

Town of Winchester
Winnebago County, Wisconsin

Chapter 18: Land Division & Subdivision Regulations

Originally Adopted *Month Day, Year*

Amended and Adopted by the Town Board
July 17, 2017

Repealed, Recreated, Approved, and Adopted
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Article I Introduction

18.001 Authority

This Chapter is adopted under the authority granted by Wis. Stat. ch. 236, and amendments thereto.

18.002 Title

This Chapter may be known, cited, and referred to as the ‘Town of Winchester Land Division Ordinance’ except as referred to herein, where it shall be known as ‘this Chapter.’

18.003 Intent.

It is the general intent of this Chapter to regulate the division of land so as to:

- A. Promote proper monumenting of subdivided land and conveyancing by accurate legal description and to provide safe and orderly shoreland layouts.
- B. Obtain the wise use, conservation, protection, and proper development of the Town's soil, water, wetland, woodland, and wildlife resources and attain a proper adjustment of land use and development to the supporting and sustaining natural resource base.
- C. Lessen congestion in the roads, streets, and highways.
- D. Further the orderly layout and appropriate use of land.
- E. To provide for a diversity of lot sizes, housing choices, and building densities to accommodate a variety of age and income groups.
- F. Secure safety from fire, panic, and other dangers.
- G. Provide adequate light and air.
- H. Facilitate adequate provision for housing, transportation, water supply, storm water, wastewater, schools, parks, playgrounds, and other public facilities and services.
- I. Secure safety from flooding, water pollution, disease, and other hazards.
- J. Prevent flood damage to persons and properties and minimize expenditures for flood relief and flood control projects.
- K. Prevent and control erosion, sedimentation, and other pollution of surface and subsurface waters.
- L. Preserve natural vegetation and cover and promote the natural beauty of the Town.

- M. Restrict building sites on areas covered by poor soils or in other areas poorly suited for development.
- N. Facilitate the further division of larger tracts into smaller parcels of land.
- O. Ensure adequate legal description and proper survey monumentation of subdivided land.
- P. Provide for the administration and enforcement of this Chapter.
- Q. Provide penalties for its violation.
- R. Implement the Comprehensive Plan, as adopted and updated from time to time.

18.004 Purpose.

The purpose of this Chapter is to regulate and control the division of land within the Town in order to promote the public health, safety, morals, prosperity, aesthetics, and the general welfare.

18.005 Interpretation.

Interpretation. In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.' Where conflicts or ambiguities exist between specific requirements or standards in this Chapter, the more restrictive of the requirements or standards shall apply.

18.006 Abrogation and Greater Restriction.

Abrogation and greater restrictions. It is not intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

18.007 Repeal.

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this code, to the extent of the inconsistency only, are hereby repealed.

18.008 Effective Date.

This Chapter shall become effective upon passage and posting according to law.

18.009 Through 18.019 Reserved.

Article II General Provisions

18.020 Jurisdiction.

The provisions of this Chapter shall apply in all lands and waters within the municipal boundaries of the Town of Winchester. The provisions of this Chapter as it applies to divisions of tracts of land into four or fewer parcels shall not apply to:

- A. Transfers of interest in land by will or pursuant to court order.
- B. Leases for a term not to exceed 10 years, mortgages, or easements.
- C. Sale or exchange of parcels of land between owners of adjoining property if additional lots are not, thereby, created and the lots resulting are fully compliant with the requirements of this Chapter, the Zoning Ordinance, and other applicable laws, codes, and ordinances, and is consistent with the Comprehensive Plan.
- D. A division of land resulting in parcels in excess of 40 acres in area.
- E. Cemetery Plats made under Wis. Stat. § 157.07.
- F. Assessors' Plats made under Wis. Stat. § 70.27, but such assessors' plats shall comply with Wis. Stat. § 236.15(1)(a-g) and Wis. Stat. § 236.20(1) and (2)(a-e).
- G. Conversion of the form of ownership of existing buildings into condominiums or cooperatives.

18.021 Severability and Nonliability.

- A. If any section, provision, or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
- B. The Town does not guarantee, warrant, or represent that only those areas designated as floodplains will be subject to periodic inundation and hereby asserts that there is no liability on the part of the Town Board, its agencies or employees for sanitation problems, structural damages, or other losses that may occur as a result of reliance upon, and conformance with, this Chapter.

18.022 Resubdivision of Land.

Any resubdivision of a recorded land division that ultimately results in the creation of five or more lots, parcels, or building sites from the same original parcel within any 15-year period shall be considered to be a subdivision and shall be accomplished by a subdivision plat and not additional certified survey maps.

18.023 Compliance.

No person, firm, or corporation shall divide any land located within the limits of the Town which results in a subdivision, minor land division or a replat as defined herein; no such subdivision, minor land division or replat shall be entitled to recording; and no street shall be laid out or improvements made to land without compliance with all requirements of this Chapter and the following documents:

- A. Wis. Stat ch. 236.
- B. Rules of the Wisconsin Department of Safety and Professional Services regulating lot size and lot elevation if the land to be subdivided is not served by a public sewer and provisions for such service have not been made.
- C. Rules of the Wisconsin Department of Transportation relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivider abuts on a state trunk highway or a connecting highway.
- D. Rules of the Wisconsin Department of Natural Resources setting water quality standards preventing and abating pollution, and regulating development within floodlands, wetland, and shoreland areas.
- E. Rules of the Wisconsin Department of Natural Resources contained in Wis. Admin. Code NR 115 and NR 116 for Wisconsin's Shoreland-Wetland Management and Floodplain Management Programs.
- F. Duly Approved Comprehensive Plan, including its individual elements, of the Town of Winchester, Winnebago County, Wisconsin.
- G. The Zoning Ordinance and all other applicable local and county ordinances and state and federal laws.

18.024 Condominium Plat.

A condominium plat prepared under Wis. Stat. ch. 703, creating at least four dwelling units with a parent parcel size of five acres or more, shall be reviewed by the Town in the same manner as a preliminary plat as set forth in Article V of this Chapter and shall comply with the applicable design standards and required improvements for preliminary plats and final plats as established in this Chapter.

18.025 Replat.

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. Stat. §§ 236.36 through 236.44. The subdivider, or person wishing to replat, shall then proceed as specified in Article V of this

Chapter. The Town Clerk shall schedule a public hearing before the Plan Commission when a replat of lands within the Town is filed and shall cause notices of the public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within 200 feet of the exterior boundaries of the proposed replat.

18.026 Amendments.

For the purpose of promoting public health, safety, and general welfare, the Town Board may, from time to time, amend the regulations imposed by this Chapter. The Town Board shall hold public hearings on all proposed amendments following a recommendation of the Town of Winchester Plan Commission. Notice of such hearings shall be given by publication of a class 2 notice preceding the hearing or as otherwise provided by Wisconsin Statutes.

18.027 Land Suitability.

No land shall be divided or subdivided for use which is determined to be unsuitable by the Town because of flooding or potential flooding, wetlands, soil or rock limitations, inadequate drainage, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, incompatible surrounding land use, or any other condition likely to be harmful to the health, safety, or welfare of the future residents or users of the area or likely to be harmful to the Town. Except as provided herein, the Town shall determine such unsuitability at the time the preliminary plat or certified survey map is considered for approval.

- A. When a proposed subdivision plat or certified survey map is located in an area where flooding or potential flooding may be a hazard, the Town Board may require that the subdivider determine the floodway and floodplain boundaries for the proposed plat or map. Floodplain boundaries as determined by a licensed surveyor or engineer through a detailed flood study shall be reviewed and approved by the Wisconsin Department of Natural Resources and Federal Emergency Management Agency.
- B. The development shall be in accordance with the floodplain management standards of the Floodplain-Shoreland Management Sections, Wisconsin Department of Natural Resources, any applicable floodplain, shoreland, and wetland ordinances, and sewer service area plans.
- C. The Town Board, in applying the provisions of this section, shall, in writing, recite the particular facts upon which it bases its conclusions that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence and the means of overcoming such unsuitability, if he/she so desires, at a meeting of the Board. Thereafter, the Board may affirm, modify, or withdraw its determination of unsuitability.
- D. The subdivider may, as a part of the preliminary plat or certified survey map procedure, request a determination of land suitability by the Plan Commission, provided that the subdivider shall furnish such maps, data, and information as may be necessary to make a determination of land suitability. In addition to the data required to be submitted with the preliminary plat or certified survey map, the subdivider may be required to submit some or

all of the following additional information for development located in an area where flooding or potential flooding may be a hazard:

- (1) Maps and aerial photographs. Two copies of an aerial photograph, or two maps prepared by a licensed land surveyor or registered professional engineer, which accurately locates the existing and proposed development with respect to floodplain zoning district limits if present, channel or stream fill limits and elevations, and floodproofing measures taken or proposed to be taken.
 - (2) Cross sections. Two copies of a typical valley cross section showing the channel of the stream, the floodplain adjoining each side of the channel, cross-sectional area to be occupied by the proposed development, and high water information.
 - (3) Profiles. Two copies of a profile showing the slope of the channel or flow line of the stream.
 - (4) Base flood elevation. The developer may finance a detail engineering study with updated data. The study must be approved by both the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency. Two copies of the study shall be submitted. The flood study must be submitted to both the Town of Winchester and Winnebago County in a format that meets the standards set forth by Winnebago County to ensure that it is compatible with the county GIS system.
- E. Each proposed subdivision plat or certified survey map shall be in compliance with the Comprehensive Plan, Official Map, Zoning Ordinance, and all other applicable local, county, state, and federal regulations.

18.028 Dedication and Reservation of Lands.

A. Streets and Public Ways.

- (1) Whenever a parcel of land to be divided as a subdivision contains all of, or in part, a proposed street, highway, drainageway, stormwater management facility, other public way, or public access to navigable lakes or streams which has been designated in the Comprehensive Plan, as required by Wis. Stat. ch. 236, or as indicated in the Official Map adopted under Wis. Stat § 62.23, such public way or access shall be made a part of the plat and dedicated or reserved by the subdivider in the location and dimensions indicated, unless otherwise provided herein.
- (2) Prior to acceptance of any streets or public ways by the Town, the Town Engineer shall certify to the Town that all of the following conditions are met with respect to each facility:
 - (a) The street or public way is functioning properly in accordance with the plans and specifications of the Town of Winchester.
 - (b) Any necessary maintenance, including application of first lift of asphalt or other Town-approved surface material, is completed.
 - (c) The application of the second lift of asphalt must be laid no later than one year after the first lift is completed unless determined otherwise by the Town.

B. Stormwater management facilities.

- (1) The determination as to whether stormwater management facilities shall be public or remain private shall be determined on a case-by-case basis; however, it shall be preferred that such facilities come under public ownership.
- (2) The dedication of any lands and/or facilities shown on a plat of a subdivision or certified survey map within the Town of Winchester for stormwater management facilities as "Dedicated to the Public for Stormwater Management Purposes" shall not be accepted by the Town until one year after the recordation date of the subdivision plat or CSM, unless an earlier date is agreed to by the Town of Winchester.
- (3) Prior to the acceptance of any lands and/or stormwater management facilities by the Town, the Town of Winchester Engineer shall certify to the Town that all of the following conditions are met with respect to each facility:
 - (a) The stormwater management facility is functioning properly in accordance with the plans and specifications of the Town of Winchester as certified by the Town Engineer.
 - (b) Any required plantings are compliant with the applicable landscaping requirements of the Zoning Ordinance.
 - (c) Any necessary maintenance, including removal of construction sediment, has been properly performed by the subdivider.
 - (d) All access and maintenance easements have been secured and recorded if the stormwater management facilities are to be owned and maintained by the Town.

C. Parks and open space.

- (1) The subdivider may designate on every final plat and certified survey map of a residential subdivision or land division an area of land suitable for park or open space purposes. If so designated, such land shall be dedicated to the public.
- (2) The Town shall properly develop and maintain the dedicated area, and the owner who dedicated said land shall in no way be responsible for its development, maintenance, or liability thereon except that said owner shall not develop the surrounding area in a manner which would unduly depreciate the purpose, use, or value of the dedicated property.

