by submitting an application for review and recommendation by the Plan Commission and for action by the Town Board that contains all of the following information:

(a) Identity of all proposed holders or receiving area owners, developers and mortgagees;

(b) The approved Farm Plan for land that will be subject of an incoming transfer of development rights and the approved Farm Plan for the land from which development rights are being proposed for outgoing transfer, in order to be held.

(c) Density calculation showing dwelling unit density in the recervrng area prior to and after the development rights transfer being proposed and an explanation of how densities and lot sizes on hard surface calculations after receipt of development rights will meet the requirements of this Article;

(d) A statement explaining how the central policy of this Article will be served by making the proposed transfer of development rights; and

(e) Such other or further information as the Town Plan Commission, Town Board, Town Engineer or Town Attorney shall require.

E. Densities Allowed Pursuant to Transfer of Development Rights.

(1) In a residential receiving area where subdivision is being proposed, the acreage to dwelling unit

ratio may be increased by transfer of development rights as follows:

(a) On the sixty-percent area of a 40/60 Farm Plan or the fifty-percent area of a 50/50 Farm Plan proposed to be more densely subdivided, and if the lots or dwelling units will be served by individual wells and septic systems, the density ratio in the receiving area shall be no less than 1.5 acres per dwelling unit, and each individual lot shall have a minimum size of one acre.

(b) On the sixty-percent area of a 40/60 Farm Plan or the fifty-percent area of a 50/50 Farm Plan proposed to be more densely subdivided and if the lots or dwelling units will be served by municipal or equivalent private water and waste treatment facilities, the density ratio in the receiving area shall be no less than 1.50 acres per dwelling unit, and each individual lot shall have a minimum size of .14 acre. The Town Engineer shall determine municipal equivalence for purposes of this requirement.

(c) On the forty-percent area of a 40/60 Farm Plan or the fifty-percent area of a 50/50 Farm Plan proposed to be less densely divided on which a conservation easement is required pursuant to § 135-8 of this Article and unless development rights are being moved in an intrafarm transfer, additional development rights may be transferred into said area up to a maximum density ratio of one dwelling unit per six acres, and each individual lot shall have a minimum lot size of one acre if such dwelling units will be served by private wells and septic systems.

(d) On the forty-percent area of a 40/60 Farm Plan or the fifty-percent area of a 50/50 Farm Plan proposed to be less densely divided on which a conservation easement is required pursuant to § 135-8 of this Article and unless development rights are being moved in an intrafarm transfer, additional development rights may be transferred into said area, up to a maximum density ratio of one dwelling unit per six acres, and each individual lot shall have a minimum lot size of .14 acre if such dwelling units will be served by a municipal system or an equivalent private water and waste treatment facility. The Town Engineer shall determine municipal equivalence for purposes of this requirement.

(e) Where subdivision activity is being proposed and a municipal system or an equivalent private water and waste treatment facility will serve the area to be subdivided and where said system or facility is determined by the Town Engineer to be suitable and have adequate capacity for single-family, multifamily or other high-density residential development, the minimum lot size established herein may be waived by the Town Board after receiving the positive recommendation of the Plan Commission and if the applicable density ratio remains unchanged.

(2) In a non-residential receiving area, one incoming development right will operate to allow 15 additional acres of hard surface area for each lot, i.e. dwelling unit that could have been created by applying the agricultural-residential or exclusive ag zoning district in which the receiving area was located on July 1, 1999, with the number of presumptive dwelling units determined by the Farm Plan requirements of Section 8 of this Article. Land in the LECR Overlay District applies the dwelling unit calculation method in Section 170.K.3. of the Town's Zoning Ordinance to determine the number of dwelling units presumptively available in the receiving area. Each development right transferred into a non-residential receiving area creates the right to develop an additional 1.5 acres of hard surface applications instead of any additional lots. Incoming development rights are limited to a number equal the amount of dwelling units presumptively available for lot creation in the receiving area, so that the

area available for hard surface applications can no more than double with an incoming transfer of development rights.

