VILLAGE OF WINDSOR
ORDINANCE 2016-17

ADOPTION OF AMENDMENTS TO THE WINDSOR CODE OF ORDINANCES FOR CHAPTER 38 – LAND DIVISION, ARTICLE IV – LAND DIVISION TO DEFINE SUBDIVISION AND ESTABLISH MAXIMUM NUMBER OF PARCELS FOR LAND DIVISION BY CERTIFIED SURVEY MAP

THE VILLAGE BOARD FOR THE VILLAGE OF WINDSOR, LOCATED IN DANE COUNTY, WISCONSIN, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE: Chapter 38, Windsor Land Division Code, shall be amended to include changes to Article IV- Land Division as set forth on Exhibit A attached hereto and incorporated by reference. This amendment adopts a definition of "subdivision" consistent with Wis. Stat. sec. 236.02(12)(am) and allows the Village to exercise regulatory authority to establish the maximum number of parcels for land division by certified survey map pursuant to Wis. Stat. sec. 236.34(1)(ar)1.

For convenience, the above-referenced provisions of the Wisconsin Statutes are reprinted below:

> **236.02 Definitions.** In this chapter, unless the context or subject matter clearly requires otherwise:
> (12)
> (am) Except as provided in par. (bm), "subdivision" means a division of a lot, parcel, or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development and to which any of the following applies:
> 1. The act of division creates 5 or more parcels or building sites of 1 1/2 acres each or less in area.
> 2. Five or more parcels or building sites of 1 1/2 acres each or less in area are created by successive divisions within a period of 5 years.
> (bm) "Subdivision" does not include a division of land into 5 or more parcels or building sites by a certified survey map in accordance with an ordinance enacted or a resolution adopted under s. 236.34 (1) (ar) 1.
>
> **236.34 Recording of certified survey map; use in changing boundaries; use in conveyancing.**
>
> (1) Description and uses.
> (am) A certified survey map of not more than 4 parcels of land, or such greater maximum number specified by an ordinance enacted or resolution adopted under par. (ar) 1., consisting of lots or outlots may be recorded in the office of the register of deeds of the county in which the land is situated.
> (ar) 1. Notwithstanding s. 236.45 (2) (ac) and (am), a municipality, town, or county that has established a planning agency may enact an ordinance or adopt a resolution that specifies a maximum number of parcels that is greater than 4 into which land that is situated in the municipality, town, or county and zoned for commercial, industrial, or mixed-use development may be divided by certified survey map.

SECTION TWO: This Ordinance shall become effective following its adoption by the Village Board and publication or posting in the manner required by law.

The above and foregoing Ordinance was adopted following Class 2 notice at a duly noticed meeting of the Village Board of the Village of Windsor held on the 16th day of June, 2016, by a vote of 5 in favor and 0 opposed.

VILLAGE OF WINDSOR

Robert E. Wipperfurth
Robert E. Wipperfurth, Village President

Donald G. Madelung
Donald G. Madelung, Trustee

Bruce R Stravinski
Bruce Stravinski, Trustee

Alan Buchner
Alan Buchner, Trustee

Monica M. Smith
Monica M. Smith, Trustee

Attested by:

Tina Butteris
Tina Butteris, Deputy Village Clerk

Exhibit Incorporated by Reference:
Exhibit A

Published: June 30, 2016

Effective: July 1, 2016

EXHIBIT A TO VILLAGE ORDINANCE 2016-17

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A. SEC. 38-97(7) AND (40) SHALL BE AMENDED TO READ AS FOLLOWS:

Sec. 38-89. - Definitions

~~(7) *Certified survey map (CSM).* A map dividing land into not more than four lots of parcels, at least one of which is 35 acres or less in area, or the division of a block, lot or outlot in a recorded plat into not more than four lots or parcels, at least one of which is 35 acres or less in area, without changing the exterior boundaries of the block, lot or outlot prepared in accordance with Wis. Stats. § 236.34 and in full compliance with the applicable provisions of this chapter.~~

(7) *Certified survey map (CSM).* A map dividing land including the division of a block, lot, or outlot in a recorded plat, and prepared in accordance with Wis. Stats. § 236.34 and in full compliance with the applicable provisions of this chapter, subject to the following:

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a. Creates more than one, but less than five, parcels or building sites, inclusive of the original remnant parcel, any one of which is 1 ½ acres each or less in area, by a division or by successive divisions of any part of the original parcel within a period of five years; or

b. Creates a maximum of ten parcels, excluding the division of land prepared in accordance with Sec. 38-89 (7)a and Wis. Stats. § 236.34, where zoned for commercial, industrial, or mixed-use development, and in full compliance with Wis. Stats. § 236.34(1m)(em) & (er). For the purpose of this provision, mixed-use development[1] includes an area subject to a single neighborhood plan or redevelopment plan, adopted by the Village of Windsor or its predecessor, which integrates a combination of industrial, commercial, government and institutional, and/or residential uses.

~~(40) *Subdivision.* The division of a lot, parcel, or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where the act of division creates:~~

~~a. Five or more parcels or lots, at least one of which is 35 acres or less in area;~~

~~b. Five or more parcels or lots, at least one of which is 35 acres or less in area, are created by successive divisions within a period of five years, whether done by the original owner or a successor owner;~~

~~c. The establishment of a condominium development pursuant to Wis. Stats. ch. 703 shall be deemed to be a subdivision for purposes of this chapter.~~

(40) *Subdivision.* The division of a lot, parcel, or tract of land by the owner thereof or the owner's agent for the purpose of sale, transfer of ownership, or building development, where the act of division creates:

a. Five or more parcels or building sites, inclusive of the original remnant parcel, any one of which is 1 ½ acres each or less in area, by a division or by successive divisions of any part of the original parcel within a period of five years, excluding land divisions by CSM as defined in Sec. 38-89(7)b.

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[1] Mixed-use development in this provision is defined per Wis. Stats. § 236. 34 and may be defined differently in the Village of Windsor Comprehensive Plan: 2035.

B. SEC. 38-95 SHALL BE DELETED:

~~**Sec. 38-95.** - Subdivision created by successive land divisions.~~

~~When the Village Board determines that it is not practicable to require that a final plat of a subdivision created by successive divisions be filed in accordance with these regulations, the Village Board may order an assessor's plat to be made under Wis. Stats. § 70.27, and may assess the cost thereof to the subdivider or as provided in such section. Regardless of the type of plat filed, any such subdivision shall comply with all provision of these regulations to the extent that they may reasonably apply.~~

~~(Ord. No. 2003-08, § 3.4(f), 8-21-2003)~~

C. SEC. 38-255 SHALL BE AMENDED TO READ AS FOLLOWS:

Sec. 38-255. - When permitted; purpose.

~~When an owner proposes to divide land into two or no more than four lots or parcels, any one of which is less than 35 acres, or when an owner proposes to divide a block, lot or outlot into not more than four lots or parcels within a recorded plat without changing the boundaries of the block, lot or outlot, the owner or land divider may divide the land by use of a CSM, prepared in accordance with Wis. Stats. § 236.34 and this chapter.~~

~~(Ord. No. 2003-08, § 4.11, 8-21-2003)~~

Land may be divided by CSM provided it is prepared in accordance with Wis. Stats. § 236.34 and in full compliance with the applicable provisions of this chapter. A CSM may be used to divide land, including the division of a block, lot, or outlot in a recorded plat, into:

a. Not more than four parcels or building sites, or

b. Not more than ten parcels or building sites, where zoned for commercial, industrial, or mixed-use development.

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C. SEC. 38-255 SHALL BE AMENDED TO READ AS FOLLOWS:

DIVISION 6. - CERTIFIED SURVEY MAPS

Sec. 38-255. - When permitted; purpose.

~~When an owner proposes to divide land into two or no more than four lots or parcels, any one of which is less than 35 acres, or when an owner proposes to divide a block, lot or outlot into not more than four lots or parcels within a recorded plat without changing the boundaries of the block, lot or outlot, the owner or land divider may divide the land by use of a CSM, prepared in accordance with Wis. Stats. § 236.34 and this chapter.~~

Land may be divided by CSM provided it is prepared in accordance with Wis. Stats. § 236.34 and in full compliance with the applicable provisions of this chapter. A CSM may be used to divide land, including the division of a block, lot, or outlot in a recorded plat, into not more than four lots or parcels, or not more than **ten** lots or parcels, where zoned for commercial, industrial, or mixed-use development.

Version 7
Distributed for Tuesday, June 21, 2016 Joint Plan Commission and Board Meeting

Chapter 38 – Planning & Development

ARTICLE IV. - LAND DIVISIONS

DIVISION 1. - GENERALLY

Sec. 38-84. - Land division to be controlled by the Village and consistent with the Comprehensive Plan.

Any land division and the subsequent development of the divided property are subject to the control of the Village for the orderly, planned, efficient, and economical development of the Village. All land divisions shall be consistent with the Village's Comprehensive Plan.

(Ord. No. 2003-08, § 1.2(b)(1), 8-21-2003)

Sec. 38-85. - Applicability; effective date.

All applications for subdivision approval, including certified survey maps, preliminary plats, condominium plats, final certified survey maps, and final plats, shall be reviewed under these regulations.

(Ord. No. 2003-08, § 1.1, 8-21-2003)

Sec. 38-86. - Existing subdivisions to comply if possible.

Land that has been subdivided prior to November 9, 2015, shall, whenever possible, be brought within the scope of these regulations to further the purposes of the Village.

(Ord. No. 2003-08, § 1.2(b)(4), 8-21-2003)

Sec. 38-87. - Purposes.

The purpose of these regulations is to regulate and control the division of land within the corporate limits and extraterritorial plat approval jurisdiction of the Village of Windsor in order to promote the public health, safety and general welfare of the community. The regulations authorized to be made are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; and to facilitate the further resubdivision of larger tracts into smaller parcels of land. The regulations provided for by this Article IV have been made with reasonable consideration, among other things, of the character of the Village and to conserve the value of the buildings placed upon land and provide the best possible environment for human habitation. These regulations encourage open space and the most appropriate use of land throughout the Village, including the protection of farming and agri-business, and the support of commercial endeavors.

The regulations are intended to facilitate enforcement of development standards as outlined in the Planning & Development Code (Chapter 38), Zoning Code (Chapter 52), Comprehensive Plan and Official Map of the Village of Windsor. The standards to be applied shall be generally accepted practices such as the requirements for development of urban and rural environments as may be outlined by the American Society of Civil Engineers, American Public Health Association, National Recreation Association, American Association of State Highway Officials, Institute of Transportation Engineers, Federal Emergency Management Administration, American Society of Planning Officials Reports, the Wisconsin Administrative Code, and Wisconsin Statutes.

The provisions of these land division regulations are adopted:

(1) To promote the public health, safety, convenience and general welfare of the community;

(2) To lessen congestion on the roads;

(3) To foster the orderly layout and use of land set forth in the Village Comprehensive Plan;

(4) To secure safety from fire and other dangers;

(5) To provide adequate light and air, including access to sunlight for solar collectors and to wind for wind energy systems;

(6) To discourage overcrowding of the land;

(7) To protect the Village's agriculture base;

(8) To facilitate adequate provision for transportation, public water and sewerage, schools, parks, playgrounds and other public necessities;

(9) To facilitate the further division of large tracts of land into smaller tracts;

(10) To establish reasonable standards of design and procedures for land divisions in order to further the orderly layout and use of land and to ensure proper legal descriptions and monumenting of subdivided land;

(11) To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed land division and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services through requiring the developer to pay fees, furnish land or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by development;

(12) To prevent the pollution of air, surface water, and groundwater; to ensure the adequacy of drainage facilities; and to encourage the use and management of natural resources throughout the Village in order to preserve the integrity, stability, and beauty of the community and the value of the land;

(13) To provide for open spaces through the most efficient design and layout of the land in conformance with the density of development as established in the Village Comprehensive Plan and the regulations established by applicable zoning ordinances;

(14) To ensure that land is divided only when the land division is necessary to provide for uses of land for which demand exists and are in the public interest;

(15) To remedy the problems associated with inappropriately subdivided lands.

(Ord. No. 2003-08, § 1.3, 8-21-2003)

Sec. 38-88. – Jurisdiction within Corporate Boundaries; Extraterritorial Jurisdiction.

As provided in Wis. Stats. § 236.45(3), the Village's regulatory jurisdiction shall exist over all lands within the corporate limits of the Village, and the Village's extraterritorial jurisdiction shall exist over the unincorporated area within 1½ miles of the Village's corporate limits except where limited through an approved cooperative plan and recorded with the Dane County Register of Deeds. Where the Village's extraterritorial jurisdiction overlaps another municipality's extraterritorial jurisdiction, the extent of each municipality's extraterritorial jurisdiction shall be established as set forth in Wisconsin Statutes and/or an approved cooperative plan.

The provisions of this chapter, as they apply to divisions of tracts of land into less than five parcels within a period of less than five years, 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 ten years, mortgages or easements;

(3) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting comply with the minimum sizes required by this chapter or other applicable laws or ordinances, and the resulting lots are adequately served with existing public roads and appropriate utilities;

(4) Cemetery plats under Wis. Stats. § 157.07;

(5) Assessor's plats made under Wis. Stats. § 70.27, but such assessor's plats shall comply with Wis. Stats. §§ 236.15(1)(a) through (g) and 236.20(1) and (2)(a) through (c).

(Ord. No. 2003-08, § 1.3, 8-21-2003)

Sec. 38-89. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Alley.* An unnamed public or private right-of-way permanently reserved as a secondary means of access to the rear side of those properties whose principal frontage is on some other street.

(2) *Applicant.* The owner of land proposed to be divided or its representative who shall have express written authority to act on behalf of the owner.

(3) *Approving or objecting authority.* All applicable agencies shall review and assess plats as to their conformance with statutes and regulations as per Wis. Stats. § 236.12(2).

(4) *Assessor's plat.* A plat directed by the Village Board where deemed necessary pursuant to Wis. Stats. § 70.27(1).

