

High Groundwater Elevation. The highest elevation to which subsurface water rises. This may be evidenced by the actual presence of water during wet periods of the year, or by soil mottling during drier periods. "Mottling" is a mixture or variation of soil colors. In soils with restricted internal drainage, gray, yellow, red, and brown colors are intermingled giving a multi-colored effect.

Irrevocable Letter of Credit. An agreement guaranteeing payment for subdivision improvements, entered into by a bank, savings and loan, or other financial institution which is authorized to do business in the state of Wisconsin and which has a financial standing acceptable to the Town, and which is approved, as to form, by the Town Attorney.

Lot. A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use sufficient in size to meet lot width, lot frontage, lot area, yard, parking area, and other open space provisions of the Walworth County Zoning Ordinance.

Lot, Corner. A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side. (See Illustration No. 1)

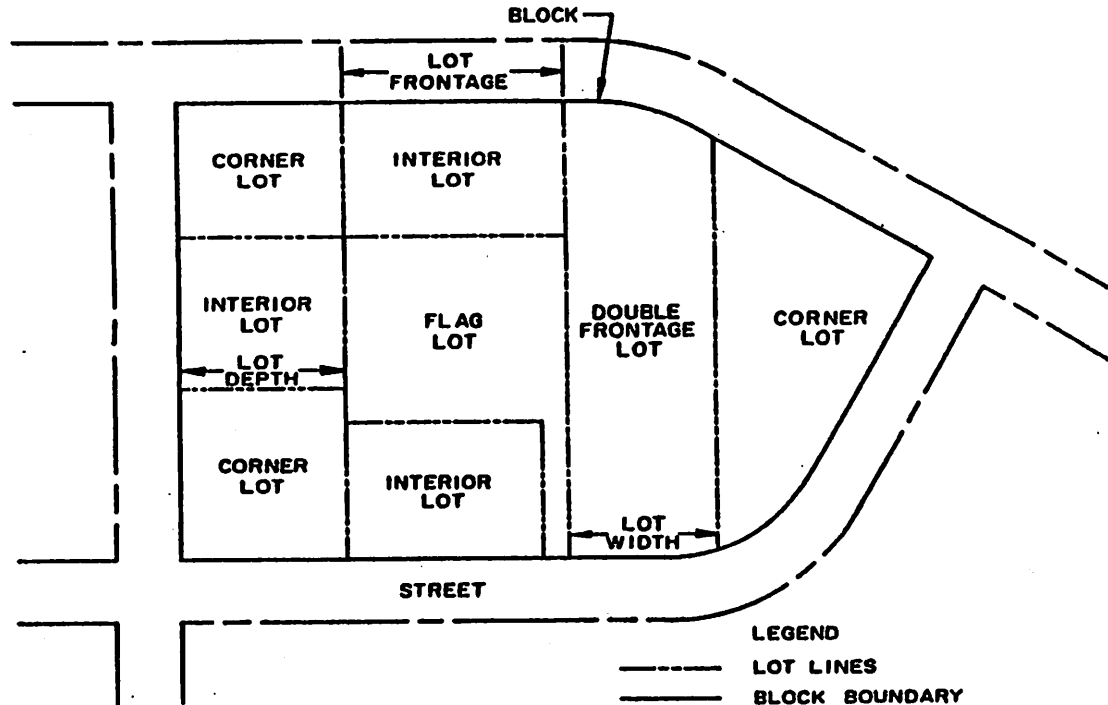
Lot, Double Frontage. A lot, other than a corner lot, with frontage on more than one street. Double frontage lots shall normally be deemed to have two front yards and two side yards and no rear yard. Double frontage lots shall not generally be permitted unless the lot abuts an arterial highway. Double frontage lots abutting arterial highways should restrict direct access to the arterial highway by means of a planting buffer or some other acceptable access buffering measure. (See Illustration No. 1)

Lot, Flag. A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way which is part of the lot. (See Illustration No. 1)

Lot, Frontage. The smallest dimension of a lot abutting a public street measured at the street right-of-way line. (See Illustration No. 1)

Lot, Interior. A lot other than an corner lot, with frontage on one street. (See Illustration No. 1)

ILLUSTRATION NO. 1
TYPICAL CORNER, DOUBLE
FRONTAGE, FLAG, AND INTERIOR LOTS



Lot, Reverse Frontage. A double frontage lot which is not accessible from one of the streets on which it fronts.

