

STORMWATER MASTER PLAN

Town of Middleton

Dane County, Wisconsin



Prepared by Vierbicher

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EXECUTIVE SUMMARY

The Stormwater Master Plan for the Town of Middleton was developed for several reasons in 2007. Primarily, the report addressed requirements of a Wisconsin Pollutant Discharge Elimination System (WPDES) Permit. Those requirements included illicit discharge detection and elimination, municipal pollution prevention, detention basin inventory and maintenance, stormwater permit tracking, stormwater funding options, and public information, education, and outreach. Since the report was originally created in 2007, the Rock River Total Maximum Daily Load (TMDL) became effective in September 2011. Therefore, there are many more topics covered in this report than in a typical stormwater master plan.

Typical stormwater related issues are also addressed, with the water quality and water quantity (flooding) sections. The water quality section addresses many aspects of surface water and groundwater quality, including the modeling of total suspended solids (TSS) reduction in the Town to comply with State regulations. Computer modeling was completed that shows the amount of TSS and TP reduction that the Town is currently achieving with its stormwater facilities. Known flooding and erosion problem areas in the Town were identified in the water quantity section. These areas were evaluated to define the problems and in some cases, planning was done and topographic information was collected. There is a summary of each area and what needs to be done to address these issues. This update to the Stormwater Master Plan incorporates projects that the Town has completed from the 2007 plan.

By following the recommendations in this report and by adhering to ongoing WPDES Permit requirements, the Town will be doing what is required to keep abreast of federal, state, and county stormwater requirements. By addressing the existing flooding and erosion problem areas, the Town will be doing what it can to ensure safe and effective handling of stormwater runoff. Going a step further, the Town can become an innovative and proactive leader in effective, environmentally friendly, and aesthetically pleasing stormwater treatment by pursuing conservation, restoration, and enhancement projects related to stormwater.

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1. INTRODUCTION

This section includes a background describing why this Master Plan was developed and the scope of the master plan. Acronyms, abbreviations, and definitions used in this Master Plan are defined in Appendix B – Notes and Definitions.

1.1. Background

This section describes the purpose of this master plan and gives a description of the WPDES permit. The permit requirements have led to the framework of this master plan and have influenced its content.

This report was completed primarily addresses requirements of a Wisconsin Pollutant Discharge Elimination System (WPDES) Permit. These requirements include illicit discharge detection and elimination, municipal pollution prevention, detention basin inventory and maintenance, stormwater permit tracking, stormwater funding options, and public information, education, and outreach. This report was also completed to serve as a reference to direct the efforts of the Town of Middleton in providing improved stormwater quality and reducing flooding concerns in the Town. Some of the requirements of this report are due to federal or state requirements, some are due to existing problems in the Town, and others are due to the Town's desire to handle stormwater in the safest and most environmentally friendly manner, while being practical and cost-conscious. References to state and federal requirements are included in this report as necessary.

1.1.1. Municipal Stormwater Discharge Permit (No. WI-S058416-3)

Within NR 216, the goal of municipal stormwater management is to reduce adverse impacts to water quality in lakes and streams from urban sources of stormwater runoff. To meet the requirements of the EPA's Stormwater Phase II Final Rule, the Wisconsin DNR drafted revisions to NR 216. The revisions amend an existing rule that outlines requirements for stormwater discharge permits for municipal separate storm sewer systems, industrial facilities, and construction sites.

The City of Madison and University of Wisconsin - Madison were initially issued a municipal stormwater discharge permit on October 16, 1995. In 1999, The Cities of Fitchburg, Middleton, Monona, Sun Prairie, and Verona, the Villages of DeForest, Maple Bluff, McFarland, Shorewood Hills, and Waunakee, the Towns of Blooming Grove, Burke, Madison, Middleton, Westport, and Windsor, and Dane County were also designated as needing to obtain municipal stormwater discharge permit coverage because their watersheds are contiguous with the City of Madison, which has a population greater than 100,000. In January 2003, these 19 municipalities applied for and received a joint municipal stormwater discharge permit. The permit was obtained effective May 1, 2004. The Town's permit expired June 30, 2014. Currently the permit is in draft form awaiting DNR issuance and should be issued sometime in 2017. The permit regulates stormwater discharges from the co-permittees municipal separate storm sewer systems in accordance with Chapter 283, Wisconsin Statutes, and Chapter 216, Wisconsin Administrative Code.

As one of the general responsibilities for all permittees, Section B.(7) of the joint WPDES permit requires that each co-permittee shall exercise and enforce its legal



authority to control discharges to and from those portions of the MS4 that it owns or operates. This requirement calls for the Town to submit a legal opinion to the DNR certifying that it has exercised adequate legal authority or describing any deficiencies it has in exercising adequate authority to control illicit discharges. See Section 7 for details.

The joint WPDES permit has the following stormwater management program requirements:

1. Public education and outreach
2. Public involvement and participation
3. Illicit discharge detection and elimination
4. Construction site pollution control
5. Post-construction site stormwater management
6. Municipal pollution prevention
7. TMDL requirements

1.2. Scope of Master Plan

This Master Plan was completed considering the WPDES permit and the Rock River TMDL. It was also completed considering the Town's desire to safely and effectively manage the stormwater runoff and to protect the environment and natural resources within (or in close proximity downstream from) the local watersheds, including Pheasant Branch, Black Earth Creek and the Sugar River. This Master Plan addresses the following items (see individual sections of the master plan for details):

- Description of study area (Section 2)
- Water quality (Section 3)
- Water quantity (Section 4)
- Stormwater Management and Erosion Control (Section 5)
- Special resource area: Black Earth Creek (Section 6)
- Stormwater related ordinances (Section 7)
- Illicit discharge detection and elimination program (Section 8)
- Municipal pollution prevention plan (Section 9)
- Detention basin inventory and maintenance (Section 10)
- Stormwater permitting and Stormwater GIS (Section 11)
- Stormwater funding options (Section 12)
- Public information, education, and outreach (Section 13)
- Recommendations (Section 14)
- References (Section 15)
- Exhibits

2. DESCRIPTION OF STUDY AREA

2.1. Population and Land Use

According to the Department of Administration Demographic Service Center, the population of the Town was 4,594 in 2000 and 5,877 in 2010. This represents a 27.9% increase in population over a 10-year period. The Town also receives Department of Administration (DOA) projections and they have estimated the 2017 population as 6,424.

Per Dane County Land Information Office, 2017 Land Use Data, land use in the Town of Middleton was:



Land Uses	Acres	Percent
Agriculture	2,738.57	26.8%
Cemetery	3.85	0.0%
Commercial	79.92	0.8%
Communication/Utilities	52.03	0.5%
Industrial	41.76	0.4%
Institutional/Governmental	70.04	0.7%
Mineral Extraction	117.64	1.2%
Open Land	1,223.64	12.0%
Recreation	529.43	5.2%
Residential	2,417.32	23.7%
Transportation	986.44	9.7%
Under Construction	9.33	0.1%
Vacant Subdivided Land	322.96	3.2%
Water	47.25	0.5%
Woodlands	1,570.08	15.4%
Total	10,210.25	

Source: Dane County Land Information Office (Access Dane)

The Town's Comprehensive Plan was adopted in April 2009. At the time of the land use inventory, the Town consisted of approximately 10,500 acres. According to the Dane County inventory, at approximately 36 percent of the Town's land area, agricultural uses made up the largest land use category. Typical agricultural uses in the Town include the farming of corn and alfalfa and tree farming. The amount of land within the Town that is used for agricultural purposes has declined as residential development increases. As the cities of Madison and Middleton continue to grow westward, it is expected that there will be continued pressure for additional residential development within the Town. The next largest land use categories were single-family residential (approximately 23 percent) and vacant land and woodland (both approximately 14 percent). Commercial uses cover only a small portion of the land area within the Town, at approximately one percent combined for all commercial uses.

Natural Areas: The Town contains several natural areas, including the Goth Conservancy and Pope Farm Conservancy which includes native prairie restoration and infiltration practices. There are also conservation easements, trail easements, and other Town-owned property set aside for natural areas.

The Town currently protects natural areas by not allowing grading and development on slopes greater than 20% and maintaining buffer areas between navigable waterways and wetlands.