(5) *Block.* An area of land within a subdivision that is entirely bounded by a combination or combinations of roads, exterior boundary lines of the subdivision and streams lakes or other bodies of water.

(6) *Building envelope.* That portion of a lot where building is allowed, located within the minimum prescribed zoning setbacks and situated so as to prohibit or minimize disturbance of existing woods, steep slopes and views.

(7) *Certified survey map (CSM).* A map dividing land including the division of a block, lot, or outlot in a recorded plat, and prepared in accordance with Wis. Stats. § 236.34 and in full compliance with the applicable provisions of this chapter, into not more than:

a. F~~f~~our lots or parcels~~, at least one of which is 35 acres or less in area~~; or~~, or the division of a block, lot or outlot in a recorded plat into not more than four lots or parcels, at least one of which is 35 acres or less in area, without changing the exterior boundaries of the block, lot or outlot prepared in accordance with Wis. Stats. § 236.34 and in full compliance with the applicable provisions of this chapter.~~

b. XXX lots or parcels, limited to zoning for commercial, industrial, or mixed-use development, and in full compliance with Wis. Stats. §§ 236.34(1m)(em) & (er).

(8) *Comprehensive Plan.* A Comprehensive Plan adopted by Village ordinance indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the Village and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

(9) *Concept plan.* A map or general layout of the proposed development that is presented to and reviewed by the Village Plan Commission for compliance with the Village Comprehensive Plan, and to enable the applicant and Village to identify development issues and articulate concerns with the proposed development.

(10) *Concurrency.* The requirement that development applications demonstrate that adequate public facilities be available at prescribed levels of service concurrent with the impact or occupancy of lots or units.

(11) *Condominium development.* A real estate development in which the condominium form of ownership pursuant to Wis. Stats. ch. 703 is utilized.

(12) *Condominium plat.* A plat with the required provisions as specified in Wis. Stats. § 703.11.

(13) *Condominium unit.* For purposes of this chapter, condominium units, together with any associated limited common elements, are deemed to be equivalent to a lot created by the act of subdivision.

(14) *Cul-de-sac.* A local road having one end open to traffic and the other end permanently terminated in a vehicular turnaround.

(15) *Easement.* An area of land set aside or over or through which a liberty, privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.

(16) *Environmental assessment report.* A report that helps determine the physical and cultural affects of a proposed subdivision. A partial report, with readily available information, is filed with the concept plan, and the completed document is filed with the preliminary plat.

(17) *Environmental corridor.* Those contiguous lands which contain a significant grouping of sensitive lands, such as woodlands; streams; wildlife areas; wetlands; marshes; bogs; or native vegetation, which form an elongated pattern that ties these lands together.

(18) *Extraterritorial plat approval jurisdiction.* The unincorporated area within three miles of the corporate limits of a first, second or third class city, or 1½ miles of a fourth class city or a village.

(19) *Land division; division of land.* Any action that creates a condominium plat, subdivision plat or CSM.

(20) *Landscape buffer.* A specific area constructed with berming and/or live plant material and maintained for the purpose of providing a visual and spatial separation between different uses.

(21) *Lot.* A parcel of land having frontage on a public road or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter and any applicable zoning ordinance. The following terms relate to the term "lot":

a. *Corner lot.* A lot abutting intersecting roads at their intersection.

b. *Double frontage lot.* A lot that is not a corner lot, but that has frontage on two or more roads.

c. *Lot area.* The area contained within the exterior boundaries of a lot excluding roads, and land under navigable bodies of water.

d. *Lot lines.* The peripheral boundaries of a lot as defined herein.

e. *Lot width.* The width of a parcel of land measured along the front setback line.

f. *Reversed corner lot.* A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.

(22) *Objecting authority.* See *Approving or objecting authority.*

(23) *Official Village Map.* A map indicating the location, width, and extent of existing and proposed roads, highways, parkways, parks, drainage system and water and sewerage system adopted in accordance with Wis. Stats. § 62.23(6).

(24) *On-site wastewater treatment system.* A means of disposing and treating wastewater contained entirely within a lot or plat and meeting the requirements of Wis. Admin. Code ch. SPS 383.

(25) *Outlot.* A parcel of land, other than a lot or block, so designated on a plat or CSM, on which building is prohibited.

(26) *Owner.* The person having record ownership of the fee or a vendee in possession, including any person, firm, association, partnership, limited liability partnership, private corporation, public or quasi-public corporation, limited liability company, or combination of these, or any legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided.

(27) *Park Committee.* The Parks & Recreation Committee created by the Village Board. (*See* Village Board Resolution 2015-03.)

(28) *Pathway, multi-use.* A public way intended for the conveyance of pedestrians or bicyclists only; it may also provide public right-of-way for utilities and emergency vehicles.

(29) *Plan Commission.* The Village Plan Commission created by the Village Board.

(30) *Plat.* A map of a subdivision, and can be any of the following types:

a. *Final plat.* The final map of a subdivision together with any supplementary data described in these regulations which gives legal descriptions of property and is prepared and approved under these regulations, to be recorded by the County Register of Deeds.

b. *Preliminary plat.* A map showing the layout of a proposed subdivision submitted to the Village Plan Commission for its consideration as to compliance with the regulations contained in this chapter and the Village Comprehensive Plan, along with supplementary data as required in this chapter.

c. *Replat.* The process of changing, or a map or plat which changes the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat without changing exterior boundaries of the block, lot or outlot is not a replat.

(31) *Public hearing.* A public meeting conducted by a governmental body for the purpose of collecting testimony about a specific topic or item and which is specifically noticed under Wis. Stats. § 19.84.

(32) *Public improvement.* Any sanitary sewer, storm sewer, open channel, detention or retention basin for conveyance of storage of stormwater, water main, roadway, park, parkway, public access, path, multi-use path, planting strip or other facility for which the Village may ultimately assume the responsibility for maintenance and operation.

(33) *Public way.* Any public road, street, highway, alley, pathway, drainageway, or part thereof.

(34) *Restrictive covenants.* Contracts entered into between private parties or between private parties and public bodies pursuant to Wis. Stats. § 236.293 that constitute a restriction on the use of all private or platted property within a land division for the benefit of the public or property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

(35) *Road right-of-way.* A specific area of land intended for use as a means of travel or access to property which is dedicated to the public.

(36) *Shorelands.* Those lands as specified by chapter 11 of the Dane County ordinances within the following distances: 1,000 feet from the high-water elevation of navigable lakes, ponds and flowages or within 300 feet from the high-water elevation of navigable streams or to the landward side of the special flood hazard area as mapped by FEMA, whichever is greater. For the purpose of these regulations, the term "navigable" includes all non-intermittent streams indicated on the 7.5 minute series of the USGS quadrangle maps, and all lakes and ponds over 15 acres in surface area.

(37) *Street.* The paved portion of a road, and can be any of the following:

a. *Arterial street.* An arterial street provides for the movement of relatively large volumes of vehicular traffic to, from or within the Village. It has a secondary function of providing access to abutting land and shall be designed so that no development has direct access onto it.

b. *Collector street.*

1. *Rural collector street.* A rural collector street collects and carries traffic between arterial streets and local streets. It includes principal entrance streets to residential subdivisions and provides access to abutting property.

2. *Suburban collector street.* A suburban collector street collects and carries traffic within a residential neighborhood, between arterial streets and local streets.

c. *Cul-de-sac.*

1. *Rural cul-de-sac.* A rural cul-de-sac is a local street having one end open to traffic and the other end permanently terminated in a vehicular turnaround.

2. *Suburban cul-de-sac.* A suburban cul-de-sac is a local street within a residential neighborhood having one end open to traffic and the other end permanently terminated in a vehicular turnaround and shall include curb and gutter.

3. *Temporary cul-de-sac.* A temporary cul-de-sac is local street having one end open to traffic and the other end terminated in a vehicular turnaround until the street can be extended to connect to an adjoining development.

d. *Frontage street.* A frontage street is a local street used primarily to provide control of access and for service to the abutting development. It is located parallel to and adjacent to an arterial street, separated therefrom by a dividing strip of land.

e. *Local street.*

1. *Minor collector street.* A minor collector street is that street or segment thereof that connects a collector street to another collector street or that receives relatively large amounts of traffic from local streets in an adjoining residential neighborhood, or that is directly accessed from commercial, business or industrial property.

2. *Rural local street.* A rural local street is used primarily for access to abutting properties and leading to collector streets.

3. *Suburban local street.* Suburban local streets are generally the streets within a residential neighborhood. They connect to other local streets and major local streets, and may, depending on site conditions and projected traffic volumes, be permitted to connect directly to collector streets.

(38) *Street right-of-way.* See *Road right-of-way.*

(39) *Subdivider.* Any person that:

a. Having an interest in land, causes it, directly or indirectly, to be divided into a CSM, subdivision or condominium plat; or

b. Directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel, site, unit, or plat in a CSM, subdivision or condominium plat; or

c. Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease or development in a CSM, subdivision or condominium plat or any interest, lot, parcel, site, unit, or plat in a CSM, subdivision or condominium plat; and

d. Is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

(40) *Subdivision.* The division of a lot, parcel, or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where the act of division creates:

a. Five or more parcels or building sites of 1 1/2 acres each or less in area~~Five or more parcels or lots, at least one of which is 35 acres or less in area~~, except land divisions as defined in Sec. 38-89(7)b.;

b. Five or more parcels or building sites of 1 1/2 acres each or less in area created by successive divisions within a period of 5 years~~Five or more parcels or lots, at least one of which is 35 acres or less in area, are created by successive divisions within a period of five years, whether done by the original owner or a successor owner~~, except land divisions as defined in Sec. 38-89(7)b.; or

~~c. The establishment of a condominium development pursuant to Wis. Stats. ch. 703 shall be deemed to be a subdivision for purposes of this chapter.~~

(41) *Supplementary data.* Information required to be filed with a certified survey, subdivision or condominium plat as required by this chapter.

(42) *Terrace area.* The land between the normal location of the street curbing and path. Where there is no path, the area six feet from the curb line shall be deemed to be a terrace for the purpose of this chapter.

(43) *Urban service area.* That area in the Village in which sanitary sewer service is planned or which is served by public sewer facilities and that is designated on a map prepared and adopted by the Capital Area Regional Planning Commission.

(44) Utility District. A utility district created and controlled by the Village.

(45) *Wetlands*. An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and which has soils indicative of wet conditions.

(Ord. No. 2003-08, § 2.2, 8-21-2003)

Sec. 38-90. - Abrogation and greater restrictions.

It is not intended by this chapter to repeal abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to law. In laying out a subdivision, the owner shall conform to the provisions of Wis. Stats. ch. 236 and all applicable Village regulations. However, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Ord. No. 2003-08, § 1.4, 8-21-2003)

Sec. 38-91. - Interpretation; minimum requirements.

In interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by State law.

(Ord. No. 2003-08, § 1.5, 8-21-2003)

Sec. 38-92. - Chapter does not repeal, impair or modify private covenants; exceptions.

This chapter shall not repeal, impair or modify private covenants, except that it shall apply whenever it imposes stricter restrictions on land use.

(Ord. No. 2003-08, § 1.2(b), 8-21-2003)

Sec. 38-93. - Permits.

(a) *Building permits.* The Village shall not issue any building permit relating to any parcel of land forming all or any part of lands included in a subdivision, land division, replat, condominium plat or CSM originally submitted to the Village until the applicant has complied with all of the provisions and requirements of this chapter, and the subject lot is directly accessible from an improved public road and is served by water, sewer and private utilities, unless specifically permitted by the Village Board in a development agreement. [NOTE: Building permits lapse or expire as set forth in Sec. 10-70.]

(b) *Occupancy permits.* The Village shall not issue any occupancy permit for any building constructed on any lot within a subdivision until the required public improvements serving such lot have been accepted by the Village and, if applicable, the Utility District.

(Ord. No. 2003-08, § 3.2, 8-21-2003)

Sec. 38-94. - Variances and exceptions.

(a) *When permitted.* If in the judgment of the Village Board, and following consideration of the recommendation of the Village Plan Commission, it would be inappropriate to apply literally the provisions of this chapter because exceptional or undue hardship would result, the Village Board may waive or modify any requirements to the extent deemed just and proper. Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Plan Commission and Village Board in the analysis of the proposed project.

(b) *Required findings.* The Village Plan Commission shall not recommend nor shall the Village Board grant variances or exceptions to the regulations of this chapter unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;

(2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;

(3) Because of the physical surroundings, shape or topographical conditions of the specific property involved, a hardship to the owner would result, as distinguished from a mere inconvenience, financial hardship or self-imposed hardship, if the strict letter of the regulations were carried out.

(c) *Plan Commission to convey recommendations to Village Board.* Any recommendations by the Village Plan Commission shall be transmitted to the Village Board. The Village Board, if it approves of the variance, shall do so by resolution and instruct the Village Clerk to notify the subdivider.

(d) *Conditions for approval; required vote of Village Board.* Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this chapter or the desirable general development of the Village in accordance with the Village Comprehensive Plan, this chapter, or applicable zoning ordinance. A majority vote of the entire membership of the Village Board shall be required to grant any variance, and the reasons shall be entered in the minutes of the Village Board.

(Ord. No. 2003-08, § 8.1, 8-21-2003)

~~**Sec. 38-95.** - Subdivision created by successive land divisions.~~

~~When the Village Board determines that it is not practicable to require that a final plat of a subdivision created by successive divisions be filed in accordance with these regulations, the Village Board may order an assessor's plat to be made under Wis. Stats. § 70.27, and may assess the cost thereof to the subdivider or as provided in such section. Regardless of the type of plat filed, any such subdivision shall comply with all provision of these regulations to the extent that they may reasonably apply.~~

~~(Ord. No. 2003-08, § 3.4(f), 8-21-2003)~~

Sec. 38-96. - Enforcement.

It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this chapter or State law and no person shall be issued a building permit by the Village authorizing the building on, or improvement of, any subdivision, land division or replat within the jurisdiction of the Village. The Village may institute appropriate action or proceedings to enjoin violations of this chapter or applicable State law.

