



## OFFICIAL PUBLIC HEARING NOTICE

By: City of Brookfield Common Council  
Date and Time: June 21, 2022 at 7:45 p.m.  
Location: City Hall - Council Chambers, 2000 N. Calhoun Rd., Brookfield, WI 53005  
Applicant: City of Brookfield  
Request:

Revise and amend provisions in Title 16 entitled "Subdivisions", particularly, but not limited to processing applications, block layout, and survey monuments.

A copy of the proposed changes to Title 16 may be obtained from the Common Council by request to the Clerk's office.

Dated this 2nd day of June 2022.

Michele Luedtke, City Clerk

Post/Publish Date: June 7 & 14, 2022

ANY PERSON WHO HAS A QUALIFYING DISABILITY AS DEFINED BY THE AMERICANS WITH DISABILITY ACT THAT REQUIRES THE MEETING OR MATERIALS TO BE IN AN ACCESSIBLE LOCATION OR FORMAT, MAY CONTACT THE CITY CLERK AT (262)782-9650 OR 2000 NORTH CALHOUN ROAD, FOR ACCOMMODATIONS. REQUESTS FOR ACCOMMODATIONS FOR MEETINGS SHOULD BE MADE AT LEAST THREE (3) BUSINESS DAYS IN ADVANCE OF THE MEETING. EVERY EFFORT WILL BE MADE TO ARRANGE ACCOMMODATIONS FOR ALL MEETINGS.

*Note: It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to in this notice.*



## PROPOSED LANGUAGE FOR PUBLIC HEARING

Scheduled for June 21, 2022

PROPOSAL: Amend the Title 16, "Subdivisions", City of Brookfield Code, to refine procedures and correct errors and inconsistencies, including any additional sections as necessary. All proposals here are subject to further editing for clarity and continuity before action by the Plan Commission or Common Council.

### **3.28.010 Schedule of development fees and fiscal securities.**

JJ. The fee for the City Attorney's review of each new or amended developer's agreement under Section 17.08.030 or subdivider's agreement under Section 16.04.040 shall be \$180.00 per hour.

KK. The fee for engineering review of a subdivider's or development agreement, PDD general or specific plan, new or revised plan and method of operation, preliminary or final plat, ~~or~~ preliminary concept mapsurvey or certified survey map shall be one hundred ten dollars (\$110.00) per hour.

VV. The fee for public works inspection is per hour based on wages and benefits.

### **16.04.020 Definitions.**

As used in ~~this chapter~~ Title 16:

"Front" or "frontage" means the side or part of a parcel that abuts a public street and provides the primary access.

16.04.040 Subdivider's agreements.

A. When Required. A subdivider's or amended subdivider's agreement is required to be executed by the City and the subdivider before ~~for~~ the final approval is given or ~~any~~ subdivision ~~plats of subdivisions or~~ amendments thereto or land reconfigurations that include construction and installation, and/or dedication of public improvements and/or maintenance, reconstruction, or reinstallation of public improvements previously dedicated.

B. A subdivider shall not commence construction on public improvements until the City Engineer has provided written authorization to start work as provided in Section 16.20.040(A). The City Engineer will not issue the authorization until the City has executed the subdivider's agreement, among other things.

C. Procedure.



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1. ~~New~~ Subdividers' Agreements fees. Upon submitting a ~~preliminary final plat, or preliminary concept map~~ certified survey map, or amendment to a subdivider's agreement, the subdivider shall pay the agreement fees ~~for a new subdivider's agreement as~~ specified in Section 3.28.010(S).

~~2. Amended Subdividers' Agreements. Upon requesting an amendment to a subdivider's agreement, the subdivider shall pay the fee as specified in or~~ Section 3.28.010(T).

~~3.2.~~ The subdivider shall pay all other fees associated with a subdivider's agreement and improvements, including, but not limited to: fees for recording, City staff reviews as set forth in Section 3.28.010, stormwater plan ~~review~~ application, ~~landscape plan review~~, plats, certified survey maps, preliminary concept maps, street signs, public improvements inspections, and any other fee required by the code. ~~The following fees shall be paid before the City will execute the agreement: plats, certified survey maps, recording, staff review, plan review, and street signs. All other fees shall be paid within 30 days of billing.~~

~~3.~~ The City will not execute the agreement until after the applicant has done so and ~~the following fees shall be paid before the City will execute the agreement: plats, certified survey maps, recording, staff review, plan review, and street signs. All other fees shall~~ must be paid within 30 days of billing.

