

10.0 GENERAL PROVISION

- A. Compliance.** No person, firm or corporation shall divide any land within the jurisdictional limits of these regulations which results in land division, conveyance, consolidation or replat. No land division, conveyance, consolidation or replat and no street shall be laid out, nor improvements made to lands, nor building permits issued for any land division without compliance with all provisions of this ordinance and the following.
- (1) The provisions of Ch. 236.
 - (2) The rules of the Division of Plumbing, Wisconsin Department of Commerce, contained in Wis. Admin, Code H85 for lands not served by public sewer.
 - (3) The rules of the Division of highways, Wisconsin Department of Transportation contained in Wis, Admin, for lands which abut a state trunk highway or connecting street.
 - (4) The rules of the Wisconsin Department of Natural Resources contained in Wis. Admin, code for Floodplain Management Program, and Shorelands/wetlands Management Program.
 - (5) All applicable Village of Downing and county regulations including zoning, sanitary, building, and official mapping ordinances.
 - (6) All applicable rules contained in the Wisconsin administrative code not listed in this ordinance.
- B. TITLE.** This ordinance shall be known as the "Village of Downing Land Division Ordinance".
- C. PURPOSE.** The regulations in this ordinance are adopted for the following purposes:
- (1) To promote and sustain the wise use, conservation, protection, and property development of the Village of Downing's soil, water, wetland, woodland, and wildlife resources.
 - (2) To establish design standards and land division procedures for the orderly and well-planned layout, division, use, and development of land in the Village of Downing.
 - (3) To ensure adequate and efficient transportation, water, sewerage, stormwater drainage, schools, parks, playgrounds, recreation, and other facilities.
 - (4) To ensure that the design of the transportation system will not have a negative long-term effect on neighborhood quality, traffic, and pedestrian movement and safety.
 - (5) To prevent and control erosion, sedimentation, and other pollution of air and water, ensure the adequacy of drainage facilities, and safeguard subsurface water.
 - (6) To prevent destruction or impairment of environmentally sensitive areas.
 - (7) To conserve high value agricultural land.
 - (8) To protect and provide for the public health, safety, and general welfare of the Village of Downing.
 - (9) To ensure a system for review of proposed condominium instruments that is identical to the review procedures for land divisions.
- D. AUTHORITY.** This ordinance is adopted under the authority granted by Wis. Stat. 236.13(1)(b) and 236.45 and for the purposes listed in Section Wis. Stat. 236.01 and 236.45
- a. **JURISDICTION.** The provisions of this ordinance shall apply to all land and water within the incorporated boundary of the Village of Downing, Wisconsin.
- E. GREATER RESTRICTIONS, ABROGATION, AND SEVERABILITY.**
- (1) Wherever this ordinance imposes greater restrictions, or conflicts with any other ordinance, statute or administrative rule, the more restrictive provision shall govern.
 - (2) In the interpretation and application of the provisions of this ordinance, requirements shall be held to be the minimum requirements and shall be liberally construed in favor of the Village of Downing and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin statutes.
 - (3) If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.
 - (4) In carrying out any of the provisions of this ordinance or in exercising any power or authority granted to them thereby, there shall be no personal liability upon the Village of Downing, its agents, and employees.

(5) The Village of Downing does not guarantee, warrant, or represent that only those areas designated as floodplains will be subject to periodic inundation and that those soils listed as being unsuited for specific uses are the only unsuited soils within the Village of Downing and thereby asserts that there is no liability on the part of the Village of Downing, its agencies, or employees for sanitation and water supply problems or structural damages that may occur as a result of reliance upon, and conformance with this ordinance.

F. **DEFINITIONS.** For purposes of this ordinance, certain words and terms shall have the following meanings:

Alley: A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

Applicant: The owner of land proposed to be subdivided or the owner's representative who shall have express written authority to act on behalf of the owner.

Block: A platted tract of land bounded by streets or by a combination of streets and public parks, or other recognized lines of demarcation.

Building: Any structure built for the support, shelter, or enclosure of persons, animals, or movable property of any kind, and which is permanently affixed to the land.

Certified Survey Map: A map of a division of land into five (5) lots or less prepared in accordance with Ch. 236, Wis. Stats., and the terms of this ordinance may be referred to as a CSM.

Contiguous: Parcels of land sharing a common boundary. Parcels that meet at only a single point are not considered contiguous.

Contiguous Tract: All contiguous areas of land in which title is held under identical ownership.

Cul-de-sac: A local road with only one vehicular outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Days: Shall refer to calendar days.

Easement: The portion of land set aside or over which, a liberty or privilege, is reserved for the public, utility, or some person, corporation, or part of the public for limited right of use.