D. Reservation of lands for park, open space, school, or public sites. Whenever a parcel of land to be divided as a subdivision or a land division contains all of, or in part, a site for a park or open space use, or a school or other public site, which has been designated in a Comprehensive Plan as defined in this Chapter or an official map adopted under Wis. Stat. § 62.23, such park, open space, school, or public site shall be made a part of the plat. The subdivider shall reserve such proposed public lands for a period not to exceed three years, unless extended by mutual agreement for acquisition by the public agency having jurisdiction. If the three-year period expires with no action by the public agency, the open space provisions of this Chapter shall still apply.

- E. Environmentally Sensitive Areas. Whenever a tract of land to be subdivided includes any part of identified environmentally sensitive areas, such areas shall be made a part of the plat. Environmentally sensitive areas included within a subdivision plat shall be included within lots or outlots, or reserved for acquisition as provided above, or shall be reserved in perpetuity for the recreational use of the future residents of the land to be divided, if approved by the Town.
- F. Subdivisions abutting a navigable lake or stream. Subdivisions abutting a navigable lake or stream must provide a 60-foot-wide public access to the lake or stream, at half mile intervals as measured along the shoreline, unless there is an existing public access at least 60 feet wide, within 1/2 mile of the subdivision. This public access must extend to the low watermark and be connected to public roads.
- G. Restrictions for public benefit.
- (1) Any restrictions placed on platted land by covenant, grant of easement, or in any other manner, which were required by the Town, or public utility, or which name the Town of Winchester as grantee, promisee, or beneficiary, vest in the Town of Winchester the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in land subject to the restriction. Such restrictions shall include obligations to pay maintenance assessments for commonly held open space property, shore protection works, erosion control measures, and other improvements. The restriction may be released or waived in writing by the Town of Winchester.
 - (2) The Town Board reserves the right to require conservation easements for future public access across or through dedicated public lands for the purposes of sound engineering, planning, maintenance, or development purposes.
- H. Flood studies. Where required as deemed necessary by Town staff, a detailed flood study shall be completed by a licensed engineer to determine the extent of the floodplain within a proposed land division. The flood study must be approved by the Wisconsin Department of Natural Resources and Federal Emergency Management Agency prior to final plat approval subject to the following conditions:
- (1) All physical changes in the field must be completed prior to marking the floodplain information on the subdivision plat or certified survey map.
 - (2) The Wisconsin Department of Natural Resources and Federal Emergency Management Agency approved flood study must be submitted to both the Town and Winnebago County in a format that meets the standards set by the county to ensure that it is compatible with the county GIS system.

18.029 Improvements.

The subdivider or the subdivider's agent shall furnish and install the following improvements, as required by the Town. The required improvements are to be furnished and installed at the sole expense of the subdivider, unless specified differently within this Chapter or in an approved development agreement between the Town and subdivider. The required improvements are to be

installed in accordance with plans, standards, specifications, and scheduling approved by the Town.

- A. Financing and development agreements. Before a final plat is approved by the Town Board, the subdivider shall submit a development agreement and performance bond, cash escrow, or irrevocable letter of credit agreement to assure the following:
- (1) The subdivider shall pay for the cost of all improvements required in the subdivision. However, in the case of an improvement, the cost of which would by general policy be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for payment of a portion of the cost by the subdivider and the remaining cost by the Town. This subsection shall apply to public sanitary sewage disposal facilities as discussed in this Chapter.
 - (2) If any improvement installed within the subdivision will be of substantial benefit to the land beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such land, to be assessed against the same, and in such case the subdivider will be required to only pay for such portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision.
 - (a) The Town of Winchester shall be responsible for paying the costs associated with oversizing all improvements at the time of installation.
 - (b) Assessments for improvements installed within the subdivision shall be deferred until such time that said lands are annexed into the Town.
 - (3) Guaranteed completion of the required improvements within a two-year period.
 - (4) Payment by the subdivider for all costs incurred by the Town for review and inspection. This would include preparation and review of plans and specifications by the Attorney, Engineer, and Planning Consultant, as well as other costs of a similar nature.
 - (5) The Town may elect to install any of the required improvements under the terms of a performance bond, cash escrow, or letter of irrevocable credit agreement.
 - (a) The performance bond, cash escrow, or irrevocable letter of credit agreement shall be equal to the Town Engineer's estimated cost of the required improvements.
 - (b) The performance bond is due at the time of the initial application for the first building permit for the new subdivision.
 - (c) The performance bond, cash escrow, or irrevocable letter of credit agreement shall include all costs for construction and maintenance as discussed in the development agreement.
 - (d) If the required improvements are not complete within the two-year period, all amounts held under the performance bond, cash escrow, or irrevocable letter of credit shall be turned over and delivered to the Town and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider. The Town Board, at its discretion, may extend the bond period for an additional period not exceeding two years. If the subdivider's performance bond, cash escrow, or irrevocable letter of credit is to be renewed for an additional period of time, the Town shall require a new bid/estimate certified by the Town Engineer.

- (e) Should the performance bond, cash escrow, or irrevocable letter of credit be insufficient in amount to allow the Town to complete the improvements, the subdivider shall be required to pay the Town such additional costs as needed for the completion of such improvements and/or actions, including but not limited to the Town's administrative costs, attorneys' fees, planning consultant fees, engineering consultant fees, and other costs associated with completing the improvements.
- B. Development Agreement. As a condition for approval of the final plat, the subdivider shall enter into a development agreement with the Town providing for, and including but not limited to, the subdivider's responsibility and liability for road construction, lighting, utility construction, landscaping, erosion control, drainage, flood control, pollution or contamination of the environment, street appurtenances such as signage, fire protection, easements, and stormwater management facilities construction and maintenance as discussed in this Chapter. This agreement shall provide for time limits and security for performance and penalties for noncompliance. The agreement will not create or invoke special treatment for the developer, nor imply or create promises of approval. All estimates shall be verified by the Town Engineer.
- C. Survey Monuments. The subdivider's surveyor shall install survey monuments placed in accordance with the requirements of Wis. Stat. § 236.15, Wis. Stats. Pursuant to Wis. Stat. § 236.15(1)(h), Wis. Stats., the Town which is required to approve the subdivision under Wis. Stat. § 236.10, may waive the placing of monuments for a reasonable time on condition that the subdivider's surveyor executes a performance bond to ensure that they will place the monuments within the time required.
- D. Grading and surfacing.
 - (1) The subdivider shall finish grade all curb and gutter systems, shoulders and ditches and install all necessary culverts and other storm and surface water drainage structures or systems to effect positive drainage away from buildings and service facilities and to prevent erosion and sedimentation.
 - (2) The subdivider shall grade the right-of-way of all streets proposed to be dedicated in accordance with plans and standard specifications approved by the Town of Winchester. After the installation of all utility and stormwater drainage improvements, the subdivider shall surface all roadways and streets proposed to be dedicated with surfacing materials approved by the Town.
- E. Motor vehicle circulation. Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Features such as curb extensions, roundabouts, short medians, and other traffic calming techniques may be used to encourage slow traffic speeds.
 - (1) Street layout. The existing street grid should be maintained where present, and well-connected street patterns shall be established in new subdivisions to maximize connectivity and accessibility wherever feasible.

- (a) Alignment and visibility. Clear visibility, measured along the center line, shall be provided for at least 400 feet on major streets, 350 feet on collector streets, and 250 feet on minor streets.
 - (b) Minimum radii of curvature on the center line shall be 300 feet on arterial streets, 200 feet on collector streets, and 100 feet on local streets.
 - (c) All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when geographic conditions necessitate the creation of a cul-de-sac. Culs-de-sac should maintain a connection to the pedestrian and bicycle path network at the terminus in order to maintain an effective pedestrian and bicycle circulation network.
- F. Streetlamps. The subdivider shall provide and install streetlighting systems at all intersections within the area being developed, upon consultation with the appropriate electric utility and as approved by the Town Engineer, prior to acceptance of the subdivision.
- G. Street name signs. The developer shall reimburse the Town for the installation of all street name signs, temporary dead-end barricades and signs, no parking signs, and traffic control signs as required by Town standards, prior to acceptance of the subdivision. All signs shall be ordered and installed by the Town. All signs shall have lettering which is six inches in height.
- H. Landscaping Standards. Overall composition and location of landscaping shall complement the scale of the development and its surroundings and shall comply with the landscaping requirements of the Zoning Ordinance.
- I. Tree preservation. In the development of new subdivisions, the developer shall work with Town staff to create a tree preservation plan that shows exactly which trees will be removed to install infrastructure for the development. The developer shall also provide a plan specifying the method of protecting trees not approved for removal. The developer shall ensure protective structures shall remain in place until construction on site is complete. Trees dead or in poor condition after one year as determined by Town staff shall be replaced by the subdivider.
- J. Stormwater management and erosion control facilities.
- (1) For all land divisions containing five or more parcels, or other land divisions as determined by Town staff, the subdivider shall submit a stormwater management and erosion control plan. All plans are subject to the Winnebago County Code of Ordinances.
 - (2) Stormwater management plans may require but not be limited to storm sewers, road ditches, waterways, curbs, and gutters, catch basins and inlets, and water retention/settling basins. Erosion control plans may require but not be limited to landscaping techniques utilizing vegetative covers and grading specifications; berms, etc., may also be employed.

- (3) All land disturbing activity shall be conducted so as to prevent erosion and sedimentation and to minimally disturb the natural flora, fauna, water regimen, and topography. All areas in which the surface of the land is disturbed by construction shall be promptly seeded and mulched, sodded, or otherwise suitably protected against erosion at a time and in a manner satisfactory to the Town.
- (4) Plans required under this section shall be submitted to the Town of Winchester, Winnebago County Department of Development and Land Services, and Department of Natural Resources for review, comment, and approval as appropriate.
- (5) Stormwater management and erosion control plans will be required for all activities which create land disturbances one acre or more in size and when deemed necessary by the Town Engineer or Winnebago County.

K. Other utilities.

- (1) Underground requirements.
 - (a) All new electric distribution lines (excluding lines of 15,000 volts or more), telephone lines from which individual lots are served, telegraph lines, fiber optic, and cable or community antenna television cables within all newly platted subdivisions and land divisions shall be installed underground unless:
 - [1] The placing of such facilities underground would not be compatible with the development; or,
 - [2] The Town determines that the location, topography, soil, stands of trees, or other physical barriers would make underground installation unreasonable or impractical or that the lots to be served by said facilities would be best served directly from existing overhead facilities.
 - (b) Associated equipment and facilities which are appurtenant to underground electric and communications systems, including but not limited to substations, pad-mounted transformers, switches, and aboveground pedestal-mounted terminal boxes, may be located above ground. The aforementioned aboveground equipment shall be landscaped and screened with natural vegetation so as to blend into the surrounding landscape.
 - (c) The subdivider or their agent shall furnish proof to the Town that such arrangements as may be required under the applicable rates and rules filed with the Public Service Commission of Wisconsin have been made with the owners of such lines or services for placing their respective facilities underground as required by this section, as a condition precedent to the approval of the final plat, development plan, or certified survey map.
 - (d) Temporary overhead facilities may be installed to serve a construction site or where necessary because of severe weather conditions. In the latter case, within a reasonable time after weather conditions have moderated or upon completion of installation of permanent underground facilities, such temporary facilities shall be replaced by underground facilities and the temporary facilities removed.
- (2) Easement locations.
 - (a) Perpetual, unobstructed easements centered on the front lot lines of subdivisions and land divisions shall be provided for utilities (private and municipal) where necessary. Such easements shall be at least 12 feet wide and shall be designated as

"Utility Easements" on the plat or certified survey map. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements along adjoining properties.

- (b) Where topographical or other conditions are such to make impractical the inclusion of utilities within the front lot line, where necessary, perpetual, unobstructed easements at least 12 feet wide shall be provided along side yard lot lines and shall be designated as "Utility Easements" on the plat or certified survey map. Where feasible, the twelve-foot-wide easement should be split equally between adjacent parcels.

