

# CHAPTER 19

## LAND DIVISION AND SUBDIVISION REGULATIONS

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# LAND DIVISION AND SUBDIVISION REGULATIONS

## 19.01 TITLE.

This Ordinance shall be known as Subdivision Regulations, City of Middleton, Wisconsin.

## 19.02 INTENT AND PURPOSE.

This Ordinance is intended to regulate and control the division and subdivision of land within the corporate limits and the extraterritorial plat approval jurisdiction of the City of Middleton in order to promote the public health, safety and general welfare, to encourage the most appropriate use of land, to provide the best possible living environment for people and to conserve the value of buildings placed upon the land by: furthering the orderly layout and use of land; insuring proper legal description and proper monumenting of land; preventing overcrowding of land and avoiding undue concentration of population; lessening congestion in the streets and highways; securing safety from fire, flooding, water pollution and other hazards; providing adequate light and air; facilitating adequate playgrounds, open space, storm water drainage, the conservation of land, natural resources, scenic and historic sites, energy and other public requirements; facilitating further resubdivision of larger parcels into smaller parcels of land; insuring enforcement of the development concepts, policies and standards delineated in the Comprehensive Plan and related components, the Official Map, the Parks and Open Space Plan, the Transportation Plan, the Zoning Code and Erosion Control, and the Building Code of the City of Middleton.

## 19.03 GENERAL REQUIREMENTS.

**(1) Conformance with Policies.** It is the intent of the City of Middleton that land be developed in harmony with the following policies agreed to in the Comprehensive Plan, Plan for Parks and Open Space, Official Map, and the Dane County Land Use Plan, as adopted by the City of Middleton.

(a) To plan the location and/or timing of new development to make it efficient, to reduce public costs and to encourage separation and distinction between municipalities.

(b) To direct and stage new growth only to those areas planned and programmed for development and capable of providing a full range of urban services, including transportation and schools.

(c) To discourage scattered development and urban sprawl.

**(d) To insure that land uses complement rather than conflict with natural features such as rolling topography, trees, creeks, ponds and rock formations.**

**(e) To develop a system of interior open spaces in conjunction with existing environmental corridors to delineate neighborhoods, control storm water drainage and provide circulation for pedestrian and bicycle traffic.**

**(f) To locate multi-family development and local commercial development convenient to each other and near arterials.**

**(g) To encourage preservation of open space and aesthetic quality in development through the use of planned development districts.**

**(h) To favor land use intensities and patterns that are supportive of alternative modes of transportation.**

**(i) To promote and maintain balanced commercial activity that is viable and responsive to the needs of the community and the surrounding market area.**

**(j) To preserve the quality of the water and the air and to prevent extreme noise and visual blight.**

**(k) To preserve prime agricultural land for agricultural use.**

**(l) To encourage development in the City with balanced residential, commercial, industrial and open space uses and public services.**

**(2) Land Suitability. No land shall be divided or subdivided for a use which is held unsuitable by the Plan Commission for reason of flooding or potential flooding, soil limitations, inadequate drainage, steep topography, 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 harmful to the community.**

**(a) Except as provided herein, the Plan Commission shall determine land suitability prior to the time the preliminary plat or certified survey is considered for approval, following review and recommendations by the appropriate City Commissions and Committees. The Plan Commission may impose special conditions on the plat or certified survey map deemed necessary to protect the health, safety or welfare of future residents of the area. The areas which are found to be environmentally sensitive shall be considered for preservation as open space. The determination of land suitability will be evaluated through the Environmental Assessment Procedures set forth in s. 19.05(1) of this Code.**

The subdivider shall furnish such maps, data and information as may be necessary to make a determination of land suitability.

(b) Should the Plan Commission determine that the land is unsuitable for the intended use or development, it shall state its reasons in writing to the subdivider within 30 days of initial Plan Commission action. The subdivider may present additional evidence to support the proposed subdivision. Upon review of the additional evidence, the Plan Commission shall affirm, modify, or withdraw its determination of unsuitability.

(c) The subdivider may appeal the determination of land suitability as provided in s. 19.09 (Appeals).

### **(3) Determination of Adequacy of Public Facilities and Services.**

(a) A certified survey, preliminary plat or final plat shall not be approved unless the Plan Commission and the Common Council determine that adequate public facilities and public services are available to meet the needs of the proposed subdivision.

(b) The applicant shall furnish any data requested by the City Engineer who shall transmit this information to Madison Metropolitan Sewage Commission (where necessary) as well as to appropriate City commissions, committees and boards for review and shall act as coordinator for all such reports to the Plan Commission and the Common Council on the adequacy of water, sanitary and storm sewers, fire service, police, parks and open space and recreation facilities, and transportation facilities.

(c) Public facilities and public services for a proposed subdivision may be found to be adequate when the following conditions exist:

1. The proposed subdivision is located in an urban service area where mainline interceptor sewer service is presently under construction, or designated by the Common Council for extension of sewer service. The Plan Commission and the Common Council shall also consider the recommendations of the City Engineer and the Public Works Committee on the capacity of trunk lines, and of the status of all payments owed for the land for sewerage treatment facilities including payments to Madison Metropolitan Sewage District for any hookup charges and treatment charges, and any other information presented.

2. The proposed subdivision is located within an urban service area serviced by an arterial transmission water main with adequate capacity for the proposed development or if the water distribution system that is needed is under construction or scheduled for construction. The Plan Commission and the Common Council shall consider the recommendations of the City Engineer and the recommendations of the Public Works

Committee on line capacities, water sources and storage facilities as well as any other information presented.

3. The City Engineer, Public Works Committee and the Water Resource Management Commission recommend to the Plan Commission and the Common Council that adequate facilities are available to insure the proper storm water management.

4. The Parks, Recreation and Forestry Commission recommends that future residents of the proposed subdivision can be assured park, recreation and open space areas, facilities and services which meet the standards of the Park and Open Space Plan.

5. The appropriate Police Department and Fire Department verify that timely and adequate service can be provided to the residents.

6. The proposed subdivision is accessible by existing publicly maintained, all weather roads adequate to accommodate both existing traffic and that traffic to be generated by the proposed subdivision , or necessary additional roads and road improvements are budgeted for construction with public or private financing, or public bus service sufficient to serve the subdivision in combination with the foregoing is available or programmed for the area. The Plan Commission and the Common Council shall consider the recommendations of the Transportation Commission and of the Dane County Regional Transportation Study and such factors as level of service, average and peak use, and any other information presented.

7. Where the Plan Commission and the Common Council determine that one or more public facilities or services are not adequate for the proposed development, but that a portion of the area could be served adequately, or that careful phasing of the development could result in all public facilities and public services being adequate, conditional approval may include only such portions or may specify phasing of the development.

**(4) Lot Sizes.** In the case of all subdivisions, including minor subdivisions, lot sizes shall conform to the area and width requirements of the Zoning Code.

**(5) Dedication and Reservation of Land.**

(a) Whenever a tract of land to be divided within the jurisdiction of this Ordinance encompasses all or any part of a street, highway, bikeway, pedestrian way, greenway, environmental corridor, waterway, or a drainage or utility easement designated in the Comprehensive Plan or Official Map, the subdivider shall plat said public way in the locations and dimensions indicated on said Comprehensive Plan or Official Map. The Plan Commission shall determine whether said public way should be dedicated to the public or reserved by the subdivider.

(b) Whenever a tract of land to be divided within the jurisdiction of this ordinance encompasses all or part of a park site, open space or other recreation area or school site designated in the Comprehensive Plan, Park and Open Space Plan, or Official Map, said public sites shall be platted and dedicated or reserved by the subdivider at the discretion of the Plan Commission in the locations and dimensions indicated on said plans or map in accordance with the requirements of s. 19.06(3)(k) hereof.

(c) Once a preliminary plat of certified survey is approved, any lands proposed for public use above shall not be altered without the written approval of the Plan Commission, the Park, Recreation and Forestry Commission, and the Public Works Committee.

**(6) Penalties.**

(a) Failure to comply with the requirements of this Ordinance shall invalidate purported transfers of titles at the option of the purchaser in accordance with the provisions of Wis. Stat. s. 236.31(3).

(b) Any subdivider or agent of same who violates or fails to comply with these regulations shall be subject to penalties prescribed in s. 30.04 of this Code.

(c) A building permit shall be refused for any site created in violation of this Ordinance.

**(7) Exceptions.** The provisions of this Ordinance shall not apply to:

(a) Transfers of interests in land by will or pursuant to court order;

(b) Leases for a term not to exceed ten (10) years, mortgages or easements;

(c) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by the Zoning Code or other applicable laws or ordinances unless the parcels have been part of a prior land division or subdivision.

(d) Where sale or exchange of parcels involve only a change of lot lines, that the land division may be approved by the zoning administration after a staff review to determine conformance with City of Middleton Ordinances.

**19.04 PROCEDURE FOR DIVIDING LAND.**

In planning and developing a subdivision or minor subdivision, the subdivider or agent

shall, in every case, pursue the following course:

**(1) Pre-Application Procedure.** Before filing an application for approval of a preliminary plat or certified survey, the subdivider shall consult with the Department of Public Works and shall prepare the following:

- (a) A preliminary sketch for review and concept approval of the Plan Commission.
- (b) An Environmental Assessment Checklist, or when required, an expanded Environmental Assessment Report, as required by s. 19.05(1)(e).
- (c) Written requests to the Public Works Committee and to the Plan Commission for any water main extensions necessary to serve the proposed plat.
- (d) A signed statement listing development projects for which the applicant has received City approval in the last 5 years and indicating any outstanding performance or financial obligations on such projects which derive from application of City land use regulations. If this statement is found to contain information which is contrary to fact or to omit the listing of such projects or obligations or to describe obligations on which performance or payment is delinquent, the application may be dismissed without prejudice until the application is corrected and/or the delinquency is cured.

On completion of the above documents (a,b,c,d), a preapplication consultation shall be held to assist the subdivider in appraising the objectives of these regulations, the Comprehensive Plan, the Official Map and any pertinent ordinances and to reach conclusions regarding the objectives and general program for the development.

**(2) Preliminary Plat.** Prior to submitting a final plat for approval, the subdivider shall prepare a preliminary plat and file a written request for its approval with the Secretary of the Plan Commission. A preliminary plat shall not be submitted prior to approval of the Environmental Assessment Checklist, or when required, the Environmental Assessment Report, as required in s. 19.05(1). The request for approval shall be submitted at least five days prior to the date of the meeting of the Plan Commission at which the request is to be considered, and shall include all data required by this ordinance and shall be accompanied by eight (8) copies of the preliminary plat. The Plan Commission may forward a copy of the plat to the Dane County Land Conservation Committee as a courtesy for review and comment.

(b) The preliminary plat shall include the entire area owned or controlled by the subdivider. The Plan Commission may waive this requirement to allow the subdivider to submit a Comprehensive Development Plan (CDP) meeting the requirements of s. 19.04(4) and 19.05(4) for that portion of the land which is not to be included in the final plat when

the subdivider owns or controls eighty (80) acres or more. The subdivider shall in all cases submit a preliminary plat for the lands to be included in the final plat.