F. Criteria for Issuing TDR Permits. In deciding on TDR permit applications the Town Board shall apply the general program requirements of Subsection C and the following criteria:

(1) There must be discernable economic benefit for the owners of both the sending and receiving areas as a result of the transfer, verified by both parties.

(2) Only land zoned exclusive ag on July 1, 1999, and parcels 35 acres or more in size that were not so zoned on that date but that contain areas of Prime Farmland of sufficient quantity that its preservation will advance the central policy of this Article, can send development rights.

(3) Land zoned exclusive ag on July 1, 1999, can receive development rights where the central policy of this Article and the purposes of the TDR program are served by the incoming transfer.

(4) Receiving areas shall not be located on Prime Farmland unless the receiving permit applicant demonstrates that the purposes of the Town's TDR program are better served as a result of the transfer being proposed because it preserves Prime Farmland of higher LESA score located elsewhere in the Town or when otherwise in the best interest of the Town, its farmers and residents.

(5) Areas zoned ag-residential, commercial or industrial may only be the recipient of incoming transfers of development rights, unless the transfer is an otherwise allowable intrafarm transfer.

(6) Development rights cannot be later transferred into previously created outlots or into previously created major or minor subdivision lots.

(7) All the design standards and other criteria of this Article apply to the receiving area as it is platted and the plat or CSM is processed by the Town.

G. Delivery and Recording of TDR Permits and Conservation Easements.

(1) Removing Development Rights from Sending Area.

(a) A conservation easement in favor of and enforceable by the Town shall be executed and recorded to remove development rights from sending areas by prohibiting further subdivision and residential, commercial or industrial development on the affected area, in perpetuity. The conservation easement shall be drafted by the Town Attorney, shall contain restrictions in compliance with this Article and shall be executed by all current owners of the encumbered land, approved by all affected mortgagees and entered into by any person or entity with whom or which the owners have entered into an executed purchase agreement. Parties who acquire such interests after the easement is delivered to the Town but before it is recorded shall also execute the conservation easement. The owner(s) shall disclose this requirement to such parties, shall promptly report such transfers of interest to the Town Clerk-Treasurer in writing and shall cause such parties to execute any such conservation easement. The grant of a conservation easement executed by all such parties is a condition of Town final plat approval and of the issuance of any permit for the transfer of development rights from a sending area.

(b) The conservation easement is effective upon delivery and shall be recorded immediately following completion of any necessary rezoning approval by St. Croix County, or upon delivery to the Town when no County approval is needed.

(c) The TOR permit affecting the sending area being encumbered by a conservation easement shall be separately issued and recorded by the Town at or before the recording of the conservation easement.

(2) Transferring Development Rights to Receiving Area.

(a) A Town permit to transfer development rights to a designated receiving area shall be separately issued in recordable form at the time of Town approval of the final plat or certified survey map creating the specific area into which the development rights are being transferred.

(b) The TOR permit shall be recorded contemporaneously with the final plat or certified survey map and shall serve to authorize the subdivision of land as shown on the final plat or certified survey map at densities greater than what would otherwise be allowed under this Article or the non-residential development of the land with greater hard surface area than is presumptively allowed.

(3) Holding Development Rights. A Town permit for holding development rights not being immediately transferred to a receiving area shall be issued contemporaneously with the recording of the conservation easement removing the development rights from the sending area. A TOR permit to hold development rights does not need to be recorded, but the original permit must be delivered to the Town when application is made to transfer the development rights so held into a receiving area. Separate Town approval of a TOR permit to transfer development rights being held into a receiving area must be sought at the time the rights are proposed for transfer to a specific parcel of land.

§ 135-10. Performance and Maintenance Guarantees.