### 16.12.010 Pre-application conference.

A. Prior to filing an application for a preliminary plat or a preliminary concept map..., Such informal evaluation is not binding upon the applicant or the City, but ~~is intended to~~ serve as a guide to the subdivider in making the application and advising the subdivider in...

1. A location map showing the relationship of the proposed subdivision to existing community facilities which serve or influence it. These shall include development names and locations; major streets; public transportation lines; shopping centers; ~~elementary and high~~ public and private k-12 schools;....



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2. Information including data on existing .... such as number of ~~residential~~ lots, typical lot width and depth, business areas, playgrounds, park area and other public areas, landscaping, proposed protective covenants, and proposed utilities and street improvements.

### 16.12.015 Plat and Certified Survey approval process.<sup>1</sup>

#### A. Preliminary submissions.

1. The City Engineer and Director of Community Development shall check all submissions for conformity with Sections 236.13, 236.34 and 236.45, Wisconsin Statutes, the official map, and the standards and requirements set forth in this code.

2. After review of the preliminary submissions, the Director of Community Development shall advise the Plan Commission as to what public improvements should be required, if any, and whether the preliminary submission should be approved, approved conditionally or rejected and the reasons therefore. The Plan Commission shall make a recommendation to the Common Council. Within 90 days of preliminary submission, or a longer period of time upon written agreement with the subdivider, and taking into account the Plan Commission's recommendation, the Common Council shall establish the improvements needed for the subdivision and approve, approve conditionally, or reject the preliminary submission. The Director of Community Development shall notify the subdivider, in writing, of any conditions of approval or the reasons for rejection.

#### B. Final submissions

1. The City Engineer and Director of Community Development shall check final submissions as to their conformity with Section 236.13, Wisconsin Statutes, conformity with preliminary submissions and any conditions of approval.

<sup>1</sup> This provision combines the process set forth 4 times in the current Title 16, which in each case is identical (§16.12.020.C. & D.; §16.12.030.C. & D.; §16.12.040.C. 2. & 3.; and §16.12.040.C.5. & G.), and makes the standards of approval from the CSM applicable to plats as well.



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2. After review of the final submission, the Director of Community Development shall advise the Plan Commission as to whether the final submission should be accepted or rejected based on its conformity with the preliminary submission and any conditions. The Plan Commission shall make a recommendation to the Common Council. Within 60 days of final submission, or a longer period of time upon written agreement with the subdivider, the Common Council shall approve the final submission if in conformity with the preliminary submissions or conditions or reject the final plat if it is not in compliance. If the final plat is rejected, the Director of Community Development shall notify the subdivider of the reasons therefor in writing.

C. Standards.<sup>2</sup>

1. All land reconfigurations shall adhere to the official map and the standards and requirements set forth in this code; and

2. The land reconfiguration does not result in the deterioration of any natural environment such as a wetland or floodplain per an expert opinion procured and paid for by the subdivider if a wetland or floodplain exists on the parcel or is adjacent

3. If the land reconfiguration lies within a platted subdivision the following also apply:

a. The land reconfiguration should be in relationship to the average size and width of existing lots in the subdivision. If the average size and width of the lots contained within the subdivision exceed current minimum dimensions required in the subdivision and zoning codes, this subsection supersedes those provisions; and

b. The land reconfiguration does not create a material and detrimental departure from the prevailing lot configuration of the subdivision; and

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<sup>2</sup> If combining the process is acceptable, this subsection consists of the standards from the CSM process and making applicable to plats as well. If approved, this provision will need further editing to make it apply to both processes.



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c.. The land reconfiguration does not unfavorably impact the public utilities in the subdivision or create drainage problems.