Environmentally Sensitive Area: Areas identified as being environmentally sensitive include the following:

- (1) All areas mapped as floodplain by the Federal Emergency Management Agency, the Wisconsin Department of Natural Resources, or any other public or private entity.
- (2) Navigable Lakes, ponds, flowages, rivers, and streams, including a 25-foot buffer.
- (3) All areas within seventy-five (75) feet of the ordinary high-water mark of navigable streams and lakes.
- (4) All areas having slopes of 20% and greater.
- (5) Burial sites and Indian mounds.

Final Plat: A subdivision prepared in compliance with the provisions of Ch. 236, and the terms of this ordinance.

Floodplain: Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the flood fringe and may include other designated floodplain areas for regulatory purposes.

Frontage: The length of the front property line of the lot or tract of land abutting a public or private street, road, highway, public right-of-way, or navigable water body.

Improvement: The act of changing or enhancement that alters the present condition.

Land Division: The act of creating one (1) or more new separately described parcels.

Landowner: Any person, group of persons, firm, corporation, or any other legal entity having legal title to the land sought to be divided under this ordinance.

Lot: A parcel of land legally created by Plat or Certified Survey Map.

Minor Subdivision: Certified Survey Map (CSM).

Navigable Water: Lakes, ponds, flowages, rivers, and streams shall be presumed to be navigable if they are shown on United States Geological Survey quadrangle maps (1:24,000 scale). Determinations of navigability shall initially be made by the Village Board. When questions arise, the Village Board shall contact the Regional Office of the Department of Natural Resources for a final determination of navigability.

Nonconforming Structure: A structure that complied with zoning and development regulations at the time it was built but which, because of subsequent changes to the zoning and/or development regulations, no longer fully complies with those regulations.

Ordinary High-Water Mark (OHWM): The highest point on the stream bank or lake shore where over enough time the flow of water has created visible evidence on the landscape. Determinations of OHWM shall initially be made by the Village Board. When questions arise, the Village Board shall contact the Regional Office of the Department of Natural Resources for a final determination of OHWM.

Outlot: A non-buildable parcel of land, intended for transfer of ownership or private access, which does not meet the requirements of a lot at the time of platting. An outlot may be a private road or alley, a non-buildable parcel, or a remnant parcel. An outlot may not be developed or used as a building site. Outlots shall not be used to circumvent the intent of this ordinance.

Parcel: A piece of land held in one ownership.

Person: Person in this ordinance shall include any natural person, corporate entity, or statutory entity.

Preliminary Plat: A map showing the features of a proposed subdivision submitted to the Committee for purposes of preliminary consideration.

Plat: The preliminary or final map of a County or State Plat or Assessor's Plat.

Regional Flood: A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one (1) percent chance of being equaled or exceeded in any given year.

Remnant: The remainder of a former contiguous tract which would be unaffected by the proposed land division.

Replat: The process of changing, or the map or plat which changes, the boundaries of a recorded plat, certified survey map or a part thereof.

Restrictive Covenant: Written stipulations regarding development which the owner(s) must abide by and be governed by the owner(s) of interest unless otherwise so stipulated, that may not be less restrictive than any local ordinance.

Retracement Certified Survey Map: A certified survey map that retraces, identifies, and locates the boundaries of an existing parcel(s) of land where no new additional parcels are created.

Right-Of-Way: A strip of land occupied or intended to be occupied by a road, railroad, utility line, or for other special purposes, and normally requiring public dedication where public maintenance is involved.

Road: A way for vehicular traffic that provides vehicular access to lots, not including access driveways within lots.

Setback: The distance by which a building or part of a building is set back from the property line or Right of Way.

Sewage Disposal System: An on-site septic, aerobic, experimental, holding, or other system approved for use by the Department of Commerce.

Stream: A channel appearing as dashed or solid blue lines on the USGS 7.5-minute quadrangle map.

Street: A public or private right-of-way which affords a primary means of vehicular access to abutting properties, whether designated as a street, avenue, highway, road, boulevard, land, throughway, or however otherwise designated, but excepting driveways to buildings.

Subdivider: Any person, corporation or authorized agent who undertakes the subdivision of land as defined in this section.

Subdivision: A land division which is affected under this ordinance by a certified survey map or plat.

Surveyor: A person who surveys land and is duly licensed in the State of Wisconsin.

Tract: A contiguous area of land.

Utility Easement: An easement to place, replace, maintain, or move utility facilities, such as telephone, water, sewer, gas, and cable television.

Variance: A departure from the terms of this ordinance as applied to a specific building, structure, or parcel of land, which the Committee may permit, pursuant to this ordinance.