18.030 Construction Procedures.

A. Construction plans and specifications. Construction plans for the required improvements conforming in all respects with the standards of the Town Engineer and the ordinances of the Town shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Wisconsin, and said plans shall contain his/her seal. Such plans, together with the quantities of construction items, shall be submitted to the Town Engineer for review and approval and to determine an estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. Immediately following approval of the preliminary plat by the Town Board, or as soon thereafter as practicable, copies of the construction plans and specifications shall be furnished to the Town for the following public improvements:

- (1) Street plans and profiles showing existing and proposed grades, elevations, names, and cross sections of required improvements.
- (2) Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations, and materials of required facilities.
- (3) Storm sewer and open channel plans and profiles showing the locations, grades, sizes, cross sections, elevations, culvert sizes, retention ponds, detention ponds, and materials of required facilities.
- (4) Water main plans and profiles showing the locations, sizes, elevations, and materials of required facilities.
- (5) Erosion and sedimentation control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation.
- (6) Planting plans showing the locations, species, and time of planting of any required grasses and ground cover.
- (7) Corner elevations for every proposed lot and outlot shall be submitted to the Town prior to issuance of building permit.
- (8) Additional special plans or information as required by Town Plan Commission, Town Board, or Town staff.

B. Action by the Town Engineer. The Town Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this Chapter and other pertinent Town design standards. If the Town Engineer rejects the plans and specifications, the Town Engineer shall notify the owner or owner's agent, who shall modify the plans or

specifications or both accordingly. If the plans and specifications are corrected, the Town Engineer shall approve the plans and specifications for transmittal to the Town Board. The Town Board shall approve the plans and specifications before the improvements are installed.

C. Construction and inspection.

- (1) Prior to starting any of the work covered by the plans approved above, written authorization to start the work shall be obtained from the Town Engineer upon receipt of all necessary permits and in accordance with the construction methods of this Chapter and any other Town-approved standards.
- (2) Construction and provision of all improvements shall begin and be complete in accordance with the timelines provided in this Chapter.
- (3) During the course of construction, the Town Engineer or designee shall make such inspections as he/she deems necessary to ensure compliance with the plans and specifications as approved. The owner shall pay the actual cost incurred by the Town for such inspections. This fee shall be the actual cost to the Town of inspectors, engineers, and other parties necessary to ensure satisfactory work.
- (4) Contractors shall provide a warranty for all improvements for a minimum of one year from substantial completion.

D. As-built plans. After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made a map showing the actual location of all drain tiles, valves, manholes, hydrants, stubs, sewers and water mains and such other facilities as the Town Engineer shall require. This map shall be on paper and shall bear the signature and seal of a professional engineer registered in Wisconsin. A digital scanned version of the map shall also be made available to the Town in a format of the Town's choosing. A copy of all televising reports for sewer and water systems shall also be submitted. The presentation of the reports, maps and digital files shall be a condition of final acceptance of the improvements and release of letter of credit, performance bond, or remaining escrow, assuring their completion.

18.031 Water Quality Management.

A Water Quality Management Conformance Letter (208) shall be required by any new development.

18.032 Through 18.039 Reserved

Article III Design Standards

18.040 Conformity with the Comprehensive Plan.

All proposed development shall conform to the Comprehensive Plan, and other applicable Town plans and ordinances. The classification and location of all streets shall be considered in their relationship to existing and planned streets, to topographic conditions, to natural features, to public convenience and safety, and in their appropriate location to the proposed uses of the land to be served.

18.041 Relationship to Existing and Future Development.

- A. The arrangement of streets in new subdivisions and condominium plats shall make provision for the continuation of existing streets to adjoining areas.
- B. Where adjoining areas are not subdivided or developed and the Comprehensive Plan indicates development is desired, the arrangement of streets in the proposed development shall provide for proper projection of streets to the boundary of the proposed development.

18.042 Access to Public Roadway System.

- A. A subdivision comprised of 20 or fewer developable lots, or a condominium plat of 20 or fewer dwelling units, shall provide access to the existing or planned public roadway system via at least one access point.
- B. Subdivisions comprised of 21 or more developable lots, or a condominium plat of 21 or more dwelling units, shall provide access to the existing or planned public roadway system via at least two access points.
- C. All Subdivisions.
 - (1) If construction of a subdivision is to be phased, the second point of access must be provided before the total number of issued building permits for new dwelling units in the subdivision exceeds 20.
 - (2) The Plan Commission and Town Board may require additional access points when deemed necessary to provide safe and efficient circulation, and connectivity to the existing or planned road system.
 - (3) Temporary Road Stubs.
 - (a) The Plan Commission and Town Board may require subdivisions include outlots designated as a temporary road stub, when deemed necessary to provide safe and efficient circulation to potential future development adjoining or adjacent to the proposed subdivision.
 - (b) Such outlots, when required, shall be wide enough to comply with Town road standards and accommodate two-way traffic.

18.043 Street Design Standards

A. Minimum Right-of-Way, Roadway Width, and Surface Width.

- (1) The minimum right-of-way roadway width, and surface width of all proposed streets shall comply with the following and shall be compliant with Wis. Stats. § 82.50(1) as may be amended from time to time.
 - (a) Local service, intermittent traffic
 1. Right-of-way. 66 feet
 2. Roadway width. 20 feet
 3. Surface width. 16 feet
 - (b) Under 100 Average Daily Traffic (hereafter, ADT)
 1. Right-of-way. 66 feet
 2. Roadway width. 24 feet
 3. Surface width. 18 feet
 4. Maximum grades. Nine to 11 percent
 - (c) 100 to 250 ADT
 1. Right-of-way. 66 feet
 2. Roadway width. 26 feet
 3. Surface width. 20 feet
 4. Maximum grades. Eight to 11 percent
 - (d) 251 to 400 ADT
 1. Right-of-way. 66 feet
 2. Roadway width. 32 feet
 3. Surface width. 22 feet
 4. Maximum grades. Six to eight percent
 5. Curvature. Six to 12.5 degrees.
 - (e) 401 to 1,000 ADT
 1. Right-of-way. 66 feet
 2. Roadway width. 34 feet
 3. Surface width. 22 feet
 4. Maximum grades. Five to eight percent
 5. Curvature. Five to 12.5 degrees.
 - (f) 1,001 to 2,400 ADT
 1. Right-of-way. 66 feet
 2. Roadway width. 44 feet
 3. Surface width. 24 feet
 4. Maximum grades. Five to seven percent
 5. Curvature. 4.5 to 7.5 degrees
 - (g) Over 2,400 – State trunk standards
- (2) The Town may approve deviations from the minimum standards in special cases where the strict application of the standards is impractical and where such deviation is not contrary to the public interest and safety and the intent of this section.

- (3) This section does not apply to improvements on town roads existing on October 1, 1992.
- B. Street Grades. Unless necessitated by exceptional topography subject to the approval of the Plan Commission, the minimum centerline grade of any street or public way shall not exceed the following:
 - (1) Arterial Street - 6%
 - (2) Collector Street - 8%
 - (3) Minor Street, Alley, and Frontage Street - 10%
 - (4) Maximum Grade - The grade of any street shall in no case exceed 10% or be less than 0.5%, unless prior authorization is granted by the Town.
 - C. The maximum allowable geometric grade difference of adjacent street profiles shall not exceed 1.0%.
 - D. Street grades shall be established, whenever practicable, so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth and general leveling of the topography.
 - E. Radii of Curvature. When a continuous street centerline deflects at any one point by more than 10 degrees, a circular curve shall be introduced having a radius of curvature on such centerline of not less than the following:
 - (1) Arterial Streets and Highways - 500 feet.
 - (2) Collector Streets - 300 feet.
 - (3) Minor Streets - 100 feet.
 - F. Tangents. A tangent at least 100 feet in length shall be provided between reverse curves on arterial and collector streets.
 - G. Half-Streets. Half streets shall be prohibited, except where the other half has already been dedicated or its alignment is shown on an officially adopted street plan.
 - H. Street Intersections. Streets shall intersect each other as nearly as possible at right angles and not more than 2 streets shall intersect at one point, unless approved by the Town Plan Commission.
 - I. Number of intersections along major streets and highways shall be held to a minimum. Wherever practicable, the distance between such intersections should not be less than 1,200 feet.
 - J. Street jogs with centerline offsets of less than 125 feet shall not be approved.

K. Street names.

- (1) A proposed street that is in alignment with or extends an existing named street shall bear the name of the existing street.
- (2) The Town Board reserves the right to approve or disapprove any new proposed street names.

L. Cul-de-sac streets.

- (1) The use of cul-de-sac streets shall be limited to portions of developments which, due to unusual topographical, environmental, or other particular conditions, may better be served by culs-de-sac than by continuous streets.
- (2) Every attempt shall be made to provide for pedestrian connections at the terminus of a cul-de-sac.
- (3) All cul-de-sac streets shall terminate in a circular turnaround meeting the dimensional standards of this Chapter.
- (4) Culs-de-sac shall not exceed 600 feet in length and shall be measured along the center line from the center of the turnaround to the edge of the right-of-way of the intersecting street.

M. Temporary roadway termination. Temporary roadway termination will require a turnaround.

N. Alignment. Horizontal alignments of proposed streets shall be in accordance with the requirements of the Department of Transportation Facilities Development Manual.

O. Intersections. Design and geometry shall be in accordance with the Wisconsin Department of Transportation Facilities Development Manual.

P. Restriction of access (protection of arterial streets and highways). Whenever a proposed subdivision contains or is adjacent to an arterial street or highway, adequate protection of residential property, limitation of access and the separation of through and local traffic shall be provided by reversed frontage with one of the following:

- (1) Screened planting contained in a non-access reservation along the rear property line.
- (2) Access to the rear lot line via a public alley.

18.044 Land Divisions Abutting Trail Corridors or Limited Access Highways.

Where a subdivision or certified survey map borders on or contains an off-street trail corridor or limited access highway right-of-way, the Town Board may require a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the intervening land. Such distances shall be determined with regard for the requirements of approach grades and future grade separations.

18.045 Addresses.

All new lots shall be numbered in accordance with the uniform house number system. Street numbers shall be assigned prior to approval or as a condition of approval of the final plat by the Town Board.

18.046 Driveways.

- A. Driveways shall be a minimum of 200 feet from center line of the intersection of any road rights-of-way excluding alleys.
- B. Driveways shall provide for the continuation of the sidewalk network within the driveway apron.

18.047 Blocks.

- A. The lengths, widths, and shapes of blocks shall be compatible with the Comprehensive Plan, zoning requirements, need for convenient pedestrian, bike and vehicle access, control and safety of street traffic, bicyclists and pedestrians, and the limitations and opportunities of topography. Blocks in residential areas shall not be less than 200 feet wide between street lines or greater than 1,500 feet in length unless dictated by exceptional topography or other limiting factors of good design.
- B. Block layout shall promote the development of a well-connected street pattern; however, they may vary in size and shape to allow for topographical or environmental constraints.
- C. Blocks shall be of sufficient width to provide for two tiers of lots of appropriate depth, except where required to separate residential development from through traffic.
- D. Dedicated sidewalk corridors not less than 10 feet in width, with a sidewalk not less than five feet in width, shall be established near the center and entirely across any block or elsewhere deemed essential, in the opinion of the Town, to provide convenient pedestrian and bicycle circulation.

18.048 Lots.

- A. Lot dimensions and setback lines shall conform to the requirements of the Zoning Ordinance.
- B. Side lot lines shall be right angles to straight street lines or radial to curved street lines on which the lots face whenever possible.
- C. Corner lots shall have sufficient width to permit adequate building setbacks from side streets to conform to the Zoning Ordinance.
- D. Every lot shall front or abut on a public street, not including alleys, freeways, or half streets.

- E. Lot lines shall not cross municipal boundary lines.
- F. Shape of lots shall generally be rectangular. Lots platted on cul-de-sacs will generally be narrower at the street than at the rear lot line. Flag lots or easements or other lot stacking techniques shall be prohibited, except where necessary to accommodate exceptional topography or to preserve natural resources.
- G. Excessive Depth of Lots in relation to width shall be avoided and a proportion of two to one (2:1) shall be considered the maximum depth-to-width ratio under normal conditions. Depth of lots or parcels designated for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated.
- H. Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
- I. Where possible, lots shall be created to avoid crossing navigable waterways.