A. Requirement. When the public infrastructure, roads and related improvements are required by the Town under Town Ordinances or pursuant to a developer's agreement with the Town, the developer shall file a performance and maintenance guarantee with the Town Clerk/Treasurer before preliminary plat or CSM approval, in favor of the Town and in an amount sufficient to fund and guarantee the performance of the developer's obligations, make payment for any and all work to be performed by the developer pursuant to this Article or such developer's agreement and to serve as a maintenance guarantee, at a reduced level, after such public improvements have been accepted by the Town. When the Town approves a phased construction of platted area, the performance and maintenance guarantee shall be provided for each phase before any site work commences in the area of that phase, and in an amount sufficient to fund and guarantee the performance of the developer's obligations with reference to the permanent and temporary public facilities, roads and public improvements that will be built as part of that phase and the maintenance of such improvements for a reasonable time, not to exceed 14 months after the Town determines that the said improvements have been substantially completed. Performance and maintenance guarantees may be in the form of an irrevocable letter of credit or a performance bond, either of which shall be in a form approved by the Town Attorney and in an initial amount estimated by the Town Engineer to be 120% of the total cost of completing the public facilities and improvements being required an/or inspected by the Town in the CSM, preliminary plat or phase of preliminary plat for which approval is being sought, including all

improvements for which the Town will have future responsibility for maintenance or repair. In multi-phase developments, the 120% performance and maintenance guarantee required for each phase shall include the cost of construction of stormwater management required for that specific phase when not held by St Croix County and shall include the cost of construction of all interior roads in that phase including the roads in that phase that will connect to future phases and/or adjacent developments. Once the required infrastructure has been substantially completed in the CSM, plat or in a specific phase, the performance guarantee for the CSM, plat or phase may be reduced to an amount equal to the total cost of completion of any uncompleted public improvements in that phase plus 10% of the total cost of the completed public improvements. Town ordinances also exist requiring developers to pay certain costs of the Town incurred in application review and inspection, to deposit funds with the Town for this purpose and requiring that developer's agreement be entered into with the Town.

B. Drawing Upon a Performance or Maintenance Guarantee. The performance bond or letter of credit provided to the Town shall expressly acknowledge that any litigation concerning it shall be venued in St. Croix County and that if at any time the developer is in default under this Article in any aspect of its developer's agreement with the Town; or if the developer does not complete the installation of the required public improvements within the time established in the developer's agreement unless otherwise extended by agreement or action of the Town Board; or if a bond or letter of credit on file with the Town is dated to expire in the next 60 days and has not been extended, renewed or replaced and delivered to the Town by the developer; or the developer otherwise fails to maintain the bond or letter of credit in the amount required by this Article or applicable developer's agreement to pay the costs of the required public improvements, then the developer shall be deemed to be in violation of this Article and the Town Board shall have the authority to draw upon the performance bond or letter of credit, whereupon the bond company or financial institution involved shall pay to the Town all amounts requested and available for payment. If the irrevocable letter of credit or performance bond is not paid to the Town upon demand, whether in whole or in part, the Town shall be empowered, in addition to its other remedies and without notice or hearing, to impose a special charge for the amount of said performance/completion costs or maintenance and repair expense related to the required public improvements upon each and every lot in the development, payable with the next succeeding tax roll.

§ 135-11. Conditions for Town Acceptance of Public Improvements.

The Town's acceptance of all proposed public facilities or improvements, its approval of all stormwater management or other facilities for which private homeowners' associations will assume responsibility and the proper construction and installation thereof shall be contingent on preliminary plat, final plat and/or certified survey map review and approval, on the entry of Town and landowner into a developer's agreement, on the project passing all necessary inspections and on compliance with the appropriate recommendations by the Town Engineer. All costs and expenses incurred regarding the Town Engineer's oversight of such development projects shall be borne by the landowner and developer. All required public improvements shall be completed and accepted by the Town at or before the time of final plat, plat phase or CSM approval unless otherwise agreed upon in a developer's agreement.