(Ord. No. 2003-08, § 8.2, 8-21-2003)

Secs. 38-97—38-120. - Reserved.

DIVISION 2. - PROCEDURE

Sec. 38-121. - Compliance with procedure mandatory.

Before any land is divided, the owner of the property or an authorized representative shall apply for and secure approval of the land division in accordance with the procedures provided in this article as well as all other procedural requirements of this chapter.

(Ord. No. 2003-08, § 4.1, 8-21-2003)

Sec. 38-122. - Preliminary consultation.

Before filing a concept plan, preliminary plat, condominium plat, or preliminary CSM, the applicant may consult with Village staff to review general land division requirements and information on meeting dates, agenda deadlines and application filing requirements.

(Ord. No. 2003-08, § 4.1(a), 8-21-2003; Ord. No. 2010-10, § 3, 9-16-2010)

Sec. 38-123. Director of Planning & Development authorized to accept applications.

The Director of Planning & Development shall be the official authorized to accept land division applications. In the absence of the Director of Planning & Development, applications may be accepted by the Village Clerk.

(Ord. No. 2003-08, § 4.1(b)(2), 8-21-2003; Ord. No. 2010-10, § 3, 9-16-2010)

Sec. 38-124. - Applications procedure.

All applications and fees shall utilize the unified application procedures as set forth in Section 38-1 of this chapter.

(Ord. No. 2003-08, § 4.1(b)(1), 8-21-2003; Ord. No. 2010-10, § 2, 9-16-2010)

Sec. 38-125. - Land suitability.

An applicant shall submit an environmental assessment and comply with the other requirements of Article V, Division 2 of this chapter at the time of initial application.

(Ord. No. 2003-08, § 4.1(b)(2), 8-21-2003; Ord. No. 2010-10, § 3, 9-16-2010)

Sec. 38-126. - Simultaneous applications for rezoning and land division extends statutory review period.

Land divisions shall comply with the applicable zoning map and regulations. In the event that the subdivider is proposing to rezone the property concurrently with the approval of a proposed preliminary plat, the subdivider may simultaneously submit both applications for review and approval; provided, however, that the subdivider executes a written waiver extending the statutory review period to include the final approval of the rezoning.

(Ord. No. 2003-08, § 4.1(b)(3), 8-21-2003)

Sec. 38-127. - Initial review of application.

Upon receiving a completed land division application for subdivision or land division and supporting documents from the applicant, the Director of Planning & Development shall examine the materials to determine that the submission is complete. A submission shall be considered complete if, and only if, the application is fully completed and signed and all materials required by this chapter are included.

(Ord. No. 2003-08, § 4.1(b)(2), 8-21-2003; Ord. No. 2010-10, § 3, 9-16-2010)

Sec. 38-128. - Concept plan.

(a) Before submitting an application for a land division or change in land use, the applicant may present a concept plan and other information deemed necessary to facilitate the review under the regulations of this chapter to the Village Plan Commission. The concept plan shall be prepared in accordance with this chapter. The applicant shall file 30 paper copies (or a lesser number, if so agreed by the Director of Planning & Development) and one electronic copy of the plan with the Director of Planning & Development at least 30 days (or fewer days, if so agreed by the Director of Planning & Development) prior to the meeting of the Plan Commission at which review is desired. The Director of Planning & Development may distribute copies of the concept plan to the following:

(1) Village Board;

(2) Village attorney;

(3) Village planner;

(4) Village engineer;

(5) Windsor Utilities Commission and Utility Engineer;

(6) DeForest Area Fire Protection District;

(7) Applicable school district.

(b) Escrow. An escrow deposit may be required per Section 38-1(3).

(Ord. No. 2003-08, § 4.1(b)(4), 8-21-2003; Ord. No. 2010-10, § 4, 9-16-2010)

Sec. 38-129. - Design criteria.

All land divisions shall comply with this chapter.

Secs. 38-130—38-156. - Reserved.

DIVISION 3. - PRELIMINARY PLATS

Sec. 38-157. - Application procedure.

Before submitting a final plat for approval, the subdivider shall prepare a preliminary plat for review and approval. Petitions for preliminary plats shall comply with the procedures and requirements as set forth in Section 38-1.

(Ord. No. 2003-08, § 4.2(a), 8-21-2003; Ord. No. 2010-10, § 5, 9-16-2010)

Sec. 38-158. - Review of preliminary plat.

(a) The 90-day statutory review period for preliminary plats established by Wis. Stats. § 236.11(1) shall commence upon submission of preliminary plat to the Director of Planning & Development. The 90-day statutory review period may be extended by agreement of the subdivider and Village. The Village may rely upon an email from the subdivider consenting to an extension of the 90-day statutory review period. The Director of Planning & Development, Village Clerk and/or Village President is/are authorized, on the Village's behalf, to accept a subdivider's request for an extension, or acknowledge the Village's and subdivider's agreement to any such extension.

(b) Upon receipt of the application for a preliminary plat, the Director of Planning & Development may distribute the copies to the following for review:

(1) Village engineer;

(2) Village planner;

(3) Village attorney;

(4) Village public works department;

(5) Village Parks & Recreation Committee and/or Token Creek Conservancy Committee;

(6) Windsor Utilities Commission and Utility Engineer;

(7) Applicable school district;

(8) DeForest Area Fire Protection District;

(9) Dane County Land Conservation Department.

(Ord. No. 2003-08, § 4.2(b), 8-21-2003)

Sec. 38-159. - Referral to other agencies.

(a) The subdivider shall be responsible for referring copies of the preliminary plat to each of the State agencies authorized to object to preliminary plats, as well as any other governing bodies that have approval jurisdiction over the preliminary plat, all pursuant to Wis. Stats. § 236.12. Prior to the Village Board's action on the preliminary plat, the subdivider shall provide the Director of Planning & Development with an affidavit certifying full compliance with these referral requirements.

(b) Within 20 days of the date of receiving the copies of the plat, any State or County agency having authority to object shall notify the subdivider, the Village and all approving or objecting authorities of any objection based upon failure of the preliminary plat to comply with State rules which its examination is authorized to cover, or if all objections have been satisfied, it shall so certify on the face of a copy of the plat and return that copy to the approving authority from which it was received. The preliminary plat shall not be approved or deemed approved until any objections have been satisfied.

(c) If an objecting agency fails to act within the 20-day limit it shall be deemed to have no objection to the plat. Utility Districts within the Village may file objections with the Village Board at any time prior to, and including, the Village Board's review of the preliminary plat.

(Ord. No. 2003-08, § 4.2(c), 8-21-2003)

Sec. 38-160. - Supplementary data to be filed with preliminary plat.

The following shall also be filed with the preliminary plat:

(1) *Use statement.* A summary statement of the proposed development, indicating the developer's intent, schedule of development, itemized proposed land uses, acreages, type and number of proposed dwelling units; maximum amount of commercial and industrial building footage that would be possible under the proposed zoning, types of business or industry so as to reveal the effect of the development projected average daily traffic, and increased fire hazards and congestion of population anticipated at build-out (two 8.5-inch by 11-inch pages maximum).

(2) *Information disclosing current zoning.* Current zoning should be shown on the preliminary plat, and if any zoning changes, variances or special exceptions are contemplated, the proposed zoning plan for the areas, including setbacks and dimensions shall be provided.

(3) *Area plan.* The subdivider shall provide a plan, drawn at an appropriate scale, showing the proposed subdivision, all adjoining and adjacent lands, adjoining and adjacent lands marked as owned by or controlled by the subdivider, and sufficient information about roads, utilities and drainage to show the relationship of the proposed subdivision with the surrounding area.

(4) *Road design report.* The subdivider shall provide road plans of typical cross sections and indicate existing grade and proposed centerline profile of all proposed roads within the preliminary plat boundary and extending a minimum of 100 feet therefrom. Such plans and profiles shall also address modifications to existing roads.

(5) *Soils investigation report.* The subdivider shall provide a preliminary soils report listing the results of all soil boring and percolation tests performed within the preliminary plat boundary, indicating the types of soil in the proposed subdivision. The Village Board may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to groundwater table.

(6) *Environmental assessment.* The subdivider shall file the final environmental assessment.

(7) *Stormwater management report.* Runoff calculations and proposed stormwater management facility plans for the proposed subdivision as it relates to the entire drainage basin in which it is located. Information must contain sufficient detail as required by the Village engineer to ascertain adequacy or deficiency of the proposed system.

(8) *Draft grading and erosion control plans for dedicated lands.* Draft grading and erosion control plans shall be submitted for lands dedicated or reserved for parks, playgrounds, drainageways, detention or retention ponds or other public use.

(9) *Area utility plan.* Draft plans shall indicate the existing and proposed location of all gas, electrical power, cable television and telephone distribution and transmission lines required to service the preliminary plat. The subdivider shall also provide written confirmation from all applicable utility agencies of intent to serve the subdivision.

(10) *Preliminary sanitary sewer and water system plans as required by the applicable Sanitary District.* If no sewers or water mains are located on or immediately adjacent to the plat, a map indicating the direction, distance to, size, and inverts of the sewers or water mains within 1,320 feet of the preliminary plat must be provided along with preliminary plans to extend sewer and water services to the subdivision.

(11) *Map showing location of water bodies and wetlands.* If there are streams, lakes, ponds, flowages, or wetlands within the preliminary plat or within 300 feet of the preliminary plat, an accurate map showing their location and normal water elevation must be provided.

(12) *Preliminary public facility plans.* Such plans shall include three paper copies and one electronic copy of all preliminary public facility plans, typical cross sections and profiles, engineering calculations, and required documents and reports prepared per the requirements of these regulations.

Sec. 38-161. - Technical requirements.

(a) *Generally*. A Preliminary Plat shall meet all surveying and layout requirements per Wis. Stats. § 236.15, 236.16, and 236.18, and shall satisfy all technical information and data requirements of a Final Plat per Wis. Stats. § 236.20 and 236.21. In addition, both the Preliminary and Final Plat shall include the following information on each: ~~A preliminary plat shall be required for all subdivisions and shall be based upon an accurate exterior boundary and topographic survey prepared by a registered land surveyor and shall include the following minimum information on the face of the drawing.~~

~~(1) Title under which the proposed subdivision is to be recorded;~~

~~(2) Legal description by government lot, quarter section, township, range, county and state;~~

~~(3) Location map;~~

(~~4~~1) Date of original drawing and all revisions;

~~(5) North arrow;~~

~~(6) Names and addresses of the owner, subdivider and land surveyor preparing the plat;~~

~~(7) Surveyor's affidavit certifying full compliance with Wis. Stats. ch. 236 and these regulations;~~

~~(8) Drawn at a scale of not more than one inch per 100 feet;~~

~~(9) Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to two section corners established in the Federal public land survey and the total acreage encompassed thereby;~~

(~~10~~2)Locations of all existing parcel lines within the plat boundary;

~~(11) Lot numbering. All lots are to be consecutively numbered;~~

~~(12) Lot data. Approximate dimensions and the area in square feet of each lot;~~

(~~1~~3) Density characteristics. Total number of dwelling units, the percentage mix of unit types (i.e.: single-family, multifamily, etc.), and the density of the development (excluding drainage outlots);

(~~1~~4) Building setback lines required by the applicable zoning ordinance and the proposed building envelopes as required by these regulations;

(~~1~~5) Location and ~~approximate~~ dimensions of any sites to be dedicated or reserved for parks, playgrounds, drainageways, detention or retention ponds or other public use. ~~Draft g~~Grading and erosion control plans shall be submitted for dedicated lands;

(~~1~~6) Location of all existing structures, paved or gravel drives, fences, water wells, dry wells, cisterns, on-site wastewater treatment facilities, rock outcrops, wooded areas, railroad tracks and other significant features within the boundaries of the ~~preliminary~~ plat or within 100 feet therefrom;

(~~1~~7) Location and width of all existing roads, alleys or other public ways, easements, railroad and utility rights-of-way within the boundaries of the plat and within 100 feet therefrom;

(~~1~~8) All section and quarter section lines within the exterior boundaries of the plat and within 100 feet therefrom;

(~~1~~9) Existing and proposed zoning within and adjacent to the exterior boundaries of the plat and within 100 feet therefrom;

(1~~2~~0)Location and names of any adjacent subdivisions, public parks, cemeteries and owners of record of abutting unplatted lands;

(1~~21~~)Type, width and centerline elevation of any existing road pavements, curb and gutter and roadside ditches within the exterior boundaries of the preliminary plat or within 100 feet therefrom;

(~~23~~12) Corporate limit lines within the exterior boundaries of the preliminary plat and within 100 feet therefrom;

~~(24) Contours within the exterior boundaries of the preliminary plat and within 100 feet of the exterior boundary, including the entire width of the rights-of-way of adjacent public roads, or greater distance as may be required by the Village engineer. Contours should be drawn to national map accuracy standards at vertical intervals of not more than two feet. At least one permanent benchmark per preliminary plat shall be located in the immediate vicinity of the plat. The location of the benchmarks shall be indicated on the preliminary plat, together with their elevations referenced to mean sea level datum and the monumentation of the benchmarks shall be clearly and completely described;~~

(~~25~~13) Boundary of all wetlands mapped by the State wetland inventory, and where applicable the NRCS wetland map, that are within the boundary of the preliminary plat or within 100 feet therefrom;

(~~26~~14) Ordinary high-water elevation and meander lines, if available, of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom;

(~~27~~15) Special flood hazard area boundaries as mapped by the FEMA that are within the proposed plat or 100 feet therefrom;

(~~28~~16) Floodway and floodplain within the proposed plat or 100 feet therefrom;

~~(29) Soil types and their boundaries, as shown on the operational soil survey maps prepared by the Department Of Natural Resources or the Federal Natural Resources Conservation Service;~~

~~(30) Location of any soil boring tests conducted within the exterior boundaries of the preliminary plat;~~

(~~31~~17) Delineation of areas with depths from the existing and proposed ground surfaces of less than three feet to groundwater and six feet to bedrock;

~~(32) Location of all percolation tests within the exterior boundaries of the plat conducted in accordance with State law and administrative rules, where the subdivision will not be served by public sanitary sewer service;~~

(~~33~~18) Location, width and names of all proposed roads and public rights-of-way;

~~(34) Approximate centerline radii of all road curves;~~

(~~35~~19) Location and approximate dimensions of all easements for public and private utilities;

(~~36~~20) Location and approximate dimension of all easements for stormwater facilities and erosion and sedimentation control facilities;

~~(37) Contours of proposed final grades within the boundaries of the preliminary plat shall be shown on the grading plan;~~

~~(38) Location and dimensions of any proposed lake and stream improvement or relocation;~~

(~~39~~21) Proposed phasing of the development.