### 16.12.020 Preliminary plat.

A. Before submitting a final plat for approval, the subdivider must receive preliminary plat approval. To obtain preliminary plat approval, the subdivider must file a ~~complete~~ written application on the City's form with the Director of Community Development, along with a preliminary plat; public improvement construction plans in accordance with Chapter 16.20; the application fee set forth in Section 3.28.010(FF); a completed checklist on City Form P-1, which contains of all the requirements necessary for the preliminary plat submittal; and a title abstract in compliance with Section 16.12.050; a wetland delineation report, if wetlands are shown on the property in the Wisconsin Wetland Inventory maps; and a variance request from the provisions of Chapter 16.16, if applicable. An application is not complete and the statutory time frame for review does not start until all items have been submitted. ~~The preliminary plat shall comply with Section 236.13(1), Wisconsin Statutes, the official map, and the requirements set forth in the Brookfield Municipal Code.~~

B. The preliminary plat shall comply with Section 236.13(1), Wisconsin Statutes, the official map, the comprehensive plan, and the standards and requirements set forth in the Brookfield Municipal Code.

The preliminary plat shall be drawn and designed in accordance with the City's ~~design~~ standards ~~as~~ contained in the City's Public Infrastructure and Development Handbook and this title and shall legibly and accurately describe and depict the following:

3. The name, ~~and~~ address, phone number and e-mail address for ~~of~~ the property owner, the subdivider, and the engineer or surveyor preparing the plat;

5. A small scale drawing of the section or government subdivision of the section in which the subdivision lies, with the location of the subdivision indicated thereon;



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8. The parcel's Zzoning ~~on, or proposed zoning if change is requested,~~ and the zoning for parcels adjacent to the subdivision, including the offset and setback lines for the lots. Include this information in a table format as well;

9. Any of the following that are within 300 feet of the proposed subdivision or on abutting property owned and controlled by the subdivider: Llocation, widths, and names of existing and platted streets, alleys, or other public ways and easements; railroad and utility rights-of-way; parks and playgrounds; cemeteries; watercourses; drainageways; environmental corridors including wetland and floodland locations; permanent buildings; and bridges ~~within 300 feet of the proposed subdivision or on property owned or controlled by the subdivider;~~

10. The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low water elevations of such lakes or streams. All elevations shall be referred to NAVD 88 (2011) datum, and must be notated per the methods in Wis. Stats. §236.025;

~~C.<sup>3</sup> The City Engineer and Director of Community Development shall check the preliminary plat as to its conformity with Section 236.13, Wisconsin Statutes, the official map, comprehensive plan, and the standards and requirements set forth in this code.~~

D.<sup>4</sup> After review of the preliminary plat, the Director of Community Development shall advise the Plan Commission and Common Council about what public improvements should be required and whether the preliminary plat should be ~~accepted~~approved, rejected, or approved conditionally and the reasons therefore ~~and what improvements should be required~~. The Plan Commission shall make a recommendation to the Common Council. Within 90 days of submission, unless the time is extended in writing by the subdivider, and taking into account the Plan Commission's recommendation, the Common Council shall establish the public improvements needed for the subdivision and approve, approve conditionally, or reject the preliminary plat ~~and establish the improvements needed for the subdivision~~. The Director of Community Development shall notify the subdivider, in writing, of any conditions of approval or the reasons for rejection.

<sup>3</sup> See footnote 1.

<sup>4</sup> Ditto.



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## 16.12.030 Final plat.

A. ~~To obtain final plat approval, No later than 36 months after approval of the preliminary plat, unless the Common Council approves an extension of time,~~ a subdivider shall submit a written application for final plat review; a final plat; ~~the application final plat fee set forth in Section 3.28.010(II);, and~~ a completed checklist on City Form No. P-2, ~~which containsef~~ all the requirements necessary for the final plat submittal; public improvement as-built plans, lien waivers and dedication agreement or security for construction or alteration of public improvements and the subdivider's agreement fee (if any), no later than 36 months after approval of the preliminary plat, unless the Common Council approves an extension of time to the Director of Community Development upon either of the following occurrences:

1. Completion of all public improvements required as part of the preliminary plat, submission of lien waivers for all of the construction work to the public improvements, the dedication agreement, and the payment of all fees required by this code; or
2. The posting of a security for the construction and/or alteration of public improvements within a reasonable time as set forth in Section 16.20.010.