18.049 Building Setback Lines.

- A. Where building setback lines are not controlled by the Zoning Ordinance, the Town shall establish building setback lines appropriate to the location and type of development.
- B. Where lots abut navigable waters as determined by the Wisconsin Department of Natural Resources, building setback lines for all buildings and structures except piers, marinas, boathouses, and similar uses, shall not be less than 75 feet from the ordinary high-water line as measured on a horizontal plane.
- C. When a flood study has been approved by the Wisconsin Department of Natural Resources and Federal Emergency Management Agency, building setback lines for all structures except piers, marinas, boathouses, and similar uses shall not be less than the greater of 75 feet from the ordinary high-water mark or 50 feet landward of the floodway.
- D. Where lots abut non-navigable waters as determined by the Wisconsin Department of Natural Resources, building setback lines for all buildings and structures except piers, boathouses, and similar uses shall not be less than 35 feet from the ordinary high-water line as measured on a horizontal plane.

18.050 Outlots.

- A. Outlots platted under Wis. Stat. § 236.02(7), Wis. Stats., and this Chapter are non-buildable and non-developable.
- B. If an outlot or portion of an outlot meets the criteria of a lot under this Chapter and the Zoning Ordinance, the outlot or portion thereof shall be replatted as a lot through:

- (1) A certified survey map, when the outlot was created as part of a certified survey map;
or,
- (2) Through a subdivision plat when the outlot was created as part of a subdivision plat: or,
- (3) Through a condominium plat when the outlot was created as part of a condominium plat.

18.051 Through 18.059 Reserved

Article IV Minor Land Divisions

18.060 General.

A Certified Survey Map prepared by a registered land surveyor shall be required for all minor land divisions and shall:

- A. Comply in all respects with the requirements of Wis. Stat. § 236.34.
- B. Comply in all respects with this Chapter.

18.061 Certified Survey Map.

‘When it is proposed to divide land within the Town into not more than four parcels or building sites, any one of which is 20 acres or less in area, the subdivider shall subdivide by use of a Certified Survey Map.’ The Certified Survey Map shall include all parcels of land 20 acres or less in area and may, at the owners’ discretion, include any other parcels containing more than 20 acres. The subdivider shall prepare the Certified Survey Map in accordance with this Chapter and shall file 10 paper copies and one digital (PDF or equivalent format approved by the Town), of the Certified Survey Map and application form with the Town Clerk at least 15 days, but not more than 60 days, prior to the meeting of the Plan Commission at which the Certified Survey map will be considered.

- A. The Town Clerk shall receive the formal filing of a Certified Survey Map, including review and recording fees, and transmit copies of the Certified Survey Map to the Town Board, Plan Commission, Zoning Administrator, and Town Engineer.
- B. The Zoning Administrator shall review the Certified Survey Map for conformance with this Chapter and all other Town ordinances, rules, regulations, comprehensive plans, and comprehensive plan components, and shall prepare a report for the Plan Commission and Town Board with the Zoning Administrator’s recommendation to approve, approve conditionally, or deny the proposed Certified Survey Map.
- C. The Plan Commission shall review the Certified Survey Map for conformance with this Chapter and all other Town ordinances, rules, regulations, comprehensive plans, and comprehensive plan components.
- D. The Plan Commission shall, within 90 days from the date of filing of the Certified Survey Map, recommend approval, conditional approval, or rejection of the Certified Survey Map, and shall transmit the Certified Survey Map along with its recommendations to the Town Board.
- E. The Town shall, within 90 calendar days from the date of filing of the map (unless the time is extended by agreement with the subdivider), approve, approve conditionally, or reject the certified survey map based on a determination of conformance with the provisions of this Chapter, the Comprehensive Plan, and any other applicable local or state codes and statutes.

If the map is rejected, the reasons shall be stated in written form and submitted to the subdivider or their agent. If the map is approved, the Town shall so certify on the face of the original map and return the map to the subdivider or their agent.

- F. Recordation. The Town Clerk shall cause to be recorded the approved Certified Survey Map with the 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. The subdivider shall be responsible for the recording fees.

18.062 Additional Information.

- A. In addition to the requirements of Wis. Stat. § 236.34, the Certified Survey Map shall show correctly on its face the following:
- (1) Name of the owner.
 - (2) Date of survey.
 - (3) Graphic scale and North arrow.
 - (4) All existing buildings, structures, driveways, and similar such developed features on the parcel.
 - (5) Locations, widths of rights-of-way and easements, and names of adjoining streets, highways, railroads, utilities, parks, cemeteries, and subdivisions.
 - (6) Any applicable use or access restrictions and covenants.
 - (7) All floodplains, wetlands, navigable ponds, streams, lakes, flowages, wetlands, environmentally sensitive areas, or erosion hazard areas.
 - (8) All Secondary Conservation Areas, as defined in this Chapter.
 - (9) The buildable area of the proposed lot(s).
 - (10) Distances and bearings referenced to a line and a corner of the Winnebago County Coordinate System.
 - (11) Owner's and mortgagee's certification of dedication of streets and other public areas prepared in accordance with Wis. Stat. §§ 236.21(2) and 236.34(1m)(e).
 - (12) Location and extent of permanently preserved open space as required under Section 18-103.A of this Chapter.
 - (13) The entirety of the parent parcel from which the proposed lot(s) are to be divided shall be shown on the CSM.
 - (14) Drain Tiles. The face of the Certified Survey Map shall contain the following statement: Any agricultural drain tile disturbed, cut, or broken as part of the development of the plat or excavation for home construction must be repaired and/or relocated to allow for the drain tile to continue to drain as originally designed. The cost of repair or relocation must be borne by the party or their agent damaging the drain tile.
- B. The Town Board may require that any parcel of land divided from an agricultural parent parcel intended for the purpose of constructing a principal dwelling be located at the periphery of the parent parcel so as to preserve to the greatest degree practicable the functional agricultural use of the parent parcel.

- C. Where the Town finds that it requires additional information relative to a particular problem presented by a proposed development to review the certified survey map, it shall have the authority to request such information from the subdivider.
- D. The subdivider shall indicate in writing to the Town the current and proposed use and zoning of the lots.

18.063 State Plane Coordinate System.

All minor land divisions shall be tied directly to two public land survey system corners, either section or quarter-section corners, based on remonumentation data on file with the County Surveyor. The exact grid bearing and distance shall be verified by field measurements, and such corner ties shall be indicated on the land division. All distances and bearings shall be referenced to the Wisconsin County Coordinate System for Winnebago County.

18.064 Certificates

The surveyor shall certify on the face of the Certified Survey Map that they have fully complied with all the provisions of this Chapter. The Plan Commission and Town Board, after a recommendation by the reviewing agencies, shall each certify its approval on the face of the Certified Survey Map. Dedication of streets 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. Stat. § 236.21(2)(a).

18.065 Recordation.

The Town Clerk shall cause the Certified Survey Map to be recorded with the County Register of Deeds only after the certificates of the Plan Commission and Town Board and the surveyor are placed on the face of the Certified Survey Map and after all applicable fees have been paid in accordance with this Chapter.

18.066 Minor Land Divisions Not Requiring a Certified Survey Map.

Divisions of land creating lots or parcels greater than 20 acres shall not be required to submit a plat or certified survey map, but shall be required to present the proposed land division to the Plan Commission for approval recorded in the minutes of the meeting, with the exception of sales or exchanges of parcels of land between owners of adjoining property which do not create additional lots or create a lot or lots noncompliant with the Zoning Ordinance.

18.067 Through 18.069 Reserved

Article V Preliminary Plats

18.070 Pre-submittal Meeting.

- A. Prior to the submittal of a preliminary plat, the subdivider shall contact the Town Clerk to schedule a meeting with appropriate Town staff to discuss the proposed plat. The meeting is intended to identify potential problems and methods to alleviate them, and to encourage a cooperative effort between the developer and the Town and all affected utilities for assistance and advice regarding site suitability and general requirements.

The subdivider shall be prepared to discuss a conventional and conservation subdivision layout for the proposed subdivision (see Article VI of this Chapter).

- B. Conceptual Plan. A conceptual plan of the proposed subdivision or land division drawn on a topographic survey map shall be submitted to the Town Clerk no less than seven days prior to the Pre-submittal Meeting. A formal Application for Preliminary Plat may not be submitted prior to the Pre-submittal Meeting. The conceptual plan shall identify:
- (1) Property boundaries.
 - (2) Topographic contours, at two-foot intervals.
 - (3) Slopes at or exceeding 12 percent.
 - (4) General soil conditions.
 - (5) General hydrologic and geological characteristics.
 - (6) Description of current land cover on site.
 - (7) All environmentally sensitive areas.
 - (8) Location of Secondary Conservation Areas, as defined in this Chapter.
 - (9) Brief description of historic character of buildings and structures, historically important landscapes, and archeological features, as applicable. This includes a review of existing inventories, including those the State Historical Society of Wisconsin maintains for historic buildings, archaeological sites, and burial sites.
 - (10) Digital images of the site, including views onto the site from surrounding roads, public areas, and a map indicating the location where the subject of the image is located and location where the image was taken.
 - (11) All contiguous property owned or controlled by the subdivider.
 - (12) Existing buildings and easements.
 - (13) Current and proposed zoning.
 - (14) Proposed uses of the property.
 - (15) Number and type of dwelling units proposed.
 - (16) Tentative lot and street layout.
 - (17) Development Yield Analysis.
 - (a) The Conceptual Plan shall include a table showing the maximum number of dwelling units that would be permitted under the Zoning Ordinance, consistent with the minimum lot size, lot widths, setbacks, and other provisions of the zoning district within the land proposed for development will be located. Land that is undevelopable (e.g., floodplains, wetlands, steep slopes, and drainage ways), shall be excluded from the development yield analysis.

18.071 Preliminary Plat.

- A. A preliminary plat shall be prepared for all subdivisions and shall be based upon a survey by a land surveyor licensed in this state. For Preliminary Plats associated with Conservation Design Subdivisions, please refer to Article VI of this Chapter.

- B. The plat shall be submitted at a scale of not less than 100 feet to one inch, shall conform to any standards and specifications set forth in Wis. Stats. § 236.34 shall utilize the Wisconsin County Coordinate System for Winnebago County, and shall show correctly on its face the following information:
 - (1) Title of the proposed subdivision not duplicating an existing subdivision in Winnebago County.
 - (2) Location of the proposed subdivision by government lot, quarter section, section, township, range, and county.
 - (3) A small-scale drawing detailing the section or region in which the subdivision lies within the location of the subdivision located thereon.
 - (4) Date, graphic scale, and North arrow.
 - (5) Name, address, email address, and phone number of the owner, subdivider, authorized agent, and land surveyor preparing the plat.
 - (6) Entire area contiguous to the proposed plat owned or controlled by the subdivider, even if only a portion of said area is proposed for immediate development. The Town may waive this requirement where it is unnecessary to fulfill the purposes and intent of this chapter and undue hardship would result from strict application thereof.
 - (7) Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the Wisconsin County Coordinate System for Winnebago County, and the total acreage encompassed.
 - (8) Location and names of any adjacent subdivisions, parks and cemeteries, and owners of record of abutting unplatted lands.
 - (9) Location, right-of-way width, and names of any existing or proposed streets, alleys, or other public ways, easements, railroad and utility rights-of-way, and all section or quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
 - (10) Location of all permanent buildings and major structures.
 - (11) Location of existing property lines, structures, drainage ditches, streams and watercourses, lakes, wetlands, rock outcrops, wooded areas, slopes 12% or greater, environmentally sensitive areas, and other similar significant features within the parcel being subdivided.
 - (12) Location of Secondary Conservation Areas, as defined in this Chapter.
 - (13) Location and type of existing and proposed public easements.
 - (14) Water elevations of adjoining lakes, ponds, streams, and flowages at the date of the survey, and approximate high and low water elevations.
 - (15) Type, width, and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto with any legally established center-line elevations.