Mean Sea Level Datum. Mean Sea Level Datum, 1929 Adjustment, as established by the U.S. Coast and Geodetic Survey.

Minor Street. A street used, or intended to be used, primarily for access to abutting properties.

Minor Subdivision. The division of land by the owner or subdivider resulting in the creation of not more than four parcels or building sites, any one of which is fifteen acres or less in area, or the division of a block, lot, or outlot within a recorded subdivision plat into not more than four parcels or building sites without changing the exterior boundaries of said block, lot or outlot. Such minor subdivisions may be made by a certified survey map.

Objecting Agency. An agency empowered to object to a subdivision plat pursuant to Chapter 236 of the Wisconsin Statutes. The Town of Sugar Creek may not approve any plat upon which an objection has been certified until the objection has been satisfied. The objecting agencies may include the Wisconsin Department of Administration, the Wisconsin Department of Commerce, the Wisconsin Department of Transportation (WisDOT), the Wisconsin Department of Natural Resources (DNR), and the Walworth County Planning, Zoning, and Sanitation Committee.

Outlot. A parcel of land, other than a buildable lot or block, so designated on the plat, but not of standard lot size, which can be either redivided into lots or combined with one or more other adjacent outlots or lots in adjacent subdivisions or minor subdivisions in the future for the purpose of creating buildable lots.

Preliminary Plat. A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration. A preliminary plat precisely describes the location and exterior boundaries of the parcel proposed to be divided, and shows the approximate location of lots and other improvements.

Public Improvement. Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access sidewalk, pedestrian way, planting strip or other facility for which the County or Town may ultimately assume the responsibility for maintenance and operation.

Public Sanitary Sewerage. A waste water disposal system providing conveyance, treatment, and final disposal of wastes from users who all have equal rights to the benefits of the utility, which is owned and operated by a legally established governmental body; except that sanitary sewerage systems operated by a lake or sanitary district are intended to be used for remedial purposes and are not intended to be used to provide sanitary sewerage services to new land divisions.

Public Way. Any public road, street, highway, walkway, drainageway or part thereof.

Replat. The process of changing, or the plat or map which changes, the boundaries of a recorded subdivision plat, certified survey map, or part thereof. The division of a large block, lot, or outlot within a recorded subdivision plat or certified survey map without changing the exterior boundaries of said block, lot, or outlot is not a replat.

Restrictive Covenant. A restriction, also known as a deed restriction, on the use of land; usually set forth in the deed. A restrictive covenant usually runs with the land and is binding upon subsequent owners of the property.

Review Specialist. A professional engineer, registered in the state of Wisconsin, licensed land surveyor, or other professional retained or hired by the Town of Sugar Creek, to represent the Town's interests in all matters relating to engineering and surveying activities of persons, companies, or corporations developing or dividing land within the Town.

Sanitary Sewer Service Area. The area within and surrounding a city, village, or other municipality that is planned to be served with public sanitary sewerage facilities by the year 2010.

Shorelands. Those lands, in the unincorporated areas of Walworth County, lying within the following distances: 1,000 feet from the high water elevation of navigable lakes, ponds, and flowages or 300 feet from the high water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.

Soil Mapping Unit. Soil type, slope, and erosion factor boundaries as shown on the operational soil survey maps prepared by the U. S. Soil Conservation Service.

Subdivider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision, or replat.

Subdivider's Agreement. An agreement, by which the Town and the Subdivider agree in reasonable detail as to all of those matters which the provisions of these regulations permit to be covered by the Subdivider's Agreement. The Subdivider's Agreement shall not come into effect unless and until an Irrevocable Letter of Credit or other appropriate surety has been issued to the Town.