(c) The Plan Commission shall within ninety (90) days from the date submitted, approve, approve conditionally or reject the preliminary plat and when included, the development plan, based on its determination of conformance with the intent and provisions of this Ordinance, and all related plans and ordinances, and recommendations of appropriate City committees and commissions. In all cases, the time period within which action is required shall not commence until the City has received all maps, plans, drawings and related data necessary for plat review as outlined herein. Such time may be extended by a written agreement with the subdivider. Failure of the Plan Commission to act within such ninety (90) days or extension thereof, shall constitute an approval of the preliminary plat and development plan. The reasons for conditional approval or rejections shall be stated in the minutes of the meeting and a letter stating such reasons shall be sent to the applicant. Approval of a preliminary plat shall be valid for thirty-six (36) months from the date of approval.

(d) The action of the Plan Commission shall be noted on three (3) copies of the preliminary plat, one copy of which shall be returned to the subdivider with the date and action endorsed thereon.

(e) Replats are to be processed in accordance with the provisions of Wis. Stat. s. 236.36 entitled "Replats".

(f) If the preliminary plat or certified survey map contains private road(s), the following note shall be added to the plat or CSM when it is presented for approval as a final plat:

***NOTICE OF POSSIBLE LIMITATION OF PUBLIC SERVICES.***

*This plat or certified survey map contains private road(s), and, as a result, certain city services may be limited. The extent of these limitations is spelled out in a document called a city/developer agreement; or, if this is a condominium plat, in a document called a general development plan (GDP), which directly related to this plat or CSM and is filed as a public document in the offices of both the Middleton City Clerk and the Director of Public Works for the City of Middleton.*

**(3) Final Plat Procedure.**

(a) The subdivider shall submit the final plat and/or true copies thereof and written request for approval to the Secretary of the Plan Commission and the Department of

Development, in accordance with Wis. Stat. s. 236.12. The subdivider shall provide five (5) copies of the plat for review by the City at least twelve (12) days prior to the scheduled Plan Commission review.

(b) The final plat may constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time.

(c) The Plan Commission shall examine the final plat as to its conformance with the preliminary plat, the requirements set forth in s. 19.03(2) of this Ordinance, and shall recommend approval, conditional approval or rejection of the plat. The Plan Commission shall transmit the plat, together with its recommendations to the Mayor and Common Council within thirty (30) days of its submission to the Plan Commission. The Zoning Administrator, City Engineer, or City Attorney shall examine the final plat and provide a conclusion as to whether the final plat conforms substantially to the preliminary plat with a recommendation on approval of the final plat. The conclusions and recommendations shall be made a part of the record of the proceedings where the final plat is being considered.

(d) The Common Council shall approve or reject the final plat within sixty (60) days of its submission to the Plan Commission, unless the time is extended by written agreement with the subdivider. The Common Council shall review the final plat for conformity with all conditions of approval, if any, and s. 19.03(2) of this Ordinance and shall base approval or disapproval on these requirements. If the final plat meets the requirements of this Ordinance, and has been submitted within thirty-six (36) months from the approval date of the preliminary plat and the conditions have been met in the case of a preliminary plat given conditional approval, the Council shall approve the final plat.

(e) Following approval of the final plat by the Common Council, the developer shall enter into a contract for improvements as required by s. 19.06(4). Prior to the signing of said contract by the Mayor and the City Clerk, the developer shall pay to the City all required fees, area charges and deposits. The developer may construct the project in such phases as the Common Council approves which approval shall not be unreasonably withheld. If construction in phases is permitted, the amount of any surety required shall be limited to the phase of the project currently being constructed. No surety shall be required to be provided sooner than reasonably necessary before commencement of the installation of improvements.

(f) Within 30 calendar days of recordation of a final plat, the responsible party (developer, surveyor, attorney) shall submit to the City two (2) copies of the recorded document on paper and one (1) copy on mylar.

(g) If the Common Council fails to act within sixty (60) days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that

period, 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 City Clerk.

**(4) Comprehensive Development Plan Procedure.**

(a) When the subdivider has eighty (80) acres or more of land under his or her or its control, they may, where authorized by the Plan Commission, elect to file a Comprehensive Development Plan (CDP) in lieu of a preliminary plat for that land not to be included in the final plat.

(b) The applicant shall file eight (8) blueline prints and eight (8) copies of all required exhibits with the Secretary of the Plan Commission.

(c) The CDP and its exhibits shall be reviewed by the City Engineer; the Public Works Committee; Parks, Recreation and Forestry Commission; Water Resources Management Commission and Transportation Commission, for conformity with the provisions of this and other pertinent ordinances, the Comprehensive Plan, the Official Map, and the Plan for Parks and Open Space. Their comments shall be forwarded to the Plan Commission for review.

(d) The Plan Commission shall approve, conditionally approve or reject the CDP within sixty (60) days of the filing of the CDP and exhibits. One copy shall be returned to the applicant notifying the applicant in writing of any conditions of approval or reasons for rejection.

(e) Any subsequent change to the CDP and exhibits shall require filing with the Secretary of the Plan Commission. Within thirty (30) days of filing, the Plan Commission shall approve, conditionally approve or reject the revised CDP.

**(5) Minor Subdivision (Certified Survey) Procedure.**

(a) No person, firm or corporation shall divide any land located within the corporate limits of the City of Middleton or within the three (3) mile extraterritorial plat approval jurisdiction thereof which shall result in a minor subdivision as defined by this Ordinance without first filing an application and a certified survey map for approval by the Plan Commission (and the Common Council when dedication of land is involved), and subsequently recording said map with the Dane County Register of Deeds. The certified survey map shall comply fully with Wis. Stat. s. 236.34 and with all applicable requirements of this Ordinance.

(b) **Pre-Application Procedure.** Before filing an application for approval of a certified survey, the subdivider shall consult with the Department of Public Works and

shall prepare the following:

1. Prepare preliminary sketch for review and approval.
2. Complete an Environmental Assessment Checklist, or when required, an expanded Environmental Report, required by s. 19.05(1), for review and approval.

This procedure is intended to assist the developer in appraising the objectives of these regulations, the Comprehensive Plan, the Official Map and other pertinent City ordinances. The pre-application information shall be submitted to the Plan Commission for review and approval.

(c) **Plan Commission Action.** The Plan Commission shall within forty-five (45) days approve, approve conditionally or reject the certified survey map. The reasons for conditional approval or for rejection shall be recorded in the minutes and letter detailing the action taken shall be sent to the applicant. After the conditions of approval have been satisfied, the resolution of approval and of acceptance for any land dedications shall be presented to the appropriate governmental body for action and if approved shall be placed on the face of the map with nonfading ink.

(d) **Compliance.**

1. The applicant shall comply with the provisions of s. 19.03 (General Requirements), 19.04(2)(f), 19.06 (Required Improvements), and 19.07 (Design Standards) of this Ordinance.

2. Where streets or other areas are dedicated to the public, the certified survey map shall contain an owner's and a mortgagee's certificate which are in substantially the same form as required by Wis. Stat. s. 236.21(2)(a).

3. Before an approved certified survey map is recorded, the applicant must pay to the City or other appropriate unit of government, any accrued real estate taxes and special assessments owing on any land dedicated by the survey and to the Dane County Treasurer any delinquent taxes on the dedicated land.

4. Within 30 calendar days of recordation of a certified survey map, the responsible party (developer, surveyor, attorney) shall submit to the City two (2) copies of the recorded document.

**(6) Procedures and Criteria for the Division of Land Within the 3 Mile Extraterritorial Plat Approval Jurisdiction of the City.** In all cases, the time period within which action is required shall not begin until the Town Board, the staff serving the Dane County

**Agricultural, Zoning, Planning and Water Resources Committee, and the City of Middleton have received all maps, drawings, and data required for plat approval.**

**(a) No person, firm or corporation shall divide any land located within the 3 mile extraterritorial plat approval jurisdiction of the City of Middleton , without first filing an application and a certified survey map for approval by the Plan Commission.**

**(b) Pre-application Procedure. Before filing an application for approval of a certified survey, the subdivider shall consult with the Department of Public Works and shall prepare the following:**

- 1. Prepare a preliminary sketch for review and approval.**
- 2. Complete an Environmental Assessment Checklist, or when required, an expanded environmental report required by s. 19.05(1), for review and approval.**

**This procedure is intended to assist the developer in appraising the objectives of these regulations, the Comprehensive Plan, the Official Map and other pertinent City ordinances. The pre-application information shall be submitted to the Plan Commission for review and approval.**

**(c) Minor Subdivision Procedure (Certified Survey). The procedure shall be as specified in s. 19.04(5) (Minor Subdivision Procedures) and 19.05(5) (Plat and Data Submission Requirements). The Plan Commission may require approval of the certified survey map by the town board before acting.**

**(d) Extraterritorial Land Division Policies. The following policies shall govern the City Planning Commission in approving division of land within the 3 mile extraterritorial area in order to protect the rural character and farming viability.**

- 1. No subdivisions as defined in this Ordinance will be permitted within the 3 mile extraterritorial limits of the City of Middleton.**
- 2. Minor subdivisions will be permitted for farm related dwellings and for rural residential dwelling, not exceeding an overall density of one (1) unit for 35 acres. Lots for commercial use will be handled on a case-by-case basis. The standards used to review these land divisions will be the same as the standards contained in the Dane County Exclusive Agricultural Zoning District Ordinance which are used for considering rezonings. The only exception to this policy is that lots resulting in the infill of existing subdivisions may be permitted.**

- 3. The minimum lot size in the 3 mile extraterritorial area shall be one (1) acre. A**

smaller lot size may be allowed if also approved by the respective Town Board.

4. The City of Middleton will attempt to seek consistency of locally adopted Town Plans. To the extent that the policies of the City of Middleton are more restrictive, the City's policies shall prevail. All minor subdivisions within the extraterritorial area will be subject to the land reservation or dedication requirements of this ordinance. This specifically means the following:

(i) Any waterway or storm water management area identified on the City Comprehensive Plan or Official Map shall be dedicated in conformance with requirements of this Ordinance.

(ii) Any lands falling within the limits of an environmental corridor, as mapped by the City of Middleton or the Dane County Regional Plan Commission, will be required to record a public open space easement specifying that the use shall be consistent with conservancy area zoning in the City Zoning Ordinance.

5. Lands falling within the first mile and a half of the extraterritorial area shall be required to meet all of the design standards contained in s. 19.07 of this Ordinance.

6. Minor subdivisions within the extraterritorial area will be required to follow erosion control plans in compliance with this Ordinance.

7. All land divisions within the extraterritorial area shall pay the required review fees as set forth in the Fee Schedule under Section 3.12.

8. The Plan Commission may require placement of covenants or deed restrictions that are deemed necessary and appropriate by the City Planning Commission to protect the purpose and intent of the City's plans and ordinances. Any such restrictions shall be placed on the face of the certified survey map or on surrounding lands from which the lot or lots were created to verify the density standard established herein.