2.2. Watersheds and Surface Water Resources

The watershed description is based on Wisconsin DNR basin and watershed definitions as well as Madison Area Metropolitan Stormwater Area Partnership (MAMSWaP) subwatershed and sewershed naming/numbering conventions. With the input from the co-permittees, MAMSWaP divided the watersheds such as the Black Earth Creek watershed into subwatersheds and sewersheds, and developed a base map and naming convention for these areas. This base map is updated yearly, with input from the co-permittees.



There are three major basins in Wisconsin: the Mississippi River Basin, the Lake Superior Basin, and the Lake Michigan Basin. Dane County is located in the Mississippi River Basin. The DNR has divided these major basins into 24 smaller watersheds, called Water Management Units (WMUs). Dane County is occupied by four WMUs: the Lower Wisconsin Basin, the Sugar-Pecatonica Basin, Lower Rock Basin, and the Upper Rock Basin. The Town of Middleton is located in parts of three WMUs: the Black Earth Creek watershed within the Lower Wisconsin Basin, the Upper Sugar River watershed within the Sugar-Pecatonica Basin, and the Six Mile Creek watershed and Pheasant Branch Creek within the Lower Rock Basin.

Approximately 3,726 acres (5.82 square miles) of the Town is located in the Black Earth Creek subwatershed. Upstream from the Village of Mazomanie, Black Earth Creek is a Class I Trout Stream. In the Town, the upper reach of Black Earth Creek is a DNR designated warm water forage fishery. Before it leaves the Town the creek becomes a DNR designated cold water fishery. In and near the Town of Middleton, Black Earth Creek is a DNR designated Exceptional/Outstanding Resource Water.

Within the Upper Sugar River watershed, approximately 778 acres (1.22 square miles) of the Town is located in the Upper Sugar River subwatershed and approximately 3,595 acres (5.62 square miles) of the Town is located in the Badger Mill Creek subwatershed. Both subwatersheds are thermally sensitive areas because they drain to a cold water resource. South of Town, Badger Mill Creek is a warm water forage fishery with potential to be a cold water fishery. It becomes a cold water resource near the City of Verona, and discharges into the Sugar River just southwest of the City. To the south and west of Town, the Sugar River is a cold water resource.

Within the Six Mile and Pheasant Branch Creeks watershed, approximately 1,726 acres (2.69 square miles) of the Town is located in the Pheasant Branch subwatershed. Just outside of Town lands, Pheasant Branch Creek is a DNR designated limited forage fishery and then a warm water sport fishery just before entering Lake Mendota. It is also listed as a Section 303(d) Impaired Water. Section 303(d) of the Clean Water Act defines impaired waters as those which do not meet the State water quality standards. There is a section of the Town that is within the Lake Mendota watershed, approximately 0.24 acres. Lake Mendota and Pheasant Branch Creek are part of an approved Total Maximum Daily Load (TMDL) for its pollutants (phosphorus and sediment). See Section 3.1 for more detail on 303(d) waters and TMDLs.

See Exhibit 2: Surface Watersheds – Dane County for details.

2.3. Topography

The topography of the land affects the rate at which stormwater runs off into the receiving waters. The steepness of the slopes will affect the rate in which stormwater is absorbed into the ground and the velocity and erosive potential of stormwater runoff. The topography of the Town and surrounding area consists primarily of rolling hills of farmland, wooded areas, and large-lot single family residential areas. Slopes exceeding 12% comprise approximately 22% of the Town. Developing these areas can lead to reduced water quality and increased erosion and are sometimes restricted from development, especially in sensitive watersheds. The northern portion of the Town is located in the upper Black Earth Creek watershed. This area includes unique terrain and



habitat, including a large area of steep hills and bluffs, valleys, and streams, which may limit development. This area is discussed in detail in Section 6.

2.4. Soils

Soil types are classified by the Natural Resource Conservation Service (NRCS) in groups called Hydraulic Soil Groups (HSG). Soils are classified in one of four groups denoted A, B, C, and D. Group A soils consist of open graded soils with high infiltration capabilities and low runoff potential. Group B soils are moderately well drained with a moderate infiltrating ability. Group C soils are more finely graded with less ability to infiltrate and a higher potential for runoff. Group D soils are very fine graded clay soils with a very low ability to infiltrate and are highly susceptible to runoff. Group D soils also have a high groundwater table. Some soils are classified A/D or B/D, meaning that generally the soils are A or B, but are D in low lying areas and near streams.

Soils within the Town are generally Group B soils and are primarily silt loams. Generally these soils are suitable for development and have slopes ranging from 2% - 12%. The southwest part of the Town and the north part of the Town that lies within the Black Earth Creek Watershed contain most of the soils with steeper slopes (>12%). The development potential may be limited in these areas. In the upper Black Earth Creek watershed, there are thick deposits of glacial till and outwash that contain an excellent aquifer from which Black Earth Creek receives baseflow. See Section 6 for details on the Black Earth Creek watershed.

In 2010, the Town performed double ring infiltrometer testing within their roadside swales. This was done to get a better understanding of the infiltration rates in the Town and help aid the Town in achieving the water quality requirements set forth in the WPDES permit. This allowed them to go from using an infiltration rate of 0.065 inches/hour to 1.8 inches/hour while modeling their sediment removal in WinSLAMM as part of their WPDES permit. This helped the Town exceed the 40% TSS reduction requirement.

Exhibits 3 and 4 show soil types and wetland areas within the Town.

2.5. Drainage System

The Town's stormwater system generally relies on roadside swales and greenways to convey stormwater runoff. There is minimal storm sewer in the Town, and the use of storm sewer is discouraged during the development planning process. There are approximately eleven (11) public and fifty-four (54) private detention basins in the Town, this includes ones that are planned to be constructed in 2017/2018. See Exhibit 11 for the list of stormwater facilities in the Town. There are also several natural low areas with no release (kettles). Stormwater runoff in the Town eventually flows into one of three streams or rivers: Black Earth Creek, Pheasant Branch Creek, or Badger Mill Creek (to the Sugar River).

2.6. Existing Stormwater Facilities Database

Information on existing detention basins in the Town is located at the offices of Vierbicher in project files, and in files at the Town Hall. The location of each existing detention basin is included in an AutoCAD base map of the Town. See Section 10 for details on detention basin inventory. Section 11 includes a discussion of the Stormwater GIS, which



likely will be the tool used for the stormwater facilities database (and other stormwater related items) in the Town. See Section 11 for more details.

3. WATER QUALITY

This section includes information on county, state, and federal water quality studies, classifications of surface water quality, and federal, state, and local water quality policy. There is also a summary of the water quality modeling which was used to determine current total suspended solids (TSS) removal in the existing developed areas in the Town. Water quality is a broad topic because stormwater runoff affects not only surface water, but groundwater as well. This section includes a discussion on surface water and groundwater. Specific WDPEs permit requirements related to water quality, such as the illicit discharge detection and elimination system, are covered in separate sections.

Developing areas contain potentially large areas of disturbed land and present a threat to water quality through construction-stage sediment runoff. Increased impervious area and compacted soils in post-construction (developed) conditions increase runoff rates and volumes. Stormwater facilities can help reduce peak runoff rates to pre-developed conditions, but without infiltration practices, the total volume of post-developed runoff will be greater. This increases duration of stormwater flows which increases the chance of erosion, and decreases aquifer recharge and baseflow to streams.

Stormwater drainage systems are often efficient at conveyance of flow, but also convey pollutants to nearby lakes and streams if adequate stormwater quality treatment is not provided. Sources of pollution related to developing or developed areas include vegetation (grass clippings, leaves, yard waste), deicing materials (sand, salt), sediment from erosion, pet waste, lawn and garden fertilizers, pesticides and herbicides, and trash/litter. Residential lot sizes in the Town are larger than in many areas of Dane County.

3.1. Surface Water Quality

This section describes the specific stream classifications, outstanding/exceptional resource waters, and section 303(d) impaired waters associated with watersheds occupied by the Town. This section describes different methods of classification and assessment of surface water quality as ways to identify resources which need protection and/or rehabilitation. This section also describes DNR requirements related to surface water quality.