(b) *Preliminary Plat Specific Information*. A Preliminary Plat shall include the following additional information on its face:

(1) Location, size and direction of flow of any existing sanitary sewers, storm sewers, culverts and bridges, the location and rim and invert elevations of existing manholes and catch basins, the location and size of any existing water mains, valves and hydrants, the location of any existing electric, telephone and cable television facilities, whether overhead or underground and the location of existing gas mains and valves within the exterior boundaries of the preliminary plat and within 100 feet therefrom;

(2) Contours within the exterior boundaries of the preliminary plat and within 100 feet of the exterior boundary, including the entire width of the rights-of-way of adjacent public roads, or greater distance as may be required by the Village engineer. Contours should be drawn to national map accuracy standards at vertical intervals of not more than two feet. At least one permanent benchmark per preliminary plat shall be located in the immediate vicinity of the plat. The location of the benchmarks shall be indicated on the preliminary plat, together with their elevations referenced to mean sea level datum and the monumentation of the benchmarks shall be clearly and completely described. Contours of proposed final grades within the boundaries of the preliminary plat shall be shown on the grading plan;

(3) Soil types and their boundaries, as shown on the operational soil survey maps prepared by the Department Of Natural Resources or the Federal Natural Resources Conservation Service;

(4) Location of any soil boring tests conducted within the exterior boundaries of the preliminary plat;

(5) Location of all percolation tests within the exterior boundaries of the plat conducted in accordance with State law and administrative rules, where the subdivision will not be served by public sanitary sewer service;

(7) Location and dimensions of any proposed lake and stream improvement or relocation;

(b) *Additional information.* Where the Village Plan Commission, Village Board, Village attorney, Village engineer or Village planner finds that it requires additional information relative to the proposed development or lands immediately adjacent, it shall have the authority to request in writing such information from the subdivider who shall prepare and provide such information in a timely manner for the Village to review.

(Ord. No. 2003-08-644, 8-21-2003)

Sec. 38-162. - Village Plan Commission review; public hearing.

In consultation with the Director of Planning & Development, the Village Clerk shall schedule a public hearing of the Village Plan Commission and shall publish notice of the hearing as provided by law. Notice of the hearing shall also be mailed to owners of property located within 500 feet of the proposed subdivision.

(Ord. No. 2003-08-644(a), 8-21-2003)

Sec. 38-163. - Standards for approval.

Both the Village Plan Commission and Village Board in their review and action on the proposed preliminary plat will consider the following standards. No preliminary plat shall be approved unless the subdivider presents clear and convincing evidence that:

(1) If in the urban service area or proposed to be in the urban service area, that adequate provision has been made for a water supply system that is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water for the type of subdivision proposed;

(2) If in the urban service area or proposed to be in the urban service area, that adequate provision has been made for a public sewerage system to serve the development;

(3) If in an area outside of the urban service area, the proposed water supply system is sufficient in terms of quantity, dependability, and quality to provide an appropriate supply of water and comply with all Federal, State, and County laws and regulations;

(4) If in an area outside the urban service area, that the proposed wastewater treatment system will comply with all Federal, State, and County laws and regulations;

(5) All required public facilities have been designed in accordance with the standards of the Village and these regulations;

(6) All areas within the proposed subdivision which may involve special soil, topographical, special and unique environmental conditions, and surface and groundwater features have been identified and that the proposed use has been designed and planned to be compatible with or to have minimal impacts on such conditions and features;

(7) The proposed subdivision will not result in scattered subdivision of land that leaves undeveloped parcels lacking urban services between developed parcels;

(8) The subdivision conforms to the Village Comprehensive Plan, Village's Official Map and Zoning Ordinance and Map;

(9) The subdivider has taken every effort to mitigate the impacts of the proposed subdivision on the public health, safety and welfare;

(10) All requested documents and information have been submitted to the Village.

(Ord. No. 2003-08, § 4-5(p), 8-21-2003)

Sec. 38-164. - Plan Commission recommendation.

After review of the preliminary plat, which may require more than one meeting within the 90-day statutory review period, the Village Plan Commission shall recommend to the Village Board ~~disapproval,~~ approval~~, or~~ conditional approval, or rejection of the preliminary plat.

(Ord. No. 2003-08, § 4-5(q), 8-21-2003)

Sec. 38-165. - Village Board notice.

The Village Clerk shall give notice of the Village Board's review on the preliminary plat. The notice shall include the name of the applicant, the address of the property in question and the requested action. An agenda that meets the requirements for a duly noticed meeting of the Village Board shall satisfy this requirement.

(Ord. No. 2003-08, § 4-5(r), 8-21-2003)

Sec. 38-166. - Village Board action.

After receipt of the Village Plan Commission's recommendation, the Village Board shall, within 90 days of the date the preliminary plat was filed with the Village, approve, approve conditionally or reject such plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. The Village may rely upon an email from the subdivider consenting to an extension of the 90-day statutory review period. The Director of Planning & Development, Village Clerk and/or Village President is/are authorized, on the Village's behalf, to accept a subdivider's request for an extension, or acknowledge the Village's and subdivider's agreement to any such extension. Failure of the Village Board to act within 90 days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The Village Clerk shall communicate to the subdivider, in writing, the action of the Village Board.

(Ord. No. 2003-08, § 4-5(s), 8-21-2003; Ord. No. 2010-10, § 6, 9-10-2010)

Sec. 38-167. - Preliminary plat approval.

(a) The preliminary plat approval shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the Village Plan Commission and Village Board at the time of its submission. Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat. Only a final plat submitted within 36 months of preliminary plat approval, which conforms substantially to the preliminary plat layout, the final plat incorporating all or part of the area encompassed in the preliminary plat, shall be entitled to approval with respect to such layout per Wis. Stats. § 236.11(1)(b).

(b) If a final plat has not been submitted within the 36-month period, then the preliminary plat is null and void and the subdivider must restart the subdivision process beginning with the preliminary consultation step. An extension may be granted by the Village Board for good cause. Any such extension must be requested in writing by the subdivider and extended by written agreement.

(Ord. No. 2003-08, § 4-5(t), 8-21-2003)

Sec. 38-168. - Preliminary plat amendment.

Should the subdivider desire to amend the preliminary plat as approved, the subdivider may resubmit the amended preliminary plat which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the Director of Planning & Development, of such scope as to constitute a new plat, in which such case it shall be refiled.

(Ord. No. 2003-08, § 4-5(u), 8-21-2003)

Secs. 38-169—38-189. - Reserved.

DIVISION 4. - FINAL PLATS

Sec. 38-190. - Conformity with approved preliminary plat and applicable law required.

(a) The final plat shall substantially conform to the preliminary plat as approved and to the requirements of all applicable ordinances and State laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Wis. Stats. § 236.12(2).

(b) The final plat shall be examined by the Director of Planning & Development, Village engineer, Village planner, Village attorney or other qualified staff to determine whether the final plat conforms substantially to the preliminary plat. Any such conclusions shall be made a part of the record of any meeting at which the final plat is considered.

(Ord. No. 2003-08, § 4.6(c), 8-21-2003; Ord. No. 2010-09, § 1, 8-19-2010)

Sec. 38-191. - Application procedure.

(a) Petitions for final plats shall comply with the procedures and requirements as set forth in Section 38-1

(b) Deadline for filing. See Section 38-167

(Ord. No. 2003-08, §§ 4.6(a), 4.9(a), 8-21-2003; Ord. No. 2010-09, § 2, 8-19-2010; Ord. No. 2010-10, § 7, 9-16-2010)

Sec. 38-192. - Public improvement plans and specifications to be filed with final plat.

Simultaneously with the filing of the final plat or map, the subdivider shall file with the Village engineer and Village Clerk three paper copies and one electronic copy of the final plans and specifications of public improvements required by this chapter.

(Ord. No. 2003-08, § 4.6(d), 8-21-2003; Ord. No. 2010-10, § 8, 9-16-2010)

Sec. 38-193. - Referral to other agencies.

Pursuant to Wis. Stats. § 236.12, the subdivider shall be responsible for referring copies of the final plat to each of the State agencies authorized to object to the final plats, as well as the other governing bodies that have an approval jurisdiction over the plat. Prior to the Village Board's action on the final plat, the subdivider shall provide the Director of Planning & Zoning with an affidavit certifying full compliance with these referral requirements.

(Ord. No. 2003-08, § 4.6(b), 8-21-2003)

Sec. 38-194. - Supplementary data to be filed with final plat.

The subdivider shall submit the following documents which shall be considered to be incorporated with and made a part of the final plat:

(1) *Deed restrictions.* Restrictive covenants and deed restrictions for the proposed subdivision.

(2) *Certified title report.* A certified title report and such other evidence as the Village attorney may require showing title or control in the applicant.

(3) *Property owner's association agreements.* If the subdivider proposes that common property or common elements within a subdivision or condominium would be owned or maintained by an organization of property owners or a subunit of the Village pursuant to Wis. Stats. § 236.293, the subdivider shall submit a document of the legal instruments and rules for the proposed association.

(4) *Joint maintenance agreements.* The legal instruments allocating maintenance responsibilities for any facilities owned jointly by more than one lot owner, including, but not limited to, joint well or driveway agreements.

(5) *Developer's agreement.* The legal instrument allocating subdivision and facility construction responsibilities of the subdivider, in compliance with the following:

a. The development agreement shall constitute a binding agreement between the Village and subdivider and shall contain those terms and conditions negotiated to and agreed upon by the parties.

b. The terms and conditions of the agreement shall be consistent with the standard development agreement approved by the Village Board, except as otherwise approved by the Village Board. The Village is under no obligation to approve the agreement and may only do so when it finds the terms and conditions to be favorable to the public interest.

c. Except as may otherwise be expressly provided in the development agreement, the development agreement shall create no rights enforceable by any party which is not a signatory of the agreement.

d. The development agreement shall include a clause that the Village's duties under the agreement are expressly conditioned upon the subdivider's substantial compliance with each term, condition, provision, and covenant of the agreement, and all applicable Federal, State, and local laws and regulations.

(6) *Certificates.* All certificates required by Wis. Stats. ch. 236.

(7) *Engineering reports, construction plans, specifications, and opinion of probable cost.* The following plans and reports are required:

a. *Final road plan.* Plans, profiles, and specifications showing existing and proposed grades, elevations and cross sections and materials.

b. *Pavement design report.* Soil analysis and calculations for subbase, subgrade and pavement.

c. *Final stormwater management plan.* Plans, profiles, specifications, and design calculations and data, showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.

d. *Final erosion and sedimentation control plan.* Plan and specifications showing site grading, surface treatment, structures, and site management required to for compliance with Village and Dane County ordinances.

e. *Soil and subsurface investigation report.* Report and analysis of soil borings made at the direction of the Village engineer.

f. *Traffic control plan.* A plan and procedures for maintaining safe traffic movement on adjoining roads during construction of the public improvements.

g. *Water and sewer plans.* The subdivider shall provide certification that final water and sewer facility plans have been submitted to the appropriate Sanitary District.

h. *Opinion of probable cost.* Specifications, estimated quantities and costs of constructing all required public improvements.

i. *Landscaping and restoration plan.* The subdivider shall provide a planting layout and restoration plan for all publicly dedicated lands including roads, parks, and drainage facilities. The plan and specifications shall show the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.

j. *Utility relocation plan.* Plans for any necessary alterations of any existing utilities which, by virtue of the plat, require relocation and fall within the public right-of-way. The subdivider shall be responsible for the cost of any necessary alterations of any and all such utilities, all in a manner acceptable to the utility and the Village.

k. *Additional plans or information.* Additional special plans or information as required by the Village.

(8) *Road names.* The historical basis, if any, for the road names other than extensions of existing roads.

Sec. 38-195. - Technical requirements.

(a) *Generally.* A Final Plat shall meet all surveying and layout requirements per Wis. Stats. § 236.15, 236.16, and 236.18, and shall satisfy all technical information and data requirements of Wis. Stats. § 236.20 and 236.21.