§ 135-12. Exceptions to Design Standards.

A. Because subdivision dwelling unit density ratios, lot size standards and the amount of acres

required to be protected as open acres or under conservation easement are central to the regulations of subdivision design in the Town, no application for exceptions to design standards to the density, lot size, open acre or conservation easement area requirements in this Article will be considered or approved except as specifically authorized in § 135-9 of this Article.

B. An applicant may petition the Town of Troy for exceptions to design standards as to the other regulations contained in this Article.

C. Criteria used in considering requests for exceptions to design standards shall include but not be limited to:

(1) Consistency of proposed exceptions to design standards with policies underlying the subdivision standards of this Article and other relevant policies and ordinances of the Town.

(2) Effect of proposed exceptions to design standards on surrounding property values.

(3) Effect of proposed exceptions to design standards on the neighborhood, pedestrian and vehicular traffic and general safety of Town residents.

(4) Mitigating topographic features of specific area in which the exception is requested, measured against policies and requirements of this Article.

(5) Where conveyance of land for public purposes will result in otherwise substandard lots.

§ 135-13. Violations and penalties.

Any activity which fails to meet the requirements of this Article or that violates state statutes shall be a violation of this Article regardless of knowledge of or intent to violate and shall subject the party or parties responsible for noncompliance to an action for an injunction requiring that the condition constituting the violation be ceased or cured and that remedial actions to achieve compliance be undertaken and/or a forfeiture in an amount as set by the Town Board, plus actual costs of prosecution. The amount of the forfeiture shall be as set forth in Chapter 39, Citations. Each day during which such violation exists is a separate offense. In addition, the Town Board may order an assessor's plat pursuant to the provision of Wis. Stats. § 70.27, at the expense of the subdivider whenever the conditions specified in that section are found to exist. No building permits shall be issued for any lot created in violation of any requirement of this Article.

ARTICLE II

Fences

[First Adopted 8-12-1980 by Ord. No. 80-1]

§ 135-14. Applicability.

This Article applies to all land subdivisions which the Town Board of the Town of Troy is required to pass upon and approve by virtue of state law [Wis. Stats. §§ 236.02(8) and 236.10], by virtue of the St. Croix County Subdivision Ordinance, or by virtue of Article I, Subdivision Regulations, of this chapter or other ordinances. This Article applies to land subdivisions which are brought for Town approval after the effective date of this Article. It does not apply retroactively to previously approved subdivisions.

§ 135-15. Fence Required where Subdivision Area Abuts Farmland. [Amended 7-13-1987]

Unless specifically waived by the Town Board in the course of its review of a land subdivision, it shall be a mandatory condition for all subdivisions that the subdivider construct a legal fence (as defined in Wis. Stats. §90.02) along all portions of the perimeter of any subdivision area that abuts farmlands or lands on which farm animals are kept. Such fence shall be competently constructed by the subdivider and at the subdivider's sole expense and shall be completed prior to the sale of any lots in the subdivision.

§ 135-16. Maintenance of Fence.

Such fence shall be maintained, repaired or rebuilt as conditions warrant, so long as the lands adjoining such fence are in farm use or in a use which involves the keeping of farm animals. Wis. Stats. §§ 90.10 and 90.11, shall govern compulsory repairs and costs of repairs of such fences. Partitioning of the cost of maintenance of such fences shall be governed by Wis. Stats. § 90.05(2), under which an undivided 1/2 of the fence is maintained by the owners of the adjacent nonsubdivided lands and 1/2 is maintained by all owners of the adjoining subdivided lands with the cost divided among them in equal shares.

§ 135-17. Notation on Map or Plat.

The subdivider shall make a notation on the face of the certified survey map or final plat to the effect that the perimeter fence is one governed by this Article and that the owners of the adjoining lots share in maintenance responsibilities in order to put lot purchasers on notice.