~~C.<sup>5</sup> The City Engineer and Director of Community Development shall check the final plat as to its conformity with Section 236.13, Wisconsin Statutes, its conformity to the preliminary plat and any conditions of approval, the official map, the comprehensive plan, and the standards and requirements set forth in this code.~~

D.<sup>6</sup> After review of the final plat, the Director of Community Development shall advise the Plan Commission ~~and Common Council~~ whether the final plat should be approved, approved conditionally, accepted or rejected based on it's conformance with the preliminary plat~~the factors set forth in subsection (C) of this section.~~ The Plan Commission shall make a recommendation to the Common Council. Within 60 days of submission or a longer period of time upon written agreement with the subdivider, the ~~Plan~~

<sup>5</sup> See footnote 1.

<sup>6</sup> Ditto.





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~~Commission and~~ Common Council shall approve the final plat if it is in ~~compliance with subsection (C) of this section~~ conformity with the preliminary plat, approve conditionally, or reject the final plat if it is not in compliance. If the final plat is rejected, the Director of Community Development shall notify the subdivider of the reasons therefor in writing.

### 16.12.040 Land reconfigurations by certified survey maps.

#### A. ~~Intent and Purpose~~ Required.

~~13.~~ Since the composition, size, width, and layout of previously platted residential lots were created due to factors such as the need for adequate acreage for the operation of on-site sanitary sewage systems, character of the subdivision sought by the original subdivider, ~~the existence of~~ areas of existing topography, ~~of~~ natural vegetation, and other similar conditions or needs, in addition to subsections (B)(1) through (3) of this section, to maintain the integrity, composition, and character of the surrounding subdivision; to avoid intensifying the use of public utilities; to preserve existing topography and natural vegetation; and to maintain appropriate drainage; a subdivider may only reconfigure previously platted residential lots in compliance with the standards set forth in this title.

~~12.~~ Any land reconfiguration other than a subdivision must be done through a certified survey map.

~~a2.~~ If the reconfiguration results in a residual parcel in excess of three acres not intended for immediate sale or other conveyance the residual parcel must be shown on the map. The Director of Community Development may waive this requirement for inclusion of the residual parcel in the certified survey map in which case a supplementary survey and map conforming to the minimum standards for property surveys in Chapter A-E7 of the Wisconsin Administrative Code shall be attached showing the relationship of the residual parcel to the parcels being subdivided.

#### B. Standards<sup>7</sup>.

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<sup>7</sup> See footnote 2.



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1. All land reconfigurations shall adhere to ~~the intent and objectives of the comprehensive plan,~~ the official map, and the standards and requirements set forth in this code; and

2. The land reconfiguration does not result in the deterioration of any natural environment such as a wetland or floodplain per an expert opinion procured and paid for by the subdivider if a wetland or floodplain exists on the parcel or is adjacent

23. If the land reconfiguration lies within a subdivision the following also apply:

a. The land reconfiguration should be ~~logical~~ in relationship to the average size and width of existing lots in the subdivision. If the average size and width of the lots contained within the subdivision exceed current minimum dimensions required in the subdivision and zoning codes, this subsection supersedes those provisions; and

b. The land reconfiguration does not create a material and detrimental departure from the prevailing lot configuration of the subdivision; and

~~4. The land reconfiguration does not result in the deterioration of any natural environment such as a wetland or floodplain per an expert opinion procured and paid for by the subdivider; and~~

c. The land reconfiguration does not unfavorably impact the public utilities in the subdivision or create drainage problems; and

~~6. The land reconfiguration does not materially alter the existing topography and natural vegetation in the subdivision.~~

C. Preliminary Concept Map. Prior to filing an application for a certified survey map, the subdivider shall file an application for a preliminary concept map review, along with the application fee set forth in Section 3.28.010(GG), a completed checklist on City Form No. LR-1 of all the requirements necessary for the submittal, public improvement construction plans in accordance with Chapter 16.20, if applicable, a title abstract in compliance with Section 16.12.050, a wetland delineation report, if wetlands are shown on the



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property in the Wisconsin Wetland Inventory maps, and a preliminary concept map containing the information set forth in subsection (C)(1) of this section.