9. If a variance is granted to the above provision the resulting division of land shall conform to all of the pertinent regulations of this Ordinance.

**(7) Fees and Dedication.** To insure that each land division, subdivision, planned development and development project pays its share of costs for public facilities and services the following fees and dedications shall be required. Fee amounts shall be as set forth in the Fee Schedule under Section 3.12.

(a) **Park and Open Space Fee or Dedication.** A dedication of land or the payment of a fee in accordance with the provisions of s. 19.06(3)(k) of this Ordinance for each dwelling

unit planned for development.

(b) **Fees to Defray Administrative Expenses.** The subdivider shall pay to the City of Middleton the fees as set forth in the Fee Schedule under Section 3.12 to cover City costs including administrative costs of plat, survey map and improvement plan reviews as applicable.

(c) **Escrow Deposits.**

1. Applicants for land division review shall be responsible to pay the actual cost of review of the land division charged to the City by other agencies, or by outside consultants hired by the City including but not limited to Federal, State, or County Departments and Madison Metropolitan Sewerage District, Attorneys, Engineers or Planners. Upon application, the applicant shall deposit an amount set forth in the Fee Schedule under Section 3.12 to be held in escrow upon which the City shall draw to pay for said costs as they are incurred during the course of reviewing the application. Itemized statements reflecting the amounts drawn from the deposit shall be sent to the applicant each month. In the event that the escrow deposit has been drawn down to twenty-five percent (25%) of the required amount, the applicant shall replenish the escrow deposit to its original amount. If any funds remain in the escrow deposit following final determination of the application, such remaining funds shall be returned to the applicant within sixty (60) days of the determination together with an accounting of the deposits and draws on the escrow.

2. **Section Repealed 2/18/14**

3. Applicants may obtain a pre-application waiver of the required escrow deposit from the City Administrator if in the City Administrators' sole discretion he/she determines that no consultant review will be required. Such waiver shall not preclude the City Administrator from obtaining consultant review of the application, charging the costs of such review to the applicant or requiring an escrow deposit after application.

(d) **Area Charge for Storm Water Management Facilities.** The subdivider shall pay to the City of Middleton the apportioned cost for development of an area wide storm water drainage system where such facility has been designed to serve the proposed subdivision.

(e) **Madison Metropolitan Sewerage District Fee.** The subdivider shall pay the City of Middleton the apportioned cost, determined by the Madison Metropolitan Sewerage District for sanitary sewer district connection fees and sanitary sewer district treatment fees.

(f) **Fee for Initial Improvement of Parkland**

1. The subdivider shall pay, prior to City officials signing the final plat or certified survey or, in the case of multi-family development pursuant to Section 10.33(11) or in planned developments pursuant to Section 10.85(4)(b), or planned development infill developments pursuant to Section 10.94(4)(c)(ii), the developer shall pay, prior to issuance of a zoning permit, a fee for initial improvement of land for public parks. All fees collected hereunder shall be utilized to construct improvements of public parks as specified in Wis. Stats. § 236.45(6)(ac). All fees collected thereunder shall be placed into a separate non-lapsing segregated fund to be used solely for initial improvement for public parks.

2. The specific park improvements authorized and for which fees are collected are as follows:

- a. Grading;
- b. Landscaping;
- c. Installation of utilities;
- d. Construction of sidewalks;
- e. Installation of playground equipment; and
- f. Construction or installation of restroom facilities.

3. The amount of the fee for initial improvement of land for public parks shall be as set forth in the Fee Schedule under Section 3.12.

4. This fee shall be required for all new residential development in the City of Middleton and shall be in addition to any land dedication or payment of fees in lieu of land dedication as required by Section 19.06(3)(k) of this Code.

**(8) Condominium Project Procedures.** Each condominium project shall be reviewed on the basis of a condominium plat prepared pursuant to Wis. Stat. s. 703.11 and other applicable statutes, as well as these land division and subdivision regulations as a plat or certified survey map for the land development or subdivision elements of the project. Minor subdivision procedures in s. 19.04(5), (6), and (7) shall apply to City review of condominium plats.

## **19.05 PLAT AND DATA SUBMISSION REQUIREMENTS.**

**(1) Environmental Assessment.** A checklist may be prepared by the subdivider for review at the pre-application conference.

(a) Purpose. The purpose of this environmental assessment checklist is to provide the basis for an orderly, systematic review of the effects of all new subdivisions upon the

community environment in accordance with the principles and procedures of Wis. Stat. s. 236.45(1). The Plan Commission will use these procedures in determining land suitability under s. 19.03(2). The goals of the community in requiring this checklist are to eliminate or reduce pollution and siltation to an acceptable standard, assume ample living space per capita, preserve open space and parks for recreation, provide adequately for storm water control, maintain scenic beauty and aesthetic surroundings, administer to the economic and cultural needs of the citizens and provide for the effective and efficient flow of goods and services.

(b) Coverage. The Environmental Assessment Checklist shall apply to all subdivisions, including minor subdivisions except for conservation subdivisions. The Plan Commission may waive the requirement for the filing of an environmental assessment checklist for minor subdivisions of less than five (5) acres total area.

(c) Preliminary Checklist for Environmental Assessment of Plats and Land Divisions and Community Development Plans:

**PRELIMINARY CHECKLIST FOR ENVIRONMENTAL ASSESSMENT OF PLATS AND LAND DIVISIONS AND COMMUNITY DEVELOPMENT PLANS**

(all yes answers must be explained in detail by attaching maps and supporting documentation describing the impacts of the proposed development).

		YES	NO
<b>I. Land Resources. Does the project site involve:</b>			
<b>A.</b>	<b>Changes in relief and drainage patterns (attach a topographic map showing, at a minimum, two (2) foot contour intervals).</b>		
<b>B.</b>	<b>A landform or topographic feature of local or regional interest.</b>		
<b>C.</b>	<b>A floodplain (If yes attach two (2) copies of a typical stream valley cross section showing the channel of the stream, the 100 year floodplains limits and the floodway limits (if officially adopted), of each side of the channel and a cross section of area to be developed</b>		
<b>D.</b>	<b>An area of soil instability - greater than 18% slope and/or organic soils, peats, or mucks at or near the surface</b>		

<b>E.</b>	<b>An area of bedrock within 6 feet of the soil surface</b>		
<b>F.</b>	<b>An area with the groundwater table within 10 feet of the soil surface</b>		
<b>G.</b>	<b>An area with fractured bedrock within 10 feet of the soil surface</b>		
<b>H.</b>	<b>Prevention of gravel extraction</b>		
<b>I.</b>	<b>a drainageway for 5 or more acres of land</b>		
<b>J.</b>	<b>Lot coverage of more than 50% impermeable surfaces</b>		
<b>K.</b>	<b>Prime agricultural land</b>		
<b>L.</b>	<b>Wetlands and Marshes</b>		
<b>M.</b>	<b>Land elevation above 950 (U.S.G.S. Datum)</b>		
<b>N.</b>	<b>Mapped environmental corridors</b>		

**II. WATER RESOURCES. Does the proposed project involve:**

<b>A.</b>	<b>Location within an area traversed by a navigable stream or dry run</b>		
<b>B.</b>	<b>Greater than 10% change in the capacity of a storm water storage facility or flow of a waterway within 1 mile</b>		
<b>C.</b>	<b>The use of septic tank-soil absorption fields for on-site waste disposal</b>		
<b>D.</b>	<b>Lowering of water table by pumping or drainage</b>		
<b>E.</b>	<b>Raising of water table by altered drainage patterns</b>		
<b>F.</b>	<b>Lake frontage</b>		

**III. BIOLOGICAL RESOURCES. Does the project involve:**

<b>A.</b>	<b>Critical habitat for plants and animals of community interest</b>		
<b>B.</b>	<b>Endangered, unusual or rare species of:</b>		

	<b>1. Land animals</b>		
	<b>2. Birds</b>		
	<b>3. Plants</b>		
<b>C.</b>	<b>Removal of over 25% of the present trees</b>		

**IV. HUMAN AND SCIENTIFIC INTEREST. Does the project site involve:**

<b>A.</b>	<b>An area of archeological interest</b>		
<b>B.</b>	<b>An area of geological interest</b>		
<b>C.</b>	<b>An area of hydrological interest</b>		
<b>D.</b>	<b>An area of historical interest</b>		
	<b>1. Historic buildings or monuments</b>		
	<b>2. Buildings or monuments of unique architecture</b>		
<b>E.</b>	<b>An area of identified community recreation use</b>		

**V. ENERGY, TRANSPORTATION AND COMMUNICATIONS**

<b>A.</b>	<b>Does the development increase the traffic flow in any collector system by more than 10%</b>		
<b>B.</b>	<b>Is the development traversed by an existing or planned utility corridor? (gas, electricity, water, sewer interceptor, communications, storm sewer)</b>		

**VI. POPULATION.**

<b>A.</b>	<b>Does the development increase by more than 10% the school population of any school serving the development</b>		
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**VII. COMMENTS ON ANY OF THE ABOVE WHICH MAY HAVE A SIGNIFICANT**

<b>VIII. APPENDICES AND SUPPORTING MATERIAL</b>
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(d) **Determination of Need for Expanded Environmental Assessment.** The Environmental Assessment Checklist shall be reviewed by the Plan Commission at its next regular meeting following submittal. The Plan Commission may, at that time, for reasons stated in a written resolution setting forth specific questions on which it requires research, data and input from the developer and other affected persons, decide that the preliminary environmental assessment raises unusually significant questions of the effects on the environment and that review by other City committees and commissions is required and/or that an unusually high level of citizen interest has resulted from questions raised in a preliminary assessment. The listing of questions can include items which this ordinance already enables the Commission to obtain, or it may include additional information which is relevant to the questions specified in the resolution. The resolution may also request data on the specific impact questions from other governmental agencies or from the developer or applicant. The resolution shall set a reasonable date for the return of the requested data and information, and it may specify the format in which the data is to be presented.

(e) **Hearing on Environmental Assessment Report.** Following the return to the Plan Commission of the data required in the resolution adopted under the section above, the Commission shall make such report available for scrutiny by the applicant or petitioner, by City departments, commissions and committees and by other interested persons or agencies. The Plan Commission may schedule and hold a public hearing on the findings of the report. The hearing shall be preceded by a Class I notice under Wis. Stat. Chapter 985. Persons attending such hearing shall be afforded an opportunity to comment on the report.

(f) **Review.** The Plan Commission shall review the Environmental Assessment Report, with supporting data, department and committee reviews and any other data required for determining the suitability of the land for the proposed development. Within 45 days after submission to the Plan Commission of the final expanded environmental assessment report, the Plan Commission shall decide whether said land is suitable for development and proceed as required by s. 19.03(3)(c).