ARTICLE III

Developer's Agreement

[First Adopted 6-8-1998 by Ord. No. 98-1; amended in its entirety 5-12-2003; comprehensively amended on 09-11-2014]

§ 135-18. Purpose and authority.

A. This Article is enacted to ensure that public improvements that are proposed to be made in the

Town of Troy due to proposed subdivision and land development activity will be designed and constructed in conformity with Town, county and state laws by requiring that developers agree to design and install public improvements at the developer's expense and in conformity with all applicable governmental regulations, that adequate provisions are made by the developer for the future maintenance of stormwater management and erosion control devices by benefited landowners, and that the health, safety and welfare of Town residents and taxpayers are not adversely affected by subdivision and development activity in the Town.

B. Accordingly, and under the authority of the Town under Wis. Stats. §§ 60.10{2){c), 61.34, 61.35, 62.23, 236.13, and 236.45 and the remainder of Ch. 236, the Town Board of the Town of Troy does hereby ordain that anyone proposing to create parcels of land in a manner that will result in the subdivision of land as defined by W is. Stats. § 236.02(12), or in Article I, Subdivision Regulations, of this chapter or that will result in the creation of a certified survey map (CSM) as defined and regulated by Wis. Stats. § 236.34, or in Article I, Subdivision Regulations, of this Chapter shall enter into a developer's agreement with the Town as a condition of the Town's preliminary plat or CSM approval and in accordance with the requirements of this Article and Article I, Subdivision Regulations, and Article IV, Recovery of Town Costs, of this chapter.

§ 135-19. Circumstances Under Which Agreement is Required.

Anyone proposing to create a certified survey map, plat a subdivision, PUD or seeking approval of a site plan for nonagricultural development in the Town of Troy shall enter into a developer's agreement with the Town if the development being proposed will create or affect public infrastructure or improvements, whether already built or proposed to be built and dedicated to the Town, or if erosion control or stormwater management devices will be permanently installed and drain or affect the movement or collection of stormwater from areas other than the individual lot on which such devices will be located.

§ 135-20. Components.

A. The developer's agreement shall identify all individuals or business entities holding an ownership interest in the subject property or holding an interest under an executed purchase agreement at the time the developer's agreement is executed. The developer's agreement shall also be executed and acknowledged by current and known future mortgagees and shall be binding on the successors and assigns of the named developers, owners and mortgagees.

B. The developer's agreement shall contain a full and accurate description of the area being subdivided.

C. The developer's agreement shall address all exceptions to design standards being sought or being granted by the Town and affecting the area being subdivided.

D. The developer's agreement shall require that a performance and maintenance guarantee in the form of a performance bond or irrevocable letter of credit and in favor of the Town be provided to the Town if all public improvements shown in the plat, plat phase or CSM are not fully installed and accepted by the Town by the time a plat or plat phase receive preliminary approval, or when a certified survey map

is finally approved. The developer's agreement shall address when and how said performance and maintenance guarantee can be reduced or released in conformity with this Chapter and shall further require the developer to take all steps necessary to maintain the performance and maintenance guarantee in the Town's possession and not allow it to expire.

E. The developer's agreement shall disclose and confirm relevant details regarding the developer's insurance, warranties, continuing maintenance requirements and responsibilities and other contracts and agreements affecting the subject property.

F. Where any platted area in a subdivision or CSM will serve as open acres or buffer space and be jointly maintained and controlled by the owners of the platted lots, or where erosion control or stormwater management devices will be installed in any area being subdivided that will serve or collect from more area than the lot or outlot on which the device is located and that will require ongoing maintenance, the developer's agreement shall require that a homeowners' association be created with membership by all platted lots not commonly owned and on an equal basis, that association bylaws be developed and that a restrictive covenant or other perpetual, binding legal device be employed to create, administer and enforce the collective responsibilities of the individual members of said homeowners' association concerning commonly held areas and/or erosion control or stormwater management devices.