- (16) Contours at vertical intervals of not more than two feet where the slope of the ground surface is less than 10 percent, and of not more than four feet where the slope of the ground surface is 10 percent or more. Elevations shall be marked on such contours based on National Geodetic Datum of 1929 (mean sea level).
- (17) Location and approximate dimensions of any sites to be dedicated or reserved for parks, open space, drainageways, schools, or other public uses as deemed necessary by the Town.
- (18) Approximate dimensions of all lots, and proposed lot and block numbers.
- (19) Buildable area of proposed lots.
- (20) Existing and proposed land use and zoning included within and immediately adjacent to the proposed subdivision.
- (21) Floodplains, wetlands, and any proposed lake and stream access.
- (22) Surface drainage pattern mapping and indication of direction and established peak volume of soil drainage pattern as deemed necessary by the Town.
- (23) Signature and seal of surveyor.
- (24) Where the Town finds that it requires additional information relative to a particular problem presented by a proposed development to review the preliminary plat, it shall have the authority to request such information from the subdivider.
- (25) Drainage Ways. A covenant shall be recorded with or placed on the Certified Survey Map. The covenant shall read as follows:
 - (a) Maintenance of all drainageways and associated structures within the land division or serving the land division is the sole responsibility of the property owners of the land division, unless noted on the plan.
 - (b) Upon failure of the property owner(s) to perform maintenance of the drainageways and associated structures, the county and/or town retains the right to perform maintenance and/or repairs. The payment of the maintenance and repairs shall be assessed among the property owners of the land division in an equal amount with a drainage covenant or where the cause can be specifically identified then the payment shall be assessed to a specific property owner.
- (26) Drain Tiles. The face of the Preliminary Plat shall contain the following statement: Any agricultural drain tile disturbed, cut, or broken as part of the development of the plat or excavation for home construction must be repaired and/or relocated to allow for the drain tile to continue to drain as originally designed. The cost of repair or relocation must be borne by the party or his agent damaging the drain.

C. Development Yield Analysis. The subdivider shall submit a table showing the maximum number of dwelling units that would be permitted under the Zoning Ordinance, consistent with the minimum lot size, lot widths, setbacks, and other provisions of the zoning district within the land proposed for development will be located. Land that is undevelopable because of other laws and ordinances that prohibit development in certain areas (e.g., floodplains, wetlands, steep slopes, and drainage ways), shall be excluded from the development yield analysis.

18.072 Submittal Procedure.

- A. Subdivider submittals. Prior to submitting a final plat for approval, the subdivider shall submit to the Town and to those agencies having the authority to object to plats under Ch. 236, Wis. Stats., a preliminary plat and a letter of application for Town approval. The subdivider shall prepare the plat in accordance with this Chapter and shall submit said plat and all required information to the Town Clerk at least 15 days, but not more than 60 days, prior to the meeting of the Plan Commission at which first consideration is desired. The preliminary plat shall be prepared in accordance with this Chapter. The Plan Commission shall submit a copy of the preliminary plat to the Town Engineer and Zoning Administrator for review and written report of their reaction to the proposed plat. In total, the subdivider shall submit the following to the Town:
- (1) 10 copies of the completed Application for Preliminary Plat.
 - (a) Two copies of the plat 22 inches by 30 inches.
 - (b) Eight copies of the plat 11 inches by 17 inches.
 - (2) Four copies of all other plans and specifications required in this Chapter.
 - (3) One copy of the Application for Preliminary Plat, the plat, and all other supporting information and documentation in PDF format, or an equivalent format acceptable to the Town.
- B. Within 90 days of the date of filing the plat, the Town, or its approving authority, shall take action to approve, approve conditionally, or reject the preliminary plat, unless the time is extended by agreement with the subdivider, based on its determination of conformance with the provisions of this Chapter and the Comprehensive Plan. One copy of the plat shall thereupon be returned to the subdivider with the date and action endorsed thereon; and, if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat and shall be submitted to the subdivider.
- C. Failure of the Town or its approving authority or its agent to act within 90 days of the date of filing, or agreed extension thereof, constitutes an approval of the preliminary plat.
- D. Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat, except that if the final plat is submitted within 36 months of the preliminary plat approval and conforms substantially to the preliminary plat as approved, including any conditions of that approval, and to any local plans and ordinances adopted as authorized by law, as indicated in Wis. Stat. § 236.11(1)(b), the final plat is entitled to approval.
- E. ‘Upon Town Board approval of the Preliminary Plat and within 10 days of the subdivider submitting the plat with all required certificates and affidavits the Town Clerk shall make a certification of approval on the face of the Preliminary Plat for the purposes of the subdivider filing the approval plat with the Outagamie County register of Deeds.’

CPC Comment: Change necessitated by 2025 Wisconsin Act 68

18.073 Addressing.

In order to ensure timely emergency response, addresses shall be assigned as part of the final subdivision plat. Land divisions that create new streets shall also have addresses assigned whenever possible. Minor land divisions that create new streets shall also have an address range determined. The subdivider shall contact the agency responsible for assigning addresses in the Town to determine the address for each proposed lot.

18.074 Development Agreement.

- A. As a condition of approval of a final plat, the subdivider shall enter into a development agreement per this Chapter. This agreement shall provide for time limits and security for performance and penalties for noncompliance. The agreement will not create or invoke special treatment for the developer, nor imply or create promises of approval.
- B. No building permits may be issued by the Town until all improvements specified in the development agreement have been agreed to.

CPC Comment: Change recommended in response to 2025 Wisconsin Act 68

18.075 Through 18.079 Reserved.

Article VI Final Plats

18.080 Final plat.

A final plat prepared by a land surveyor licensed in this state is required for all subdivisions. It shall comply in all respects with this Chapter and the standards and specifications of Wis. Stat. § 236.20, and that section is hereby adopted by reference. Where the Town finds that it requires additional information or plat data relative to a particular problem presented by a proposed development to review the final plat, it shall have the authority to request such information from the subdivider.

18.081 Final Plat Submittal Procedure.

- A. The subdivider shall prepare a final plat in accordance with this Chapter and applicable state statutes and administrative codes, for transmittal to the Town and appropriate state and county agencies, within 36 months of preliminary plat approval, unless the Town Board waives this requirement in writing. The final plat shall be accompanied by detailed construction plans of all improvements and a development agreement as discussed in this Chapter. The final plat may constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time.
- B. The final plat shall be presented to the Town Clerk at least 14 working days prior to the Plan Commission meeting at which it is to be considered. In total, the subdivider shall submit the following to the Town:
 - (1) 10 copies of the completed Application for Final Plat.
 - (a) Two copies of the plat 22 inches by 30 inches.
 - (b) Eight copies of the plat 11 inches by 17 inches.
 - (2) Four copies of all other plans and specifications required in this Chapter.
 - (3) One copy of the Application for Preliminary Plat, the plat, and all other supporting information and documentation in PDF format, or an equivalent format acceptable to the Town.
- C. Any proposed restrictive covenants for the land involved shall also be submitted. This data will be used for informational purposes only.

18.082 Drainage Ways.

A covenant shall be recorded with or placed on the Final Plat. The covenant shall read as follows:

- A. Maintenance of all drainageways and associated structures within the land division or serving the land division is the sole responsibility of the property owners of the land division, unless noted on the plan.

- B. Upon failure of the property owner(s) to perform maintenance of the drainageways and associated structures, the county and/or town retains the right to perform maintenance and/or repairs. The payment of the maintenance and repairs shall be assessed among the property owners of the land division in an equal amount with a drainage covenant or where the cause can be specifically identified then the payment shall be assessed to a specific property owner.

18.083 Drain Tiles.

The face of the Final Plat shall contain the following statement: Any agricultural drain tile disturbed, cut, or broken as part of the development of the plat or excavation for home construction must be repaired and/or relocated to allow for the drain tile to continue to drain as originally designed. The cost of repair or relocation must be borne by the party or his agent damaging the drain.

18.084 Deed Restrictions.

The Plan Commission may require that deed restrictions be filed with the Final Plat, when so doing would serve to achieve the purposes of the Comprehensive Plan or other Town plans.

18.085 Plat Restrictions.

The Town may require that plat restrictions intended to reflect Town plans and ordinances be placed on the face of the plat.

18.086 Survey Accuracy.

The Town Engineer shall examine all Final Plats and, where appropriate, make field checks for the accuracy and closure of survey, the proper kind and location of monuments and the legibility and completeness of the drawing. In addition:

- A. Maximum Error of Closure before adjustment of the survey of the exterior boundaries of the subdivision shall not exceed, in horizontal distance or position, the ratio of 1:10,000, nor in azimuth, four seconds of arc per interior angle. If field measurements exceed this maximum, new field measurements shall be made until a satisfactory closure is obtained. When a satisfactory closure of the field measurements has been obtained, the survey of the exterior boundary shall be adjusted to form a closed geometric figure.
- B. All Street, Block and Lot Dimensions shall be computed as closed geometric figures based upon the control provided by the closed exterior boundary survey. If field checks disclose an error for any interior line of the Plat greater than the ratio of 1:5,000, or an error in measured angle greater than one minute of arc for any angle where the shorter side forming the angle is 300 feet or longer, necessary corrections shall be made. Where the shorter side of a measured angle is less than 300 feet in length, the error shall not exceed the value of one minute multiplied by the quotient of 300 divided by the length of the shorter side; however, such error shall not in any case exceed five minutes of arc.

C. The Town Board shall receive the results of the Town Engineer's examination prior to approving the Final Plat.

18.087 Surveying and Monumenting.

All final plats shall meet all the surveying and monumenting requirements of Wis. Stat. § 236.15.

18.088 State Plane Coordinate System.

Where the Plat is located within a U.S. Public Land Survey one-quarter section, the corners of which have been relocated, monumented, and coordinated by Winnebago County or the Town of Winchester, the Plat shall be tied directly to two of the section or quarter corners so relocated, monumented, and coordinated. The exact grid bearing and distance of such ties shall be determined by field measurements, and the material and Wisconsin state plane coordinates of the monument marking the relocated section or quarter corner to which the Plat is tied shall be indicated on the Plat. All distances and bearings shall be referenced to the Wisconsin County Coordinate System for Winnebago County, South Zone, and adjusted to the County's control survey.

18.089 Certificates.

All Final Plats shall provide all the certificates required by Wis. Stat. § 236.21; and, in addition, the surveyor shall certify that they have fully complied with all the provisions of this Chapter.

18.090 Final Plat Review.

- A. The Plan Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat; any conditions of approval of the Preliminary Plat; this Chapter and all other ordinances, rules, regulations, and duly adopted Town plans which may affect it and shall recommend approval or rejection of the Plat to the Town Board.
- D. Partial Platting. If permitted by the Town Board, the approved Preliminary Plat may be final platted in phases with each phase encompassing only that portion of the approved Preliminary Plat which the subdivider proposes to record at one time, however, it is required that each such phase be final platted and be designated as a phase of the approved Preliminary Plat.
- E. Failure of the Town to act within 60 days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the plat by the authority which has failed to act.
- F. Approved final plats shall be recorded with the Winnebago County Register of Deeds in accordance with requirements of Wis. Stat. § 236.25 before lots may be sold.

- G. No building permits may be issued by the Town until all improvements specified in the development agreement have been fulfilled or otherwise agreed to.
- H. Pursuant to Wis. Stat. § 236.12(2), the subdivider shall submit an electronic or paper copy of the final plat to the Director of Plat Review of the Wisconsin Department of Administration, who will prepare and forward copies of the plat at the subdivider's expense to the objecting agencies.

18.091 Recordation.

After the Final Plat has been approved by the Town Board and required improvements either installed or a contract and sureties ensuring their installation is filed, the Town Clerk shall cause the certificate inscribed upon the Plat attesting to such approval to be duly executed and the Plat to be forwarded to the County Register of Deeds for recording. The Register of Deeds shall not record the plat unless it is offered within 12 months after the last approval and within 36 months after the date of the first approval.

18.092 Copies.

The subdivider shall file one paper copy and one digital PDF format or equivalent format approved by the Town, of the Final Plat with the Town Clerk for distribution to the Town Engineer, Building Inspector, Assessor, and other affected departments for their files.

18.093 Through 18.099 Reserved.

Article VII Conservation Design Subdivisions

18.100 Purpose.

- A. In addition to the purposes listed in Article I of this Chapter, Article VII is intended to provide the Town with the ability to more meaningfully:
- (1) Preserve the rural character through the permanent preservation of meaningful open space and sensitive natural resources.
 - (2) Preserve scenic views by minimizing views of new development from existing roads and other public spaces.
 - (3) Provide commonly owned open space areas for passive recreational use by residents of the development and, when and where specified, the larger community.
 - (4) Provide buffering between residential development and non-residential uses.
 - (5) Protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors.
 - (6) Meet demand for housing in a rural setting
- B. If a conflict exists between the requirements for a conservation design subdivision and a conventional subdivision exist, the requirements for a conservation subdivision shall apply.