Wetlands: Those areas identified on the DNR Surface Water Data Viewer or mapped by a DNR certified wetland delineator as either mapped wetlands, or wetland indicators and soils.

G. LAND DIVISION.

(1) The provisions of this ordinance shall apply to:

- a. All divisions and conveyances of land, including land contracts, and combination or reconfiguration of lots or outlots.
 - b. Any remnant portion of a contiguous tract.
 - c. All certified survey maps, non-restrictive to size, including retracement certified survey maps and certified survey maps created for mortgage purposes.
- (2) The following are exempt from the requirements of this ordinance:
- a. Divisions of less than 5 parcels by transfers of interests in land by will or pursuant to court order.
 - b. Divisions of less than 5 parcels by 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 this ordinance or other applicable laws or ordinances. For this subsection, any fractional part of a lot or outlot intended to be conveyed to an adjoining landowner, or any parcel of land that is not part of a lot or outlot intended to be conveyed to an owner of an existing lot or outlot shall be an additional lot.
 - c. Cemetery plats made under Wis. Stat. Ch. 157.07.
 - d. Divisions of land relating to the acquisition or exchange of land by public agencies, for public use and occupancy, including but not limited to, land divisions made for road construction purposes.

H. PARCEL RECONFIGURATION

- (1) The combination or reconfiguration of two or more adjoining lots or outlots of a certified survey map or plat shall require the preparation of a new certified survey map in compliance with all provisions of this ordinance, except as provided in section 10.8(2), and shall be subject to review by the Village Board.
- (2) Existing parcels may be reconfigured in accordance with Wis. Stat. Ch. 236.34. A certified survey map may be used to reconfigure no more than five (5) lots or outlots within a recorded plat, or CSM, provided that the reconfiguration:
 - a. Does not result in a subdivision as defined by Wis. Stat. Ch. 236.02(12) (am).
 - b. Creates parcels that comply with this ordinance and applicable county and other ordinances, minimum layout requirements in Ch. 236, and, if served with private sewerage facilities, Wis. Admin. Code SPS 383 & 385.
 - c. Does not change areas previously dedicated to the public.
 - d. Does not change a restriction or easement placed on the platted land.
- (3) Combinations or reconfigurations that include existing non-conforming lots or outlots shall not be permitted if any additional non-conformity is created, or that results in any lot being reduced to an area of less than 8,000 square feet in the Municipal Utilities Sewer Service Area (see Appendix A figures 1&2) or less than one acre in the Private Utilities Sewer Service Area (see Appendix A figures 1&2).

I. LAND DIVISION CLASSIFICATIONS. Land divisions are classified as either:

- (1) Minor Subdivision.
 - a. Creation of any lot from a contiguous tract shall require a certified survey map. A maximum of five (5) lots smaller than one and a half (1 ½) acres may be created from each quarter quarter or government lot within a 5-year period.
 - b. Certified survey maps shall be prepared and submitted for review, approval, dedication, and recording as required by this ordinance and Ch. 236, as applicable.
- (2) Major Subdivision.
 - a. County Plat are subject to the surveying requirements of Ch 236.
 - b. State Plat. Land divisions meeting the definition of state subdivisions are subject to mandatory state review under Ch.236.

J. SUITABILITY STANDARDS.

- (1) Pursuant to Wis. Stat.Ch. 236.45, the Village of Downing is authorized and may prohibit the division of lands where such prohibition will serve to carry out the purposes of this ordinance.
- (2) The suitability standards of this section shall be applied to all proposed land divisions.
- (3) No land shall be divided if classified by the Village of Downing as Environmentally Sensitive.
- (4) No land shall be divided if deemed by the Village of Downing to be harmful to the health, safety, or general welfare of the future residents or of the community.
- (5) Lands deemed unsuitable may, with the approval of the Village Board, be divided and designated as an outlot. It must be noted on the face of the certified survey map or plat that the outlot is unsuitable for habitable structures, sanitary facilities or other development uses.

K. SEWERED AND UNSEWERED DEVELOPMENT. The following standards shall apply to all land divisions:

- (1) Developments that can be connected to sanitary sewage collection and treatment facilities at the time of development shall have all laterals and services to the property line installed during construction and shall be connected to the available treatment system prior to occupancy.
- (2) Developments in areas where sanitary sewage treatment service can reasonably be expected within 5 years of the date of recording of the plat shall have a sewage collection system including services to the property lines installed and capped prior to completion and occupancy. If payments from the subdivider and/or owner are a precondition of a sewage service, the requirement that appropriate funds be placed in escrow may be imposed.