Stream Classifications: The Wisconsin DNR has developed a classification system based on aquatic organisms (NR 102, Wisconsin State Administrative Code) for all surface waters of the State. This classification can be a good indication of the overall water quality of a drainage basin. Of the six classifications, surface waters classified in the top three are considered suitable for protection per the federal water pollution control amendments of 1972. The top three classifications are:

1. Cold water communities
2. Warm water sport fish communities
3. Warm water forage fish communities

Outstanding/Exceptional Resource Waters: The Wisconsin DNR has identified certain lakes and streams as Outstanding or Exceptional Resource Waters (NR 102, Wisconsin State Administrative Code) in an effort to maintain the water quality in Wisconsin's



cleanest waters. Outstanding Resource Waters (ORWs) have excellent water quality, high recreational/aesthetic value, and high-quality fisheries. They do not receive wastewater discharges (no source or nonpoint source pollution). Exceptional Resource Waters (ERWs) have the same water quality, recreational value, and fisheries as ORWs, but may be impacted by point source pollution or have the potential for future discharge from a small sewer community. Per NR 102.05 (1-Antidegradation), no waters of the State shall be lowered in quality. Exceptions can be made in cases of necessary social or economic development if new or increased effluent is not injurious to current or future uses in those waters.

Section 303(d) Impaired Waters: Section 303(d) of the Clean Water Act defines impaired waters as those which do not meet the State water quality standards. Impaired water conditions can be caused by a number of different pollutants. There are some impaired waters that have an approved Total Maximum Daily Load (TMDL) for their pollutants and some that do not. Per Wisconsin DNR, a TMDL is a plan to reduce the amount of specific pollutants reaching an impaired lake or stream to the extent that water quality standards will be met.

As part of the TMDL, the amount of a pollutant that the water can tolerate and still meet water quality standards must be identified. That identified amount is allocated between point sources (wasteload allocation) and nonpoint sources (load allocation). Point sources are areas such as agricultural or industrial runoff. Nonpoint sources are municipal runoff. As part of the TMDL, the State must identify how it will implement the TMDL. Wasteload allocations will be implemented through the WPDES permit program. Load allocations will be implemented through Wisconsin's Nonpoint Source Program (i.e. WPDES permitting). EPA must give final approval of all TMDLs.

Other Surface Water Quality Assessments: Along with the DNR stream classifications in NR 102 and Section 303(d) impaired water classifications, there have been other studies to determine the quality of surface waters. The Hilsenhoff Biotic Index (HBI) can be another good indicator of stream water quality conditions. The HBI considers the types of insects found on stream bottoms. Chemical data has also been studied by the USGS during baseflow (dry weather) conditions in order to make water quality assessments. A 1999 report from the Dane County Regional Planning Commission concluded that:

- Surface water quality in Dane County is generally not declining, and may be improving due to wastewater treatment plant upgrades.
- Over-fertilization and sedimentation in the lakes is still a problem.
- Groundwater quality is generally declining, specifically due to higher nitrate levels (from fertilizer) and higher salt concentrations.

NR 151.13 Information and Education and Suspended Solids Reduction Requirements:

The **information and education** performance standard under 151.13 (1) applies to developed urban areas with an average population density of 1,000 people per square mile or greater. The Town of Middleton was pulled into a WPDES permit because of their proximity to Madison. The Town of Middleton's information and education requirements are part of the WPDES Permit requirements. By March 10, 2008, affected municipalities were expected to:

1. Create a public information and education program about proper management of leaves, grass clippings, lawn and garden fertilizers and pesticides, pet waste, oil, and other chemicals.
2. Manage leaf and grass clippings.



3. Apply fertilizers according to a site specific nutrient management plan to municipal properties where fertilizers are applied.
4. Detect and eliminate illicit stormwater discharges.

See Sections 8 and 13 for more information on the municipal pollution prevention plan and public information, education, and outreach, respectively.

The **suspended solids reduction requirement** under NR 151.13 (2) applies to municipalities which are subject to a municipal stormwater permit under NR 216. This includes the Town of Middleton through the WPDES group permit. Municipalities were required to reduce total suspended solids by 20 percent before March 10, 2008 and by 40 percent before March 10, 2013 (or to the maximum extent practicable by these dates). The 40% requirement was suspended in 2012. However, the Rock River TMDL requires a higher removal than the 40% requirement. The TMDL was approved in September 2014 and that started the 20 year timeline for the Town to be in compliance with the TMDL requirements. These requirements will be laid out in the Town's new WPDES permit to be issued in 2017.

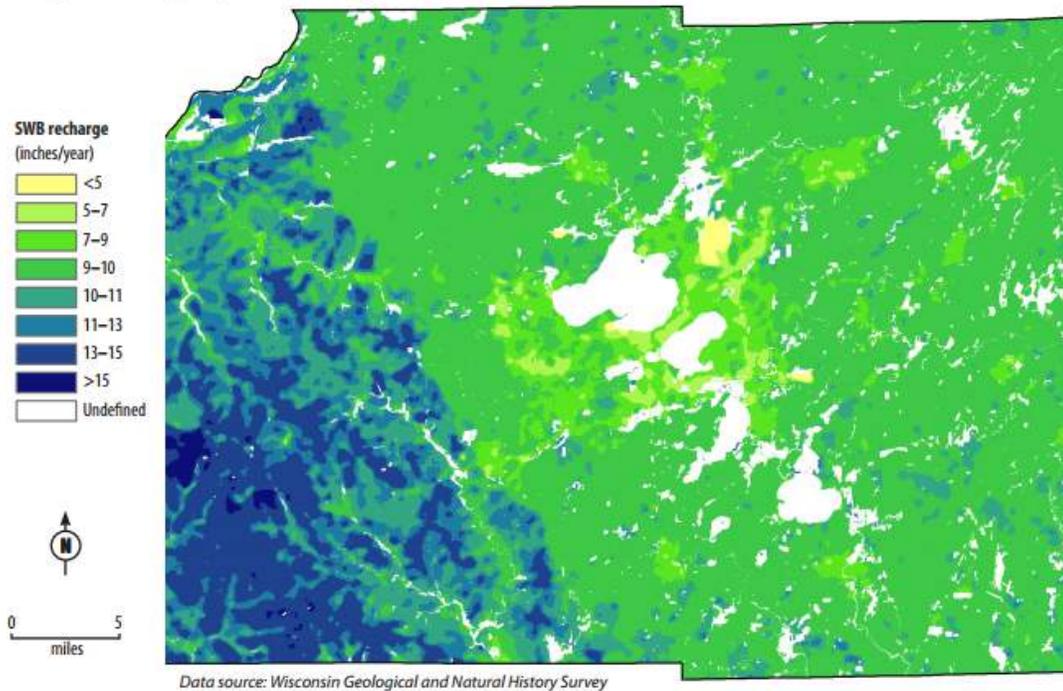
3.2. Groundwater Quality

Groundwater supplies the water for almost all domestic, commercial, and industrial uses in Dane County. Groundwater quality must be protected for these uses, but also because it provides baseflow to area streams and wetlands. Most of the groundwater used is returned to surface water after use.

Groundwater pumping with return to surface water can lower baseflow to streams and wetlands and can alter hydrologic patterns. Another significant impact to groundwater is caused by the added impervious areas that come with urbanization. The addition of impervious areas reduces groundwater recharge from infiltration.

The Dane County Regional Planning Commission (DCRPC), The Wisconsin Geological and Natural History Survey, and the U.S. Geological Service studied groundwater in Dane County. Their study includes development of a groundwater flow model which will help evaluate groundwater and surface water management strategies. The study and groundwater model are good resources to assist with water resources management and impact evaluation in Dane County. The report was published in 2012 and is called "Groundwater Recharge in Dane County, Wisconsin Estimating Recharge Using a GIS-based Water-balance Model" The figure below shows the mapping that was completed depicting the groundwater recharge that occurs annually in Dane County





Groundwater divides generally follow surface water divides, but this is not entirely true for the Town of Middleton. There are three major drainage basins with basin divides in the Town. Groundwater under a large part of the north portion of the Sugar-Pecatonica drainage basin actually flows north, toward Black Earth Creek, not south toward the Sugar River. Map 3 in the Black Earth Creek Resource Area Plan shows the groundwater divide in more detail and is included in this report as Exhibit 7. While the Sugar River is a very good cold water resource, Black Earth Creek is even higher quality.

Refuse Hideaway: Refuse Hideaway is a landfill that is capped but not lined. It sits on a bed of fractured limestone, so groundwater contaminated by the leachate is an issue. A leachate collection system was installed in the late 1980s to keep the head build-up in the leachate from getting too high and releasing contaminants into the groundwater.

The U.S. Environmental Protection Agency (EPA) places a notice in the Middleton Times-Tribune on April 6, 2017 stating that they are conducting a five-year review of the site. They are required to conduct regular checkups of the site to make sure the cleanup continues to protect people and the environment. This was the third review of the site.