G. A developer's agreement shall contain measures to protect the investments and expectations of existing and future lot owners against unilateral changes in the organizational or governing documents of a homeowners' association by a developer while the subject area is under the developer's control by requiring advance Town approval of economically material changes to the homeowners' association bylaws or restrictive covenants from the time the developer's agreement is executed until a majority of the lots have been conveyed to individual homeowners.

H. The developer's agreement and its exhibits shall contain information describing the nature, extent, design, construction, quantity, location and other relevant characteristics, in such detail as requested by the Town, concerning all planned public infrastructure improvements, including but not limited to sanitary sewer service, water service, public ways and roads, suggested speed limits, cul-de-sacs, intersections and road connection, sidewalks, stormwater and erosion control measures, parks, playgrounds, berms, plantings, ponds, streams, paths, lighting, signs and monumentation, outbuildings and all other public improvements that may be proposed by a developer or required by then existing state, county or Town statutes, regulations or ordinances.

I. The developer's agreement shall contain the developer's representation concerning intended subdivision design standards and home price ranges and its agreement to maintain such standards through buildout of the subdivision.

J. The developer's agreement shall address the timing of joint driveway paving, shall require shared maintenance agreements concerning shared driveways and shall address the control and removal of debris and rubbish during initial construction on lots being created.

K. The developer's agreement shall refer to or include as exhibits the following information:

(1) Preliminary plat;

(2) Final plat, to be added once approved and recorded;

(3) Road design and construction plans;

(4) Stormwater calculations and plans;

(5) Performance and maintenance guarantee (photocopy);

(6) Construction schedule with cost estimates for all earthmoving and public improvements, to be replaced by the developer with accepted bid amounts as soon as available;

(7) Homeowners' association articles of incorporation and bylaws, where required;

(8) Copies of the documents officially creating any developer business entity that holds or will hold title to the property while the plat or CSM lots are initially developed and/or built;

(9) Conservation easements, where required;

(10) Town permits for any incoming transfer of development rights that will operate to create greater dwelling unit densities than would be allowed under Article I, Subdivision Regulations, of this Chapter without a transfer of development rights to be added at the time of final plat approval; and

(11) Other project-related information as required by the Town.

L. The developer's agreement shall require the developer to pay all of the Town's professional fees and expenses related to the developer's agreement and the subdivision activity it concerns.

M. The developer's agreement may also address areas not included in this A rticle or otherwise expressly required by law but that are nonetheless mutually agreeable to the developer and the Town and which promote the public health, safety and welfare of the residents and taxpayers of the Town of Troy. A developer's refusal to agree to such items if requested by the Town shall not serve as the sole basis for rejection of a plat or certified survey map by the Town.

§ 135-21. Time Frame for Execution and Delivery of Developer's Agreement.

A. For a major subdivision, the developer's agreement shall be executed and delivered to the Town Board prior to preliminary plat approval.

B. For certified survey maps, the developer's agreement shall be executed and delivered to the Town Board prior to its final approval of said map.

C. Failure to meet the requirements of this Article and deliver the fully executed developer's agreement to the Town at or before the time for Town CSM, preliminary plat or first phase of preliminary plat approval shall be grounds for rejection of said application by the Town unless the time is extended by written agreement with the developer.

§ 135-22. Violations and Penalties.

A. Anyone commencing the construction of any public improvements in an area for which certified survey map or preliminary plat or preliminary plat phase approval has been requested and anyone causing or attempting to cause a plat, plat phase or a certified survey map to be recorded without first executing a developer's agreement with the Town where one is required shall pay a forfeiture in an amount as set by the Town Board plus the Town's actual legal fees and costs of prosecution. The amount of the forfeiture shall be as set forth in Chapter 39, Citations. Each day during which such violation exists constitutes a separate offense. Noncompliance with this Article shall also constitute grounds for any injunction or other appropriate action or proceeding to stop a violation of any provision of this Article. No building permit shall be issued for any lot in any area for which a developer's agreement is required and has not been executed by all required parties. These penalties are in addition to any other penalties provided by law.