**(2) Preliminary Plat.** The preliminary plat shall be submitted in eight (8) copies at a scale of not more than one hundred (100) feet to one (1) inch, and shall correctly on its face:

(a) **Description.**

1. **Name of the proposed subdivision.**

**2. Name, address and telephone number of the owner, subdivider, engineer, land surveyor and land planner.**

**3. Date, graphic scale and north point.**

**4. Location of the proposed subdivision by government lot, quarter section, township, range and county, and a location map showing the relationship between the plan and its surrounding area.**

**(b) Existing Conditions.**

**1. Contours at vertical intervals of not more than two (2) feet for a slope less than five percent (5%) and five (5) feet for a slope of five percent (5%) or more.**

**2. A scaled drawing of the exterior boundaries of the proposed subdivision referenced to a corner established by the U.S. Public Land Survey, and the total acreage encompassed thereby.**

**3. Location of existing property lines, buildings, drives, streams and water courses, dry runs, lakes, marshes, rock outcrops, wooded areas, environmental corridors, and other similar significant features within the parcel being subdivided.**

**4. Location, right of way width and names of any adjacent existing streets, alleys or other public ways, easements, and railroad and utility rights of way within or adjacent to the proposed subdivision.**

**5. Type, width and elevation of any adjacent existing street pavements, together with any legally established centerline elevations, for streets located outside the City limits.**

**6. Water elevations of adjoining lakes or streams at the date of the survey, and known or determined high and low water elevations and boundaries of the 100 year floodplain and floodway.**

**7. Subsurface soil, rock and water conditions including depth to bedrock and average depth to ground water table.**

**8. Location, size and invert elevation of any existing sanitary and storm sewers, culverts or drain pipes and the location and size of any existing water and gas mains on or adjacent to the plat and proposed for use in the development. If sewers and water mains are not present on or adjacent to the preliminary plat, the distance and the size of those nearest and the invert elevations of sewers shall be indicated.**

9. Location and names of adjacent subdivisions, parks and cemeteries.

10. Existing land use and zoning included within or adjacent to the proposed subdivision.

(c) Proposed Conditions.

1. Location, width and name of all proposed streets and walkways.

2. Layout and scale dimensions of all lots and proposed lot and block numbers.

3. Draft of proposed covenants (if any) to be imposed.

4. Location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, greenways or other public uses or which are to be used for group housing, shopping centers, church sites or other nonpublic uses.

5. Plans and profiles for streets, walkways, greenways and public easements, showing existing ground surface and proposed grades, including extensions for reasonable distance beyond the limits of the proposed subdivision, when requested, shall be submitted with the preliminary plat when unusual topographic or other unusual conditions exist. Otherwise the plans and profiles shall be submitted with the final plat.

6. When requested by the City Engineer, because of concern about drainage, groundwater and tree cover, a lot grading plan showing proposed contours at vertical intervals of not more than two (2) feet.

**(3) Final Plat.** The final plat of the proposed subdivision shall comply with the requirements of Wis. Stat. Chapter 236, and s. 19.04(3) of this Ordinance. The plat shall be accompanied by plans and profiles required by s. 19.05(2)(c)6 if these were not submitted with the preliminary plat.

**(4) Comprehensive Development Plan.** The CDP, as provided for in s. 19.04(4), shall be submitted in ten (10) copies at a scale of not more than two hundred (200) feet to one (1) inch and shall show all lands under the control of the applicant which are contiguous or separated only by existing public roads, or railroad rights of way. The plan shall show:

(a) The items under required preliminary plat data in s. 19.05(2)(a), 19.05(2)(b), and 19.05(2)(c)4.

- (b) All proposed collector and arterial streets.
- (c) All proposed storm water drainage facilities.
- (d) Projected population broken down by single and multi-family units.
- (e) A further breakdown of multi-family units by the number of bedrooms on a percentage basis.
- (f) The development schedule indicating the approximate timing of the proposed development.
- (g) A preliminary plat meeting the requirements of this Ordinance may be submitted after a minimum of 20 days after submittal of the comprehensive development plan for that portion of land to be developed in the first stage.

**(5) Minor Subdivision (Certified Survey).**

- (a) The certified survey map shall be prepared by a registered land surveyor and shall comply with the provisions of Wis. Stat. s. 236.34, and of this Ordinance.
- (b) The certificate of approval shall be placed on the face of the map.
- (c) When a dedication of land is required, the Common Council resolution accepting the dedication and approving the map shall be placed on the face of the map.

**19.06 REQUIRED IMPROVEMENTS.**

**(1) Statement of Intent.** It is the intent of the City to insure the quality in land development and to insure that each development pays its share of the cost of public facilities and services. The City will encourage the use of planned developments employing innovative techniques for the design of functional and aesthetic neighborhoods and which maximize open space and preserve the natural environment. Subdivisions shall be serviced by public water and sanitary sewers and by public streets.

**(2) Monuments.** The subdivision shall be monumented in accordance with the requirements of Wis. Stat. s. 236.15. If the topography is such that extensive grading is required, the subdivider may, with the permission of the City Engineer, place monuments after the grading is completed provided the subdivider executes a surety bond, in an amount required by the City Engineer, to insure that the monuments will be placed within the required time.

**(3) Improvements.** Prior to final approval and acceptance of improvements, and prior to the issuance of any building permits in a subdivision located within the corporate limits and extraterritorial plat approval jurisdiction of the City of Middleton, the subdivider shall install street and utility improvements as hereinafter provided. A building permit may be issued if access to the lot may be obtained by means other than the streets under construction.

(a) **Water.** The subdivider shall install water facilities necessary to serve the subdivision as designated and approved by the Public Works Committee. These improvements are subject to Water Utility specification and inspection. The developer shall guarantee the functional operation of all system parts for one (1) year from date of acceptance. Acceptance by the City shall be contingent upon the developer meeting all conditions, including approved design, installation, regulatory approvals, payment of all costs for the total project, and any special provisions indicated for a particular project. All water system improvements, upon inspection and acceptance, become the property of the Water Utility.

(b) **Sanitary Sewer.** The subdivider shall install sanitary sewer facilities necessary to serve the subdivision as designated and approved by the Public Works Committee. These improvements are subject to Sewer Utility specifications and inspection. The developer shall guarantee the functional operation of all system parts for one (1) year from the date of acceptance. Acceptance by the City shall be contingent upon the developer meeting all conditions, including approved design, installation, regulatory approvals, payment of all costs for the total project, and any special provisions indicated for a particular project. All sewer system improvements, upon inspection and acceptance, become the property of the Sewer Utility.

(c) **Storm Water Drainage Facilities.**

1. The subdivider shall install storm sewers and all other facilities necessary for the management of all storm water deriving from the lands being developed in accordance with the requirements of Chapter 28 (Erosion Control) and s. 19.06(3)(j) (Greenways/Environmental Corridors), 19.07(11) (Drainage Easements), 19.07(12) (Erosion Control), 19.07(13) (Intrablock Drainage) and 19.07(14) (Storm Water Management). All storm water drainage facilities intended to be dedicated to the public shall upon compliance with s.19.\_\_, become the property of the Storm Water Utility.

(d) **Streets and Sidewalks.** The developer shall construct streets and sidewalks as outlined on the approved plans based on the criteria in s. 19.07(4) of this Ordinance.

**1. Street Grading.** With the submittal of the final plat, the subdivider shall furnish standard drawings which indicate the existing and proposed grades of streets shown on the plat. After completion of design engineering work on the streets and approval of street grades by the Common Council and the approval of erosion control measures by the City Engineer, the subdivider shall grade as required within the right of way of the streets proposed to be dedicated, including the vision clearance triangle on corner lots as required in s. 10.136(7) of the Zoning Code. In cases where an existing street right of way is made a part of the plat or abuts the plat, the subdivider shall grade that portion of the right of way between the existing pavement and the property line. The bed for the roadways in the street rights of way shall be graded to subgrade elevation. The City Engineer shall approve all grading within rights of way and said grading shall extend for a sufficient distance beyond the right of way to insure that the established grade will be preserved. The grading of rights of way for principal and primary arterials shall only be required where necessary to provide access to the streets or lots in the plat. Lots, where they abut principal and primary arterials, shall be graded to proposed street grade or to a grade approved by the City Engineer prior to sale.

**2. Street and Sidewalk Construction.** After sanitary sewer and water utilities have been installed, and after storm sewer trunklines, manholes and catch basins have been installed, the subdivider shall construct and dedicate as part of the subdivision, streets and sidewalks including those adjacent to platted lots in existing street rights of way abutting the plat, curbs and gutters, local storm sewer inlets, leads, manholes, catch basins and lines as deemed necessary by the Public Works Committee and required by the Common Council. The subdivider shall surface roadways to the widths prescribed by the Plan Commission on recommendation of the Public Works Committee and the City Engineer. Construction shall be to City standard specifications for street improvements.

The Plan Commission shall have the option of not requiring the construction of sidewalks within the street rights of way in cases where it determines, after consultation with the Public Works Committee and the Transportation Commission, that sidewalks are not necessary because of low density land use and low pedestrian volumes or for access to schools and bus routes or for continuity of existing sidewalk or bicycle route systems because of a cul de sac or loop street pattern. Consideration shall also be given to the pattern of development of adjoining lands and to the possibility of damage to trees.

Dedicated sidewalks, pedestrian ways and bikeways shall be improved by the subdivider to a grade, width, and surfacing approved by the City Plan Commission and Public Works Committee based on the location and the amount and character of use. The subdivider shall be only responsible for the cost of such improvements that are internal to the development. The subdivider shall submit standard drawings indicating the existing and the proposed grades of all such improvements.

**Street and sidewalk construction must comply with City standard specifications and be inspected by the City Engineer. The maintenance responsibility for pedestrian ways and bikeways that are not located in the public street right of way shall go to abutting property owners in the same manner as those in the public right of way.**

**(e) Street lighting.** The developer shall deposit with the City of Middleton sufficient funds in escrow to allow for the construction of street lights. Street lighting must meet the City's Standard Specifications.

**(f) Street Signs.** The developer shall install all street name signs, temporary street dead end barricades and signs, all no parking signs, all traffic control signs as required by City Standards, prior to acceptance of the subdivision or submit a fee deposit in lieu thereof.

**(g) Street Trees.** Prior to recording of the final plat, the developer shall submit a tree and shrub planting plan for street terraces, parkways, boulevards, cul de sacs, dedicated off road pedestrian and bikeways approved by the City Forester in conformance with Chapter 20 of the this Code and the stated policies of the Park, Recreation and Forestry Commission.

**Trees shall be planted at the time and in the manner determined by the City with the cost of the street terrace plantings to be borne by the subdivider or developer. The fees for such planting shall be deposited with the City in an escrow account prior to approval of the final plat or made part of the subdivision agreements provided for herein.**

**(h) Buffer Strips.** Where a plat, certified survey or planned development project contains a buffer strip required by s. 19.07(9) of this Ordinance, the developer shall, prior to recording of a final plat or certified survey or prior to the issuance of a certificate of occupancy for a development project, install plantings in conformance with Chapter 20 of the Municipal Code or shall file with the City Clerk a contract, guaranteed by bond in an amount determined by the City Engineer, in which the developer agrees to provide such plantings. The plantings are to be trees and shrubs of the varieties required by Chapter 20 and shall be of sufficient density to accomplish visual screening.