The Town anticipates the DNR to issue a report with an update of the status of the Refuse Hideaway landfill in September 2017.

Other Groundwater Quality Assessments: A 1999 report from the Dane County Regional Planning Commission concluded that groundwater quality is generally declining, specifically due to higher nitrate levels (from fertilizer) and higher salt concentrations.

3.3. Water Quality Modeling (SLAMM)

In the Town of Middleton, developed areas were required to reduce Total Suspended Solids (TSS) in stormwater runoff by 20 percent before March 10, 2008 and by 40 percent



before March 10, 2013 (or to the maximum extent practicable by these dates). The 40% requirement was suspended in 2012. However, the Rock River TMDL (Total Maximum Daily Load) requires a higher removal rate for the Pheasant Branch and Lake Mendota watersheds. The table below summarizes the Town's current water quality modeling.

Watershed	% TSS Removal	% Total Phosphorous Removal
Pheasant Branch	67%	62.4%
Lake Mendota	0%	0%
Sugar River/Black Earth Creek	58.46%	54.79%
TOTAL	61.71%	58.29%

3.4. Rock River Total Maximum Daily Load (TMDL)

The Rock River TMDL is a Total Maximum Daily Load allocation for total phosphorus (TP) and total suspended solids (TSS) in the Rock River Basin, including Columbia, Dane, Dodge, Fond du Lac, Green, Green Lake, Jefferson, Rock, Walworth, Washington, and Waukesha Counties, Wisconsin. The Rock River TMDL was approved by US EPA on September 28, 2011.

The entire watershed covers 3,750 sq. mi. Pollutants of concern addressed in the Rock River TMDL are sediment or Total Suspended Solids (TSS) and Total Phosphorus (TP). Construction sites, eroding stormwater conveyance systems and any other areas of bare soil or disturbed ground have a potential for soil loss which also have associated phosphorus. Municipal stormwater has the highest concentration of phosphorus discharge in the fall due to the release phosphorus from leaves; the next highest phosphorus discharge period is in the spring due to the release of tree pollen. Municipal Separate Storm Sewer Systems (MS4s) are efficient systems designed to carry stormwater runoff away from roadways and parking lots; however, MS4s also carry many pollutants including sediment and phosphorus into our lakes, streams and wetlands. TMDL goals have been established as percent reductions in baseline TP and TSS for MS4 communities.

The DNR released their preliminary guidance for the TMDL planning, implementation, and modeling on October 28, 2014. The Town of Middleton will be required to prepare a plan to establish "benchmarks" throughout the compliance schedule. The compliance schedule will be laid out in the next MAMSWaP permit issued to the Town (the permit expired in June 2014 because the permits last 5 years and the DNR has yet to re-issue the permit). It is anticipated/expected that the Town be in compliance with the Rock River TMDL by 2031 (20 years from when the TMDL was approved).

The Rock River TMDL has two riversheds within the Town as shown on the Watershed Map. These riversheds must reduce the Total Suspended Solids (TSS) and Total Phosphorus (TP) at the following rate:

Pheasant Branch (reach 62)

TP = 78%

TSS = 82%

Lake Mendota (reach 64)

TP = 61%

TSS = 73%



3.4.1. Yahara WINs

The Town partnered with Madison Metropolitan Sewerage District (MMSD) in 2012 to participate in an adaptive management pilot project before moving to full implementation in the Yahara River Watershed. The pilot project was conducted in the Sixmile Creek Subwatershed, which is located northwest of Lake Mendota. In watershed adaptive management, all sources of phosphorus work together to implement cost effective phosphorus reduction practices.

In 2015, Yahara WINs received DNR approval to move forward with a full scale adaptive management plan. The Town decided in 2016 that they would participate in the full scale adaptive management plan but would continue to evaluate areas to construct stormwater management facilities that would aid the Town in achieving their TMDL requirements.

4. WATER QUANTITY

This section includes a brief summary of stormwater runoff and causes of flooding.

4.1. Stormwater Quantity

Stormwater Runoff:

The amount (volume) of stormwater produced by a rainfall event is primarily dependent upon the following factors:

1. Depth, duration, and spatial and temporal distribution of the precipitation.
2. Size of the drainage area upstream from the point of concern.
3. Land cover (e.g., grass, pavement) of the tributary drainage area.
4. Travel time from the most remote portions of the watershed to the point of concern.
5. Type and degree of saturation of underlying soils.
6. Presence and extent of stormwater storage areas in the floodplain and watershed.
7. Presence of manmade stormwater facilities within the watershed.

A note on volume control: Volume control can come into consideration for watersheds with no release (including kettles, etc.). Volume control involves designing facilities that can infiltrate the increase in runoff volume from pre- to post-developed conditions, or completing a detailed study on an area that confirms an existing area's ability to infiltrate/evaporate runoff. Maximum water surface elevations should be carefully scrutinized as part of a low opening elevation (LOE) analysis. LOEs can then be set for nearby buildings. There are several areas with no release in the Town of Middleton. One is north of Mineral Point Road, approximately 500 feet east of Timber Lane. Other areas include the Fawn Ridge and Pheasant Point plat areas. Stormwater planning for the Fawn Ridge plat included a hydrologic and hydraulic analysis, an LOE analysis, and emergency overflow routes.

The Town requires lowest opening elevations to be set on all final plats so that there is 2' from the 100-year elevation for all lots adjacent to drainage ways and stormwater management facilities.

Flooding:

Frequent flooding can be caused by many different factors, including but not limited to:



1. Developed areas with undersized detention facilities upstream from the flood prone area.
2. Unexpected rainfall events or events larger than those that can economically be designed to handle.
3. Roads, berms, undersized culverts, and other obstructions to flow constructed without adequate stormwater design or constructed without proper permission.
4. Degradation of stormwater detention and/or conveyance systems that, over time, fail to adequately handle stormwater runoff.
5. Downstream flooding or other conditions that impede the conveyance of runoff from leaving the flood prone area.

Stormwater runoff models can predict how much stormwater runoff will be produced by certain rainfall events, and can be used to size detention and conveyance facilities to safely handle runoff from developed or developing areas. Models can also analyze existing flooding problems and help determine the cause(s). Then, a plan can be developed to fix the problem. Several problem areas have been identified in the Town. Some of these areas have been studied in the past, some were studied during the development of this master plan, and some have not been studied. The following section discusses each area and what has been done to quantify the flooding problem. Recommended action items or solutions are included. The Town can use this information to choose when and how it addresses these problem areas.

5. STORMWATER MANAGEMENT AND EROSION CONTROL

This section includes an analysis of existing problem areas in the Town. Using the information gathered and the planning recommendations of this Master Plan, the Town will discuss the problem areas with the Town Engineer and decide which areas to address and when. Additional planning and design information might be required prior to constructing any improvements. The identified areas of concern are listed by priority.

5.1. Identified Areas of Concern

5.1.1. Valley View/Blue Glacier

Reports of various drainage concerns in the area of the Valley View Woods and Blue Glacier Valley subdivisions have been reported in recent years. In 2013, the Town collected available information on drainage in the area and met with area residents to discuss. A number of residents reported concerns for stormwater runoff flowing across their properties. For the most part, the stormwater runoff they witness on a frequent or occasional basis appears to flow within stormwater easements, with a handful of exceptions.

In November 2013, a topographic survey was completed to understand some of these issues that included the drainage between the swale in the Southeast corner of the Blue Glacier Valley plat and the drainage easement on the lots to the east (3445 and 3449 Valley Woods Drive); and of the drainage at the Southwest corner of 3445 Valley Woods Drive.

1. *Drainage between the Southeast corner of the Blue Glacier Valley plat and the drainage easement on the lots to the east (3445 and 3449 Valley Woods Drive).*



Prior to completing the topographic survey, it was unclear how the stormwater runoff flowed between the Southeast corner of the Blue Glacier Valley plat and the drainage easement on the lots to the east. The topography indicates that the runoff runs outside of public drainage easements. It is not required that runoff flow in public easements, but is desirable to contain major flow in public drainage easements. To contain the runoff may require acquisition of an additional easement and the completion of minor grading.

The acquisition and grading would not have to be done at the same time. The easement could be obtained just prior to grading or even several years before the grading was completed. When additional development occurs, it will be more important for the Town to have the ability to maintain stormwater easements in the event it became necessary to do so.