In addition, the Final Plat shall include all information required per Sec. 38-161(a).~~The final plat shall be prepared by a registered land surveyor and shall comply in all respects with Wis. Stats. § 236.20 and these regulations. All final plats shall meet all the surveying and monumenting requirements of Wis. Stats. § 236.15. The final plat shall include the following information correctly on its face:~~

~~(1) Title under which the proposed subdivision is to be recorded;~~

~~(2) Legal description by government lot, quarter section, township, range, county and state;~~

~~(3) Location map;~~

~~(4) Date of original drawing and all revisions;~~

~~(5) North arrow;~~

~~(6) Names and addresses of the owner, subdivider and land surveyor preparing the plat;~~

~~(7) Surveyor's affidavit certifying full compliance with Wis. Stats. ch. 236 and these regulations;~~

~~(8) Drawn at a scale of not more than one inch per 100 feet;~~

~~(9) Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to two section corners established in the Federal public land survey and the total acreage encompassed thereby;~~

~~(10) Locations of all existing parcel lines within the plat boundary;~~

~~(11) Lot numbering. All lots are to be consecutively numbered;~~

~~(12) Lot data. Approximate dimensions and the area in square feet of each lot;~~

~~(13) Density characteristics. Total number of dwelling units, the percentage mix of unit types (i.e.: single-family, multifamily, etc.), and the density of the development (excluding drainage outlets);~~

~~(14) Building setback lines required by the applicable zoning ordinance and the proposed building envelopes as required by these regulations;~~

~~(15) Location and approximate dimensions of any sites to be dedicated or reserved for parks, playgrounds, drainageways, detention or retention ponds or other public use. Draft grading and erosion control plans shall be submitted for dedicated lands;~~

~~(16) Location of all existing structures, paved or gravel drives, fences, water wells, dry wells, cisterns, on-site wastewater treatment facilities, rock outcrops, wooded areas, railroad tracks and other significant features within the boundaries of the plat or within 100 feet therefrom;~~

~~(17) Location and width of all existing roads, alleys or other public ways, easements, railroad and utility rights-of-way within the boundaries of the plat and within 100 feet therefrom;~~

~~(18) All section and quarter section lines within the exterior boundaries of the plat and within 100 feet therefrom;~~

~~(19) Existing and proposed zoning within and adjacent to the exterior boundaries of the plat and within 100 feet therefrom;~~

~~(20) Location and names of any adjacent subdivisions, public parks, cemeteries and owners of record of abutting unplatted lands;~~

~~(21) Type, width and centerline elevation of any existing road pavements, curb and gutter and roadside ditches within the exterior boundaries of the plat or within 100 feet therefrom;~~

~~(22) Corporate limit lines within the exterior boundaries of the plat and within 100 feet therefrom;~~

~~(23) Boundary of all wetlands mapped by the State wetland inventory, and where applicable the NRCS wetland map, that are within the boundary of the plat or within 100 feet therefrom;~~

~~(24) Ordinary high-water elevation and meander lines, if available, of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat or located within 100 feet therefrom;~~

~~(25) Special flood hazard area boundaries as mapped by the FEMA that are within the proposed plat or 100 feet therefrom;~~

~~(26) Floodway and floodplain within the proposed plat or 100 feet therefrom;~~

~~(27) Delineation of areas with depths from the existing and proposed ground surfaces of less than three feet to groundwater and six feet to bedrock;~~

~~(28) Location, width and names of all proposed roads and public rights-of-way;~~

~~(29) Approximate centerline radii of all road curves;~~

~~(30) Location and approximate dimensions of all easements for public and private utilities;~~

~~(31) Location and approximate dimension of all easements for stormwater facilities and erosion and sedimentation control facilities;~~

~~(32) Proposed phasing of the development;~~

(b) *Final Plat Specific Information.* A Final Plat shall include the following additional information:

(~~33~~1)Exact length and bearing of the centerline of all roads within and adjoining the plat;

(~~34~~2)Exact street width along the line of any obliquely intersecting road;

(~~35~~3)Railroad rights-of-way within and abutting the plat;

(~~36~~4)Setback, building lines or building envelope lines;

(~~37~~5)All lands to be dedicated or reserved for future public acquisition or reserved for the common use of property owners with the plat;

(~~38~~6)Special restrictions required by the Village Board relating to access control along public ways or as to the installation and maintenance of landscape buffers;

(~~39~~7)Exact location and description of all easements;

(~~40~~8)Drainage arrows at all lot lines showing the direction of all drainage upon final grading of the plat.

(Ord. No. 2013-08, § 1-8, 5-21-2013)

Sec. 38-196. - Village Plan Commission review; public hearing.

(a) *Notice of public hearing.* The Village Clerk shall schedule a public hearing by the Village Plan Commission and shall publish notice of the hearing as provided by law. Notice of the hearing shall also be mailed to owners of property located within 500 feet of the proposed subdivision.

(b) *Scope of review.* The Village Plan Commission shall examine the final plat as to its conformance with the approved preliminary plat, any conditions of approval of the preliminary plat, this chapter, and all applicable ordinances, rules, regulations, and the Village Comprehensive Plan.

(c) *Recommendation.* After review of the final plat, which may require more than one meeting within the 60-day statutory review period, the Village Plan Commission shall make a recommendation of approval, conditional approval or rejection of the plat to the Village Board.

(d) *Partial platting.* The final plat may, if permitted by the Village Board, include only that portion of the approved preliminary plat which the subdivider proposes to record at the time.

(Ord. No. 2009-08, § 4-8(c), 9-21-2009; Ord. No. 2010-10, § 7, 9-16-2010)

Sec. 38-197. - Village Board review and determination.

(a) *Time for completion.* Per Wis. Stats. § 236.11(2)(a), the Village Board shall, within 60 days of the date of filing the original final plat with the Village Clerk, approve, conditionally approve or reject such plat unless the time is extended by agreement with the subdivider. The Village may rely upon an email from the subdivider consenting to an extension of the 60-day period. The Director of Planning & Development, Village Clerk

and/or Village President is/are authorized, on the Village's behalf, to accept a subdivider's request for an extension, or acknowledge the Village's and subdivider's agreement to any such extension.

(b) *Objections.* The objecting State and County agencies shall, within 20 days of the date of receiving their copies of the final plat, notify the subdivider and all other approving and objecting agencies of any objections, except that the State Department of Administration has 30 days in which to make objections. If there are no objections, they shall so certify on the face of the copy of the final plat and shall return that copy to the Village. If an objecting agency fails to act within 20 days, or extension thereof, it shall be deemed to have no objection to the plat.

(c) *Effect of failure of Board to timely act.* Failure of the Village Board to act within 60 days from filing, provided that the time has not been extended.

(d) *Distribution of final plat copies.* The subdivider shall file copies of the final plat with the approving/objecting agencies, affected Sanitary Districts, and other affected agencies.

(e) *Certificate of notice to objecting agencies required.* The Village Board may not inscribe its approval on the final plat unless the Village Clerk certifies on the face of the plat that the copies were forwarded to approving/objecting agencies as required herein, the date thereof and that no objections have been filed within 20 days or, if filed, have been satisfied.

(f) *Notice of intent to take action.* Per Wis. Stats. § 236.15(2)(a), the Village Board shall give at least ten days written notice, to the municipal clerk of any city or village whose boundary lies within 1,000 feet of the final plat, of the Village Board's intention to take action on the final plat.

(g) *Procedure for rejection.* If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider.

(h) *Prerequisites to signing of final plat.* Unless specifically authorized by the Village Board, the Village Clerk shall not sign the final plat until the Village Board has received and approved a development agreement executed by the subdivider, the subdivider has paid all outstanding fees and charges relating to the review of the subdivision, the subdivider has deposited acceptable surety with the Village Clerk for the completion of the required public improvements, and the subdivider has filed proof of recording of all deed restrictions, covenants, agreements or other documents required to be recorded with the Register of Deeds as a condition of approval. In the event any such document may not be recorded prior to the recording of the plat, the subdivider shall provide duplicate originals of all such documents along with written authorization for the Village to record such documents, at the subdivider's expense, in the event they are not recorded at the same time as the plat.

(i) *Clerk's certificate of approval required.* After the final plat has been approved by the Village Board and required improvements either installed or a contract and sureties insuring their installation is filed, the Village Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the Dane County Register of Deeds.

(Ord. No. 2003-08, § 4.9(b), (c)(1), 8-21-2003; Ord. No. 2010-11, § 1(4.9(c)(1), (d)), 9-16-2010; Ord. No. 2010-10, §§ 10, 11, 9-16-2010)

Sec. 38-198. - Recordation.

Per Wis. Stats. § 236.11(1)(b), the subdivider shall record the final plat with the Dane County Register of Deeds within 36 months after the date of the last required approval. Failure to do so shall necessitate a new review and reapproval by the Village Board. The subdivider shall provide a copy of the recorded documents to the Village Clerk.

(Ord. No. 2003-08, § 4.9(c)(2), 8-21-2003)

Secs. 38-199—38-219. - Reserved.

DIVISION 5. - REPLATS

Sec. 38-220. - Vacation or alteration of recorded plat required.

Except as provided in Wis. Stats. § 70.27(1), when it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in Wis. Stats. §§ 236.36—236.44.

(Ord. No. 2003-08, § 4.10(a), 8-21-2003)

Sec. 38-221. - Application procedure.

A petition for replat shall comply with the procedures and requirements as set forth in Section 38-1 of this chapter.

(Ord. No. 2003-08, § 4.10(a), 8-21-2003)

Sec. 38-222. - Replat requirements.

Replats shall comply with the requirements for preliminary plats as specified in division 3 of this article and for final plats as specified in division 4 of this article.

Sec. 38-223. - General procedure applies after public hearing and approval.

The subdivider shall proceed after public hearing, using the procedures for preliminary and final plats.

(Ord. No. 2003-08, § 4.10(a), 8-21-2003)

Secs. 38-224—38-254. - Reserved.

DIVISION 6. - CERTIFIED SURVEY MAPS

Sec. 38-255. - When permitted; purpose.

~~When an owner proposes to divide land into two or no more than four lots or parcels, any one of which is less than 35 acres, or when an owner proposes to divide a block, lot or outlot into not more than four lots or parcels within a recorded plat without changing the boundaries of the block, lot or outlot, the owner or land divider may divide the land by use of a CSM, prepared in accordance with Wis. Stats. § 236.34 and this chapter.~~

Land may be divided by CSM provided it is prepared in accordance with Wis. Stats. § 236.34 and in full compliance with the applicable provisions of this chapter. A CSM may be used to divide land, including the division of a block, lot, or outlot in a recorded plat, into not more than four lots or parcels, or not more than XXX lots or parcels, where zoned for commercial, industrial, or mixed-use development.

(Ord. No. 2003-08, § 4.11, 8-21-2003)

Sec. 38-256. - Application procedure.

A petition for a CSM shall comply with the procedures and requirements as set forth in Section 38-1 of this chapter.

Sec. 38-257. - Map content and supporting documentation.

The CSM shall show correctly on its face all of the information required by Wis. Stats. § 236.34. The CSM shall also include the entire boundary of any remnant parcel. In addition, the subdivider shall submit the following documents which shall be considered to be incorporated with and made a part of the CSM:

(1) *Deed restrictions.* Restrictive covenants and deed restrictions for the proposed CSM.

(2) *Joint maintenance agreements.* The legal instruments allocating maintenance responsibilities for any facilities owned jointly by more than one lot owner, including, but not limited to, joint well or driveway agreements.

(3) *Certificates.* All certificates required by Wis. Stats. § 236.34.

(4) *Engineering reports, construction plans, specifications, and opinion of probable cost.* The following plans and reports are required to be submitted with the final CSM unless prior written approval has been obtained from the Village engineer:

a. *Final road plan.* Plans, profiles, and specifications showing existing and proposed grades, elevations and cross sections and materials.

b. *Design report.* Soil analysis and calculations for subbase subgrade and pavement.

c. *Final stormwater management plan.* Plans, profiles, specifications, and design calculations and data, showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.

d. *Final erosion and sedimentation control plan.* Plan and specifications showing site grading, surface treatment, structures, and site management required to for compliance with Village and Dane County ordinances.

e. *Soil and subsurface investigation report.* Report and analysis of soil borings made at the direction of the Village engineer.

f. *Landscaping and restoration plan.* Plan and specifications showing the locations, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.

g. *Traffic control plan.* A plan and procedures for maintaining safe traffic movement on adjoining roads during construction of the public improvements.

h. *Water and sewer plans.* Where applicable, the subdivider shall provide certification that final water and sewer facility plans have been submitted to, and approved by the appropriate Sanitary District.

i. *Opinion of probable cost.* Specifications, estimated quantities and costs of constructing all required public improvements.

j. *Additional plans or information.* Additional special plans or information as required by the Village.

(5) *Surveying and ~~monumenting~~layout.* All CSMs shall meet all the surveying and layout requirements per Wis. Stats. § 236.15, 236.16, and 236.18~~surveying and monumenting requirements of Wis. Stats. § 236.15~~.

(6) *Road dedication.* Dedication of roads and other public areas shall require, in addition, the owner's certificate and the mortgagee's certificate in substantially the same form as required by Wis. Stats. § 236.21(2)(a).

(Ord. No. 2003-08, § 4 [Mod. 8-21-2003])

Sec. 38-258. - Village Plan Commission and Village Board action.

The CSM shall be reviewed, and approved, conditionally approved, or ~~disapproved~~ rejected by the Village Plan Commission and the Village Board pursuant to the preliminary plat review and approval procedures in Division 3 of this article.

(Ord. No. 2003-08, § 4 [Mod. 8-21-2003])

Sec. 38-259. - Recordation.

Per Wis. Stats. § 236.34(2), the land divider shall record the CSM with the Dane County Register of Deeds within 12 months after the date of the last approval and within 36 months after the date of the first approval by the Village Board and any other approving agencies. Failure to do so shall necessitate a new review and reapproval of the CSM by the Village Board. The land divider shall provide a copy of the recorded documents to the Village Clerk. The Village Clerk shall not execute the CSM until provided with satisfactory fulfillment of the requirements of Section 38-257 by the land divider.

(Ord. No. 2003-08, § 4 [Mod. 8-21-2003])

Secs. 38-260—38-281. - Reserved.

DIVISION 7. - ENGINEERING REPORTS AND PLANS

Sec. 38-282. - Preparation and submission.

Engineering, design and preparation of reports, construction plans and specifications for the required improvements conforming in all respects with the requirements and standards of the Village shall, at the sole expense of the applicant, be prepared by a professional engineer who is registered in the State and the plans shall contain the engineer's seal. Such plans, together with the quantities of construction items, and estimates of probable costs shall be submitted to the Village engineer as part of the approval process for a final plat, CSM, or condominium development.

(Ord. No. 2003-08, § 6.3(b), 8-21-2003)

Sec. 38-283. - Action by the Village engineer.

The Village engineer shall review or cause to be reviewed, such required reports, plans and specifications for conformance with this chapter and other pertinent Village ordinances. If the plans are acceptable and correct, the Village engineer shall provide a statement of "no objection" to the Village Board prior to its action on the proposed final plat, CSM, or condominium development.

(Ord. No. 2003-08, § 6.3(c), 8-21-2003)

Sec. 38-284. - Construction, observation and acceptance.