Subdivision. The division of a lot, parcel or tract of land by the owners thereof, or their agents, or a subdivider, for the purpose of transfer of ownership or building development where the division creates 5 or more parcels or building sites of 15 acres each or less in area; or where the act of division creates 5 or more parcels or building sites of 15 acres each or less in area by successive division within a period of five years.

Surety Bond. A bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider.

Town Engineer. A professional engineer, registered in the state of Wisconsin, hired by the Town of Sugar Creek, to represent the Town's interests in matters relating to engineering and surveying activities of persons, companies, or corporations developing or dividing land within the Town.

Wetland. An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

Wisconsin Administrative Code. The rules of administrative agencies having rule-making authority in Wisconsin, including subsequent amendments to those rules.

Wisconsin Statutes. Shall refer to the 1995-1996 Wisconsin Statutes and all future modifications thereof, which shall be automatically deemed adopted and incorporated by reference. All definitions contained in the Wisconsin Statutes or in the Wisconsin Administrative Code, which are not inconsistent with the provisions of this Ordinance, are adopted by reference.

SECTION 3.00 GENERAL PROVISIONS

3.01 JURISDICTION

- A. Jurisdiction of these regulations shall include all lands within the civil boundaries of the Town of Sugar Creek, Walworth County, Wisconsin. The provisions of this Ordinance as it applies to divisions of tracts of land into less than 5 parcels shall not apply to:
1. Transfers of interests in land by will or pursuant to court order.
 2. Leases for a term not to exceed 10 years, mortgages, or easements.
 3. Sale or Exchange of parcels of land between owners of adjoining property, if additional lots are not thereby created, and the lots resulting are not reduced below the minimum sizes required by these regulations, the Walworth County Zoning Ordinance, or other applicable laws or ordinances.
 4. Cemetery Plats made under Wisconsin Statutes 157.07.
 5. Assessors' Plats made under Wisconsin Statutes 70.27, but such assessors plat shall comply with the Wisconsin Statutes, Sections 236.15 (1) (a) to (g) and 236.20 (1) and (2) (a) to (e).
- B. All land divisions which encompass divisions resulting in parcels of land over fifteen acres but less than thirty-five acres, which are not otherwise controlled by the Town of Sugar Creek Subdivision Control Ordinance, shall be subject to a review process under this Ordinance. Application for such review shall include an approval form and a Plat of Survey of the property in question prepared by a Registered Land Surveyor licensed in the State of Wisconsin.

3.02 COMPLIANCE

No person shall divide any land located within the jurisdictional limits of the Town which result in a subdivision, minor subdivision, or a re-plat as defined herein; no such subdivision, minor subdivision or re-plat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this Ordinance, and:

- A. Provisions of Chapter 236, Wisconsin Statutes.
- B. Rules of the Wisconsin Department of Commerce regulating lot size and lot elevation if the land to be subdivided is not served by a public sewer and provisions for such service have not been made.

- C. Rules of the Wisconsin Department of Transportation relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivider abuts on a state trunk highway or connecting street.
- D. Rules of the Wisconsin Department of Natural Resources setting water quality standards preventing and abating pollution, and regulating development within floodland, wetland, and shoreland areas.
- E. Comprehensive Plans or components of such plans prepared by state, regional, county, or municipal agencies, adopted by the County Board of Supervisors.
- F. The Walworth County Zoning Ordinance.
- G. The Walworth County Subdivision Control Ordinance.
- H. All Other applicable local and county ordinances.

3.03 DEDICATION AND RESERVATION OF LANDS

- A. Streets, Highways, and Drainageways. Whenever a tract of land to be subdivided encompasses all or any part of an arterial or collector street, drainageway or other public way which has been designated on an adopted town, county, or regional comprehensive plan, comprehensive plan component, an official map, or on the highway width map of Walworth County, said public way shall be made a part of the plat or certified survey map and dedicated or reserved, as determined by the Town, County, or State of Wisconsin, by the subdivider in the locations and dimensions indicated on said plan, component, or map and as set forth in Section 8.00 of this Ordinance.
- B. Town Park and Trail. Whenever a proposed subdivision or certified survey map is located within the "Designated Development Area" as delineated in the "Town of Sugar Creek Impact Fee Ordinance," the subdivider shall follow the procedure in Section 8.09.