10.1 MINOR LAND DIVISION

A. PRE-APPLICATION.

- (1) Prior to applying for approval of a Certified Survey Map, it is recommended, the applicant or agent schedule a pre-application consultation to meet with the Village Board to discuss the location and nature of the proposed project.
- (2) Based upon information provided in the pre-application consultation, the Village Board shall explain to the applicant:
 - a. All concerns the Village of Downing may have.
 - b. The procedure to follow to submit a land division for review.

B. CERTIFIED SURVEY MAP.

- (1) All certified survey maps shall be prepared by a professional land surveyor licensed in the State of Wisconsin.
- (2) The subdivider or their designated agent, shall submit a minor subdivision application on the form provided by the Village of Downing, five (5) paper copies and one (1) electronic copy of the certified survey map, the required review fee, if applicable a maintenance and repair agreement as required by Section 13.3(1) f(vii) to the Village of Downing.
- (3) The Village Board, within ninety (90) days of the date of filing of a certified survey map shall approve, conditionally approve, or reject such certified survey map, unless the time is extended by mutual agreement with the subdivider. The ninety (90) day period shall commence with the submission of a complete application, the review fee, and required copies of the preliminary plat. One (1) copy of the certified survey map shall be returned to the subdivider with the date and the action recorded; and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the certified survey map. Failure of the Village Board to act within ninety (90) days of the date of filing or within the time as extended by agreement with the subdivider shall constitute an approval.
- (4) The Certified Survey Map shall show correctly on the face of the map the following information as applicable.
 - a. Name and address of the landowner and surveyor.
 - b. Graphic scale, and north arrow.

- c. A legal description of the property being considered for division.
- d. Bearings and distances along the exterior boundaries of the property being considered for division.
- e. Square footage of the property being considered for division.
- f. Names and width of proposed and existing roads.
- g. Location of all environmentally sensitive areas.
- h. Locations of existing structures, water bodies and courses, drainage ditches, and fences within the property being considered for division.
- i. Seventy-five (75) foot setback from the Ordinary High Water Mark.
- j. Location, size, and invert elevation of existing sanitary or storm sewers, culvert and drainpipes, manholes, catch basins, hydrants, electrical and communication facilities, and the location and size of existing water or gas mains within or adjacent to the property being considered for division.
- k. Any land reserved for public purposes, including parks, playgrounds, and open spaces.
- l. Regional floodplain boundaries and the vertical contour line, two (2) feet above the regional floodplain flood elevation.
- m. A surveyor's certificate stating the certified survey map is a correct representation of the indicated features and that the surveyor has fully complied with the provisions of this ordinance.
- n. Seal and signature of the surveyor and the date signed.
- o. An approval/signature block for the Village of Downing President.

C. RETRACEMENT SURVEY.

- (1) When it is desired to show the boundaries of an existing parcel of land and establish a convenient legal description for record of title or conveyance, and no additional parcels are created, the subdivider shall use a retracement certified survey map which complies with the requirements of Wis. Stat. Ch. 236.34 and all applicable sections of this ordinance. A retracement survey map shall not be used to correct a land division violation.

10.2 MAJOR LAND DIVISION

A. PRE-APPLICATION.

- (1) Prior to applying for a Major Land Division, it is recommended that the applicant or agent schedule to meet with the Village Board prior to the preparation of the preliminary plat to prevent the expenditure of time and money on a project that will be denied or extensively modified. At this meeting, the applicant will inform the Village Board of the location and nature of the proposed project. Based upon this information, the Village Board shall explain to the applicant:
 - a. Which standards of this ordinance will apply to the land division.
 - b. The procedure to follow to submit a land division for review.
- (2) To facilitate the pre-application consultation, the subdivider should submit a concept map drawn to a reasonable scale which clearly represents the proposed land division and contains the following information:
 - a. Site location showing adjacent roads and adjoining development types.
 - b. Proposed land division boundaries and any publicly owned land in the vicinity.
 - c. Approximate topographic and physical features such as steep slopes, bodies of water, wetland areas, rock outcrops, existing vegetative cover, and areas subject to periodic floods.
 - d. Proposed roads and general lot layout.
 - e. Location of any existing and proposed easements.
 - f. Approximate location of existing or proposed structures.

B. APPLICATION AND REVIEW.

- (1) Where it is desired to create a major subdivision (plat), the subdivider shall do so by using one of the methods listed in Section 10.10 2 of this ordinance and in compliance to all applicable sections of this ordinance and wis stats. The plat shall be prepared by a professional land surveyor licensed in the State of

Wisconsin. The subdivider or their designated agent, shall submit a subdivision application on the form provided by the Village of Downing, five (5) paper copies of the preliminary plat and one electronic copy, the required review fee, if applicable a maintenance and repair agreement as required by section 13.3(1) f(vii) of this ordinance, and any other documents requested by the Village of Downing.