(a) *Preconstruction meeting.* Prior to the construction of any public improvements related to an approved land division in the Village, the land divider shall contact the Village engineer and arrange for a preconstruction meeting involving the Village engineer, the subdivider's contractors, and representatives of all public and private utilities affected by the construction of the improvements for the purpose of reviewing and coordinating all pertinent items and procedures related to construction.

(b) *Written authorization to proceed.* After the final plat has been approved, executed, recorded, and all outstanding fees have been paid, the subdivider shall obtain written authorization to proceed with construction from the Village engineer prior to starting any of the work covered by the final plans. Written authorization to start the work shall be obtained from the Village engineer upon receipt of all necessary permits, any required certificates of insurance, notice from the applicable Sanitary District that the District has approved water or sanitary sewer plans and specifications and has authorized construction of such improvements, and notice that all associated fees have been paid to the Village.

(c) *Time for completion of required improvements.* Construction of all improvements required by this chapter and/or the development agreement by and between the Village and subdivider shall be completed within two years from the date of approval of the final plat. If the Village Board allows construction in phases, the subdivider shall provide a phasing schedule which shall be incorporated in the development agreement and bind the subdivider. The requirement for completion within two years shall apply to the first phase as designated in the phasing schedule. Thereafter, the two year time for completion shall apply to subsequent phases running from the date of the Village Board's approval of the phase to completion. If the subdivider fails to meet the completion deadlines, and in addition to other remedies available by law, the Village Board may suspend its earlier approval of subsequent phases of the development and/or impose additional requirements on the subdivider as the Village Board deems reasonable and necessary. The Village Board may grant an extension to the time for completion upon a written request from the subdivider for good cause and subject to such conditions as determined by the Village Board. For purposes of this Section 38-284, public improvements reasonably necessary for a project or a phase of a project are considered to be substantially completed at the time the binder coat is installed on roads to be dedicated or, if the required public improvements do not include a road to be dedicated, at the time that 90 percent of the public improvements by cost are completed.

(d) *Periodic inspections and enforcement.* During the course of construction, the Village engineer shall make such observations as necessary to ensure compliance with the plans and specifications. The Village engineer may stop all work or direct the correction of any situation regarding the public improvements required by this chapter for any bona fide reason by notifying the person in charge of the job site. The subdivider is responsible for and shall make any corrections, including removal and reconstruction of completed components of the improvement to the satisfaction of the Village engineer.

(Ord. No. 2003-08, § 6.3(d)(1)—(5), 8-21-2003)

Sec. 38-285. - Record plans.

After completion of all public improvements and prior to final acceptance of the improvements, the land divider shall make, or cause to be made, record plans showing the actual location of all manholes, stubs, storm sewers, detention facilities, curb and gutter, path and road improvements, water mains, valves, hydrants and lift stations and such other facilities as the Village engineer and Utility engineer shall require. This record plan shall bear the signature and seal of a professional engineer registered in the State. Duplicate record plans shall also be delivered to the Village, the Utility engineer and the Windsor Utilities Commission. The delivery of the record plan to the Village engineer and Utility engineer shall be a condition of final acceptance of the improvements and the release of the guaranty. The Village engineer and Utility engineer shall require submission of record plans in AutoCAD or other appropriate electronic format.

(Ord. No. 2003-08, § 6.3(d)(6), 8-21-2003)

Secs. 38-286—38-303. - Reserved.

DIVISION 8. - FEES, ADMINISTRATIVE CHARGES AND FINANCIAL GUARANTEES

Sec. 38-304. - Required; effect of nonpayment.

The subdivider shall pay the Village all fees as hereinafter required and at the times specified. In the event fees are not timely paid, the Village may reject taking any further action with respect to the plat, CSM, or condominium development. Non-payment of fees shall be sufficient cause for rejection of the plat, CSM, or condominium development.

(Ord. No. 2003-08, § 5.2(a), 8-21-2003)

Sec. 38-305. - Engineering charges.

The subdivider shall pay the actual cost to the Village for all engineering work incurred by the Village in connection with the plat, CSM, or condominium development, including construction observations required by the Village. The subdivider shall pay the actual cost to the Village for such construction observation as the Village Board deems necessary to ensure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Village or any other governmental authority. The subdivider shall pay the charges within 30 days of each billing by the Village Clerk.

(Ord. No. 2003-08, § 5.2(b), 8-21-2003)

Sec. 38-306. - Administrative review charges.

The subdivider shall pay the actual cost of any legal, planning, other consultant, staff, administrative or fiscal work that may be undertaken by the Village in connection with the plat, CSM, or condominium development.

(Ord. No. 2003-08, § 5.1, 8-21-2003)

Sec. 38-307. - Application fees.

The applicant shall pay application fees at the time of submission of the preliminary plat, CSM, final plat, or condominium development.

(1) *Preliminary plat, CSM, and condominium development application fees.*

Fees shall be established by resolution of the Village Board.

(2) *Final plat application fee.*

Fees shall be established by resolution of the Village Board.

(Ord. No. 2003-08, 8-21-2003)

Sec. 38-308. - Address assignment charges.

The applicant shall pay the Village a fee for the cost of address assignments and related systems, which fee shall be established by resolution of the Village Board.

(Ord. No. 2008-06, § 1, 10-16-2008)

Sec. 38-309. - Escrow deposit.

(a) *Required.* At such time as the applicant submits an initial concept plan, preliminary plat, CSM, or condominium development, or any concept plan after the review by the Village Plan Commission and Village Board, the applicant shall deposit with the Village Treasurer, in escrow, in an amount provided in the Village fee schedule, to guarantee the timely payment of all of the Village's charges and fees.

(b) *Effect of failure to maintain required deposit.* In the event the applicant defaults in establishing or replenishing the escrow, the Village may reject the applicant's application.

(c) *Replenishment of deposit.* In the event the amount deposited with the Village Treasurer falls below 25 percent of the amount required to be deposited, the Village may require the applicant to replenish the escrow to the original amount required hereunder. Failure to replenish the escrow shall be sufficient cause to cease review and/or reject the land division and/or issue stop work orders related to ongoing work that is underway based on approvals the Village issued in reliance on reimbursement from the escrow deposit.

(d) *Refunds.* In the event the applicant withdraws the preliminary plat, condominium development, CSM, or the same is approved, and money remains in escrow over and above the Village's fees, the excess shall be refunded to the applicant.

(e) *Interest.* The escrow account shall not draw interest for the benefit of the applicant.

(f) *Disbursements.* The Village Treasurer, with the approval of the Village Board, shall draw upon the escrow periodically to reimburse the Village for the fees and charges it has incurred in reviewing the plat, condominium development, or CSM.

(g) *Accounting to be provided to subdivider.* The Village Treasurer shall provide an accounting of all fees and charges incurred by the Village and the status of the escrow to the applicant periodically.

(Ord. No. 2003-08, § 5.2(b), (c), 8-21-2003)

Sec. 38-310. - Financial guarantee required.

(a) *Security required.* As a further condition of approval, the Village Board requires that the subdivider provide security to ensure that the subdivider will make and install required public improvements within a reasonable time. The subdivider shall provide security at the commencement of a project in an amount that is no less than 120 percent of the estimated total cost to complete the required public improvements. The subdivider shall provide the Village with clear and convincing evidence of the estimated total cost, and such evidence shall be subject to review and approval of the Village engineer. The subdivider shall either execute a performance bond or provide a letter of credit to satisfy the Village Board's security requirement, and said security shall be in a form satisfactory to the Village attorney and Village engineer.

The Village Board may not require the subdivider to provide the security for more than 14 months after the date the public improvements for which the security is provided are substantially completed and upon substantial completion of the public improvements, the amount of the security the subdivider is required to provide may be no more than an amount equal to the total cost to complete any uncompleted public improvements plus 10 percent of the total cost of the completed public improvements.

For purposes of this Section 38-310, public improvements reasonably necessary for a project or a phase of a project are considered to be substantially completed at the time the binder coat is installed on roads to be dedicated or, if the required public improvements do not include a road to be dedicated, at the time that 90 percent of the public improvements by cost are completed.

(b) *Procedure for construction completed in phases.* If the Village Board allows the project to be constructed in phases, the security required to be deposited shall be limited to the phase of the project currently being constructed. The land divider shall also furnish a deed restriction or restrictive covenant prohibiting conveyance of any lots or parcels outside of the approved phase.

(c) *Construction of improvements prior to land division acceptance.* Improvements required by the Village shall not be made and installed prior to Village approval of the land division and subdivider's deposit of the

required security. Notwithstanding the foregoing, and following special request by the subdivider and subject to Village Board approval and such conditions as are determined by the Village Board, Village engineer and Village attorney, the Village Board may approve an early start of construction of improvements.

(d) *Use, reduction or return of security.* If the required improvements are not completed within the specified period, the amount of the security shall be applied to the cost of completion of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or land divider. The Village Board, at its option, may extend the security period for additional periods, as allowed by law. The time for completion of the work and the several parts thereof shall be determined by the Village Board upon recommendation of the Village engineer after consultation with the land divider. The completion date shall be a component of the development agreement.

(Ord. No. 2003-08, § 5.76, 8-21-2003; Ord. No. 2010-09, § 3, 8-19-2010)

Secs. 38-311—38-338. - Reserved.

DIVISION 9. - ADDITIONAL PROCEDURES FOR NONRESIDENTIAL DEVELOPMENTS

Sec. 38-339. - Additional information required.

Whenever a plat, CSM, or condominium development proposes institutional, commercial, or industrial uses, the design of the plat, CSM, or condominium development shall specifically address the following in addition to all other provisions of these regulations:

(1) Depth and width of lots laid out for institutional, commercial or industrial purposes shall be adequate to provide for the off-road service and parking facilities required by the type of use and development contemplated.

(2) Road rights-of-way, improvements and traffic control shall be adequate to accommodate the type and volume of traffic anticipated to be generated by the development both within the plat and on Village roads which are determined to be affected by the development. Roads shall be designed to convey traffic directly to arterial and collector roads and not to local roads serving existing and potential residential neighborhoods. At a minimum, all roads shall meet the design standards for roads.

(3) Public utilities shall be adequate for the anticipated development.

(Ord. No. 2003-08, § 6.21, 8-21-2003)

Secs. 38-340—38-366. - Reserved.

DIVISION 10. - ADDITIONAL PROCEDURES FOR CONDOMINIUM DEVELOPMENTS

Sec. 38-367. - Findings and purpose.

(a) *Findings.* The Village Board hereby finds that certain issues arise in condominium developments that require limited applicability of this chapter to condominium developments. The State legislature has recognized that land division ordinances may apply to condominiums, but that land division ordinances shall not impose burdens upon condominiums that are different from those imposed on other property of a similar character not subject to a declaration of condominium.

(b) *Factors making condominium development unique.* The factor that makes this article applicable to a condominium development is the creation of multiple, distinct property entities at or near the ground surface, subject to property taxation of separate "parcels," with each property entity having different ownership and management. The Village determines that this factor makes a condominium development dissimilar, both physically and in ownership, from developments in which the land and improvements are under unitary ownership, management and control.

(c) *Impact on community resources.* The Village Board recognizes that new condominium developments can place impacts on community resources in the same manner as other new developments which are characterized by division of land into lots. These impacts include additional population density; possibility of use of particular land in a manner unsuitable to the land's characteristics; additional demands upon Village area parks, recreation areas, utility facilities and schools; and additional traffic and road use.

(Ord. No. 2003-08, §§ 3.4(c), 4.14(a), 8-21-2003)

Sec. 38-368. - Applicability.

Portions of this article are expressly applicable to condominium developments within the Village's jurisdiction, pursuant to Wis. Stats. § 703.27(1), as follows:

(1) Article IV of this chapter relating to land suitability and construction practices;

(2) Division 3 of this article relating to preliminary plat approval. This stage of approval shall be the only approval required for a condominium development and shall be reviewed in accordance with the requirements of Wis. Stats. § 703.115. The technical requirements for preliminary plats set forth in Section 38-161 shall not apply, since condominiums have separate technical standards set forth in Wis. Stats. ch. 703;

(3) Portions of this chapter relating to required improvements, guarantees and observations;

(4) Portions of this chapter relating to design standards for improvements;

(5) Portions of this chapter relating to dedication requirements.

(Ord. No. 2003-08, §§ 3.1(c), 4.14(b), 8-21-2003)

Sec. 38-369. - Exception for preexisting units.

This chapter shall not apply to any condominium plat recorded prior to the effective date of the ordinance from which this chapter is derived or any conversion of a structure or structures in existence on the effective date of this chapter to a condominium after August 21, 2003.

(Ord. No. 2003-08, § 4.14(c), 8-21-2003)

Secs. 38-370—38-396. - Reserved.

ARTICLE V. - STANDARDS AND SPECIFICATIONS

DIVISION 1. - GENERALLY

Sec. 38-433. - Compliance with Village, County and State law and regulations required.

No person shall divide land within the jurisdictional limits of these regulations that results in any parcel or lot of less than 35 acres through the use of any legal description other than with reference to a plat or CSM prepared in compliance with these regulations and approved by the Village. Plats, replats, CSMs, and condominium plats shall comply with these regulations and the following:

(1) The provisions of Wis. Stats. ch. 236 and Wis. Stats. § 82.18.

(2) The provisions of the Department of Safety and Professional Services, contained in Wis. Admin. Code ch. SPS 383, for land divisions not served by public sewer.

(3) The rules of the State Department of Transportation contained in Wis. Admin. Code ch. TRANS 233 for land divisions which abut a State trunk highway or connecting road.

(4) The rules of the State Department of Natural Resources contained in the Wis. Admin. Code ch NR 116 for floodplain management program.

(5) Plans or components of such plans prepared by State, regional, County or Village agencies duly adopted by the Village Board.

(6) All applicable local and County regulations, including zoning, sanitary, building and official mapping ordinances.

(7) The Village Comprehensive Plan, the Village Comprehensive Outdoor Recreation Plan and the Official Village Map, or components thereof.