**(i) Erosion Control.** The subdivider shall install all temporary and permanent erosion control and sediment control structural aid works as outlined in approved plans required by s. 19.07(12) (Erosion Control) and Chapter 28 (Erosion Control and Stormwater Runoff).

**(j) Greenways and Environmental Corridors Dedication and Reservation.** Greenways and environmental corridors included within land to be divided shall receive the following prescribed treatment by the owner of the subdivision:

**1. The subdivider shall be responsible for an acceptable continuous drainageway through the proposed plat as determined by the City Engineer. The subdivider shall furnish the City Engineer with a plan outlining the greenway/environmental corridor boundaries and the location of existing drainageways. Such areas shall be dedicated or reserved as required by s. 19.03(7). In addition, the subdivider shall furnish to the City Engineer a set of cross sections (on 50' stations) of the greenway based on City datum oriented upon a base line as prescribed by the City Engineer. Where a natural drainageway exists which has acceptable hydraulic capacities including alignment and grade as determined by the City Engineer, construction will not be required and the existing natural growth shall be preserved. Where such natural growth is not preserved by action of the subdivider or his or her agents, he or she shall be responsible for repairing the disturbed areas by returning them to the original condition by methods approved by the City Engineer. When it is determined by the City Engineer that the hydraulic capacities including alignment and grade are not acceptable, then such alignment, grade and slopes shall be improved by the subdivider to the cross section specified by the City Engineer.**

**2. The subdivider shall install permanent pipes or culverts at a grade designated by the City Engineer under all streets crossing a greenway or drainageway. Said installation shall be in accordance with the State of Wisconsin Specifications for Road and Bridge Construction. Culverts required across intersections for temporary street drainage shall be furnished and installed by the developer. All temporary culverts installed by the developer shall be completely removed when the streets are constructed to City standards and the area restored to as nearly original condition as possible, as determined by the City Engineer.**

**3. In order to assure proper drainage, the ground elevation along any lot line common with the boundary of a greenway/environmental corridor shall be to an elevation established by the City Engineer. All lot grading and building elevations shall provide for positive drainage. Grading or filling within the greenway/environmental corridor limits is prohibited.**

**4. Greenways/environmental corridors shall be limited to public uses.**

**(k) Dedication of Parks and Public Sites. The requirements of this subsection are established to insure that adequate parks, open spaces and sites for other public uses are properly located and preserved as the City grows and that the cost of providing the park and recreation sites and facilities necessary to serve the additional people brought into the community by land development may be equitably apportioned on the basis of the additional needs created by the development. The requirements shall apply to all lands proposed for all residential developments.**

**1. In the design of a subdivision, including minor subdivisions, or planned developments, provisions shall be made for suitable sites of adequate area for parks, playgrounds, open spaces, schools and other public purposes. Such sites as shown on the Official Map, Comprehensive Plan or Parks and Open Space Plan shall be made a part of the design. Where such are not shown on said plans or map, consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, ponds, streams, and woodland, prairie and wetland plant and animal communities.**

**2. The subdivider shall dedicate suitable land for the park, recreation and open space needs of the development in accordance with standards and recommendations contained in the Plan for Parks and Open Space. This shall include the provision of pedestrian and bikeway linkages necessary to provide access to park, recreation and open space areas as determined by the Plan Commission and Park, Recreation and Forestry Commission. All required land dedication under this subsection are in addition to the dedications or reservations required in s. 19.06(3)(j).**

**3. The subdivider shall dedicate sufficient land area and/or fees to provide adequate park, playground, recreation and open space to meet the needs to be created by and to be provided for the subdivision, minor subdivision, or planned development project. At least 1,450 square feet of land shall be dedicated for each proposed residential dwelling unit within the subdivision, minor subdivision or planned development project. Where a definite commitment is made by the subdivider with respect to the number of dwelling units to be constructed on any parcel of land, the dedication shall be based on that number. Where no such commitment exists, the dedication shall be based on the maximum number of dwelling units permitted in the zoning district.**

- If the number of lots in the plat or survey is increased, or**
- The zoning classification is changed to increase the number of dwelling units allowed, or**
- The committed number of dwelling units is increased by the subdivider, developer or landowner, the Plan Commission shall require additional dedications for the allowed increase in dwelling units.**

**4. All subdivisions, minor subdivisions and planned development projects are required to provide convenient pedestrian and bicycle linkages to park and recreation sites. Where, in the opinion of the Plan Commission, such linkages are required outside the public right of way, they shall be reserved by easement and developed as an obligation of the subdivider or developer. The development of linkages shall not be counted toward the park land dedication requirements in paragraph 3 above.**

**5. Whenever a park site, recreation site or other public site, that is designated in the Park**

and Open Space Plan, Comprehensive Plan or Official Map, is of a larger area than the required dedication established herein, the required dedication shall occur at the same time as final plat approval. The remaining lands may be reserved by the Common Council for a period not to exceed three (3) years, unless extended by mutual agreement. During such time period, the City may, in its discretion, agree to purchase the reserved lands at the "fair market value" established at the time of the final plat approval, plus any real estate taxes accrued from the date of reservation.

6. Any land to be dedicated as a requirement of this section shall be reasonably adaptable for the intended park and recreational uses and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of a proposed park and recreation area shall include, but not be limited to, size, shape, topography, geography, tree cover, access, and location. The determination of land suitability will be at the sole discretion of the Plan Commission acting on the recommendation of the Park, Recreation and Forestry Commission. All lands dedicated under this section shall have at least one hundred feet of frontage on a public street. The Plan Commission and Park Commission may adjust this frontage requirement if better alternatives for access are provided. Of the abutting frontage, a maximum of 100 feet of the prorated costs of public streets, sidewalks, and utilities (normally assessable) shall be paid for by the subdivider or the developer.

7. Where, at the discretion of the Plan Commission, acting on the recommendation of the Park, Recreation and Forestry Commission,

- There is no land suitable for parks within the proposed subdivision or planned development project, or
- The dedication of land is not feasible, or
- The dedication of land would not be compatible with the City's Comprehensive Plan and Park and Open Space plan, or
- If the Commission determines that a cash contribution or combination of land and fees will better serve the public interest.

The Commission shall require the developer to pay a fee in lieu of making the required land dedication.

8. The Plan Commission and the Park, Recreation and Forestry Commission may require or permit the subdivider to satisfy the dedication requirements of this section by combining land dedication with fee payments.

9. The amount of any fee imposed in lieu of land dedication for parks, open spaces and passive recreational facilities shall be based on the larger of either the "fair market value" of the amount of land which would otherwise be required to be dedicated or the amounts set forth in the Fee Schedule under Section 3.12.

**10. The amount of any fee imposed on the basis of "fair market value" pursuant to paragraph 9 above shall be determined as follows: the number of proposed residential dwelling units within the plat shall be multiplied by 1,450; then the resulting product shall be multiplied by the "average value per square foot" of improved land in the proposed development. The "fair market value" shall be determined by the City Assessor based on the projected assessed value adjusted to market value in accordance with current practices of the City Assessor. The "fair market value" shall be established for the year in which the fee is to be received by the City and re-established similarly for phased developments. If the subdivider objects to such an evaluation, he or she may at the developer's expense obtain an appraisal of the property by a qualified real estate appraiser approved by the City, which appraisal may be accepted by the City Council if found reasonable. (O1458, 2/20/18)**

**11. Payment shall be in a lump sum prior to the recording of a final plat or certified survey map or prior to the issuance of any building permit for a development where no plat or certified survey map is involved.**

**12. The Common Council shall place any fee collected pursuant to the provisions of this section in a separate non-lapsing segregated fund to be used for land acquisition for parks, open spaces and passive recreational facilities. Monies spent may be expended in other neighborhood parks or community parks in reasonable proximity to the subdivision.**

**13. Outside the corporate limits but within the 3 mile extraterritorial plat approval jurisdiction of the City, where it is determined by the Park, Recreation and Forestry Commission and by the Plan Commission that a portion of a minor subdivision is required for public sites or open spaces, the subdivider may be required to dedicate such areas to the appropriate municipality or otherwise provide for said public land as agreed to by the City, the Town and the Dane County Agriculture, Zoning, Planning and Water Resources Committee. Where dedication is not accomplished at the time of platting, the subdivider may be required to reserve such area for a period not to exceed three (3) years.**

**14. Credit for Private Park and Recreation Areas. Where private park and recreation areas are provided in a proposed planned development district and such space is to be privately owned and maintained by the future residents of the development, such areas may be credited toward, but not to exceed 25% of, the requirement of dedication for park and recreation purposes, as set forth in paragraph 3 above, provided the City Plan Commission, acting upon the recommendation of Park, Recreation and Forestry Commission, finds it is in the public interest to do so, and that the following standards are met:**

- (i) That yards, court areas, setbacks and other open areas required to be dedicated**

or maintained by this Ordinance and the Zoning Regulations shall not be included in the computation of such private open spaces; and

(ii) That the private ownership and maintenance of the open space is adequately provided for by written agreement; and

(iii) That the use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be defeated or eliminated without the consent of the Common Council; and

(iv) That the proposed open space is reasonably adaptable for use for park and recreation purposes, taking into consideration such factors as size, shape, topography, geology, access and location of the private open space land; and

(v) That facilities proposed for open space are in substantial accordance with the recommendations of the adopted Park and Open Space Plan. If the proposed private park is in the service area of a park site designated in the park plan or a site dedicated and/or developed as a public park, then no credits will be given for private facilities.

In making the evaluation of the credit for private recreation facilities, the Plan Commission may retain independent professional services (agreed upon by both parties) to determine the amount of credit, if any, that should be allowed. The fees for such independent evaluations shall be paid by the developer.

**(4) Contract Requirements for Installation of Improvements.** Subject to the limitation set forth in section 19.04 (3) (a) and;

Before final approval of any plat located within the corporate limits of the City of Middleton, the subdivider shall be required to enter into a contract with the City agreeing to install all required improvements. The subdivider shall file with said contract, subject to the limitations set forth in Section 19.04(3)(a) and the approval of the City Attorney, irrevocable financial surety, in the form of subdivider's choice of a bond, certificate of deposit, irrevocable letter of credit, certified check or other security in an amount equal to 120 percent of the estimate of the cost prepared by the City Engineer as a guarantee that such improvements will be completed by the subdivider or his or her contractors not later than eighteen (18) months from the date of recording of the plat or within the time provided in the agreement for the phase currently being constructed.