3.04 IMPROVEMENTS

Before final approval of any plat located within the Town, the subdivider shall install street and other improvements as hereinafter provided. If such improvements are not installed as required at the time the final plat is submitted for approval, the subdivider shall, before the recording of the plat, enter into a contract with the Town agreeing to install the required improvements and shall file with said contract a bond with good and sufficient surety meeting the approval of the Town Attorney or a certified check in the amount equal to the estimated cost of the improvements, said estimate to be made by the Town Engineer, as a guarantee that such improvements will be completed by the subdivider or his subcontractors not later than one year from the date of recording of the plat and as a further guarantee that all obligations to subcontractors for work on the development are satisfied.

- A. Contracts and contract specifications for the construction of street and utility improvements on dedicated street rights-of-way, as well as contractors and subcontractors providing such work, shall be subject to approval of the Town Board.
- B. Governmental units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.
- C. Survey Monuments. Before final approval of any plat within the civil boundaries of the Town, the subdivider shall install survey monuments placed in accordance with the requirements of Chapter 236.15 of the Wisconsin Statutes, and as may be required by an Engineer hired by the Town.
- D. Plats Outside the Municipal Boundaries. Before final approval by the Town of any plat located partially outside the civil boundaries of the Town and partially within the plat approval jurisdiction of the Town, the subdivider shall give evidence that he has complied with all street and utility improvement requirements of the municipality in which that portion of the land being platted is located.

3.05 WAIVERS/MODIFICATIONS

Where, in the judgment of the Town Plan Commission, it would be inappropriate to apply literally the provisions of this Ordinance because exceptional or undue hardship would result, the Town Board may waive or modify any requirement to the extent deemed just and proper. Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Ordinance or the desirable general development of the community in accordance with an adopted comprehensive plan or comprehensive plan component. No waiver or modification shall be granted unless the Town Plan Commission finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

- A. Exceptional Circumstances: There are exceptional, extraordinary, or unusual circumstances or conditions where a literal enforcement of the requirements of this Ordinance would result in severe hardship. Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that the Subdivision Control Ordinance should be changed.
- B. Preservation of Property Rights: That such waiver or modification is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.
- C. Absence of Detriment. That the waiver or modification will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.
- D. Absence of Conflict with County. That the waiver or modification is not in conflict with Walworth County requirements.

- E. A Simple Majority Vote of the Town Plan Commission shall be required to grant any waiver or modification of this Ordinance, and the reasons shall be entered into the minutes of the Commission.
- F. The Town Board may waive the placing of monuments, required under Section 236.15(b), (c) and (d), Wisconsin Statutes, for a reasonable time, not to exceed one year, on condition that the subdivider execute a surety bond equal to the estimated cost of installing the monuments to insure the placing of such monuments within the time required by statute. Additional time may be granted upon show of cause.

3.06 LAND SUITABILITY

No land shall be subdivided for residential use which is held unsuitable for such use by the Town Plan Commission, upon recommendation of the Town Engineer or other agency as determined by the Plan Commission, for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision, or the Town, or poses an undue threat to the environment, including surface or ground water. In addition:

- A. Floodlands. No lot served by public sanitary sewerage facilities shall have more than 20 percent of its required lot area below the elevation of the 100-year recurrence interval flood, or where such data is not available, five feet above the maximum flood of record. No lot one acre or less in area served by an onsite sanitary sewage disposal systems shall include floodlands. All lots more than one acre in area served by an onsite sanitary sewage disposal system shall contain not less than 40,000 square feet of land which is above the elevation of the 100-year recurrence interval flood; or where such data is not available, five feet above the maximum flood of record.
- B. Lands Made, Altered, or Filled with Non-earth Materials within the preceding 20 years shall not be divided into building sites which are to be served by onsite sanitary sewage disposal systems except where, in the opinion of the Walworth County Sanitarian, soil tests clearly show that the soils are suited to such use. Soil reports shall include, but need not be limited to, an evaluation of soil permeability, depth to groundwater, depth to bedrock, soil bearing capacity, and soil compaction. To accomplish this purpose, a minimum of one test per acre shall be made initially. The Town does not guarantee, warrant, or represent that the required samples represent conditions on an entire property and thereby asserts that there is no liability on the part of the Town Board of Supervisors, its agencies, agents, or employees for sanitary problems or structural damages that may occur as a result of reliance upon such tests.
- C. Lands Made, Altered, or Filled with Earth within the preceding seven years shall not be divided into building sites which are to be served by onsite sanitary sewage disposal systems except where, in the opinion of the Walworth County Sanitarian, soil tests clearly show that the soils are suited to such use. Soil reports shall include, but need not be limited to, an evaluation of soil permeability, depth to groundwater,

depth to bedrock, soil bearing capacity, and soil compaction. To accomplish this purpose, a minimum of one test per acre shall be made initially. The Town does not guarantee, warrant, or represent that the required samples represent conditions on an entire property and thereby asserts that there is no liability on the part of the Town Board of Supervisors, its agencies, agents, or employees for sanitary problems or structural damages that may occur as a result of reliance upon such tests.

- D. Lands Having a Slope of 12 percent or more may be required by the Town Board to be maintained in unbuilt open space use.
- E. Lands Having Bedrock within six feet of the natural undisturbed surface shall not be divided into building sites to be served by onsite sanitary sewage disposal systems, unless in compliance with current standards promulgated by the Wisconsin Department of Commerce.
- F. Lands Having Groundwater within six feet of the natural undisturbed surface shall not be divided into building sites to be served by onsite sanitary sewage disposal systems, unless in compliance with current standards promulgated by the Wisconsin Department of Commerce.
- G. Lands Covered By Soils Having a Percolation Rate slower than 60 minutes per inch or faster than 10 minutes per inch shall not be divided into building sites to be served by onsite sanitary sewage disposal systems, unless in compliance with current standards promulgated by the Wisconsin Department of Commerce.
- H. Land Drained by farm drainage tile or farm ditch systems shall not be divided into building sites to be served by onsite sanitary sewage disposal systems, unless in compliance with current standards promulgated by the Wisconsin Department of Commerce.
- I. The Town Plan Commission, in applying the provisions of this section, shall, in writing, recite the particular facts upon which it based its conclusion that the land is not suitable for residential use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. The Town Plan Commission may thereafter affirm, modify, or withdraw its determination of unsuitability.

3.07 VIOLATIONS

No person, firm, or corporation shall build upon, divide, convey, record or place monuments on any land in violation of this Ordinance or the Wisconsin Statutes. No person, firm, or corporation shall be issued a building permit by the Town authorizing the building on, or improvement of, any subdivision, minor subdivision or replat within the jurisdiction of this Ordinance not of record as of May 20, 1996, until the provisions and requirements of this Ordinance have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this Ordinance or the applicable Wisconsin Statutes.

3.08 PENALTIES AND REMEDIES

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$100 plus any additional applicable costs incurred by the Town for each offense, and the penalty for default of payment of such forfeiture and costs shall be imprisonment in the County Jail until payment thereof, but not exceeding six (6) months. Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant penalties shall include the following:

- A. Recordation improperly made carries penalties as provided in Section 236.30 of the Wisconsin Statutes.
- B. Conveyance of lots in unrecorded plats carries penalties as provided for in Section 236.31 of the Wisconsin Statutes.
- C. Monuments disturbed or not placed carries penalties as provided for in Section 236.32 of the Wisconsin Statutes.

An assessor's plat made under Section 70.27 of the Wisconsin Statutes may be ordered as a remedy by the Town, at the expense of the subdivider, when a subdivision is created by successive divisions.

3.08 APPEALS

Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal such objection or failure to approve, as provided in Sections 236.13 (5) and 62.23 (7)(e) 10 to 15 of the Wisconsin Statutes, within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.