It is recommended that the easement be acquired before or at the time the land south of Blue Glacier Valley is developed. Grading of the area in the easement is recommended to allow containment of the stormwater runoff within the easement during large storm events.

2. *Drainage at the Southwest corner of 3445 Valley Woods Drive.*

The owners of this property reported a concentration of runoff coming onto their property from the undeveloped lands to the west. The shots taken in the topographic survey do not support the lot owners' claim. The contours indicate that stormwater runoff from the field to the west sheet flows across the back of the lots at 3441 and 3445 Valley Woods Drive. However, the area is flat and very sensitive to modest grade changes that changing conditions of the plowed field to the west, the growth of thick grass in the summer and/or the placement of yard waste or other materials on the rear of the lot to the south, could direct concentrated stormwater runoff to the southwest corner of 3445 Valley Woods Drive in significant rain events.

The recommended solution is twofold with a short and long term solution. In the short term, the Town and owner could work with the owner or renter of the plowed field to ensure the area adjacent to the back of 3445 Valley Woods Drive is graded low enough to direct stormwater runoff north of the house. In the long term, permanent grading of a swale running north along the back of 3445 Valley Woods Drive could be required of the developer of this plowed field.

In June 2017, Town representatives met with the homeowners of 3445 Valley Woods Drive. Staff then reached out to the landowner to the west who put staff in touch with the party farming the land. The party farming the land agreed to work with the residents of 3441 and 3445 Valley Woods Drive to build and maintain a small diversion swale west of 3441 and 3445 Valley Woods Drive. The swale is expected to be constructed in the fall of 2017.

5.1.2. Wet Detention Basin West of Swoboda Road Near Vicki-Ann Street



This is a wet detention basin. A site visit in September 2006 revealed that there is no release until water ponds several (approximately three) feet. The Town Engineer recently received plans for this detention basin from the design engineer.

It is possible that drainage in roadside swales near this detention basin could be diverted into the detention basin. These improvements would provide water quantity (increased detention) and water quality (suspended solids reduction) benefits as well as increased aesthetics.

Analysis of the detention basin design and existing hydrology in this area would lead to recommended alterations to this detention basin. The purpose of these alterations would be to provide increased water quality and quantity control in this area.

Note: The water in the detention basin in 2015 was cloudy brownish-grey. Based on the surrounding land use and grades, it is possible that there is not a lot of runoff reaching this detention basin, and this water is relatively stagnant. Routing more water into the basin and improving the release structure could keep more water moving through the basin and keep it from getting stagnant. Doing both of these activities could, however, have an adverse effect on downstream flooding conditions.

5.1.3. Seybold Road – Struck Street Drainage

There is 35 acres within the Town. The Town contains approximately 35 acres of commercially-developed land near the Seybold Road – Struck Street intersection surrounded by the City of Madison. There are stormwater management issues in this area related to the conveyance of stormwater runoff around buildings and to the City of Madison storm sewer system. According to City of Madison Engineering, there are stormwater facilities at the downstream end of this area capable of handling the runoff. The problem now lies in the ability of the storm sewer system within this area to convey stormwater runoff. Additional analysis is required to further define the issue. In 2017, the City of Madison is took over the sanitary district of this area.

5.1.4. Prairie Home Estates Ditch-Outlot 4 and Ditch in Settlers Prairie Park

The ditch in Outlot 4 of Prairie Home Estates is eroding. The DNR responded on April 21, 2008, with a determination that the ditch is non-navigable and there were no wetlands present. No Chapter 30 permits would be required. However, the Town learned in 2011 during review of the Montessori school (which lies on a lot adjacent to Outlot 4), that Dane County recognizes the waterway as navigable, so additional permitting fees will now be required. The next step would be to complete a topographic survey and to develop a plan to repair/stabilize the drainway. This may be a responsibility of the Homeowners Association. If so, they should be informed of the problem and asked to rectify it. The Association was made aware of this issue indirectly as they listened to discussions about the new Montessori School. However, they have not been asked or directed to solve the problem.



In March 2010, a contractor provided an estimate to simply shape the channel as is and stabilize it with matting. This may be one option for addressing this problem.

A second option would be to collect field information on existing conditions, determine if better options are feasible, including possibly locating measures to help reduce TSS and TP, and potentially negotiating a TSS and TP exchange with the City of Middleton or City of Madison.

In the summer of 2017, the Town applied for a Dane County Urban Water Quality grant for Prairie Home Estates 1st Addition Outlot 6. This work includes converting a dry detention basin into a wet pond and infiltration facility. As required by County ordinance, a safe outlet is required and has requested that the erosion in the Prairie Home Estate Ditch-Outlot 4 be addressed as well. This work may include rerouting the drainage such that it does not wind and therefore undercutting at the bends.

5.1.5. Prairie Home Estates 1st Addition

This project involves improving the existing stormwater management facility. Currently the facility located on Outlot 6 is a dry detention basin which receives little credit for total suspended solids (TSS) and total phosphorous (TP) removal. Like the Hickory Woods neighborhood the roads and swales tend to be steeper than 4%. The swales and detention basin currently reduce TSS by 80% and TP by 78% in this 73 acre watershed. By improving this facility to include a small forebay and an infiltration area, the TSS and TP removal would increase.

Prairie Homes Estates 1st Addition Outlot 6 is a privately owned outlot that is maintained by the Homeowners Association. This area discharges to the north under Airport Road and through the drainage way north of the Montessori School that has had some erosion issues. The erosion issues north of the school could be repaired as part of this project so that the discharge has a stable flow route.

5.1.6. Applewood Erosion

Several drainage issues exist. The erosion problem in the park was discussed and planned for repairs several years ago, but the work was never completed. A deep ravine has eroded and caused several large trees to tip over. Left unchecked, the condition of this ravine will continue to deteriorate. A topographic survey was done, and several completed plan options exist.

The Town crew has removed fallen trees from a portion of the eroded swale, but they have not completed the lower portion due to the thickness of the downed trees.

There are several ways to approach this problem. The simplest and cheapest is to monitor the problem over several years to see how quickly the problem is getting worse. If it doesn't appear to be getting progressively worse, a permanent solution can be deferred.

In 2015, Vierbicher placed a number of permanent posts in eroding areas. The elevation of the ground at the post will be documented and the posts photographed in 2017 and every 2 years thereafter.



5.1.7. Tumbledown Golf Course

The Tumbledown Golf Course is located south of Mineral Point Road, west of Pioneer Road and covers approximately 150 acres. The drainway running through the golf course is almost exactly one mile long and has a vertical drop of approximately 32 feet, giving it a slope of approximately 0.6%. This flat slope could make it difficult for the area to drain properly. There are several wet ponds on the golf course in line with the drainway which provide some storage. At the southeast corner of the golf course, there is a berm with a small (approximately 12" diameter) culvert through it. Just downstream from the berm at the northwest corner of Tumbledown Trail and Pioneer Road, are two concrete culverts which direct flow to the southeast under Pioneer Road.

A conversation between the Town Engineer and the maintainer of the golf course ponds revealed the annual maintenance of the ponds. Muskrats dig holes through the clay liners (approximately 3 feet thick) of the ponds, so the ponds are kept full throughout the summer via pumping from groundwater. By fall, the water level is allowed to drop so the ponds have additional volume to receive snowmelt and spring rains. The muskrat holes are routinely plugged in the spring.

Approximately 1,500 feet south of Mineral Point Road is the aforementioned culvert that directs stormwater runoff from east to west under Pioneer Road. From here, stormwater runoff is directed to the south and eventually back under Pioneer Road to the east, through the culverts at Tumbledown Trail. In the future, the City of Madison plans to keep stormwater runoff from the east on the east side of Pioneer Road in this area. The City also plans to improve the drainway from this location south to Mid-Town Road.

Stormwater management studies, reports, and design calculations for the following subdivisions were reviewed and found to be adequately sized: Sauk Point Estates, Cherrywood Acres, Cardinal Point Estates, Sauk Prairie Estates, Spruce Hollow (considers Pioneer Park, Cherrywood Forrest and all other upstream developments). In addition there are several developments planned for 2017/2018. They are Cherrywood Ridge, Welcome Home, and Tumbledown Farms.