As a further guarantee that all obligations for work on the improvements are satisfied, the contractor and subcontractors who are to be engaged in the construction of utilities or street improvements on dedicated street rights of way, shall be listed as qualified for such work by the Public Works Committee. Governmental units to which these financial surety

provisions apply may file in lieu of said financial surety, a letter from officers authorized to act on its behalf, agreeing to comply with the provisions of this section. The contract shall also require the subdivider to pay all outstanding assessments for public improvements previously installed and all area charges for sanitary sewer interceptors, force mains, and pumping stations previously installed by the Madison Metropolitan Sewerage District or any other sewerage district. The subdivider shall provide for connecting with water and sanitary sewer mains, storm water drainage facilities, curb and gutter, sidewalk and street improvements, walkways and bikeways on all abutting streets and on any street in the plat not included in the contract.

In those cases where the Common Council determines it is in the interest of the City to install improvements by City contract and at such time as the City may designate, the subdivider shall petition the City for water, sanitary sewer main, sanitary sewer laterals, curb and gutter, sidewalk and street improvements. The cost of such improvements shall be paid by assessments to the be benefitted properties. When improvements are partially installed by City contract in lieu of the preceding contract, the subdivider shall provide a contract and irrevocable financial surety for all other required improvements.

**(5) Documentation.** The subdivider shall furnish the City with a reproducible "as built" set of plans showing all improvements for the plat. The subdivider shall also furnish an itemized cost for the improvements in the contract prior to City approval and/or acceptance of the development.

#### **19.07 DESIGN STANDARDS.**

**(1) Conformity with the Comprehensive Plan, Plan for Parks and Open Space, Transportation Plan, Utility Plans and the Official Map.** All proposed development shall conform to the Comprehensive Plan, Plan for Parks and Open Space, Transportation Plan, Utility Plans and the Official Map of the City as they relate to utilities and transportation facilities. The classification and location of all streets shall conform to the Official Map and 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.

#### **(2) Relationship to Existing and Future Development.**

(a) The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in 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.

**(3) Access.** Every lot or parcel created shall have a minimum frontage of 20 feet on a public right of way.

**(4) Streets.** All streets must meet the design standards in Table 1 as well as the following:

SECTION 19.07(4)  
 MINIMUM ROADWAY DESIGN STANDARDS  
 REVISED  
 TABLE 1

											CUL- DE -SACS		
	ROW	PAVEMENT (1) WIDTH E-E	LANE WIDTH	PARKING	SIDE- WALK S	MIN. RET. RAD	MIN. RAD	MIN. REVERSE CURVE TANGENT	MAX. (6) GRADE	MAX. LENGTH	ROW	DIA	PAVE- MENT (1) WIDTH E-E
ARTERIALS	TO BE DESIGNED IN ACCORDANCE WITH STANDARD ENGINEERING DESIGN PRACTICES BASED ON REGIONAL CRITERIA												
COLLECTORS (2)	80'	36'	12'	TWO SIDES	2	20'	450'	DESCRIPTION	0.06	---	---	---	---
LOCAL:													
1. INDUSTRIAL (2)	70'	40'	12'	Optional 2 SIDES (3)	Optional (3)	30'	320'	150'	6%	1,000'	120'	94'	36'
2. RESIDENTIAL	66'	32'	10'	Optional 2 SIDES (3)	Optional (3)	20'	200'	100'	8%	1,000'	120'	94'	30'
MARGINAL ACCESS (FRONTAGE)	50'	24'	12'	NONE	ONE	25'	200'	---	8%	---	---	---	---
ALLEYS	24'	18'	---	NONE	NONE	10'							

1. PAVEMENT WIDTH WITHOUT CURB AND GUTTER (EDGE OF PAVEMENT TO EDGE OF PAVEMENT)
2. IF A VERTICAL CURVE IS UNDER 500' RADIUS, THE MAXIMUM GRADE ALLOWED IS 5% MINUS .5% FOR EACH 50' OF RADIUS UNDER 500'
3. REQUIREMENT TO BE DETERMINED BY PLAN COMMISSION
4. MINIMUM STREET GRADE .5%.

**(a) Additional Right of Way on Existing Streets.** Developments that adjoin existing streets which have rights of way less than the minimum standard than the roadway as classified in the Comprehensive Plan and Official Map shall dedicate additional right of way to meet those minimum standards.

**(b) Temporary Roadway Termination.** Where a street is terminated temporarily at the edge of a development and the street is longer than two hundred forty (240) feet or two (2) lot widths, a temporary turn-around shall be provided by one of the following methods:

1. If the adjacent land is owned by the subdivider, a temporary turn around can be provided through a restriction (temporary easement) on said land. Such a turn around shall be constructed to City standards.

2. The subdivider may provide the required turn around on one of the last lots fronting on the temporary dead end street through the use of a temporary easement running to the City. Such a turn around shall be constructed to City standards.

**(c) Reserve Strips.** There shall be no reserve strips controlling access to streets except where control of such strips is placed in the City under conditions approved by the Plan Commission.

**(d) Half Streets.** Where an existing dedicated or platted half street is adjacent to a tract being subdivided, the other half of the street shall be dedicated by the subdivider. In new plats, the creation of half streets is prohibited.

**(e) Street Jogs.** Street jogs with centerline offsets of less than 150 feet shall not be allowed. On collectors and arterials, offsets of less than 600 feet shall not be allowed.

**(f) Intersections.**

1. No more than two streets shall intersect at one point.

2. Such intersection shall be laid out so that the angel of intersection is as nearly as possible a right angle.

3. No street shall intersect another street at less than a 75 degree angle.

4. Intersections along arterial streets shall be held to a minimum, and whenever feasible, the minimum distance between intersections shall be twelve hundred (1200) feet.

**(g) 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:

**1. Reversed frontage with screen planting contained in a non-access reservation along the rear property line; or**

**2. Marginal access street (Frontage Road).**

**(h) Street Names.** A proposed street which is in alignment with or adjoins an existing and named street shall bear the name of the existing street. In no other case shall the proposed name of the street duplicate the name of an existing street within the Middleton Fire District and the Madison Metropolitan area. The use of the suffix "street", "avenue", "boulevard", "drive", "place", or "court" or similar description shall not be distinction sufficient to constitute compliance with this subsection.

**(i) Alleys.** Alleys shall not be allowed in Residential Districts. In Retail, Commercial and Industrial Districts, alleys or other definite and assured provisions shall be made for off-street parking, loading and service access consistent with and adequate for the uses proposed but not inconsistent with the operation and use of the abutting street. No dead end alleys shall be allowed, nor shall any alley have its point of connection on an arterial street.

**(j) Cul de Sac Streets.** All cul de sac streets shall terminate in a circular turn around meeting the dimension standards in Table 1, s. 19.07(4).

**(k) Parkways, Greenways, and Environmental Corridors.** When parkways, greenways, and environmental corridors are to be provided within the proposed plat or certified survey, and they are not officially mapped in enough detail to determine the exact dimensions, they shall generally have a minimum width of two hundred (200) feet and in no case shall they be less than one hundred (100) feet wide.

**(l) Grades.** The maximum street grades shall be those in Table 1, s. 19.07(4). Pedestrianways shall have a maximum grade of 8%. Changes in street grades shall provide such sight distances as the City Engineer determines are required. Street grades shall be established to avoid, wherever possible, excessive grading, removal of ground cover and trees and leveling of the topography.

**(m) Pedestrianways and Bikeways.** In the design of the plat, the developer shall make provisions for pedestrianways and bikeways for transport and recreation as required by the Plan Commission on recommendation of the Transportation Commission and the

**Park, Recreation and Forestry Commission. Where it is deemed necessary by the Plan Commission, and in conformance with the provisions of (5)(c) below, walks and paths away from streets in common areas shall be lighted for safety and to permit visual surveillance in accordance with s. 19.07(8).**

**(5) Blocks.**

**(a) The lengths, widths and shapes of blocks shall be compatible with the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic, and the limitations and opportunities of topography. Block lengths in residential areas shall not be less than six hundred (600) feet between street lines unless dictated by exceptional topography or other limiting factors of good design.**

**(b) Blocks shall be sufficient width to provide for two (2) tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.**

**(c) Pedestrianways or crosswalks, not less than ten (10) feet in width, shall be provided near the center and entirely across any block nine hundred (900) feet or more in length or elsewhere where deemed essential, in the opinion of the Plan Commission and Park, Recreation and Forestry Commission, to provide convenient pedestrian circulation or access to parks, schools, shopping centers, churches or transportation facilities.**

**(6) Lots.**

**(a) The size, shape and orientation of the lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated.**

**(b) Lot dimensions and setback lines shall conform to the requirements of the Zoning Code.**

**(c) Excessive depth in relation to width shall be avoided and a proportion of two to one (2:1) shall normally be considered as a desirable maximum for lots.**

**(d) Side lot lines shall be right angles to straight lines or radial to curved street lines on which the lots face whenever possible.**

**(e) Corner lots shall have sufficient width to permit adequate building setbacks from side streets to conform with the Zoning Code.**

**(f) Every lot shall front or abut on a public street.**

(g) Lot lines shall follow municipal boundary lines.

(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) Residential lots fronting or backing on arterial streets shall be platted with extra depth as required in s. 19.07(9).

**(7) Building Setback Lines.**

(a) Where they are not controlled by the Zoning Code, building setback lines appropriate to the location and type of development shall be established by the Plan Commission.

(b) Where lots abut navigable waters, building setback lines for all buildings and structures except piers, marinas, boathouses and similar uses shall be shown on the plat and shall not be less than seventy five (75) feet from the ordinary high water line as measured on a horizontal plane.

**(8) Lighting.** In areas where underground electric facilities are installed, poles for lighting shall be ornamental. The subdivider shall provide street, pedestrianway and bikeway lighting systems within the area being developed, upon consultation with the appropriate electric utility and as approved by the City Engineer. Ornamental lighting will be installed by the serving electric utility of the City of Middleton.

**(9) Treatment of Railroad Rights of Way and Limited Access Highways.** Whenever the proposed subdivision contains or is adjacent to a railroad right of way or limited access highway, the subdivider shall proceed as follows:

(a) In residential districts a buffer strip at least thirty (30) feet in depth, in addition to the normal lot depth required, shall be provided adjacent to the right of way of a limited access highway. This strip shall be a part of the platted lots, but the following restriction shall be written on the plat:

"This strip reserved for the planting of trees or shrubs by the owner. The building of structures hereon is prohibited, and this strip shall not be counted as any required yard. Maintenance of this strip is a responsibility of the lot owner."

(b) The Plan Commission 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.

(c) Location of local streets immediately adjacent and parallel to railroad rights of way shall be avoided.

**(10) Utility Easements.**

**(a) Underground Requirements.**

1. All new electric distribution lines, all new telephone lines from which individual lots are served, all new telegraph lines, community antenna television cables and services, and gas utility services shall be underground unless the Plan Commission shall find upon study that:

(i) The placing of such facilities underground would not be compatible with the development, or

(ii) Location, topography, soil, swamp, solid rock, boulders, stands of trees, rows of trees, hedges or other physical conditions would make underground installation unreasonable or impracticable.