SECTION 4.00 LAND DIVISION PROCEDURES**4.01 PRE-APPLICATION CONFERENCE**

It is recommended that, prior to the filing of an application for the approval of a preliminary plat or certified survey map, the subdivider consult with the Town Plan Commission or its staff in order to obtain their advice and assistance. It is recommended that a conceptual plat of the proposed subdivision or certified survey map be brought by the applicant to the meeting, but such conceptual plat is not required. This consultation is neither formal nor mandatory, but is intended to inform the subdivider of the purpose and objectives of these regulations, any applicable comprehensive plan, comprehensive plan components, and duly adopted plan implementation devices of the Town and to otherwise assist the subdivider in planning his development. In so doing, both the subdivider and Town Plan Commission may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community. The subdivider will gain a better understanding of the subsequent required procedures.

4.02 PRELIMINARY PLAT REVIEW

Before submitting a Final Plat for approval, the subdivider shall prepare a Preliminary Plat and a letter of application. The Preliminary Plat shall be prepared in accordance with this Ordinance and the subdivider shall file an adequate number of copies of the Plat and the application with the Town Clerk at least 25 days prior to the meeting of the Plan Commission at which action is desired.

A. The Town Clerk shall, within two normal working days after filing, transmit:

1. Four copies to the Walworth County Planning, Zoning and Sanitation Committee;
2. Two copies to the Director of Plat Review, Wisconsin Department of Administration;
3. Additional copies to the Director of Plat Review, Wisconsin Department of Administration for re-transmission as follows:
 - a. Two copies to the Wisconsin Department of Transportation (WisDOT) if the subdivision abuts or adjoins a state trunk highway or a connecting street;
 - b. Two copies to the Wisconsin Department of Commerce if the subdivision is not served by a public sewer and provision for such service has not been made; and
 - c. Two copies to the Wisconsin Department of Natural Resources (WDNR) if shoreland areas are contained within the proposed subdivision.

- B. The Town Clerk shall also transmit two copies of the preliminary plat to the Town Plan Commission and additional copies of all affected Town committees for their review and recommendations concerning matters within their jurisdiction. The recommendations of Town committees and commissions shall be transmitted to the Town Plan Commission within 30 days from the date the plat is filed. The preliminary plat shall then be reviewed by the Town Plan Commission for conformance with this Ordinance, the Walworth County Zoning Ordinance, and all other Town ordinances, rules, regulations, comprehensive plans, and comprehensive plan components.
- C. The Town Clerk shall send two copies to the City of Elkhorn if the subdivision lies within the extraterritorial plat approval jurisdiction of the City.
- D. The Town Clerk shall also transmit one copy each of the preliminary plat to:
1. The Walworth County Land Conservation Committee;
 2. The Southeastern Wisconsin Regional Planning Commission;
 3. Applicable public or private utility companies;
 4. The applicable school district

for their review and recommendation concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Plan Commission within 30 days from the date the plat is filed.

- E. Status of Reviewing Agencies:
1. The Following Agencies are Approving Agencies: the Town Board, the Walworth County Planning, Zoning, and Sanitation Committee, and, when the subdivision lies within the extraterritorial plat review jurisdiction of the City of Elkhorn, the City Plan Commission or Common Council.
 2. The Following Agencies are Objecting Agencies: the Wisconsin Department of Administration, the Wisconsin Department of Transportation, the Wisconsin Department of Commerce, and the Wisconsin Department of Natural Resources.
 3. The Following Agencies are Advisory Agencies: the Walworth County Land Conservation Committee, the Southeastern Wisconsin Regional Planning Commission, the utility companies, and the school board.

4.03 PRELIMINARY PLAT APPROVAL

- A. The Objecting Agencies shall, within 30 days of the date of receiving their copies of the preliminary plat, notify the subdivider and all other approving and objecting agencies of any objections. If there are no objections, they shall so certify on the face of the copy of the plat and shall return that copy to the Town Plan Commission. If an objecting agency fails to act within 30 days, it shall be deemed to have no objection to the plat.