(8) Chapter 42 of this Code relating to roads, paths and other public rights-of-way.

(9) Applicable provisions of the Dane County Code of Ordinances.

(10) All applicable rules contained in State law and rules not listed in this subsection.

(Ord. No. 2003-08, §§ 1.2(b)(3), 3.1(a), (b), 8-21-2003)

Sec. 38-434. - Areas not covered by the Official Village Map.

In areas not covered by the Official Village Map, the layout of roads and public improvements shall be complimentary with and conform to the Village Comprehensive Plan and shall provide for the most advantageous development of adjoining areas of existing or future development. Roads, stormwater management facilities and other public improvements shall be designed and located in relation to existing and officially planned roads, topography and natural terrain, streams and lakes, public convenience and safety and in an appropriate relation to the proposed use of the land.

(Ord. No. 2003-08, § 3.1(c), 8-21-2003)

Sec. 38-435. - Public facilities

(a) *Costs of public improvements.* All required improvements shall be made by the land divider, at the land divider's sole expense, without reimbursement by the Village except as may be specified in a duly authorized and executed development agreement between the Village and the land divider.

(b) *Maintenance of public improvements.* The land divider shall maintain all required public improvements to the individual subdivided lots, including, but not limited to, maintaining the improvement in good repair: providing for snow removal on roads and paths, sedimentation removal from roads (during construction on adjoining lots), and mowing of park areas and stormwater management facilities, until acceptance of the public improvements by the Village.

(c) *Erosion control plan.* The land divider shall design and construct an erosion control plan for the land division that complies with Dane County standards and Village erosion control regulations.

(Ord. No. 2003-08, §§ 3.3, 6.17, 8-21-2003)

Sec. 38-436. - Relationship to adjacent property.

Where the land divider owns property adjacent to that which is being proposed for the land division, the Village Plan Commission or Village Board may require that the land divider submit a concept plan for the remainder of the property to show the possible relationships between the proposed land division and future land division. In any event, all land divisions must be shown to relate well with existing or potential adjacent land divisions.

(Ord. No. 2003-08, § 4.1(b)(5), 8-21-2003)

Sec. 38-437. - Protection of adjacent property.

(a) *Generally.* The land divider shall not cause any physical damage to existing vegetation on adjacent property by virtue of the design of the land division, or the design and construction of the public improvements. The land divider shall be responsible at its sole expense to remedy all damages that are reasonably determined by the Village to be caused by the land divider's activities.

(b) *Nonresidential developments.* Every effort shall be made to protect adjacent residential areas from potential nuisances from institutional, commercial or industrial uses by including the provisions for extra depth in parcels backing up on existing or potential residential development, planted and maintained landscaped buffer strips or fencing, and reasonable restrictions on outside uses and activities, including, but not limited

to, parking; storage of manufactured product, waste material or raw materials; lighting; sirens, alarms and public address systems, and location of auxiliary structures such as vents, condensers, and cooling towers.

(Ord. No. 2003-08, §§ 3.4(d), 6.21, 8-21-2003)

Sec. 38-438. - Partition fences.

When the land included in a land division plat or CSM abuts upon or is land used for any agricultural purposes not owned by the land divider, the land divider shall erect, keep, and maintain partition fences, satisfying State law for a legal and sufficient fence, between such land and the abutting land. A covenant binding the land divider, its grantees, heirs, successors, and assigns to erect and maintain such fences, without cost to the adjoining property owners, so long as the land is used for agricultural purposes, shall be prepared and recorded with the final plat or CSM.

(Ord. No. 2003-08, § 6.17, 8-21-2003)

Sec. 38-439. - Existing flora.

The land divider shall make every effort to protect and retain all existing trees, shrubbery, vines, and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails in the design of the proposed land division and during the construction of the public improvements related to the development.

(Ord. No. 2003-08, § 3.4(c), 8-21-2003)

Secs. 38-440—38-461. - Reserved.

DIVISION 2. - LAND SUITABILITY

Sec. 38-462. - Required; characteristics of suitability.

(a) Land to be divided shall be of such character that it can be used safely for building purposes without danger to health or peril and land shall not be divided until adequate public facilities and improvements exist and proper provision has been made for stormwater drainage, water and sewerage, surface and groundwater quality, roads and transportation facilities and parks and recreational facilities.

(b) No land shall be divided which is found to be unsuitable for use by reason of flooding, bad drainage, soil or rock formations with severe limitations for development, severe erosion potential, or unfavorable topography, or any other feature likely to be harmful to health, safety or welfare of future residents or landowners in the proposed land division or of the community.

(Ord. No. 2003-08, §§ 1.2(b)(2), 3.4(a), 8-21-2003)

Sec. 38-463. - Written factual findings of nonsuitability required.

In applying the provisions of this section, the Village Plan Commission shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use, after affording the land divider an opportunity to present evidence regarding such suitability at a public hearing.

(Ord. No. 2003-08, § 3.4(a), 8-21-2003)

Sec. 38-464. - Land suitability criteria.

The following criteria shall be applicable to guide the Village Plan Commission in determining suitability of the land for development:

(1) Recommendations as to soil suitability contained in the Natural Resources Conservation Service (NRCS) soil survey of Dane County.

(2) Land with slopes above 12 percent shall not be developed.

(3) Soils with severe erosion hazard potential as determined by the NRCS shall require special design to limit stormwater runoff and erosion.

(4) Suitability of land for private sewerage systems shall be determined in accordance with Wis. Admin. Code ch. SPS 383.

(5) Development of shoreland or wetlands shall be governed by the Dane County Code, chapter 11.

(6) Lands known to be habitat for endangered species, as determined by the DNR bureau of endangered resources, shall not be developed unless methods, satisfactory to the DNR, are implemented to protect such species or habitat.

(7) Where areas of archaeological, historical, or geological interest exist, the Village Plan Commission may require the developer to consult with the State Historical Society or State Geological and Natural History Survey (GNHS).

(Ord. No. 2003-08, § 3.4(b), 8-21-2003)

Sec. 38-465. - Environmental assessment report.

The determination of land suitability shall be evaluated through an environmental assessment report, as specified in appendix A to this chapter, filed with the preliminary plat. The environmental assessment report shall guide the Village Plan Commission in determining the suitability of the land for development.

(Ord. No. 2003-08, § 3.4(b), 8-21-2003)

Secs. 38-466—38-483. - Reserved.

DIVISION 3. - BLOCK DESIGN

Sec. 38-484. - Length and arrangement.

The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated. Block length in residential areas shall not be less than 500 feet or exceed 1,200 feet nor have insufficient width to provide for two tiers of lots of appropriate depth between road lines, unless the block abuts upon a railroad, arterial or collector road, river or park where it may have a single tier of lots. As a general rule, blocks should be 600 to 900 feet in length. Blocks shall be so designated as to provide two tiers of lots,

(Ord. No. 2003-08, § 6.19(a), 8-21-2003)

Sec. 38-485. - Multi-use paths required for certain blocks.

Multi-use paths, not less than ten feet wide, may be required by the Village Board, upon the recommendation of the Village Plan Commission, through the center of a block more than 900 feet long, where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

(Ord. No. 2003-08, § 6.19(b), 8-21-2003)

Secs. 38-486—38-508. - Reserved.

DIVISION 4. - LOT DESIGN

Sec. 38-509. - Residential lots.

(a) *Relationship to topography.* The size, shape, and orientation of lots shall be appropriate for the topography of the land division, the type of sewerage system to be utilized, and for the type of development contemplated,

provided that no lot shall be smaller in area than the minimum lot size for the appropriate zoning district as established by the applicable zoning code or this chapter, whichever is more restrictive.

(b) *Lot lines.* Lot lines shall follow Village boundary lines.

(c) *Lot size~~; exceptions~~.* Lot sizes shall conform to the requirements of the applicable zoning district.

(d) *Lot frontage.* All lots shall front or abut for a distance of at least 60 feet on a public street or 30 feet on a cul-de-sac.

(d) *Lot shape.* The shape of lots shall be rectangular with a depth to width ratio of approximately 2:1, with the exception of lots located on a cul-de-sac. Flag lots shall be prohibited in all zoning districts.

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(Ord. No. 2003-08, § 6.20(a), (f), 8-21-2003)

~~**Sec. 38-510.** - Commercial lots.~~

~~Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-road service and parking facilities required by the type of use and development contemplated, as required by the Village Zoning Ordinance.~~

~~(Ord. No. 2003-08, § 6.20(b), 8-21-2003)~~

Sec. 38-~~511~~510. - Lots abutting major highways.

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Residential lots fronting on arterial roads, highways, or collector roads shall be platted with extra depth or designed to alleviate the effect of heavily traveled roads on residential occupancy.

(Ord. No. 2003-08, § 6.20(c), 8-21-2003)

Sec. 38-~~512~~511. - Corner lots.

Corner lots for residential use shall be laid out with sufficient width to provide for the required front setback along each road.

(Ord. No. 2003-08, § 6.20(d), 8-21-2003)

Sec. 38-~~513~~512. - Side lot lines.

Side lot lines shall be substantially at right angles to or radial to abutting road lines.

(Ord. No. 2003-08, § 6.20(e), 8-21-2003)

Sec. 38-~~514~~513. - Double and reversed frontage lots.

Double frontage and reversed frontage lots shall be prohibited except where necessary to provide separation of residential development from roads with existing or projected high traffic volumes, or to overcome specific disadvantages of topography and orientation. Vehicular access will be permitted from only one frontage on double road lots.

(Ord. No. 2003-08, § 6.20(g), 8-21-2003)

Sec. 38-~~515~~514. - Lots adjoining limited access highway and railroad right-of-way.

(a) *Landscape buffer required.* Whenever the proposed land division contains lots abutting upon a limited access highway, arterial road or railroad right-of-way, the lots abutting upon such right-of-way shall contain a 30-foot-wide landscape buffer on the lot abutting upon the highway or railroad in addition to the normal lot width or depth. This buffer area shall be landscaped by the land divider as part of the required improvements of the plat or replat, CSM, or condominium plat and shall be part of the lots, but shall not count toward the required yard or minimum lot area.

(b) *Restriction to be written on map.* The following restriction shall be written on the map and included in the covenants of the land division:

"The landscape buffer is reserved exclusively for the planting of trees and shrubs by the owner. Maintenance of the area is the responsibility of the lot owner. The building of structures is prohibited."

(c) *Planting plan required.* The land divider shall prepare and submit, for approval by the Village Board upon recommendation of the Village Plan Commission, a planting plan for the buffer yard which shall include natural areas, berms, or a variety of planted material, or a combination thereof which will provide visual screening and discourage pedestrian access through the buffer area. Improvements to and installation of the plants in the area shall be part of the required public improvements of the land division.

(Ord. No. 2003-08, § 6.20(h), 8-21-2003)

Sec. 38-~~516~~515. - Lots abutting upon lake and stream shores.

In any plat abutting upon a lake or stream, the lands lying between the meander lines, established in accordance with Wis. Stats. § 236.20(2)(g), and the water's edge, and any otherwise unplattable lands which lie between a proposed land division and the water's edge shall be included as part of lots, outlots or public dedications, but shall not be counted as part of the required yard or minimum lot area. This subsection applies not only to lands proposed to be divided but also to all lands under option or in which the land divider holds any interest and which are contiguous to the lands proposed to be divided and which abut a lake or stream.

(Ord. No. 2003-08, § 6.20(k), 8-21-2003)

Sec. 38-~~517~~516. - Natural and environmentally sensitive areas.

The Village Board may require the land divider to dedicate to the public or record specific permanent restrictions and easements to protect the integrity and to minimize impacts from development on areas such as: special flood hazard areas, wetlands, environmental corridors, slopes exceeding 12 percent, unique woodlands and wildlife habitats, groundwater recharge areas, historic locations and cultural features.

(Ord. No. 2003-08, § 6.20(i), 8-21-2003)

Sec. 38-~~518~~517. - Land remnants.

The Village Board may require that all land remnants below the minimum lot size left over after dividing of a larger tract be included within abutting lots or designated as an outlot.

(Ord. No. 2003-08, § 6.20(j), 8-21-2003)

Secs. 38-~~519~~518—38-546. - Reserved.

DIVISION 5. - UTILITIES

Sec. 38-547. - Water supply and sanitary sewerage systems.

(a) *Public water supply and sewage disposal systems.* The land divider shall make public water and private on-site waste treatment systems available to each lot within the land division including lots to be dedicated to the Village for parks, except if the criteria in this section are satisfied.

(b) *Plans, specifications and construction agreements.* The developer shall have all plans, specifications and construction agreements for water and sanitary sewer facilities comply in all respects to the regulations of the applicable Sanitary District.

(c) *Mandatory connection with public water and sewer mains.* The Village shall not allow the construction of any private well or private on-site waste treatment system serving a parcel of land that is adjacent to a public

sewer. Every owner of a parcel of land other than an active agricultural operation shall connect to a public sewer whenever both of the following conditions exist:

(1) The parcel of land is adjacent to public water and sanitary sewer, or is in a block through which such public sewer extends;

(2) The parcel contains a building or other structure used or usable for human habitation or occupancy or for the conduct of any trade, business or industry.

Such connection shall be made no later than 12 months after installation of the public water or sewer adjacent to the parcel.

(d) *Order to connect.* The Village may order connection within 60 days of a notice served upon the owner, in writing, requiring such connection. The notice shall specify that upon the owner's failure to connect, the Village may cause such connection to be made and shall charge the owner for all such costs of connection. Upon failure to pay such costs, the Village shall collect the unpaid costs as a special charge collectable on the property tax bill for the property pursuant to Wis. Stats. § 66.0627.

(e) *Private well or private on-site waste treatment systems.* Land divisions may be served by private well or on-site waste treatment systems if the following criteria applies:

(1) The land is shown on the Village Comprehensive Plan to allow such development as infill of an unserved existing subdivision.

(2) The land is shown on the Village Comprehensive Plan as part of the countryside planning area and is appropriately zoned.