2.<sup>8</sup> The Director of Community Development and City Engineer shall check the preliminary concept map as to its conformity with Sections 236.34 and 236.45, Wisconsin Statutes, the official map, the comprehensive plan, and the standards and requirements set forth in this code.

3.<sup>9</sup> After review of the preliminary concept map, the Director of Community Development shall advise the Plan Commission ~~and Common Council about what public improvements should be required and~~ whether the preliminary concept map should be ~~accept~~approved, rejected, or approved conditionally based on the factors set for the in subsection (B) and the reasons therefor and what improvements should be required. The Plan Commission shall make a recommendation to the Common Council. Within 90 days of submission, unless the time is extended in writing by the subdivider, and taking into account the Plan Commission's recommendation, the Common Council shall establish the improvements needed for the subdivision and approve, approve conditionally, or reject the preliminary concept map ~~and establish the improvements needed for the subdivision.~~ The Director of Community Development shall notify the subdivider, in writing, of any conditions of approval or the reasons for rejection.

416.12.045. Certified Survey Map.

A. No later than 36 months after approval of the preliminary concept map, unless the Common Council approves an extension of time, a subdivider shall submit a certified survey map, the certified survey map fee set forth in Section 3.28.010(HH), and a completed checklist on City Form No. CSM-1 of all the requirements necessary for the certified survey map submittal to the Director of Community Development. The certified survey map shall be in recordable format as prescribed by the Waukesha County Register of Deeds, shall legibly and accurately describe and depict the information required in Section 236.34, Wisconsin Statutes, and shall be accompanied by a title report in compliance with Section 16.12.050.

<sup>8</sup> To be deleted if proposal at footnote 1 is acceptable.

<sup>9</sup> Ditto.



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~~a. If the reconfiguration results in a residual parcel in excess of three acres not intended for immediate sale or other conveyance, the Director of Community Development may waive the requirement for inclusion of the residual parcel in the certified survey map in which case a supplementary survey and map conforming to the minimum standards for property surveys in Chapter A-E7 of the Wisconsin Administrative Code shall be attached showing the relationship of the residual parcel to the parcels being subdivided.~~

5B. The City Engineer and Director of Community Development shall check the certified survey map as to its conformity with Section 236.34, Wisconsin Statutes, its conformity ~~to~~with the preliminary concept map and any conditions of that approval, the official map, the comprehensive plan, and the standards and requirements set forth in this code.

6C. After review of the certified survey map, the Director of Community Development shall advise the Plan Commission ~~and Common Council~~ whether the certified survey map should be ~~accept~~approved, approved conditionally, or rejected based on ~~the~~it's compliance with the approved preliminary concept map factors set forth in subsection (B) of this section. The Plan Commission shall make a recommendation to the Common Council. Within 90 days or a longer period of time upon agreement with the subdivider, the Plan Commission and Common Council shall approve, conditionally approve, or reject the certified survey map. If the certified survey map is rejected or conditionally approved, the Director of Community Development shall notify the subdivider, in writing, the reasons therefor.

~~D. Corner Monuments. All exterior corners of the certified survey map shall be monumented in accordance with Sections 236.15 (1)(ac), (c), (d), and (g), Wisconsin Statutes. At the time that all corners are set, the professional surveyor of record for the certified survey map shall submit an affidavit to the City bearing an affirmation that all corners are set, the date the corners were set, and the professional stamp and seal. A subdivider may request a waiver from the corner documentation requirements allowing interior corners to be set after proposed improvements are completed, subject to the provisions of Section~~



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16.12.050 Title abstract required.

A title abstract shall be submitted with the preliminary plat or preliminary concept map application. The report must be dated within ~~60~~90 days of the application and shall be updated within ~~60-90~~ days of the Common Council's expected approval date of the final plat or certified survey map. Council Approval will be withheld until the abstract has been received and approved by the City Attorney.