- (2) The Village Board, within ninety (90) days of the date of filing of a preliminary plat shall approve, conditionally approve, or reject such plat, unless the time is extended by mutual agreement with the subdivider. The ninety (90) day period shall commence with the submission of a complete application, the review fee, and required copies of the preliminary plat. One (1) copy of the preliminary plat shall be returned to the subdivider with the date and the action recorded; and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. Failure of the Village Board to act within ninety (90) days of the date of filing or within the time as extended by agreement with the subdivider shall constitute an approval.
- (3) Upon approval of the preliminary plat, the subdivider shall submit five (5) paper copies and one (1) electronic copy of the final plat to the Village of Downing for review and approval.
- (4) The Village Board, within sixty (60) days of the date of filing of a final plat, shall approve, approve conditionally, or reject such plat, unless the time is extended by mutual agreement with the subdivider. If approved, the certifications on the plat shall be completed. If approved conditionally, the certifications shall not be completed until the conditions are met. If rejected, a letter setting forth the reasons for rejection shall accompany the plat. Failure of the Village Board to act within sixty (60) days of the date of filing or within the time as extended by agreement with the subdivider shall constitute an approval. The sixty (60) day period shall commence with the completed submission of the final plat to the Department.
- (5) The Village Board shall not approve any final plat which is the subject of an unsatisfied objection from any objecting agency.
 - a. Approval of a preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted and a guide to the preparation of the final plat which will be subject to further consideration by the Village Board at the time of its submission.
 - b. If the final plat conforms substantially to the preliminary plat as approved, including any conditions of the preliminary approval, and meets the requirements of applicable ordinances, it is entitled to approval.
 - c. All restrictive covenants which apply or which the subdivider intends to apply to the land within the subdivision shall be provided in a separate document and accompany the preliminary plat at the time of submittal.
 - d. A final plat rejected by the Village Board must be re-submitted for review including all fees and required copies. Re-submittal of a rejected plat shall commence a new time frame for review purposes.

C. PRELIMINARY PLATS. Preliminary plats submitted for review shall contain the following information:

- (1) The proposed plat name. The plat name shall not duplicate the name of any plat previously recorded in Dunn County.
- (2) Name and address of the legal owner or agent of the property, developer, and surveyor.
- (3) Location sketch, graphic scale, and north arrow.
- (4) A map drawn to scale of not more than 100 feet to the inch showing the boundaries of the property.
- (5) A legal description of the proposed land division.
- (6) Bearings and distances along the exterior boundaries of the plat and the total acreage and square footage.
- (7) Approximate dimensions and square footage of all lots and proposed lot and block numbers.
- (8) Names and width of proposed and existing roads.

- (9) Contours within the plat and extended to the centerline of adjacent public streets at intervals of not more than two (2) feet.
- (10) Location of all environmentally sensitive areas.
- (11) Locations of existing structures, water bodies and courses, drainage ditches, and fences.
- (12) Location, size, and invert elevation of existing sanitary or storm sewers, culvert and drainpipes, manholes, catch basins, hydrants, electrical and communication facilities, and the location and size of existing water or gas mains within or adjacent to the exterior boundaries of the plat.
- (13) Any land reserved for public purposes, including parks, playgrounds, and open spaces.
- (14) Regional floodplain boundaries and the vertical contour line which is two (2) feet above the regional floodplain boundary line.
- (15) Location and dimensions of any proposed lake, river, or stream access.
- (16) A surveyor's certificate stating the plat is a correct representation of the indicated features and that the surveyor has fully complied with the provisions of this ordinance.
- (17) Seal and signature of the surveyor and the date signed.

D. FINAL PLATS. Final plats submitted shall show the following information:

- (1) A legal description.
- (2) Area of each lot and outlot shown in square feet and acres including and excluding any road rights-of-way.
- (3) Lands reserved for future public acquisition or for the common use of the property owners within the subdivision. Such lands shall be described and established as outlots. Outlot restrictions shall appear on the face of the plat.
- (4) Certification of full compliance by the surveyor with the provisions of this ordinance and any other applicable local ordinances.
- (5) An approval/signature block for the Village of Downing President.
- (6) Where the Village Board finds a need for additional information relative to a particular problem presented by the proposed subdivision, it shall have the authority to request in writing that additional information be included on the final plat or accompanying documents.

E. RECORDING

No plat shall be recorded until the certificates required by Wis. Stat. Ch. 236.21 and 236.25 are completed and signed. The certification by the Village of Downing President.
The final plat shall be submitted to the Register of Deeds for recording within twelve (12) months after date of Village Board approval. Failure to submit the plat within the time limit shall render the plat void.