2. Associated equipment and facilities such as, but not limited to, substations, pad mounted transformers, pad mounted sectionalizing switches and pedestal mounted terminal boxes, may be located above ground, provided that they are located in an inconspicuous manner, screened from public view and fit into the development plans for the subdivision.

3. The subdivider or his or her agent shall furnish proof to the Plan Commission 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 approval of the final plat, development plan or certified survey map.

4. 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.

**(b) Easement Conditions.**

**1. Adequate easements shall be provided and dedicated on each side of all rear lot lines, and on side lot lines, across lots, or along front lot lines where necessary, for the installation of storm and sanitary sewers, gas, water, electric lines, communication lines and heat mains. Such easements shall be noted as "Utility Easements" on the final plat or certified survey map. Prior to approval of the final plat, the specific implementation plan for the Planned Development District (PDD), the comprehensive development plan, or certified survey map, concurrence of the appropriate electric and communications companies as to the location and width of the utility easements shall be noted on the final plat, specific implementation plan for the PDD, comprehensive development plan, or certified survey map. All easements for storm and sanitary sewers, water and heat mains, pedestrian walks and other public purposes shall be noted thereon as "Public Easements for" followed by reference to the use for which they are intended.**

**2. Where the electric and communications facilities are to be installed underground, the utility easements shall be graded to within six (6) inches of final grade by the subdivider, prior to the installation of such facilities, and earth fill, piles or mounds of dirt shall not be stored on such easement areas. Utility facilities when installed on utility easements whether overhead or underground shall not disturb monumentation in the plat. In cases where monumentation is disturbed, the Utility shall bear the cost of replacement. Failure to comply will be subject to penalty as provided by Wis. Stat. s. 236.32.**

**3. Where the electric and communication facilities are to be installed underground, a plat restriction shall be recorded with the final plat or certified survey map stating that the final grade established by the subdivider on the utility easements shall not be altered by more than six (6) inches by the subdivider, her or his agent, or by subsequent owners of the lots, except with written consent of the utility or utilities involved. The purpose of this restriction shall be to:**

**(i) Notify initial and future lot owners of the underground facilities at the time of purchase.**

**(ii) Establish responsibility in the event of damage to such facilities, and**

**(iii) Establish the need to alter such facilities. When the utility company uses a service application, said application should also notify the initial and subsequent lot owners of their responsibility regarding such underground facilities.**

**(11) Drainage and Greenway/Environmental Corridor Easements.** Where a subdivision is traversed by a waterway, drainageway, channel or stream, or mapped Greenway/Environmental Corridor, an adequate drainageway or easement shall be provided as required by the Plan Commission and the Water Resources Management Commission conforming substantially with the line of such watercourse. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the Plan Commission and the Water Resources Management Commission. Parallel streets or parkways may be required. Storm water drainage shall be maintained by landscaped open channels of adequate size and grade to accommodate the flow resulting from the 100 year rainfall event of any duration, such sizes and design details to be subject to review and approval by the City Engineer, the Park, Recreation and Forestry Commission and the Water Resources Management Commission.

**(12) Erosion Control.** The subdivider shall employ erosion control measures to prevent erosion, siltation, sedimentation, and washing and blowing of dirt and debris from excavation, grading, open cuts, side slopes and related activities of the subdivider or contractors. Such measures shall include, but not be limited to, seeding, sodding, mulching, watering, ponding, and the construction of berms. Plans for erosion control may be submitted to the Dane County Soil and Water Conservation District for review and comments. These comments shall be available to the City Engineer and the Water Resources Management Commission for review two (2) weeks prior to submittal of the final plat and before any land surfaces are disturbed. Such plans shall meet the requirements of s. 11.055 of this Code relating to land grading permits and Chapter 28 (Erosion Control and Stormwater Management). Guidelines, standards and specifications contained in the Soil Conservation Service publication "Minimizing Erosion in Urbanizing Areas", shall provide a framework for the development, review and implementation of the erosion control plan.

**(13) Intra-Block Drainage and Foundation Design.**

(a) Two (2) weeks prior to submittal of final plat for review and approval, the subdivider shall submit to the City Engineer a Surface Water Drainage Plan for the plat. This plan may be part of the Erosion Control Plan. the plan shall indicate but not be limited to the following: elevation of streets, existing topography of the block, proposed drainage swales, and indication of the direction of drainage.

(b) Upon approval of the plan, the developer shall place on the final plat arrows to indicate the direction of drainage swales required for intra-block drainage and the following note:

**"Arrows indicate direction of drainage swale construction during grading and said swales shall be maintained by the lot owner unless modified with approval of the City Engineer."**

**(c) A minimum of 10 foot wide drainage easement (5 feet on each side of the property line) shall be retained along all joint property lines on the plat. Such easement shall be designated as a stormwater drainage easement, and shall conform to the drainage plan.**

**(d) Where a subdivider's subsoil investigation indicates potential for groundwater less than ten (10) feet from the proposed street center line elevation, the subdivider shall so note on the face of the plat and indicate the lots affected.**

#### **(14) Storm Water Management.**

##### **(a) Goals and Objectives.**

**1. To prevent significant loss of life and property due to runoff from any foreseeable rainfall event.**

**2. To encourage the design of system which minimize potential erosion and sedimentation problems.**

**3. To maintain the water quality of the lake, streams and ponds.**

**4. To encourage the design of systems which respond to the need to maintain or enhance ground water resources, including ground water quality, except where land stability might be impaired.**

**5. To encourage the design of systems which will reduce capital and environmental costs to the community.**

**(b) At the time a preliminary plat, a certified survey, or a planned development is submitted to the Plan Commission for approval, the developer or subdivider shall prepare a study of the drainage basin of the area in which the proposed development is located. The study shall include the design, routing and estimated construction cost of a storm water management system to serve the site and/or drainage basin of the area in which the proposed development is located.**

**(c) The proposed development shall not increase stormwater runoff (peak) from that which would have resulted from the same storm occurring over the site with the land in its natural undeveloped state, for storms of a 24 hour duration and all reoccurrence**

intervals of less than or equal to 100 years. In the case of closed drainage basins, which have no outlets during normal rainfall, the volume of runoff resulting from a ten (10) year storm of 24 hour duration shall not be greater after development than when the land was in its natural undeveloped state.

(d) Land in its natural undeveloped state shall mean land which has runoff characteristics equivalent to runoff curb number (CN) 70, as used in the runoff methodology promulgated by the United States Soil Conservation Service National Engineering Handbook.

(e) Determination of storm volumes shall be computed by established procedures equivalent to and calibrated against that procedure promulgated by the United States Soil Conservation Service in its National Engineering Handbook or the technical publication entitled "Urban Hydrology for Small Watersheds, TR-55," and accepted by the City Engineer.

(f) Design of stormwater management facilities shall be in accordance with this ordinance and Chapter 28 (Erosion Control and Stormwater Runoff Ordinance) and subject to the approval of the Public Works Committee and Water Resource Management Commission. Stormwater peaks and volumes shall be addressed either through onsite detention, retention, infiltration, or a combination. It is the intent of these provisions to encourage onsite detention and infiltration to the greatest extent possible.

(g) Where on-site detention is found to be unfeasible by the Water Resources Management Commission or where adequate storm water facilities have been provided by the City downstream of the proposed development (with the approval of the Water Resources Management Commission, and the Public Works Committee), the subdivider or developer shall be required to make a cash contribution to a regional stormwater management facility based on a proration of costs allocable to the proposed development as approved by the Water Resources Management Commission.

#### **19.08 VARIANCES.**

(1) In cases where a subdivision or minor subdivision is part of a Planned Development District (see s. 10.82, Zoning Code), or other planned development district, for which a Specific Implementation Plan Containing revised design standards is approved by the Plan Commission and the Common Council and recorded with the Dane County Register of Deeds, the waiver of, or variance in, the design standards required by this ordinance shall be considered to have been granted.

(2) Variances not related to a planned development district may be granted by the Plan Commission so that substantial justice may be done and that the public interest is secured

when, in its judgment, it would be inappropriate to apply a provision of this ordinance or when such application would cause extraordinary hardship.

(3) A variance may be granted by the Plan Commission to permit a parcel to be created by certified survey map in the extraterritorial review area when it is shown that the application satisfies the following standards:

(a) A finding of fact must be made that the purpose of the proposed parcel is to be a lot for a dwelling unit which is to be occupied by a person who, or a family at least one member of which earns a substantial part of his or her livelihood from farm operations on the parcel, and/or contributes work which is substantially needed in the farm operation, and/or is the parent or child of the farm operator or the spouse of the farm operator; and

(b) A finding of public interest must be made that the proposed parcel and use is reasonable upon consideration of these factors:

1. The potential for conflict with agricultural use.
2. The need of the proposed use for a location in an agricultural area.
3. The availability of alternative locations.
4. Compatibility with existing or permitted use on adjacent lands.
5. The productivity of the lands involved.
6. The location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted.
7. The need for public services created by the proposed use.
8. The availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.
9. The effect of the proposed use on water on air pollution, soil erosion and rare or irreplaceable natural resources.

When the site is zoned A-1 under the Dane County Zoning Ordinance, the Commission shall defer to the County conditional use decision on the standards of (b), where such a county decision is needed to establish the dwelling unit.

(c) The minimum parcel size allowable under (3) by variance is one acre, exclusive of any area dedicated to the public.

(d) If a variance is granted under this subsection the division of land shall be subject to all other pertinent provisions of this and related ordinances.

(4) Reasons and conditions for any waiver or variance granted shall be entered in the minutes of the Plan Commission.

#### **19.09 APPEALS.**

(1) The following decisions of the Plan Commission may be appealed to the Common Council.

(a) Rejection of a preliminary plat, a final plat or a certified survey map;

(b) A determination that land is unsuitable for subdivision;

(c) The requirement of a preliminary plat for a land division.

(2) The procedure for the filing and handling of the appeal shall be that outlined in s. 10.119 of the Zoning Code.

#### **19.10 SEVERABILITY.**

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid by reason of a decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase thereof.

This Ordinance shall be in force and effect from and after its adoption and publication.

#### **19.11 DEFINITIONS.**

The following terms, whenever they occur in this Ordinance, are defined as follows:

(1) **Act of Division:** The division of a lot or parcel of land into two or more parcels.

(2) **Bikeway:** a general term describing any or all of the following defined types of facilities used for bikes. A network of bikeways constitutes a bike route system. Class designations are those in the Long Range Bikeway Program:

**(a) Bike Path (Class I).** A bike route completely apart from a street used by motor vehicles and restricted to bicycles unless designated otherwise.

**(b) Bike Lane (Class II).** A designated lane of a street, restricted to bicycle usage and separated from motor vehicles by a painted line, raised divider or curb.

**(c) Mixed Traffic Route (Class III).** A route, designated by signs, along streets used by motor vehicles and bicycles.

**(3) Certified Survey Map:** A map or plan or record of a minor subdivision meeting all the requirements of Wis. Stat. s. 236.34, and of this Ordinance.