18.101 Minimum Required Open Space.

A. Amount.

- (1) The minimum required open space in a conservation design subdivision shall be no less than 40 percent of the gross tract area and shall include:
 - (a) All primary conservation areas.
 - (b) Any secondary conservation areas as required by the Plan Commission or Town Board.
 - (2) When insufficient primary and secondary conservation areas exist to meet minimum required open space, the subdivider shall prepare a restoration plan to reconcile the difference. Restoration plan shall be approved by the Plan Commission and may include any combination of prairie, woodland, or wetland restoration.
 - (3) No more than 30 percent of the required open space may consist of active recreation land.
 - (4) No more than 50 percent of the required open space may consist of water bodies, ponds, floodplain, or wetlands.
 - (5) Although primary and secondary conservation areas may comprise more than 40 percent of the gross tract area, no subdivider shall be required to designate more than 40 percent of the gross tract area as required open space.
 - (6) Road rights of way shall not be counted towards the required minimum open space.
- B. Location. Required open space shall be situated, when practicable, to take advantage of the site's natural, historic, and cultural features, to preserve scenic views, and to be contiguous with existing or proposed open spaces outside of the conservation design subdivision.

18.102 Conservation Areas.

A. Primary Conservation Areas. Primary Conservation Areas are those landscapes or landscape elements with existing, regulatory restrictions on development potential as regulated by state or federal law.

- (1) Examples of primary conservation areas include, but not necessarily limited to, the following:
 - (a) Wetlands.
 - (b) Navigable waters.
 - (c) Shoreland areas.
 - (d) Floodplains.
 - (e) Archaeological sites and grave sites.

B. Secondary Conservation Areas. Secondary conservation areas are those landscapes or landscape elements important to the Winchester community but are not otherwise regulated by state or federal law.

- (1) Examples of Secondary Conservation Areas in the Town include, but are not necessarily limited to, the following:
 - (a) Upland woodlands and upland woodland buffers.
 - (b) Grasslands, meadows, and prairies.
 - (c) Wildlife habitat and wildlife corridors.
 - (d) Riparian corridors
 - (e) Isolated wetlands.
 - (f) Large trees with a DBH of 36 inches or greater, when deemed to be healthy and structurally sound by a qualified source.
 - (g) Historic structures or places.
 - (h) Historic Farmsteads.
 - (i) Structurally-sounds barns, silos, fence lines, and other such examples of Winchester's agricultural heritage.
 - (j) Localized groundwater recharge areas.
 - (k) Other unique natural, cultural, and historical features as may be identified by the Town Board and Plan Commission.
- (2) Secondary Conservation Areas shall be preserved when practicable.
- (3) The final determination of which Secondary Conservation Areas within a given development are to be protected shall be made by the Plan Commission and Town Board based upon their determination said

18.103 Trails.

The Plan Commission encourages, and may require, that each conservation design subdivision include an internal trail system providing access to each lot owner. Any section of the trail system identified for potential future public use as part of an integrated Town trail network shall

be dedicated to the Town. When a trail system is required, the subdivider shall be granted the five percent density bonus described below.

18.104 Preliminary Plat Submittal Requirements.

In addition to the requirements of Article IV of this Chapter, the Preliminary Plat for a Conservation Design Subdivision shall include the following:

- A. Development Yield. The maximum number of residential lots allowed in the proposed subdivision shall be determined in accordance with the following:
 - (1) The development yield analysis in Article V of this Chapter shall establish the base development yield for the proposed subdivision.
 - (2) A 10 percent density bonus is provided for each conservation design subdivision.
 - (3) In addition to the 10 percent density bonus, the development yield, may be increased if the development complies with one or more of the following standards. Each additional standard provides an additional density bonus of five percent, to a maximum allowable density bonus of 20% over the development yield.
 - (a) Providing for access by the general public to parks and designated sections of trails included within the subdivision.
 - (b) Providing affordable housing, to include a minimum of 25 percent of all units that would be affordable to moderate-income households, as defined by the U.S. Department of Housing and Urban Development.
 - (c) Incorporating and integrating existing structurally-sounds barns, silos, fence lines, and other such examples of Winchester's agricultural heritage into the development.

- B. Layout of Lots.
 - (1) Lots shall be configured to minimize the amount of road and driveway length for the subdivision.
 - (2) All lots shall abut open space on at least one side. A local street may separate lots from the open space.
 - (3) All residential lots and dwellings shall be grouped into clusters. Each cluster shall contain no fewer than five dwelling units and no more than 20 dwelling units.
 - (4) Residential clusters shall be located to minimize negative impacts on the primary and secondary conservation areas.
 - (5) When practicable, residential structures shall be oriented to maximize solar gain in the winter months.

- C. Designation of Required Open Space. All required open space areas shall be clearly delineated on the plat as an outlot or outlots and clearly designated as open space on the face of the plat. Each outlot shall be accessible by public road or trail, or by an easement for ingress and egress to a public road.

- D. The Town may require a separate instrument to be recorded with the Winnebago County Register of Deeds regarding restrictions on use, maintenance, ownership and transfer of

ownership. The Town, or a designee approved by the Town, shall be noted as a benefited party for enforcement purposes.

- E. Ownership of Open Space. Unless otherwise approved by the Town, open space outlots shall be owned and maintained by a Homeowners' Association. All documents and instruments relating to the ownership, use, and maintenance of open space shall be reviewed and approved by the Town. A Homeowners' Association shall be created and operated under the following provisions:
- (1) The subdivider shall submit all documentation in connection with the creation of a Homeowners' Association and its powers, duties, and responsibilities for Town review prior to approval.
 - (2) The Homeowners' Association shall be created as a separate legal entity by the owner, with its bylaws, organization and responsibilities contained in a document recorded with the Winnebago County Register of Deeds.
 - (3) Membership in the Homeowners' Association shall be mandatory for all lot owners and their successors and assigns.
 - (4) The Homeowners' Association shall be authorized to levy fees and assessments against all lots in an amount sufficient for payment of real estate taxes and to discharge its duties and responsibilities.
 - (5) Unpaid fees and assessments by any lot owner shall become and remain a lien on the lot until paid, with the Homeowners' Association authorized to bring any action against a lot owner for the collection of fees and assessments.
 - (6) Modification of any bylaws shall require approval of the Town.
- F. Designation of Common Facilities. All common or community facilities shall be clearly delineated on the plat as an outlot or outlots, and shall be clearly designated as to specific use, on the face of the plat. Each outlot shall be accessible by public road, or by an easement for ingress and egress to a public road.
- G. Ownership of Common Facilities. Common facility outlots shall be owned and maintained by a Homeowners' Association or other such mechanism as approved by the Town. All documents and instruments relating to the use and maintenance of common facilities shall be reviewed and approved by the Town.

18.105 Final Plat Submittal Requirements.

Final Plats shall comply with the requirements of Article VI of this Chapter.

18.106 Through 18.109 Reserved.

Article VIII Lot Line Adjustments

18.110 Use of Lot Line Adjustments.

A Lot Line Adjustment is an adjustment or relocation of property line(s) between adjacent lots that does not result in the creation of additional lots, from what was originally platted or mapped.

18.111 Plat of Survey.

A Plat of Survey or Certified Survey Map prepared by a registered land surveyor shall be required for all Lot Line Adjustments. The plat of survey shall comply in all respects with the requirements of this Chapter and Wis. Admin. Code Chapter A-E7. The Zoning Administrator shall have the discretion of requiring a certified survey map if the lot line adjustment involves unplatted land and/or has a complicated metes and bounds description.

18.112 Submission.

The subdivider shall submit to the Town a complete application, which includes the following:

- A. A written application and fee set forth by the Town Fee Schedule which is subject to change.
- B. Two paper copies and one digital copy (PDF format or other format as approved by the Town), of the plat of survey prepared by a registered land surveyor, in accordance with the requirements of this ordinance and Wis. Admin. Code Chapter A-E7.

18.113 Review and Approval.

The Lot Line Adjustment will be reviewed administratively by the Zoning Administrator. A Lot Line Adjustment may be approved pursuant to this ordinance, provided the resulting lot line adjustment is compliant with this Chapter and the Zoning Ordinance. The petitioner shall be notified in writing by the Zoning Administrator of any conditions of approval or the reasons for rejection.

18.114 Technical Requirements for Lot Line Adjustments.

- A. The plat of survey shall be required for all lot line adjustments and shall be prepared by a registered land surveyor in accordance with this ordinance.
- B. The plat of survey shall show correctly on its face, in addition to the information required by Wis. Admin. Code Chapter A-E7 the following information:
 - (1) Date, legend, scale, surveyor's certificate, legal description for each lot based upon the lot line adjustment and north arrow.
 - (2) Names and addresses of the owner and land surveyor preparing the plat of survey map.
 - (3) Exterior and interior boundary line dimensions and bearings.
 - (4) Square footage of each lot or outlot.

- (5) Location, use, and setback dimensions to existing and proposed property line of all existing structures.
- (6) Location, right-of-way width and names of all existing and proposed streets, alleys, easements or other public ways, railroad, and utility rights-of-way.
- (7) Where the Zoning Administrator finds that additional information relative to a particular problem presented by a proposed lot line adjustment in order to review the lot line adjustment, they shall have the authority to request in writing such information from the petitioner.

18.115 Recordation.

Upon written approval by the Zoning Administrator, the petitioner shall record the deed or other appropriate instrument and attach the plat of survey as an exhibit to the deed or instrument with the Winnebago County Register of Deeds within 30 days from the written approval date or the approval will expire. Failure to record the deed or instrument and attach the plat of survey as an exhibit to the deed or instrument within 30 days from the written approval date by the Zoning Administrator requires the petitioner to recommence the entire procedure for Lot Line Adjustment approval.

18.116 Filing of Recorded Plat of Survey and Deed or Instrument.

The petitioner shall submit one recorded copy of the deed or instrument and the plat of survey exhibit with the Town Clerk.

18.117 Through 18.119 Reserved.

Article IX Administration

18.130 Variances and Exceptions.

- A. Where the Plan Commission finds that extraordinary hardships or particular difficulties may result from strict compliance with these regulations, it may recommend to the Town Board variances or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variance or exception shall not have the effect of nullifying the intent and purpose of this Chapter. The Plan Commission shall not recommend 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 based upon the following conditions:
- (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 particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
 - (4) The variance will not in any manner vary the provisions of other Town ordinances, the Comprehensive Plan, or any Town Official Map.
- B. The Town Board shall not approve variances to the regulations of this Chapter unless it makes findings based upon the evidence presented to it in each specific case based upon conditions identified above.
- C. Any modification or variance granted shall be entered in the minutes of the Town Board, setting forth the reasons which, in the opinion of Board, justify the variance.
- D. In approving variances, the Town Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.
- E. A petition for any such variance shall be submitted in writing to the Town Clerk, by the subdivider, at the time when the preliminary plat or certified survey map is filed for consideration of the Plan Commission. The petition shall state fully the grounds for the application and the facts relied upon by the petitioner.

18.131 Enforcement; Violations, and Penalties.

- A. The Zoning Administrator shall have primary responsibility for enforcing this Chapter. No building permit shall be issued for construction on any lot until the final plat for the subdivision has been duly recorded, or a certified survey map is recorded, and all conditions of approval are met.

- B. Any person who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit not less than \$25 nor more than \$2,500 and the costs of prosecution for each violation and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense. In addition, the remedies provided by Wis. Stat. §§ 236.30, 236.31, 236.32, and 236.335 shall be available to the Town.
- C. When a subdivision is created in violation of this Chapter, the Town may order an Assessor's plat to be made under Wis. Stat. § 70.27 at the expense of the subdivider or his/her agent.

18.132 Through 18.199 Reserved.

Article X Definitions

18.200 Meanings and Words and Phrases Defined.

A. Meanings. For the purpose of this Chapter, certain words or phrases shall have meanings that either vary somewhat from their customary dictionary meanings or are intended to be interpreted to have a specific meaning.