F. REPLATS

- (1) The replatting of all or part of an existing plat that contains no dedication to the public may be accomplished by following the procedures established in sections 11.1–11.2 or 12.1–12.4 of this ordinance.
- (2) If the replatting alters areas dedicated to the public, the existing plat shall first be vacated in accordance with Wis. Stat. Ch. 236.36-236.445 prior to replatting.

F. IMPROVEMENTS No construction or installation of improvements shall commence in a proposed subdivision until the final plat has been approved by all reviewing authorities.

10.3 DESIGN STANDARDS

A. GENERAL PROVISIONS Surveyors shall install all survey monuments in accordance with the requirements of Wis. Stat. Ch. 236.15 at the expense of the subdivider.

B. SURFACE DRAINAGE AND EROSION CONTROL

- (1) The purpose of this section is to protect property and structures from damage caused by increased surface water runoff volumes and/or velocities due to platting and development of land and to prevent the degradation of existing wetlands, waterways, and surface and ground water quality.

- (2) Land divisions shall be designed to minimize soil erosion, provide reasonable management of surface water drainage, permit the unimpeded flow of natural watercourses, and provide positive drainage away from on-site sewage disposal facilities. The Village Board may require engineering studies of erosion potentials and may impose preventative design requirements. The Village Board may require documentation of surface water drainage patterns and may impose design requirements to assure that flows are transported and disposed of without causing undue erosion and siltation of surface waters, undue runoff onto adjoining lands or streets or other rights-of-way or excessive infiltration into locations of on-site sewage disposal systems.
- (3) Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the water course's natural lines, and of adequate to meet the drainage purposes. Wherever possible, the drainage shall be maintained by an open channel. Property subject to a drainage easement shall be privately owned as part of one or more lots within a land division.
- (4) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.
- (5) Stormwater Management and Erosion Control Plans. If deemed necessary, such plans shall follow the standards as required by the Wisconsin Department of Natural Resources.

C. STREETS AND ROADS

- (1) General Considerations for Public and Private Roads. Subdividers shall provide land for roads. Roads, including cul-de-sacs. Roads shall design, improved, and located with regard for existing and planned roads, future subdivisions, topographic conditions, natural terrain and features, and public convenience and safety.
 - a. For newly created land divisions, right-of-way width shall be at least 66 feet.
 - b. The name or number of all proposed roads shall be approved by the Village Board.
 - c. Proposed streets within county and state plats shall extend to the boundary lines of the tract being subdivided unless the Village Board finds that the extension is not necessary or desirable.
 - d. The Village Board may waive the requirements in this section for land divisions with unique topography or other physical features.
 - e. All roads in plats shall be public roads.
 - f. Private Roads. Private roads are only allowed on certified survey maps and shall meet the following requirements:
 - i. No more than 5 lots may be accessed by private road.
 - ii. Right-of-way width shall be a minimum of 66 feet. A variance from this requirement may not be granted.
 - iii. A private road shall not exceed 1,320 feet. Length shall be measured along the centerline to the right-of-way of the nearest connecting through-street.
 - iv. All private dead-end roads shall have sufficient side and overhead clearances to allow access for public service vehicles.
 - v. Private roads from an existing public road to the newly created lot(s) shall be shown dimensioned and labeled "Private Road" on the map.
 - vi. Easements for private roads shall be nonexclusive, i.e., permanent, and unrestricted access shall be granted for public service vehicles.
 - vii. For all newly created private roads, the owner of each newly created lot accessed shall hold a fractional interest in the private road either by lot ownership extending to the centerline of the road or by designating the roadway as an outlot which is to be owned in equal undivided shares by all lot owners. When an outlot is created for this purpose, a note

shall be placed on the certified survey map or plat clearly stating the ownership interest in the outlot.

viii. When 2 or more lots are accessed by a private road, an agreement for the repair and maintenance of the road must be submitted for approval to the Village of Downing at the time of application. Maintenance agreements shall be recorded with the certified survey map or plat.

ix. Any land division that contains a private road shall have the following statement placed on its face: "Access to this property is provided by nonexclusive easement. ___(insert road/street name)___ as shown on this map is not a public road and the Village of Downing has no responsibility for snow plowing or other maintenance, or for the construction of a driving surface."

g. An owner's certificate of dedication and a Village certificate of approval shall be shown on certified survey maps or plats when public roads are created and dedicated.

(1) Arrangement.