**(4) Closed Drainage Basin:** a drainage basin which, during periods of normal rainfall, has no surface outlet.

**(5) Common Council:** The City of Middleton Common Council.

**(6) Comprehensive Development Plan:** a total site plan for an area of land eighty (80) acres or more in size under the control of a developer(s) at the time of submission for review. Said plan specifies and illustrates the location, relationship and nature of all uses, easements, streets, pedestrian paths, bikeways and common open space.

**(7) Condominium Development:** A real estate development, redevelopment or ownership regime conversion project involving establishment or alteration of the condominium form of ownership for all or part of the development.

**(8) Division of Land:** The division of a lot or parcel of land into two or more parcels.

**(9) Driveway:** a vehicle access from private property to a public street.

**(10) Environmental Corridors:** continuous open space systems based on natural resources and environmentally important lands. The corridors are based primarily on streams, lakes, shorelands, floodplains, waterways and wetlands.

**(11) Extra-Territorial Plat Approval Jurisdiction:** as defined in Wis. Stat. s. 236.02(2) (three miles from corporate limits).

**(12) Final Plat:** the map or plan of record of a subdivision and any accompanying material as required in s. 19.05(3) and s. 19.06(3).

**(13) Governing Body:** the City of Middleton Common Council.

**(14) Greenway:** an open area of land included under the definition of "Parkway", the primary purpose of which is to carry storm water on the surface of the ground in lieu of an enclosed storm sewer. Greenways may serve the following multiple public purposes in addition to their principal use, including but not limited to vehicular and/or pedestrian traffic, sanitary sewers, water mains, storm sewers, storm water retention basins, waterways, conservancy areas, environmental corridors, and park development.

**(15) Land Division:** the division of a parcel of land into two or more parcels. Also referred to as Division of Land.

**(16) Land in its Natural Undeveloped State:** Land which has runoff characteristics equivalent to runoff curve number (CN) 70, as used in the runoff methodology promulgated by the United States Soil Conservation Service National Engineering Handbook.

**(17) Comprehensive Plan:** the comprehensive plan for guiding and shaping the growth and development of the Middleton community, including all of the component parts, as recommended by the Plan Commission and adopted by ordinance by the Common Council.

**(18) Minor Subdivision:** the division of a lot or parcel of land for the purpose of transfer of ownership or building development where the act of division creates four (4) or fewer parcels, lots or building sites, any one of which is thirty five (35) acres or less in area. A minor subdivision of a lot or parcel shall occur not more than one in five years.

**(19) 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 Common Council pursuant to Wis. Stat. s. 62.23(6).

**(20) Other:** all other pertinent terms shall be as defined in the Zoning Code of the City of Middleton and in Wis. Stat. Chapter 236.

**(21) Parcel:** contiguous lands under the control of subdivider(s), not separated by streets, highways or railroad rights of way.

**(22) Parkway:** any right of way for vehicular traffic including bicycles or pedestrian traffic, or both, with full or partial control of access and usually within a part of a ribbon of park like development. Said parkway may include greenways required for storm water drainage purposes where the drainage improvement is to include park like treatment and where pedestrian or vehicular travel, including bicycles, may be permitted.

**(23) Plan Commission:** the City of Middleton Plan Commission.

**(24) Planned Development District:** any zoning district which allows diversification and variation in land development to achieve an improved living environment and to preserve open space.

**(25) Plat:** a map of a subdivision.

**(26) Preliminary Plat:** a map delineating the features of a proposed subdivision as described herein, submitted to the Plan Commission for preliminary consideration prior to the final plat.

**(27) Prime Agricultural Land:** lands containing Class I, II, III soils and other lands having a history of agricultural production.

**(28) Replat and Resubdivision:** the process of changing, or the map which changes, the boundaries of a recorded plat or a part thereof. The legal division of a larger block, lot or outlot within a recorded plat, without changing the exterior boundaries of said block, lot or outlot is not a replat. See Wis. Stat. s. 236.36.

**(29) Street:** a public way for vehicular and pedestrian traffic whether designated as a street, highway, thoroughfare, parkway, thruway, road, avenue, boulevard, lane, place, or however otherwise designated.

**(a) Arterial Streets and Highways.** Those streets which provide for rapid movement or concentrated volumes of traffic over relatively long distances.

**1. Principal Arterials.** Streets serving the major interstate and interregional traffic corridors and providing the highest mobility level and a high degree of access control.

**2. Primary Arterial.** Streets serving major regions or connecting important cities and major intracommunity corridors in the metropolitan area. These routes provide high mobility and a high degree of access control.

**3. Standard Arterials.** Those streets which more commonly provide for intermediate length trips, thus serving thru traffic movement in trade areas or feeding traffic to the principal and primary arterial streets from lower activity areas not served by such routes.

**(b) Collector Streets.** Streets which provide moderate speed movement of persons and goods between major arterials and/or activity centers. They are basically local streets which because of directness of routing and higher capacity receive higher volumes of traffic to be distributed or collected toward nearby arterial streets.

**(c) Local Streets.** Streets designed for low speeds and low volumes which provide access from low traffic generating areas to collector and arterial systems.

**1. Industrial Street.** A local street serving an Industrial or Commercial area as defined in the Zoning Code.

**2. Residential Streets.**

**(i) Residential.** A standard residential street.

**(ii) Residential lane.** A very low density cul de sac street having a maximum length of 500' or serving a maximum of ten (10) single family dwellings (whichever is less), each dwelling of which would provide all necessary off street parking.

**(d) Marginal Access Streets (frontage roads).** Streets parallel and adjacent to arterial streets and highways which provide access to abutting properties and separation from thru traffic.

**(e) Alley.** A public right of way which affords a secondary means of access to abutting property.

**(f) Cul de Sac Streets.** Streets closed at one end with turnarounds.

**(g) Dead End Streets.** Streets closed at one end without turnarounds.

**(30) Structure:** anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground, excepting public utility facilities and appurtenances attached thereto.

**(31) Subdivider:** any person, firm, partnership, corporation, association, estate, trust or other legal entity requesting review or action on a minor subdivision or condominium.

**(32) Subdivision:** the division of a lot or parcel of land for the purpose of transfer of ownership or of building development, where:

**(a) The act of division creates five (5) or more parcels or building sites of thirty five (35) acres each or less in area, or;**

**(b) The act of division creates five (5) or more parcels or building sites of thirty five (35) acres each or less in area by successive divisions within a period of five years.**

**(33) Urban Service Area:** that area which the City of Middleton Common Council has designated as the area within which it expects the provision of the full range of urban facilities and services. For purposes of this Ordinance, the full range of services includes, but is not limited to, sanitary sewer, storm sewer, water supply and distribution, fire service and police, parks and open space, recreation, schools and transportation. The designated urban service area may include areas in which other local governments will provide these services consistent with the Land Use Plan for Dane County and policies of the City of Middleton.

**(34) 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.

**(35) Zoning Code:** Chapter 10, Municipal Code of the City of Middleton.

#### **19.12 NORTH MENDOTA PARKWAY MORATORIUM.**

**(1) Authority.** This section is enacted to promote the public safety, convenience and general welfare of the citizens of the City of Middleton, Dane County, Wisconsin, as authorized by Wis. Stats. §§ 62.23(2), 62.23(6)(e), 236.10(1)(b)2. and 236.45.

**(2) Purpose.** The adoption of this section is supported by the following findings:

(a) The North Mendota Area of Dane County, including areas located within the Towns of Springfield and Westport, has and continues to experience increasing growth pressure, requiring an integrated strategy for dealing with transportation issues and other secondary effects upon the land in the area.

(b) Middleton, Dane County, the Village of Waunakee, and the aforementioned municipalities participated in a North Mendota Parkway Advisory Committee that approved a final report and recommendation on August 1, 2006.

(c) On March 8, 2004, the Dane County Board of Supervisors approved the North Mendota Parkway Advisory Committee's Final Report and Recommendations.

(d) On June 21, 2007, the Dane County Board of Supervisors approved an Intergovernmental Agreement with the aforementioned municipalities, and that Agreement was fully executed by the parties on June 26, 2007.

(e) The Intergovernmental Agreement requires that all parties adopt a short-term development moratorium on land divisions, subdivisions, rezonings and conditional use

permits in the defined North Mendota Parkway area within 60 days of complete execution of the Agreement.

(f) The City of Middleton has invested a substantial amount of time and money into the cooperative planning process with the other parties to the Agreement regarding the long-term needs of the North Mendota Parkway area.

(g) Existing Dane County and City of Middleton ordinances may allow new development, or intensification of existing development, in the unincorporated portions of the North Mendota Parkway area that may hamper and curtail the effectiveness of the ongoing planning process.

(h) A short-term development moratorium on the acceptance, review and approval of land divisions, subdivisions, rezones and conditional use permits in the North Mendota Parkway area will provide the county and other participating municipalities an opportunity to place the North Mendota Parkway on the official maps of all the parties to the Intergovernmental Agreement.

(i) The Common Council of the City of Middleton believes that the adoption of a short-term moratorium will promote the public health, safety, general welfare and convenience of the City of Middleton, and encourage the most appropriate use of land in the North Mendota Parkway area.

**(3) Applicability.** This section apply to lands in Dane County within the Towns of Springfield and Westport located within the extraterritorial plat review jurisdiction of the City of Middleton, located in the North Mendota Parkway area as shown on the map that is attached hereto and incorporated into this section by reference.

**(4) Duration.** This ordinance shall expire either 24 months after its effective date, or upon all parties to the Intergovernmental Agreement placing the North Mendota Parkway on their official maps, whichever occurs first.

**(5) Development Moratorium.** There is hereby established a temporary moratorium on the acceptance, review and approval by county officials and staff of any application for a land division, subdivision, rezone or conditional use permit received by the county on or after the effective date of this ordinance.

**(6) Exceptions.** Notwithstanding the provisions of sub. (5), the moratorium shall not apply to the following:

(a) A complete land division, subdivision, rezone or conditional use application that is submitted in conformity with the applicable county ordinances on or before the effective

date of this section.

(b) Certified survey maps that do not create additional building sites.

(c) Divisions of land or rezones that are necessary to avoid a property owner being denied all economic use of his or her land.

(d) Divisions of land that are essential for the correction of, or remediation of, a situation that threatens the public health or welfare.

**(7) Variances.**

(a) Any property owner of property within the North Mendota Parkway area, or his or her agent, may apply to the City of Middleton Plan Commission for a variance from the terms of this section.

(b) Application for a variance shall be made to the City of Middleton Plan Commission and processed pursuant to the procedures as set forth in section 19.08 of the Middleton Municipal Code.

(c) A variance from the terms of the moratorium may be granted if the applicant demonstrates that the proposed development is not detrimental to potential routes of the North Mendota Parkway or the E-way.

**(8) Inconsistent Ordinances Voided.** All ordinances or provisions of ordinances inconsistent with, or contravening the provisions of this section are hereby temporarily voided, and shall have no legal force or effect during the period of this ordinance.

**(9) Severability.** If any part of this section is deemed to be unconstitutional, unlawful or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.