Cherrywood Park contains a large wet detention basin that has no apparent release until it ponds several feet. The Cherrywood Park area is currently part of a study involving a possible development adjacent to the Tumbledown golf course. Currently, in at least three locations, additional detention is provided:

1. Cardinal Point: A temporary berm was left in place on the north side of Mineral Point Road. This berm has a stone weeper which allows release from the detention basin at a rate significantly slower than the design rate. The design release rates are at or below pre-developed runoff rates through the 100-year storm event.
2. Sauk Point Estates: This detention basin was left approximately 6 inches low, and a temporary weeper was left in place. This allows release from the detention basin at a rate significantly slower than the design rate. The design release rates are at or below pre-developed runoff rates through the 10-year storm event.



Update: In 2010, the Town constructed a wet detention basin with infiltration features with funds from a Dane County Water Quality Grant. Please see section 5.2.1 for more details on the project.

3. The temporary detention basin at Swoboda Road and Magellan Drive was left in place and provides detention where it was not required. Cattails and other vegetation are present that provide water quality treatment as well. This basin could be expanded to provide additional water quality and quantity.

Findings:

1. Flooding at Tumbledown Golf Course is likely caused primarily by a lack of conveyance due to the flat slope of the drainway in this area. While peak flow rates released from upstream developments appear acceptable, there may be an increase in total volume released, which could contribute to the flooding if conveyance is inadequate.
2. Restrictions on the golf course (and downstream) likely contribute to the flooding problem. The berm and small culvert at the southeast corner of the golf course likely restrict flow, and the culverts under Pioneer Road at the southeast corner of the golf course and drainway downstream could be poorly-draining as well. With the berm in place, it is difficult to determine if the Pioneer Road culverts are undersized, inefficient, and/or have restrictive tailwater conditions without doing a hydrologic and hydraulic analysis.
3. Groundwater is being pumped to keep the ponds full during the summer months.
4. The City of Madison plans to keep stormwater runoff generated from the east side of Pioneer Road from getting to the west side of the Pioneer Road. This would likely help reduce flooding on the golf course.
5. Additional detention could be provided at two locations upstream from the golf course, which would likely help reduce flooding at the golf course.
 - a. The detention basin(s) at Swoboda Road and Magellan Drive / Lot 17 of Cherrywood Acres could be expanded, providing additional detention and water quality benefit. Please note the Town received a Dane County Urban Water Quality Grant in 2009 for this site but it was decided that redesigning the Stormwater Management Facility in Sauk Point Estates Outlot 1 was more cost effective.
 - b. The existing wet detention basin at Swoboda Road near Vicki-Ann Street. An analysis of the hydrology and hydraulics of this detention basin will likely provide the information needed to determine an appropriate retrofit, if any, to provide water quantity and perhaps quality benefits.



5.1.8. Watchlist Projects

1. *Spruce Hollow Outlot 4* – The detention pond in Outlot 4 seems to be full more often than most ponds. It fills up in small rain events and or is full even when it hasn't rained. The facility does have a wet and dry portion. It needs to be determined if the facility is functioning correctly, or if there something blocking the discharge or if there is a design problem. This is currently being monitored by Town Staff, Vierbicher and the Developer.
2. *Cherrywood Forest* – The detention basin in Outlot 1 was converted to a permanent wet pond. Temporarily a 6" restrictor was added in 2015. The restrictor will help reduce runoff from small events (1 year and 2 year storms), but it actually allows more runoff to leave the basin in 5 year storms and larger. The restriction actually causes the larger storms to be released above pre-developed levels. For this reason, we will require the removal of the 6" restrictor after the development improvements, including ponds and ditches, have been fully established. At that point, the amount of runoff should be reduced when all the lots have established vegetation. It is anticipated that the removal of the 6" restrictor to be completed in 2017.
4. *Mineral Point Drainage* - This area is located near West Middleton Elementary School, K& A Greenhouse, Kwik Trip, Rest Haven, and Spruce Hollow. There is a low point in the road just east of Rest Haven that does not have an outlet. On the north the side of the road the water has to pond approximately 3 feet before it enters storm sewer and discharges to the east to a drainage way. This ponding creates water to backup onto the Rest Haven property. Water has historically backed up on the Rest Haven and Spruce Hollow properties, but with the development of Spruce Hollow, the problem appears to have worsened with deeper, more frequent back-ups onto the Rest Haven property.

The Town could work with West Middleton School and K&A Greenhouse as projects occur to divert some of the runoff in the low part of the ditch on Mineral Point around their properties. Alternatively, the Town could complete a preliminary analysis of the area and develop a plan for improving current drainage and backing up of water, and/or managing runoff in these areas as they further develop.

5. *Swoboda Road South of Cherrywood Lane* - The Town has been made aware of some areas along Swoboda Road that have drainage issues likely due to inadequate ditch capacity. Vierbicher will be meeting with Town Staff to discuss the extent of the drainage issues and possible solutions. Depending on the scope of the problem, the issues may be addressed in 2017 or budgeted to be addressed in future years.



5.2. Town Projects that Have Been Completed in the last 10 -years

5.2.1. Sauk Point Estates Outlot 1

The Town identified this area that could be modified to reduce the runoff to Tumbledown Golf Course. As a proactive measure the Town applied for and received an Urban Water Quality Grant from Dane County for stormwater quality enhancements to the Sauk Point Estates Detention Basin which is located in the Upper Sugar River watershed.

The City of Verona is also located within the Upper Sugar River watershed and was evaluating potential projects which would enable them to comply with the 40% TSS reduction requirement. Because the Town met the requirement and the City did not, the Town and City executed one of the first TSS credit trade agreements in the State.

Originally designed as a dry detention basin for a 330 acre watershed, a retrofit of the pond was completed in 2010 to include wet detention and infiltration features.

5.2.2. Twin Valley Road Drainage

There were existing erosion issues in this area due to a variety of reasons. They include inadequate roadside ditch capacity, erosive tendencies of the native soils, steep slopes, inadequate driveway culverts, and inadequate driveway design. An analysis of this area was completed in September 2002 that identified nine specific problem areas. In 2003, a topographic survey was completed and a detention basin retrofit was designed but not constructed. An analysis of this area was completed with the previous version of the master plan revealed that there likely is not much runoff getting to the area of the proposed detention basin. This shifted the focus to modifying and protecting the roadside ditches and culverts. Residents had noted that the stormwater runoff overtops the road and sends large amounts of sediment downstream. The average ditch depth is 0.5' to 1.0' with a lateral slope of approximately 8%. With the proximity to Black Earth Creek the Town prioritized this project to protect that resource.

The Town completed this project in 2012. The project included grading a roadside ditch approximately 0.5 miles on the west side of Twin Valley Road 1.5' to 2' deep with a 1-foot bottom. The slope of the ditch was offset by placing gabion structures in the ditch to create small "pools". The gabions are approximately 1' high and filter and slow the runoff in the ditches by promoting infiltration and groundwater recharge.

5.2.3. Vicki-Ann and Mathias

The Town previously identified this as an area of concern. The Town of Middleton was contacted by residents in the area because they were experiencing flooding and erosion. A topographical survey of the area was completed and it was discovered that the culvert under Vickiann Street was not sized to pass the 100-year, 24-hour storm event. There was also no safe overland flow route since the road was 0.3' higher than the lowest opening of the adjacent homes. During a site visit extensive erosion near Ox Trail Way was found.



The proposed project involved lowering and increasing the size of the culvert under Vickiann Street. While there isn't a safe overland flow route the culvert was sized to pass the 100-year, 24 hour event and still provide 2 feet of freeboard to the lowest opening. The area just upstream of the culvert does not have a defined swale so a 1.5' deep swale was constructed behind Lot 10.

Other work included repairing the erosion in the drainage way north of Ox Trail Way by filling in the eroded area, grading the swale in the center of the public greenway, and reinforcing the drainage swale with the appropriate erosion mat. The Town completed this project in 2012. A gabion mattress was added in 2015 to address the continued erosion at the culvert discharge from the Ox Trail ditch. The tree canopy was preventing vegetation so a gabion mattress was added to stabilize the discharge point.

5.2.4. Valley Woods Court Culverts

In the summer of 2014, the Town replaced an undersized drainage system on the north side of Valley Woods Court. The Town was made aware that Valley Woods Court was overtopping in smaller events. The Town worked with Vierbicher to complete a drainage study of the area. It was determined that when 2 culverts under Valley View Drive were constructed that the downstream conveyance system was not evaluated to see if it would hand the additional flow. A 49" x 33" Arch CMP was constructed to convey the runoff from the approximately 200 acre watershed upstream from the undersized drainage swale.