- a. All streets shall be properly integrated with the existing and proposed system of streets and dedicated rights-of-way and future subdivisions.
- b. All streets shall be properly designed to accommodate special traffic generators.
- c. The use of curvilinear streets, cul-de-sacs or U-shaped streets shall be encouraged where such use may result in a more desirable layout.
- d. Streets shall be laid out to intersect as nearly as possible at right angles. No more than two (2) streets shall converge at an intersection.
- e. Proposed new intersections along one side of an existing street shall coincide with any existing intersections on the opposite side of such street.

(2) Alleys. Alleys may be required by the Village Board when deemed necessary.

(3) Permanent cul-de-sacs. Permanent cul-de-sacs require Village Board approval, shall have a minimum turnaround right-of-way radius of 75 feet, a minimum finished driving surface radius of 60 feet, and a maximum length of 1,320 feet. Length shall be measured from the radius point of the cul-de-sac along the centerline to the right-of-way of the nearest connecting through-street. These standards shall not be applicable to temporary cul-de-sacs.

(4) Temporary cul-de-sacs. Temporary cul-de-sacs may be required by the Village Board to ensure continuity of the road pattern between adjoining subdivisions. The Village Board shall determine the maximum length, turnaround dimensions and design.

(5) Utility easements. The Village Board may require easements for electric power and communication facilities, storm and sanitary sewers, gas, water, and other utility lines. Easements shall be of sufficient width for the proposed use and shall be placed wherever feasible along lot lines. All easements shall be noted on the final plat followed by a reference to the use for which they are intended.

D. ACCESS

(1) All lots shall front on a public or private road or easement.

(2) Any created parcels and/or developments abutting or requiring access from a county or state highway shall require approval of the Wisconsin Department of Transportation or the Dunn County Highway Department.

E. BLOCKS

(1) General. If a land division includes blocks, the width, length, and shape of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access control and safety of street traffic and topography.

- (2) Residential blocks. Block lengths in residential areas should not exceed one thousand three hundred twenty (1,320) feet nor be shorter than six hundred (600) feet. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths.
- (3) Nonresidential blocks. Blocks designed for business, commercial, or industrial uses shall be of such length and width as may be determined suitable by the Village Board for the prospective use.

F. LOTS

- (1) Unless specifically waived by the Village Board a separate lot shall be provided for each structure intended for residential use.
- (2) No lots or outlots created by a certified survey map or plat shall be bisected by a public or private road.
- (3) Lot dimensions.
 - a. Lots served within the Municipal Utilities Service Area (see Appendix A Figures 1& 2) shall have a minimum width of sixty-six (66) feet measured at the building setback line and shall have a minimum area of 8,000 square feet excluding right of way.
 - i. Corner lots shall be mapped with a width at least fifteen (15) feet wider than the minimum required.
 - b. Lots within the Private Utilities Service Area (see Appendix A Figures 1 & 2) shall have a minimum width of sixty-six (66) feet measured at the building setback line and shall not be less than one (1) acre.
 - i. Corner lots shall be mapped with a width at least fifteen (15) feet wider than the minimum required.
 - c. All lots shall have a minimum of thirty-three (33) feet of frontage directly on a public or private road or access easement.
 - d. No lot shall be created if the proposed division will result in a nonconforming structure, unless an owner's certificate is placed on the certified survey map or plat requiring that the nonconforming structure be razed or moved in such a way to correct the nonconformity prior to the conveyance of the surveyed lot.
 - e. No lot shall be created with more than one (1) existing habitable structure.
- (6) Outlots. Outlots are deemed unsuitable for habitable structures, sanitary facilities or other development uses.
- (7) Setbacks. All buildings shall be meet the following setback requirements and the setbacks shall be shown on the face of the CSM or Plat,
 - a. Front Yard, 35 feet from the Right of way.
 - b. Rear Yard, 25 feet from the property line.
 - c. Side Yard, 10 feet from the property line.

G. DEDICATION Dedications shall be as provided in Wis. Stat. Ch. 236.29. Dedications to the Village of Downing, other than road dedications, shall require approval of the Village Board.

10.4 CONDOMINIUMS

A. DEVELOPMENT

- (1) A condominium plat shall be submitted to the Village Board for review and approval. The Village Board shall have ten (10) business days after submission for its review. If the review is not completed within ten (10) business days unless the time is extended by mutual agreement with the subdivider. the instrument is approved for recording. The ten (10) day period shall commence with the submission of a complete application, the review fee, and required copies of the preliminary plat.
- (2) Condominium instruments may not be used to create or alter lots, parcels, outlots, public streets, or other areas to be dedicated to the public.