B. A developer's unilateral and material change of any portion of a homeowners' association governing document or restrictive covenants in a manner that has the potential to adversely affect the aesthetic, value or other expectations of current or future lot owners other than those of the developer shall constitute grounds for the Town to withhold further building permits in the subdivision affected until the change has been removed or modified to the satisfaction of the Town.

ARTICLE IV

Recovery of Town Costs

[First Adopted 6-8-1998 by Ord. No. 98-2; amended in its entirety 5-12-2003; amended on 09-11-2014]

§ 135-23. Findings, Purpose and Authority.

The Town Board finds that as land development activity in the Town continues, residential densities increase and farming activity continues, it is increasingly important to acquire ongoing access to and services of competent planning, engineering and legal professionals with the technical expertise needed to best evaluate the effect of proposed subdivision activity in the Town on the health, safety and welfare of Town residents and on area farming activities and the impact of said proposals on existing residences, farms, businesses and on Town infrastructure and public facilities. The Town Board of the Town of Troy also finds that it is necessary and appropriate to require fees to defray the Town's initial and continuing administrative costs associated with nonfarming development and to offset as fully as possible the costs of professional fees and charges associated with independent, adequate and meaningful review on behalf of the Town of such rezoning activity, land development and subdivision activity and to shift the Town's cost of regulating such activities to the developer. For these reasons, and pursuant to the authority set forth in Wis. Stats. §§ 60.10, 61.34, 61.35, 62.23 and 236.13, the Town Board hereby comprehensively amends Town Ordinance No. 98-2, as stated herein.

§ 135-24. Payment of Application and Review Fees required.

All landowners, developers or agents of either proposing to undertake any activity regulated by Chapters

170, 171 or by this Chapter of the Town of Troy Code shall pay application fees and review fees to the Town as required and established under this Article.

§ 135-25. Determination of Fees.

A. Application Fee. The purpose of the application fee is to cover the Town's initial administrative costs, professional review costs, and costs of review by the Plan Commission, Park Board and Town Clerk-Treasurer. At the time of first application for Town Board approval of any Farm Plan, rezoning request, certified survey map {CSM), or preliminary plat or an application to transfer development rights (TDR) not connected with a related plat or CSM approval application, the developer shall pay an application fee in the amount specified in a Platting and Subdivision Fee Table. The Platting and Subdivision Fee Table shall be approved by the Town Board when this Article is enacted, may be included in a greater or different schedule of Town fees and shall be separately reviewed arid revised by Town Board resolution on an annual basis. The Platting and Subdivision Fee Table is on file with the Town Clerk- Treasurer.

B. Professional Review Fees.

(1) The developer shall also pay professional review fees equal to the actual cost to the Town for fees and disbursements incurred by it for professional assistance and review of any F arm P lan, rezoning request, preliminary plat, final plat, certified survey map or separate application to transfer development rights. "Professional review" is the independent review of such plans or proposals on behalf of the Town by its employees, agents and consultants, including, without limitation by way of enumeration, planners, engineers, surveyors, attorneys and any other professional employees or consultants consulted by the Town with respect to consideration of rezoning and subdivision-related activity. Professional review activities for which the developer is responsible include but re not limited to the following:

(a) Initial and continuing review of Farm Plans, rezoning requests, TDR applications, preliminary plats, final plats or certified survey maps and associated engineering plans and specifications.

(b) Inspection of the site and public improvements, stormwater management and erosion control devices while and after such improvements and devices are constructed.

(c) Drafting or other preparation of any written opinions, advice and suggestions related to or necessitated by a developer's rezoning and/or subdivision proposal and related activities.

(d) Drafting and preparation of any ordinances, resolutions, contracts, agreements and other documents with respect thereto.

(e) Attendance by the Town's professionals as requested by the Town at public meetings or hearings, and telephone and actual conferences with them.