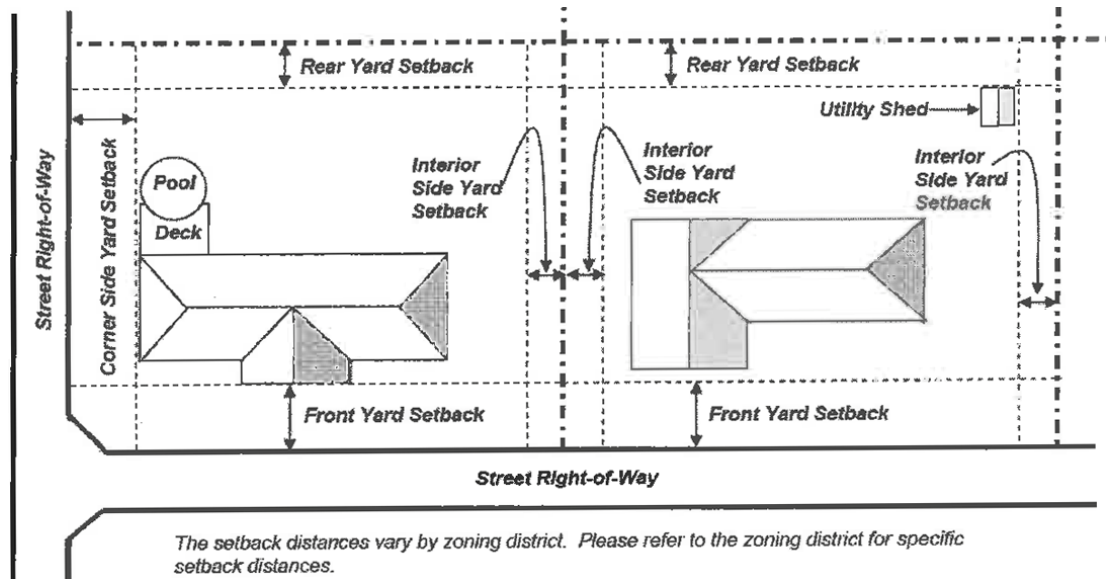
- (1) Words used in the present tense in this Chapter include the future.
- (2) The word "person" includes a firm, association, partnership, trust, company, or corporation as well as an individual.
- (3) The word "shall" is mandatory, the word "should" is advisory, and the word "may" is permissive.
- (4) Any words not defined in this Section shall be presumed to have their customary dictionary definitions.

B. Words and Phrases Defined.

- (1) Alley. A public or private right-of-way that provides secondary access to abutting properties.
- (2) Arterial Street. A street that provides for the movement of relatively heavy traffic to, from, or within the Town. It has the secondary function of providing access to abutting land.
- (3) Association. All of a subdivision or condominium's unit owners acting as a group, either through a non-stock, non-profit corporation or an unincorporated association in accordance with its bylaws and declaration.
- (4) Block. A parcel, lot, or group of lots existing within well-defined and fixed boundaries bounded on at least one side by a street, bounded on the other sides by streets, natural or artificial barriers, or unplatted land and having an assigned number, letter, or other name through which it may be identified.
- (5) Buildable Area. The area of a lot remaining after the building setback requirements have been met and excluding the unbuildable areas as determined by this Chapter and the Town of Winchester Plan Commission. The buildable area must be contiguous and not separated by environmental features, streets, or other similar features.

CPC Comment: To discuss with Plan Commission.

- (6) Building. A structure having a roof supported by columns or walls for shelter, support, or enclosure of persons, animals, or property and having a more or less permanent location on the ground.
- (7) Building Setback Line. The distance from the boundaries of a lot within which building(s) shall not be erected.

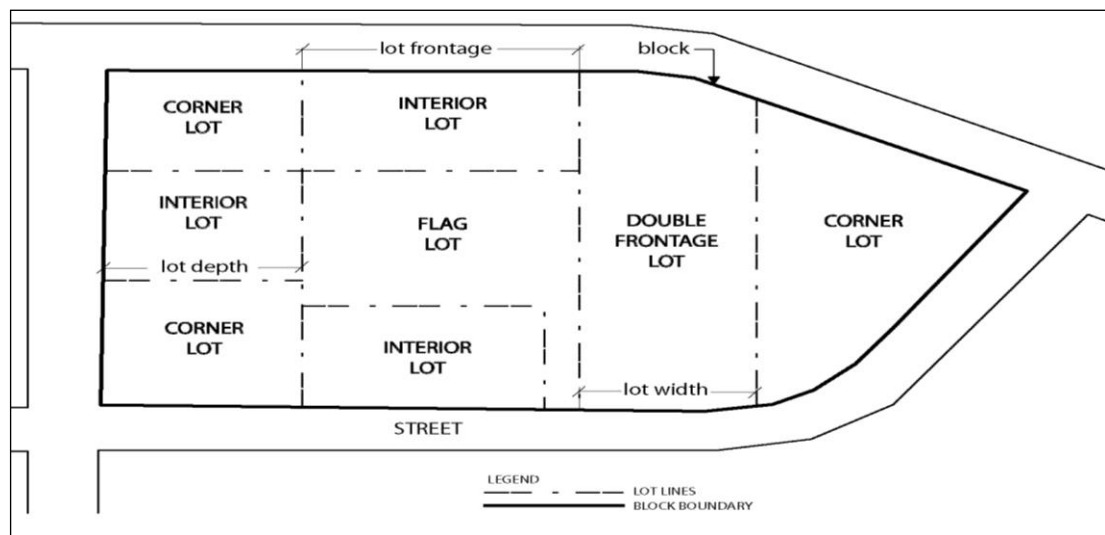


- (8) Certified Survey Map (also, CSM). A map, plan, or record of a minor subdivision meeting all the requirements of Wis. Stat. § 236.34, and of this Chapter.
- (9) Channel. A natural or artificial watercourse of perceptible extent with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of a defined channel.
- (10) Collector Street. A street which collects and distributes internal traffic within an urban area such as a residential neighborhood, between arterial and local streets. It generally provides access to abutting property.
- (11) Common Open Space. Undeveloped land within a conservation subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common open space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historic structures and archaeological sites including Indian mounds, and/or such recreational facilities for residents as indicated on the approved development plan
- (12) Comprehensive Plan. The plan for guiding and shaping the growth and development of the Winchester community, including all of the component parts, as prepared by the Plan Commission, and adopted by the Town Board according Wis. Stat. to § 66.1001.
- (13) Common Facilities. All the real property and improvements set aside for the common use and enjoyment of the residents of a conservation design subdivision, including, but not limited to, buildings, open space, private streets, parking areas, walkways, recreation area, drainage easements, and any utilities that service more than one unit, such as sewerage and well facilities.
- (14) Conditional Approval. Approval of a plat by the Town Plan Commission or Town Board subject to the plat meeting certain specified requirements as determined by the Town Plan Commission or Town Board.
- (15) Condominium. A community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirements of the Condominium Ownership Act, Wis. Stat. ch. 703. A condominium is a legal form of ownership of real estate and not a specific building type or style.

- (16) Conservation Area, Primary. The primary conservation areas are those areas that are automatically set aside when determining open space for conservation development subdivisions and include, but are not necessarily limited to: all lands located within existing street rights-of-way; all lands located within existing utility and railway rights-of-way; all lands located within floodplain; all lands located within wetlands; all slopes of 12% or greater; and, those areas identified in Section 265-73.A(1) of this Chapter.
- (17) Conservation Area, Secondary. Those areas identified in, but not limited to, Section 265.73.B(1) of this Chapter.
- (18) Conservation Easement. The grant of a property right or interest from the property owner to a unit of government or nonprofit conservation organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state precluding future or additional development.
- (19) Conservation subdivision. A subdivision where open space is the central organizing element of the subdivision design and one that identifies and permanently protects all primary conservation areas and all or some of the secondary conservation areas within the boundaries of the subdivision and retains a minimum of 40% of the gross tract area as protected open space.
- (20) Contiguous. Lots are contiguous when at least one lot line of one lot touches a lot line of another lot; a corner-to-corner connection is not considered contiguous.
- (21) Cul-de-sac. A short minor street having one end open to motor traffic and the other end terminated by a vehicular turnaround.
- (22) Days. Refer to calendar days, unless specifically indicated otherwise.
- (23) Deed restriction. A restriction on the use of a property set forth in a deed or other instrument of conveyance, including, but not limited to, a restrictive covenant, conservation easement, transfer of development rights, or any restriction placed on undeveloped land as a condition for the division or development of the undeveloped land.
- (24) Detention Pond. A permanent artificial pond or pool used for the temporary storage of stormwater runoff and which provides for the controlled release of such waters.
- (25) Developer. A person that constructs or creates a land development.
- (26) Development. The act of constructing buildings or installing site improvements, such as grading, clearing, ditching, installing utilities, or any other activities prior to construction.
- (27) Development Agreement (also, Developers Agreement). An agreement entered into by and between a Subdivider and the Town, with respect to any approved land division, which provides, among other things, for the design, construction and installation of required public improvements, the payment for such public improvements, dedication of land or acceptance of the dedication of completed public improvements, restrictive covenants running with the land, or other matters relating to land division, to development and use of land included in the land division or to the administration and enforcement of the agreement.
- (28) Division of Land (also, Land Division). The division of a lot or parcel of land into two or more parcels.
- (29) Dwelling Unit. The building, or group of rooms within a building, where one person or a group of persons resides as a family unit.
- (30) Easement. A grant by a property owner of the use of designated land by another for a specified purpose.
- (31) Engineer. A professional engineer licensed by the State of Wisconsin.

- (32) Environmentally Sensitive Area (also, ESA). Portions of the landscape including valuable natural resource features that should be protected from intensive development. Environmentally sensitive areas may include lakes, rivers, streams, wetlands, floodways, steep slopes, and other significant and unique natural resource features. Environmentally sensitive areas also include a setback or buffer from those features.
- (33) Erosion. The process by which soil particles are mobilized and transported by either artificial actions or natural agents such as wind, rain, frost action, or surface water flow.
- (34) Erosion Hazard Area. Those areas of the landscape in which human activities and development can accelerate erosion due to soils subject to severe erosion.
- (35) Final Plat. The map or plan of record of a subdivision and any accompanying material prepared in compliance with Wis. Stat. ch. 236, and the terms within this Chapter.
- (36) Flood. A temporary rise in stream flow or pond or lake water levels that results in water overtopping its banks and inundating normally dry areas adjacent to the stream, pond, or lake.
- (37) Floodplain. The land that has been or may be hereafter covered by floodwater, including but not limited to the regional flood.
- (38) Floodway. The channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the floodwaters or flood flows of any river or stream, including but not limited to flood flows associated with the regional flood.
- (39) Frontage. The length of the front property line of the lot, lots or tract of land abutting the right-of-way of a public street road or highway.
- (40) Frontage Street. A minor street auxiliary to and located parallel and adjacent to an arterial street, highway, or other thoroughfare that provide access to abutting properties and separation from through traffic.
- (41) Grade. The slope of a road, street, or other public way, specified in percent.
- (42) Gross Tract Area. The entirety of the parcel proposed for subdivision, including all primary and secondary conservation areas.
- (43) Homeowners' Association. A Wisconsin membership corporation which serves as an association of homeowners within a Subdivision or Certified Survey Map having shared common interests, responsibilities with respect to costs and upkeep of common private property of a Subdivision or Certified Survey Map. Such common property includes private recreation and open space areas within the Subdivision or Certified Survey Map.
- (44) Impact fees. Cash and non-cash fees imposed upon a developer under this Chapter.
- (45) Improvement, Public. Any sanitary sewer, storm sewer, drainage ditch, stormwater management facility, water main, roadway, parkway, sidewalk, pedestrianway, planting strip, off-street parking area, or other facility for which the local municipality may ultimately assume the responsibility for maintenance and operation.
- (46) Irrevocable Letter of Credit. A guarantee issued by a bank or other lending agency stating that a certain level of funds is available to the Town to pay for improvement costs specified in an approved development agreement.
- (47) Land Development. The construction or modification of improvements to real property that creates additional residential dwelling units within the Town or that results in nonresidential uses that create a need for new, expanded or improved public facilities within the Town.
- (48) Land Division. The act of creating two or more separately described parcels, at least one of which is 40 acres or less in size, from a single parcel of land by the owner thereof or their agent.