10.5 ADMINISTRATION

- A. ADMINISTRATION AND ENFORCEMENT.** The Village of Downing shall be responsible for the administration and enforcement of this ordinance.
- B. FEES**
- (1) Application fees shall be established by the Village Board.
 - (2) In addition to the application fee, the subdivider is also responsible for paying all fees and expenses charged by a third-party consultant retained by the Village of Downing to review Minor and/or Major Land Division applications. Failure to pay such fees and expenses is grounds to deny the application.
- C. VARIANCES**
- (1) Where the Village Board finds strict application of the provisions of this ordinance would impose undue hardship because of unique topographic or other conditions of the land involved or other conditions predating adoption of this ordinance, it shall recommend to the Village Board such exceptions to any requirement of this ordinance to the extent deemed just and proper, provided such variance shall not impair the intent and purpose of this ordinance or be contrary to the Wisconsin Statutes or Wisconsin Administrative Code.
 - (2) The Village Board shall not grant variances unless it shall make findings based on evidence presented to it with each request for variance that:
 - a. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other properties.
 - b. The conditions upon which the request is based are unique to the property for which the variance is sought and are not applicable generally to other property.
 - c. Because of the physical surrounding, shape, or topographical conditions of the specific property involved, a particular undue hardship to the owner would result, as distinguished from a mere inconvenience. Undue hardship shall relate solely to the physical characteristics of the property. Financial hardship, loss of profit, self-imposed hardships, resulting from unfamiliarity with regulations, deed restrictions, proceeding without required permits, or illegal sales are not sufficient reasons for the granting of a variance.
 - (3) A majority vote of the entire membership of the Village Board shall be required to grant a variance and the reasons shall be entered in the Village Board meeting minutes.
 - (4) All applications for variance shall be in writing and include a review fee to defray the cost of processing and review. The application shall state fully the grounds and all facts relied upon.
 - (5) For all approved variances, a notation shall be placed on the Plat or Certified Survey Map stating the nature of the variance granted and the date of approval by the Village Board.
- D. APPEALS**
- (1) An applicant for land division approval may appeal a decision of the Village Board. An appeal must be in writing, shall state with specificity the basis for the appeal, and must be received within 30 days of the date of the decision of the Village Board. Upon receipt of an appeal, the Village Board shall transmit the appeal to the Village Board.
 - (2) The Village Board shall, within 40 days of receipt by the Village Board of a written appeal, review the appeal against the applicable standards of this ordinance, and affirm, modify, or reverse the decision of the Village Board.
 - (3) The applicant and the Village Board shall be permitted to make presentations to the Village Board under such terms, conditions and procedures as established by the Village Board.
 - (4) The decision of the Village Board and the reasons therefore shall be entered in the Village Board minutes. An extract of the minutes or notice of the decision shall be mailed to the applicant.

- a. An applicant aggrieved by a decision by the Village Board objecting to a plat or failing to approve a plat may appeal to the Circuit Court for Dunn County as provided in Wis. Stat. Ch. 236.13(5) within thirty (30) days of notification of the decision.

E. ENFORCEMENT

(1) General.

- a. No person shall build upon, divide, convey, record or monument any land in violation of this ordinance or the Wisconsin Statutes.
- b. The Village of Downing shall withhold all permits where the applicant, owner, or licensed contractor is in violation of this ordinance, and for any parcel of land which has an outstanding violation of this ordinance, until the violation has been corrected.
- c. No approval shall be issued where the applicant is in violation of this, or any ordinance administered by the Village of Downing.
- d. No certified survey map or plat shall be recorded unless all applicable requirements of this ordinance have been met.

(2) Standards.

- a. Any person, firm or corporation who fails to comply with the provisions of this ordinance or who willfully enters a conspiracy with one or more other persons for the purpose of circumventing this ordinance, shall, upon adjudication of violation, be subject to penalties and forfeitures established by the Village of Downing or as provided in Wis. Stat. Ch. 236.30, 236.31, 236.32, 236.335, and 236.35.
- b. Any failure to take enforcement action on past violations shall not operate as a waiver of the authority to take enforcement action on present violations.

(3) The Village of Downing may institute any appropriate action or proceeding against violators of this ordinance as provided by law or this ordinance.

(4) Forfeitures. Any person, firm or corporation adjudicated for violating this ordinance shall pay a forfeiture of not less than Two Hundred Dollars (\$200) nor more than Two Thousand Dollars (\$2,000) and the costs of prosecution for each violation, and in default of payment of such forfeiture costs shall be imprisoned in the county jail until payment thereof, but not exceeding ninety (90) days. Each day a violation exists or continues shall constitute a separate offense.

F. AMENDMENT. The Village of Downing may from time to time amend the regulations imposed by this ordinance. Public hearings on all proposed amendments shall be conducted by the Village Board following publication of a class 2 notice, as required by Wis. Stat. Ch. 236.45(4).

APPENDIX A

DRAFT