(f) Any other professional services and disbursements charged to the Town and necessitated by the developer's submission of a Farm Plan, rezoning request, TDR application, preliminary plat, final plat or certified survey map and/or the related construction of public improvements and stormwater management, erosion or sediment control measures by the developer.

(2) At the time the developer first submits a Farm Plan, rezoning request or any application requiring Town action or approval under Chapters 170 and 171 of the Town Code including action by the Board of Appeals for Town approval of TDR, preliminary plat, final plat or certified survey map, the developer shall deposit with the Town Clerk-Treasurer the professional review deposit amount then required by the Town. An initial professional review fee deposit may be based on a per-lot or flat-fee basis. Amounts from the developer's deposits shall then be disbursed by the Clerk-Treasurer to pay for the Town's professional review fees and expenses as incurred by the Town on an ongoing basis. If the initial deposit amount is inadequate for such fees and expenses, the Clerk-Treasurer may require an additional deposit at any time. Later professional review fee deposits, if required, shall be made at up to 80% of the initial deposit. The Clerk-Treasurer is authorized to collect a smaller later professional review fee deposit if appropriate under the circumstances. More than one later professional review fee deposit may be required. Notice that the developer must now provide additional funds for later professional review fee deposit shall be mailed by the Clerk-Treasurer to the developer or developer's agent at least one week prior to the time the deposit is due. The Clerk-Treasurer shall report on a monthly basis to the Plan Commission and to the developer the amount on deposit for all ongoing subdivision projects and whether additional funds are being deposited as required. Failure to make an initial professional review fee deposit as required or to deposit additional professional review fees upon written request of the Clerk-Treasurer shall operate as a request by the developer for the withdrawal of the application for Town approval of the development project or activity for which professional review fees have been requested.

(3) Upon final County approval of a rezoning request or Town approval of a plat, plat phase or certified survey map, acceptance of all public improvements built and dedicated to the public as part of the subdivision activity and payment of all related professional review fees and expenses of the Town, any remaining professional review fee amounts on deposit with the Town shall be returned to the developer. This shall not in any way operate to prevent the Town from collecting additional professional expenses that the Town may subsequently incur that are associated with the development project or activity.

C. An administrative fee shall be paid to the Town to offset its ongoing administrative maintenance, review and compliance monitoring costs. The fee shall be 5% of the professional review fees for a specific project and shall be billed by the Town Clerk-Treasurer on a continuing, monthly basis.

D. The Town's approval of any final plat or certified survey map shall at all times be subject to and contingent on the full and prompt payment by the developer of all professional review fees and disbursements and administrative fees as required herein. If the Town incurs professional review fees and expenses that exceed the amounts on deposit or that are paid by the Town after release of the deposit, the developer shall reimburse the Town for the amounts so paid within 20 days after the Clerk-Treasurer mails a statement to the developer or developer's agent. Overdue administrative fees shall be included in the statement. If the statement is not timely paid, the developer shall be deemed to be in violation of this Article and of any developer's agreement concerning the subject area. With the agreement of the developer, administrative fees due may also be deducted from amounts held under a performance or maintenance guarantee in the form of an irrevocable letter of credit and not needed for the primary purpose of said letter of credit. In addition to the remedies contained or referred to in the developer's agreement, no Town permits of any kind shall be issued (including building permits) until such statement has been paid, and any Town permits already issued concerning the subject area shall be

deemed suspended. If such amounts go unpaid, they may also be assessed back against all property in the plat or CSM or rezoning petition for which review was undertaken as a special charge under Wis. Stats. § 66.0627, or from amounts being held by the Town under any letter of credit concerning the subject development project.

ARTICLE V.

Severability.

If any Article, Section, Subsection, clause or provision of this Chapter 135 is adjudged unconstitutional or invalid by a court of competent jurisdiction, the validity of the remainder of this Chapter shall not be affected thereby.