(3) The land division is located farther than 1,320 feet from public water or sewer facilities.

(f) *Cost to be borne by land divider.* The land divider shall pay all the costs of all water or sanitary sewer work including the extension of the water or sanitary sewer to the subdivision, all water or sanitary sewer work within the land division, and all expenses to plan and obtain permits for such water or sewer extension.

(g) *Extension and construction of facilities to development boundaries.* Water and sanitary sewerage facilities shall be extended and constructed through the land division to the boundary of the plat or replat, CSM or condominium plat.

(Ord. No. 2003-08, § 6.9, 8-21-2003)

Sec. 38-548. - Stormwater drainage facilities.

The land divider shall design and construct stormwater drainage and water quality improvement facilities for the land division in accordance with Dane County standards for water quality, reductions in suspended solids and maximization of groundwater infiltration and Village stormwater management regulations.

(Ord. No. 2003-08, § 6.10, 8-21-2003)

Sec. 38-549. - Distribution and services to individual lots within the land division.

The land divider, at its sole expense, shall cause gas, electrical power, telephone and if available, cable television facilities to be installed in such a manner as to make adequate service available to each lot in the land division. All new electrical distribution, television cables and telephone lines from which lots are individually served shall be underground unless the Village Board specifically allows overhead poles for the following reasons:

(1) Topography, soil, water table, solid rock, boulders, or other physical conditions would make underground installation unreasonable or impractical; or

(2) The lots to be served by the facilities could be served directly from existing overhead facilities.

(Ord. No. 2003-08, § 6.11(a), 8-21-2003)

Sec. 38-550. - Transmission facilities serving the land division.

If the land division requires the new extension or replacements of a gas, electrical, telephone, or cable television transmission line, the land divider at its sole expense, shall cause such lines to be placed underground unless the Village Board specifically allows overhead poles for reasons of topography, soil, water table, bedrock or other physical conditions that would make underground installation impractical.

(Ord. No. 2003-08, § 6.11(b), 8-21-2003)

Secs. 38-551—38-578. - Reserved.

DIVISION 6. - EASEMENTS

Sec. 38-579. - Utility easements.

The Village Board, on the recommendation of appropriate agencies serving the Village, may require dedication of utility easements for poles, wire, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines. The land divider shall establish easements so as to ensure proper grade, ensure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation and prohibit the planting of trees in the easement area.

(Ord. No. 2003-08, § 6.18(a), 8-21-2003)

Sec. 38-580. - Drainage easements.

(a) The land divider shall provide stormwater easements or drainage rights-of-way conforming substantially to the lines of such watercourses as may be required by the Village engineer. The land divider may, with the approval of, and upon receipt of a permit from, the State Department of Natural Resources and with Village Board approval, alter or relocate the watercourse, drainageway, channel or stream. The maintenance of adequate drainage will be ensured and the same provided with a stormwater easement or drainage right-or-way conforming to the lines of the relocated watercourse.

(b) Stormwater management facilities, such as detention basins, shall be located within outlots and shall be dedicated to the homeowner's association or the Village, upon recommendation of the Village Plan Commission and approval of the Village Board.

(Ord. No. 2003-08, § 6.18(b), 8-21-2003)

Sec. 38-581. - Dimensions and locations.

(a) *Utility easements.* Utility easements shall be at least 12 feet wide, and may be wider to accommodate extraordinary depth or specific site conditions as determined by the Village engineer. Location of easements shall be coordinated with the applicable utility and shall be located along side and rear lot lines, unless specifically permitted by the Village Board upon recommendation of the Village Plan Commission, to be in the road right-of-way or in the front setback area. The land divider shall furnish the Plan Commission and Village Board with evidence that easements and any easement provisions that are proposed to be incorporated in the plat, replat, CSM, condominium plats, or in deeds, have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

(b) *Drainage easements.* Ditches, swales, and watercourses shall either be contained in an outlot or easement of sufficient width to contain the water flow of a 100-year storm but not less than 30 feet in width. If the drainage easement or outlot is located in a flood hazard area, the entire flood hazard area within the land division shall be included within the drainage easement or outlot.

(Ord. No. 2003-08, § 6.18(c), 8-21-2003)

Secs. 38-582—38-610. - Reserved.

DIVISION 7. - IMPROVEMENTS

Sec. 38-611. - General standards.

The required improvements in this article shall be installed in accordance with the engineering standards and specifications which have been adopted by the Village Board. Where standards and specifications have not been adopted, the improvements shall be made in accordance with sound engineering practices, approved prior to the start of construction by the Village engineer.

(Ord. No. 2003-08, § 6.3(a), 8-21-2003)

Sec. 38-612. - Commercial or industrial area public improvements.

In the case of required improvements in a commercial or industrial area, the cost of such improvements may, at the sole discretion of the Village Board and by agreement with the land divider, be financed through special assessments or other lawful means.

(Ord. No. 2003-08, § 6.1(a), 8-21-2003)

Sec. 38-613. - Dedication.

The land divider shall dedicate to the Village such land and completed public improvements as are required by these regulations.

(Ord. No. 2003-08, § 6.1(b), 8-21-2003)

Sec. 38-614. - Contract.

Prior to installation of any required improvements and prior to execution of the final plat, the land divider shall enter into a written contract with the Village requiring the land divider to furnish and construct the improvements at its sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for review of construction details by the Village engineer.

(Ord. No. 2003-08, § 6.2, 8-21-2003)

Secs. 38-615—38-631. - Reserved.

DIVISION 8. - PARKS AND OPEN SPACES

Sec. 38-632. - Dedication requirement.

In order that adequate open spaces and sites for public uses may be properly located and reserved and in order that the cost of providing public areas, such as, but not limited to, parks, recreation areas and conservancy areas, each subdivider shall be required to dedicate land or pay fees in lieu of dedicating land for park or other public uses.

(Ord. No. 2003-08, § 7.1(a), 8-21-2003)

Sec. 38-633. - Compliance with Village Comprehensive Plan and Village Comprehensive Outdoor Recreation Plan.

Whenever a proposed playground, park, or other public area, other than roads or drainageways, designated in the Village Comprehensive Plan or Village Comprehensive Outdoor Recreation Plan is included, all or in part, in the tract of land to be divided, these lands shall be made part of the required land dedication. The Village Board, upon the recommendations of the Village Plan Commission and Village Park Commission, any other applicable committee, commission or authority shall determine the suitability and adequacy of parklands proposed for dedication.

(Ord. No. 2003-08, § 7.1(a)(1), 8-21-2003)

Sec. 38-634. - General design.

(a) In the design of a land division, condominium project, or other multi-unit or multi-building development, the developer shall provide suitable sites of adequate area and dimensions for parks, playgrounds, play fields, open spaces, and natural areas. Such sites shall be shown on all plats, CSM condominium plats and site plans.

(b) The land divider shall preserve scenic and historic sites, stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds, ravines and woodlands, prairie and wetlands, and plant and animal communities in the design of the development and shall propose for Village approval appropriate land dedications, conservation easements, and other restrictions to preserve and enhance these features for the benefit of the public.

(c) All dedicated land shall have frontage on a public road and shall have unrestricted public access.

(Ord. No. 2003-08, § 7.1(c), 8-21-2003)

Sec. 38-635. - Calculation for dedication of parks and open space.

All land dividers shall dedicate suitable land to the Village for park and open space uses as calculated below:

(1) *Parkland.* Ten-hundredths acre (4,356 square feet) per dwelling unit shall be dedicated to the Village for exclusive use as public parks to be improved as playgrounds, sports fields or other active recreational area for the benefit of the future residents of the land division and the Village. Required access ways and pedestrian ways do not count as satisfying this requirement.

(2) *Wetlands and drainage facilities.* Marshes, wetlands, drainageways, detention facilities and any required buffer areas adjoining same, shall be dedicated to the Village to the extent that they exist within the land division. Such dedication does not count towards satisfaction of the subdividers' obligation for parkland required by this chapter.

(3) *Shoreland, lake access, lake and stream shore plats.* All land divisions abutting on a navigable lake or stream shall provide public access at least 60 feet wide providing access to the low watermark, so that there will be public access which is connected to existing public roads, at not more than one-half mile intervals as measured along the lake or stream shore, except where greater intervals and wider access is agreed upon by the State Department of Natural Resources and excluding shore areas where public parks, outlots, conservancy, open space or roads on either side of a stream are provided. No public access established under this chapter may be vacated except by circuit court action. This subsection does not require the Village to improve land provided for public access. Such dedication does not count towards satisfaction of the land divider's obligation for parkland under these regulations.

(4) *Unknown number of dwelling units.* Where the land division, PUD or condominium project does not specify the number of dwelling units to be constructed, the land dedication shall be based upon the maximum number of units permitted by the applicable zoning ordinance.

(5) *Deeded to the Village.* Land dedicated for public purposes shall be deeded to the Village, at the sole discretion of the Village Board, upon recommendation of the Village Plan Commission, Village Park Commission and any other applicable commission, committee or authority, by recordable instrument provided as a condition of final plat approval. The land divider shall provide a title insurance commitment for the dedicated property to the Village.

(Ord. No. 2003-08, § 7.2, 8-21-2003)

Sec. 38-636. - Fees in lieu of land.

(a) *When permitted.* The Village Board may require the land divider to remit a cash payment in lieu of parkland dedication when:

(1) There is no land suitable for parkland within the proposed land division;

(2) Insufficient land is dedicated pursuant to Section 38-636(1); or

(3) The proposed dedication of land would not be compatible with the Village's Comprehensive Plan or Comprehensive Outdoor Recreation Plan, and the Park Commission has recommended that receipt of cash from the land divider would better serve the public interest.

(b) *Calculation.* Should the Village Board require a fee in lieu of parkland dedication, it shall be calculated as follows:

(1) Value A, required dedicated acreage: Multiply the total number of dwelling units by 0.10 acres;

(2) Value B, acreage to apply fee in lieu to: Subtract from the value calculated as Value A above the amount of land, acres, being dedicated as parkland; and

(3) Fee in lieu owed to Village: Multiply Value B by $14,035.00 (adjusted as of January 1 of each year utilizing the Consumer Price Index for All Urban Consumers (CPI-U): U.S. city average from the U.S. Bureau of Statistics.

(c) *Payment.* The land divider shall remit the calculated amount in subsection (b)(3) of this section to the Village prior to execution of the final plat.

(d) *Park fund.* Funds paid to the Village under this subsection shall be placed in a separate non-lapsing account designated for expenditure for park or conservancy development and improvement projects as recommended from time to time by the Park Commission.

(Ord. No. 2003-08, § 7.3, 8-21-2003)

Sec. 38-637. - Reservation of additional land.

When Village parks and sites for other public areas as shown on the Village Comprehensive Plan, Village Comprehensive Outdoor Recreation Plan, and Official Village Map or have been identified as potential sites for facilities by published plans of any Sanitary District, any school district, Dane County or the State, lie within the plat, and such sites exceed the area calculated for the required dedication, the land divider shall reserve without cost, such additional area for exclusive acquisition by the Village, or appropriate agency, through agreement, purchase or condemnation, for a period of two years after recordation of the final plat, unless extended by mutual agreement.

(Ord. No. 2003-08, § 7.4, 8-21-2003)

Sec. 38-638. - Required improvements.

(a) *Parkland to have improved street frontage.* All parkland dedicated under these regulations shall have a minimum of 100 feet of frontage on an improved public road.

(b) *Road design requirements.* Road improvements adjoining a park shall have unrestricted public access and include curb, gutter, path, pavement and road trees.

(c) *Installation of water and sanitary sewer lines.* In areas served by public utilities, the subdivider shall install water and sanitary sewer lines to the property line.

(d) *Grade.* Lands dedicated for park purposes shall, upon recommendation of the Park Commission, be graded between a one percent to two percent slope, and be restored per these regulations.

(e) *Fee for initial improvement of parkland.*

(1) The initial improvement of parkland fee shall be required for all new residential development in Windsor and shall be in addition to any land dedication or payment of fees in lieu of land dedication as required by Section 38-637 of this Land Division and Subdivision Ordinance.

(2) All fees collected for initial improvement of parkland shall be utilized to construct improvements of public parks as specified in Wis. Stats. § 236.45(6)(ac). The specific park improvements authorized and for which fees are collected are as follows:

a. Grading;

b. Landscaping;

c. Installation of utilities;

d. Construction of sidewalks and paths;

e. Installation of playground equipment; and

f. Construction or installation of restroom facilities.

(3) All fees shall be placed into a separate non-lapsing segregated fund to be used solely for initial improvement for public parks.

(4) The subdivider shall pay a fee for initial improvement of parkland for public parks prior to the Village signing the final plat, CSM, condominium plat (pursuant to Sections 38-367—38-369 of this Land Division and Subdivision Ordinance) or planned unit developments (pursuant to Section 38-397 of this Land Division and Subdivision ordinance).

(5) The amount of the fee for initial improvement of land for public parks shall be as follows:

a. Single-family housing unit: $1,072.94;

b. Duplex: $1,072.94, each unit;

c. Each other dwelling unit type: $879.71.

The fee for initial improvement of land for public parks shall be adjusted annually for inflation by using the "Consumer Price Index, National Series (assuming December, 1985 = 100)" for all nonfood items as published by the U.S. Department of Labor, Bureau of Labor Statistics.

(f) *Time for completion.* Improvement of the dedicated parkland shall be completed in conjunction with the required public improvements of the plat.

(g) *Certificate of compliance required.* The Village Board shall require certification of compliance by the Village engineer. The cost of such report shall be paid by the land divider.

(h) *Effect of failure to comply with section.* If the land divider fails to satisfy the requirements of this section, the Village Board may contract the completion and bill such costs to the land divider, following a public hearing and written notice to the land divider of noncompliance. Failure to pay such costs may result in the immediate withholding of all building permits until such costs are paid.

(Ord. No. 2003-08, § 7.5, 8-21-2003; Ord. No. 2012-02, § 2, 5-17-2012; Ord. No. 2013-01, § 1, 3-21-2013)