5.2.5. Meadow Road Culvert

The Town plans to replace the culvert under Meadow Road from the Aspen Meadow Estates development in 2017. It was brought to the Town's attention that the culvert did not meet current Town standards for cross culverts when the Aspen Meadow Estates submitted their development plans. The Town worked with the Developer and the City of Madison to develop a plan that would maximize the drainage from the development and meet the Town's current cross culvert design standards.

5.2.6. Pioneer Road Culvert at Valley View

The Town replaced the box culvert under Pioneer Road at Valley View in 2015. The culvert drains approximately 26 acres of land west of Pioneer Road and north of Valley View Road.

5.2.7. Hickory Woods

This project involved constructing a stormwater management facility. The facility is located on Outlot 4 which was an open area that was farmed. This watershed received little credit for total suspended solids (TSS) and total phosphorous (TP) removal. Streets in this area also have many swales that are steeper than the 4%. The DNR only allows for removal credit for swales 4% or less.

The Town applied for a Dane County Urban Water Quality grant in July 2016 for construction of a wet detention basin and an infiltration basin. The Town



received the grant in December 2016. The stormwater management facilities were constructed in June 2017 and fully operational by the end of 2017.

6. SPECIAL RESOURCE AREA: BLACK EARTH CREEK WATERSHED

The Black Earth Creek watershed contains many important resources, including diverse wildlife habitat, outstanding scenic views featuring bluffs, ridgelines and valleys, wetlands (existing and historic), prime farmland, historic resources (natural and cultural) in the form of prairies, grasslands, oak savannahs, rare species, and archaeological resources. Resources also include existing and potential trails and recreational areas, and a world-class trout stream.

This section of the master plan summarizes the Black Earth Creek Resource Area Plan (2003, Dane County Regional Planning Commission) which describes the watershed's resources and outlines management recommendations. This section goes on to describe current Town of Middleton issues in the Black Earth Creek watershed, and concludes with recommendations related to stormwater management.

6.1. Black Earth Creek Watershed

The Black Earth Creek Resource Plan establishes the basis and outlines the scope for more in-depth planning efforts in the Black Earth Creek watershed. It should be used as a reference for stormwater and land development plans in the Town of Middleton. This section of the master plan contains a summary of some important parts of the Black Earth Creek Resource Plan.

Black Earth Creek Resource Area Plan – Resource Description: The Black Earth Creek watershed contains outstanding aesthetic, recreational, and natural resources in areas of farmland, wetlands, forests, and prairies. There are also important glacial features and a high quality Class I trout stream. Because of these resources, stormwater and land development planning in the Black Earth Creek watershed must consider the following aspects of the Black Earth Creek watershed:

- Natural resource buffers: Upland buffer areas protect water quality and prevent pollution through filtration by natural vegetation, while natural vegetation on streambanks prevents bed and bank erosion. Buffers also provide trail and recreation areas, wildlife habitat, and increased aesthetics. A buffer width of 100 feet each side of a stream or wetland is recommended.
- Existing and historic wetlands: Wetlands provide excellent flood control, erosion control, and pollutant removal from stormwater runoff. Hydric soils are areas that may have once supported wetlands and are good targets for wetland restoration areas. Wetlands should also be protected from development since they are often located in a floodplain.
- Open space corridors: Open space corridors are being promoted throughout the County to protect such areas as floodplains, wetlands, steep slopes, and woodlands, all typically located along rivers, streams, and valleys. Open space corridors should be considered for resource management and protection plans, open space planning, and recreation.



- Prime farmland: Because of the benefits to the local character and economy, various programs have been set up for landowners to receive monetary compensation for selling development rights to their land.
- Steep wooded slopes: While agriculture and land development are largely impractical on steep wooded slopes, these areas provide excellent aesthetics (and higher property values as a result), recreation areas, and a product that is a renewable resource (wood). Along with the recommendation that structures on ridgelines be discouraged (scenic easements might be a good solution), there are a few areas in particular recommended for protection:
 - The east end of the north rim near Evergreen Road (overlook area and an important groundwater recharge area).
 - Area of ravine between two bluffs in the Town of Middleton (rare species of birds and plants, excellent scenic views, landmarks).
 - The oak savannah fringe north of the Hideaway Landfill (overlook and possible recreation area).
 - The walnut/oak forest along Rocky Dell Road (scenic corridor which supports highly diverse wildlife).
- Historic natural and cultural resources: Native prairies, oak savannahs, and grasslands all provide aesthetic benefits, but because prairie grasses promote infiltration and reduce erosion, they benefit stormwater by reducing runoff (quantity) and enhancing quality. Rare species and archaeological resources are also present, and should be considered during stormwater and land development planning. The DNR's Natural Heritage Inventory program and the State Historical Society have information on rare species and archaeological resources.
- Other proposed trails and corridor lands: See Map 10 in the Black Earth Creek Resource Plan (not included in this report) for proposed trails and corridor lands.

Black Earth Creek Resource Area Plan – Management Tools: Land acquisition is important where laws and regulations may not provide adequate protection. Where land itself cannot simply be purchased, conservation easements or development rights might provide adequate protection for certain areas. Partnerships between individuals, organizations, government agencies, and other groups can be an effective way to acquire land.

Black Earth Creek Resource Area Plan – Management Recommendations: There are many management recommendations proposed by the Resource Area Plan. Those recommendations include:

- water quality protection
- farmland preservation
- protection/enhancement of native plants and animals
- land use planning to emphasize the natural, cultural, and scenic features of the landscape
- public access, recreation, education, and research

Specific recommendations that apply directly to stormwater management (quantity or quality) include:

- Public and private purchase of property or easements for restoration and protection of scenic and natural areas and recreation. This applies to stormwater



management because reduced developed areas reduces stormwater quantity and quality concerns. Use cost-share funding and other incentives to acquire land in priority areas, if appropriate (see Section 12 for funding options).

- Low-density residential development is acceptable but should consider clustering, setbacks, screening, vegetation, etc.
- Protect upland wooded areas, especially those with steep slopes. Prevent erosion and promote infiltration.
- Work with Dane County or other stakeholders to restore glacial Mud Lake west of the Middleton Business Park. This would provide control for surface and groundwater to help protect Black Earth Creek.
- Promote infiltration practices to protect groundwater discharge to Black Earth Creek (grass swales, retention areas, rain gardens, rooftop storage, and runoff from impervious areas directed to pervious areas).

6.2. Town of Middleton Issues Within the Black Earth Creek Watershed

Stormwater Management Planning: Dane County prefers low density development. Stormwater design must identify areas with good infiltration potential. The Town continues to follow Dane County and DNR regulations that protect Natural Resources such as Black Earth Creek. These regulations are vegetative buffers, navigable waterway setbacks, and thermal pollution protection.

Black Earth Creek Resource Planning: See Section 6.1 for details

Intergovernmental Agreement (City of Middleton and Town of Middleton): The current agreement was developed in 2001.

Dane County Parks – Sunnyside Seed Farm Park: to this park is limited. Dane County Parks desires to work with Town on getting better access.

Dane County Parks – Old Lake Middleton: Also referred to as “Old Mud Lake” or “Glacial Mud Lake.” Dane County has recommended restoration of this lake, but does not have a restoration plan. Coordination with the adjacent landowners (Hellenbrand, Watts, Erdman, and Rounds) to acquire land is necessary before the pumps are turned off. Funding options should be considered including partnerships between the Town of Middleton, the DNR, Dane County, and other groups/organizations.

Funding: DNR fisheries grants, Stewardship and TRM (Targeted Runoff Management) grants. See the Funding Options (discussed in Section 12) for more details.

7. STORMWATER-RELATED ORDINANCES

This section also includes an official legal opinion that the Town has adequate legal authority to implement the requirements of the WPDES permit. This section does not include a discussion of the developed area performance standards of NR 151.13, which is covered in Section 3.

The Town’s ordinances are a good place to implement non-structural Best Management Practices (BMPs). Other sections of this master plan address important non-structural BMPs such as:

- Illicit discharge detection and elimination system (see section 8 for details and recommendations)



- Municipal pollution prevention plan (see section 9 for details and recommendations)
- Public information, education and outreach plan (see section 13 for details and recommendations)

7.1. Town Ordinances

The Town of Middleton erosion control and stormwater management ordinances, in conjunction with Dane County Ordinances, meet or exceed state requirements as they pertain to construction site pollution control and post-construction site stormwater management.