### **16.16.010 Public sites and open space.**

A. In the design of plats or certified survey maps, due consideration shall be given to the reservation of ~~land for~~ wetlands; drainageways; environmental corridors; conservancy areas; open spaces; and other public purposes from development. Wetlands, if identified and designated for such purpose in the comprehensive plan, a neighborhood plan, the parks and open space plan, or official map, ~~such lands~~ shall be included in the plat or certified survey map and reserved for such purposes through dedication as an outlot or easement at the rate set forth in subsection (B) of this section or pay the fee as set forth in Chapter 15.28.

16.16.020 Streets.

A. A public street shall be provided for convenient access to all property within the subdivision. No private street or thoroughfare shall be permitted unless in compliance with Chapter 12.09 and Section 16.16.040(~~EC~~)(7), the highest and best use of the land allows for a private street or thoroughfare, and it does not cause a detriment to the public health, safety, and welfare.

J. Intersections.

3. Sight distances shall be provided and maintained for intersections of new subdivision streets with existing streets consistent with the minimum sight distances per the most recent edition of AASHTO standards. Include calculations information in table format on the plat.

16.16.040 Block and lot layout.

C. Lots in General.



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3. The maximum depth to width proportion shall be two and one-half to one for lot widths of 100 feet or more.

7. Every lot shall front the public street from which it derives primary access a minimum of 120 feet, except those zoned Village Area Business district under §17.50. Lots with access only to existing private streets shall front the private street and shall be permitted only with a reciprocal access easement in a City-approved form.

~~11. Double frontage and reversed frontage lots are prohibited except to provide separation of residential development from major streets or to overcome specific disadvantages of topography and orientation.~~

~~12. Lots shall be comprised of the minimal number of lot lines practical and should not exceed four sides.~~

16.16.070 Variances.

A. The Plan Commission may allow a variance from the provisions of this chapter if the subdivider proves by substantial evidence that strict compliance with the provisions of this chapter would render conformity an unnecessary hardship or a variance allows a public purpose to be achieved. To determine if an unnecessary hardship exists, the subdivider must prove that the property has a unique condition that renders conformity impossible or highly impracticable, compliance would prevent the subdivider from using the property for a permitted purpose, and a variance would not be contrary to the public interest. Unnecessary hardships may not be self-imposed. A public purpose is defined as achieving a public transportation, public utility, or public recreation or open space goal or objective as identified in the comprehensive plan. The Plan Commission may allow a variance from the provisions of Section 16.16.040.C.7. for properties in zoned Village Area Business District (§17.50) upon a showing of no economic viability.

B. The request for variance shall be filed along with the application for a preliminary plat or preliminary concept map. The Plan Commission shall afford the subdivider and the City a hearing to present evidence to the Commission to determine the aforementioned factors and shall render findings of fact, conclusions of law, and a recommendation to the Common Council on the matter within 45 days after the conclusion of the hearing. The Common Council shall make the final determination as whether to adopt the recommendation of the Plan Commission or make such



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modification as deemed appropriate. The Community Development Department shall send a copy of the Council's decision to the applicant's last-known mailing address. Any person aggrieved by the Common Council's decision may seek certiorari review within 30 days of the final determination. For the purposes of this chapter, pursuant to Section [68.16](#), Wisconsin Statutes, the City of Brookfield is specifically electing not to be governed by Chapter [68](#), Wisconsin Statutes.

### **16.20.050 Survey monuments.**

**A.** All survey monuments required per Section [236.15](#), Wisconsin Statutes, shall be placed no later than one year after the date of the subdivider's agreement, if any, and prior to final plat or certified survey map approval. At the time that all corners are set, the professional surveyor of record for the certified survey map shall submit an affidavit to the City bearing an affirmation that all corners are set, the date the corners were set, and the professional stamp and seal.

**B.** The City Engineer may temporarily waive the placing of monuments, as provided under Section [236.15](#)(1)(h), Wisconsin Statutes, for not more than one year on the condition that the subdivider complete a temporary waiver form provided by the City and provide a letter of credit, cash deposit, or surety bond, in a form approved by the City Attorney, equal to the amount of \$100.00 per lot.