- (49) Local Street. A street designed for low-speed travel and generally low traffic volumes which provides land access from neighborhoods and minor activities to the collector and arterial systems.
- (50) Lot. A designated fractional part of a subdivision or certified survey map having an assigned number through which it may be identified and meeting the requirements of this Chapter for a building site. For the purposes of this Chapter, a lot may also include the terms "parcel," "tract," or "building site" in determining the applicability of this Chapter to land divisions.
- (51) Lot, area. The total square footage lying within the peripheral boundaries of a parcel of land. In any zoning jurisdiction, the area of a lot specifically excludes:
 - (a) The right-of-way of a public or private street.
 - (b) Areas of navigable water.
- (52) Lot, corner. A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135 degrees or less measured on the lot side. (see Lot Type Illustration)
- (53) Lot, double frontage (also, Through Lot). A lot, other than a corner lot, with frontage on more than one street. Double frontage lots shall not be permitted unless the lot abuts an arterial highway. (See Lot Type Illustration)
- (54) Lot, flag. A lot, situated generally behind a lot or lots fronting on the street or road, with its widest point set back from the road, and having a relatively thin, long strip of land connected to the road to provide legal access and frontage. (see Lot Type Illustration)
- (55) Lot Lines. The peripheral boundaries of a lot or parcel of land as defined herein.
- (56) Lot Line Adjustment. The adjusting of common property line(s) or boundaries between adjacent lots, tracts, or parcels for the purpose of accommodating a transfer of land, rectifying a disputed property line location, or freeing such a boundary from any difference or discrepancies. The resulting adjustment shall not create any additional lots, tracts, or parcels, and all reconfigured lots, tracts, or parcels shall contain sufficient area and dimension to meet minimum requirements for zoning and building purposes.
- (57) Lot of Record. A legal lot of record shall mean a lot legally created and recorded in the Winnebago County Register of Deeds Office.
- (58) Lot Type Illustration.



- (59) Lot Width. The horizontal distance between the side lot lines of a lot, measured at the narrowest width within the first 25 feet of lot depth immediately in back of the front yard setback line.
- (60) Minor Land Division. The creation of one but not more than four parcels or building sites which divide land into a parcel or parcels of 10 acres or smaller in size. Minor land divisions shall be created by Certified Survey Maps. Not more than four parcels may be created by means of minor land division procedures within any five-year period from a lot, parcel or tract which existed on the effective date of this Chapter.
- (61) Municipality. All units with local self-government.
- (62) Nonprofit Conservation Organization. Any charitable corporation, charitable association, or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic, or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining, or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.
- (63) Official Map. The map indicating the location, width and/or extent of existing and proposed streets, highways, parkways, parks, waterways, and playgrounds, as adopted by the Town Board pursuant to Wis. Stat. § 62.23(6).
- (64) Open space. A natural or manmade landscaped area not occupied by any structures, buildings, or impervious surfaces.
- (65) Ordinary High Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
- (66) Outlot. A parcel of land so designated on a plat or certified survey map and which is any of the following:
- (a) A parcel of land left over at the time of platting and which is intended to be divided further in the future.
 - (b) A platted parcel which does not meet the requirements of a lot at the time of platting.
 - (c) A platted parcel which is intended for open space or other use and held in common ownership, or which is transferred to a public agency or utility.
- (67) Owner. Any person having proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the land under this Chapter.
- (68) Parcel. A continuous area of land described in a single description in a deed or a lot or outlots on a plat or certified survey map, separately owned or capable of being separately conveyed.
- (69) Parent Parcel. The existing parcel of record, as identified by individual tax parcel numbers, as of the effective date of this ordinance.
- (70) Performance Bond. A bond guaranteeing performance of a contract or obligation through possible forfeiture of bond if said contract or obligation is unfulfilled by the subdivider.
- (71) Plan Commission. An officially constituted Town of Winchester body under is. Stat. § 62.23, whose duties include administration of Town subdivision regulations.
- (72) Planned Development. A Development guided by a total design plan in which one or more of the Zoning or Subdivision regulations, other than Use regulations, may be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.
- (73) Plat. A map of a subdivision.

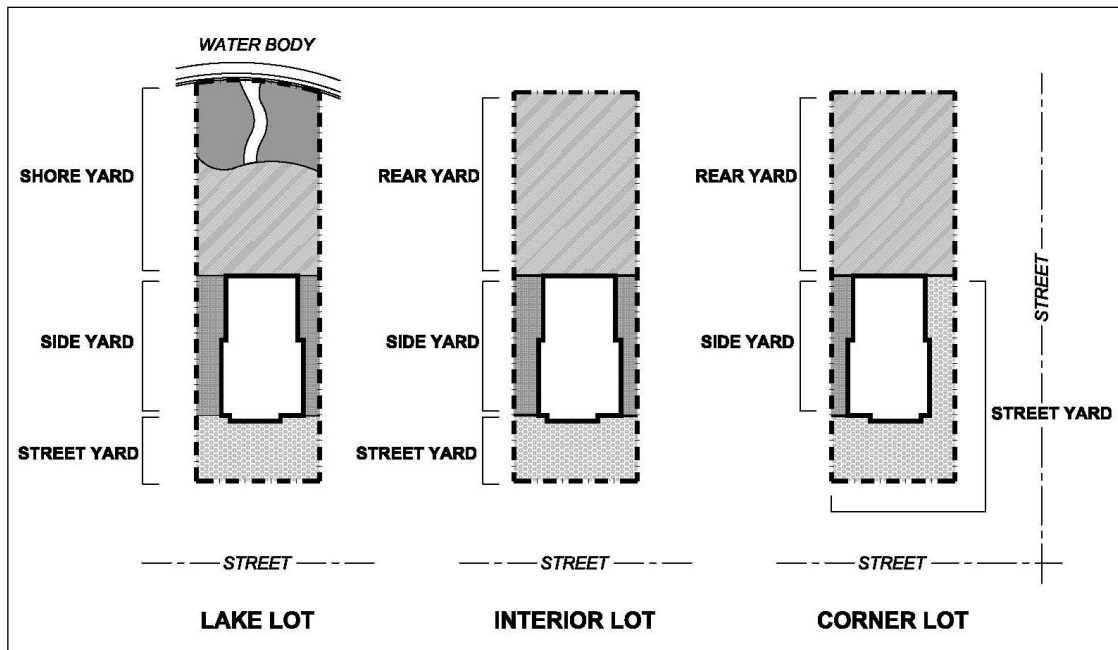
CPC Comment: The definition of Plat in current ordinance is misleading and inconsistent with state statutes.

- (74) Preliminary Plat. A map delineating the features of a proposed subdivision as described herein, submitted to the Town for preliminary consideration prior to the final plat.
- (75) Property line. The legal boundaries of a parcel of property that may or may not coincide with platted lot lines or street right-of-way.
- (76) Public Utility. A corporation, company, association, sanitary district, or municipality that may own or operate any plant or equipment for the conveyance of telephone messages or for the production, transmission, delivery, or furnishing of heat, electricity, gas, water, cable television, sewer, or any other service deemed to be in the public interest.
- (77) Public way. Any public road, street highway, walkway, drainageway or part thereof.
- (78) Recreation Land, Active. Areas that are altered from their natural state to accommodate organized athletic activities (e.g., soccer, football, baseball, golf). Active Recreation Lands may also require the installation of equipment (e.g., playground apparatus, riding stables, shooting ranges, golf ranges, etc.).
- (79) Recreation Land, Passive. Areas that are left in a natural state with minimal alteration for scenic enjoyment (e.g., walking/hiking trail) and outdoor activities with minimal impact on the landscape (e.g., birding, hunting).
- (80) Replat (also, Resubdivision). The process of changing the plat map, which changes the boundaries of a recorded plat or a part thereof.
- (81) Restrictive Covenants. Written stipulations on the face of a plat or certified survey map regarding restrictions on the use or development of land that are binding on the property owner and subsequent owners of the property.
- (82) Retention Pond. A permanent artificial pond or pool designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.
- (83) Right-of-Way. A strip of land allowing or intending to allow the passage of people or goods and dedicated to the public or under the control of the public.
- (84) Roadway. A surfaced curb to curb or paved portion of a street available for vehicular traffic movement and parking.
- (85) Setback. The required distance a structure must be located from a lot line, easement, right-of-way, adjacent building, or other feature as indicated in this Chapter and in the Zoning Ordinance.
- (86) Sewer Service Area. Any area presently served or anticipated to be served by a sewage collection system.
- (87) Shoreland. The area within 1,000' of the ordinary high water mark of a navigable lake, pond, or flowage; or within 300' of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.
- (88) Sidewalk. That portion of a street or crosswalk, paved or otherwise surfaced, intended for pedestrian use only.
- (89) Slope. The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.
- (90) State. State of Wisconsin.
- (91) Stormwater. The flow of surface water that results from precipitation.
- (92) Stormwater Management Facility. Any technique, apparatus, or facility that controls or manages the path, storage, or rate of release of stormwater runoff. Such facilities may

- include storm sewers, drainage easements, retention or detention ponds, drainage channels, ditches, drainage swales, inlet or outlet structures, or other similar facilities.
- (93) Street. Includes all accessways in common use such as streets, roads, lanes, highways, avenues, boulevards, alleys, parkways, viaducts, circles, courts, and culs-de-sac, and includes all of the land lying between the right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved, and whether dedicated for public use or held in trust, under the terms of a reservation, but shall not include those accessways such as easements and rights-of-way intended for solely limited utility purposes such as for electric power lines, gas lines, telephone lines, waterlines, or drainage and sanitary sewers.
- (94) Street, Half. A street bordering one or more property lines of a tract of land in which the subdivider has allocated a part of the ultimate right-of-way width. Building permits shall not be issued for parcels with frontage only on half streets.
- (95) Structure. Anything constructed or erected, the use of which requires a fixed location on the ground or attached to something having a fixed location on the ground.
- (96) Subdivider. Any person, firm, partnership, corporation, association, estate, trust, or other legal entity requesting review or action on a subdivision, minor subdivision, or condominium.
- (97) Subdivision. Any division of a lot by the owner thereof, or his/her agent, for the purpose of sale, lease, or building development where:
- (a) The act of division creates five or more parcels or building sites of 40 acres or less in area; or,
 - (b) Five or more parcels or building sites of 40 acres each or less in area are created by successive divisions within a period of five years.
- (98) Surveyor. Any land surveyor duly licensed in the State of Wisconsin.
- (99) Tax Parcel. An existing tract of land as defined by the governing jurisdictional body for the purpose of assessment and taxation.
- (100) Tax Parcel Number. An identification number assigned to real estate in Winnebago County for taxation purposes.
- (101) Tract. A contiguous area of land which exists or has existed in single ownership.
- (102) Utility Easement. An easement to place, replace, maintain, or move utility facilities, such as telephone or electric lines, water or sewer mains, gas pipelines, and cable television.
- (103) Variance. A departure from the terms of this Chapter as applied to a specific parcel of land which the Town Board may permit pursuant to this Chapter.
- (104) Town. The Town of Winchester, Winnebago County, Wisconsin.
- (105) Town Board. The Town of Winchester Town Board.
- (106) Waterways. Rivers, streams, creeks, ditches, drainage channels, watercourses, lakes, bays, ponds, impoundment reservoirs, retention and detention basins, marshes, and other surface water areas, regardless of whether the areas are natural or artificial.
- (107) Wetlands. An area on the landscape where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. A wetland delineation is established by, or approved by, the Wisconsin Department of Natural Resources and/or the U.S. Army Corps of Engineers.
- (108) Yard, Rear. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the Principal Structure. This yard shall be opposite the Primary Street Yard on a corner lot. (See Yard Type Illustration).
- (109) Yard, Shore. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the Ordinary High Water Mark of a navigable

body of water and a line parallel thereto through the nearest point of the Principal Structure. (See Yard Type Illustration).

- (110) Yard, Side. A yard extending from the Street Yard to the Rear Yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the Principal Structure. (See Yard Type Illustration).
- (111) Yard, Street. A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the Principal Structure. Corner lots shall have 2 such yards. The Primary Street Yard on a double frontage lot or corner lot shall be that associated with the mailing address or fire number, as applicable. (See Yard Type Illustration).
- (112) Yard Type Illustration.



- (113) Zoning Ordinance. Town of Winchester Chapter 17: Zoning Regulations.