The Town of Middleton adopted a model illicit discharge ordinance on July 21, 2003. The model ordinance did not contain administration and enforcement sections. An enforcement section was added and the new ordinance adopted on December 6, 2004. An amendment to the swimming pool ordinance was adopted on March 21, 2005. The Town's illicit discharge ordinance has not yet been officially included in the Town Ordinance. The illicit discharge detection and elimination program is covered in Section 8 of this report.

7.2. Legal Opinion of Authority to Control MS4 Discharge

This is a WDPES permit requirement that the Town have authority to control the MS4 Discharge. It is the legal opinion of the Town Attorney (Eileen Brownlee) that the Town of Middleton has adequate legal authority as required.

8. ILLICIT DISCHARGE DETECTION AND ELIMINATION PROGRAM

8.1. Illicit Discharge Detection and Elimination Program Details

The dry weather monitoring activity took place in October, 2005. The details of the monitoring are included in the 2005 annual report (required by the WDPES permit). Details of the Illicit Discharge Detection and Elimination Program are included in the report, "Town of Middleton Stormwater Permit Requirements – Proposed Illicit Discharge and Pollution Prevention Plan," October 1, 2004.

Performing illicit discharge monitoring on a biennial basis has followed the guidelines in the October 1, 2004 Illicit Discharge Detection Plan. The sites are inspected and a report is completed by Vierbicher. If any discharge or concerns are identified the Town is made aware of the situation and works with Vierbicher and the resident to correct the non-compliance. The report is then sent to The Town of Middleton and a copy is saved at Vierbicher.

Measures to prevent pollution through public information and education are included in Section 13. Prevention of illicit discharges through spill containment can be achieved by following the illicit discharge recommendations in Section 14.

9. MUNICIPAL POLLUTION PREVENTION PLAN

This is a WDPES permit requirement. References to the annual report in this section refer to the report required by the WDPES permit.



9.1. Municipal Pollution Prevention Plan Details

A pollution prevention program was developed for the Town and issued in report form on October 1, 2004. A complete plan includes the following (with references to the current Town policy on each):

- Inspection and maintenance of municipal owned or operated long term stormwater BMPs: The Town has inventoried public and private detention basins. The Town maintains detention basins at approximately eleven (11) locations. Currently, the basins are maintained only as problems arise, except for occasional mowing. Detention basin maintenance is discussed in more detail in Section 10 of this report.
- Street sweeping and catch basin cleaning: The Town does not perform street sweeping; however, contractors are required to perform street sweeping as necessary at construction sites. Some catch basins in the Town are part of private developments and it is the responsibility of homeowners associations to maintain them. There is no need for catch basin cleaning for those maintained by the Town. Should the Town begin catch basin cleaning, the WPDES Permit requires that the Town keep accurate records of the total volume of debris collected on an annual basis. This information is included in the Annual Report.
- Snow removal and de-icing management: The Town's policy for snow removal and salting is to achieve bare pavement. The Town will try not to exceed the unwritten DOT standard of 300 lb/mile/lane for de-icing of Town streets. Additionally, the Town limits salt use in cul-de-sacs which do not have through traffic. Dane County and the State DOT are responsible for maintenance of their county and state highways in the Town. The Town started using brine in the winter of 2016 in small applications at hillsides and intersections. They hope to increase the use of brine in the future.
- Management of leaves and other yard waste: The Town does not pick up leaves for Town residents. Town residents are encouraged by the newsletter and web site to compost leaves and grass clippings either on site, at the Town Hall yard waste drop site, or at the Dane County Yard waste compost site. Through the Public Education and Outreach program (See Section 13) the Town's residents are informed about the need to dispose of yard waste and grass clippings properly. This has been a goal of the "Love your Lakes Don't Leave Them" Campaign.
- Nutrient management plan for municipal owned properties (as identified in the Stormwater Master Plan and MS4 Permit Requirement), including:
 - **Pollution prevention procedures at municipal garages, public works facilities, salt storage and other storage areas.** The Town has a salt shed facility which is inspected on an annual basis by the DOT per Trans 277. The salt is stored in a building with a door to protect it from the elements.
 - **Pollution prevention procedures for the use and application of fertilizers, pesticides, and herbicides on municipally controlled properties.** Limited fertilizing of municipal properties is performed by the Town. Pesticide and herbicide application is performed mainly on a contract basis for treatment of invasive and noxious weeds, with Town crews providing spot



treatment.

- **Pollution prevention procedures for spills at municipally controlled properties.** See Section 9 for details.
- Regulating the private use of fertilizers, pesticides, and herbicides: Wisconsin does not all regulating the private use of lawn and garden fertilizers, pesticides, and herbicides. Reducing the impact of fertilizers, pesticides, and herbicides lies in the hands of public awareness and education. This can be accomplished through the Town's web site, through <http://www.ripple-effects.com>, and through brochures and articles distributed or made available to Town residents.
- Implementation of policies and procedures to achieve the 2008 and TMDL TSS reduction: These items are discussed in Section 3 of this report.

Details of the Municipal Pollution Prevention Plan are included in the report, "Town of Middleton Stormwater Permit Requirements – Proposed Illicit Discharge and Pollution Prevention Plan," October 1, 2004.

10. DETENTION BASIN INVENTORY AND MAINTENANCE

This is a task identified in the Stormwater Master Plan. This section includes a description of the existing detention basin inventory and maintenance issues, as well as recommendations for routine maintenance, tracking inspection reports, and tracking maintenance agreements. Both public and private detention basins are included.

10.1. Detention Basin Summary

As discussed in Section 2.6, the Town has inventoried public and private detention basins. The Town maintains detention basins at approximately eleven (11) locations. A log of public detention basins is included in the 2017 annual report (required by the WPDES permit). The location of each existing detention basin is included in an AutoCAD base map of the Town. See Exhibit 5: Stormwater Facilities Map for details. A Stormwater GIS was developed during the creation of this Master Plan which can also serve as a stormwater facilities database. See Section 11 for details on the Stormwater GIS. Some information will still need to be kept in AutoCAD such as the MAPSWaP watershed and sewershed basin boundary lines. This allows for efficient altering and updating of watershed boundaries as necessary.

There are approximately fifty-four (54) privately-owned and maintained detention basins. Dane County now requires a maintenance agreement be recorded for stormwater facilities: "Where installed stormwater practices will be privately-owned, an affidavit which describes the property by legal description, notifying future prospective purchasers of the existence of a stormwater permit issued under this ordinance and applicable plan, timetables and potential liability imposed by sec. 14.73(3) for failure to bring the property into compliance with this ordinance after notification, shall be recorded with the Dane County Register of Deeds prior to issuance of an erosion and stormwater control permit. The foregoing information shall also be noted on every plat and certified survey map." The Town inspects and maintains stormwater management facilities, as necessary, which do not have recorded maintenance agreements.



Any land development project in the Town of Middleton that requires a stormwater maintenance agreement is required to give both the County and the Town rights to enter the property and maintain stormwater facilities if the responsible party fails to do so.

10.2. Detention Basin Maintenance Schedule

Town-owned or maintained detention basins are currently maintained only as problems arise, except for occasional mowing. The Town inspects their facilities on a biennial basis. A routine maintenance schedule emphasizing preventive maintenance will minimize the need for corrective maintenance and emergency-type responses. See Section 14.6 and associated Exhibit(s) for detailed detention basin maintenance recommendations.

11. STORMWATER PERMITTING AND STORMWATER GIS

This section includes a summary of the Town's review and permitting policy which addresses construction site pollution (erosion) control and post-construction stage stormwater management.

11.1. Town of Middleton Stormwater and Erosion Control Permit Policy

The Town and Dane County both review erosion control and/or stormwater permit applications for conformance to respective design standards. The Town reviews for:

1. Peak control through the 100-year event.
2. Potential impacts with other utilities and for administration items, to ensure requirements of the stormwater plan are incorporated into the engineering plans, and to administer maintenance activities, logistics, and updates for record keeping
3. Erosion control, in conjunction with Dane County.

Construction Site Pollution Control: The Town requires an erosion control permit if any of the following apply:

- An area of four thousand (4,000) square feet or greater will be disturbed resulting in the loss or removal of protective ground cover or vegetation.
- Excavation, fill, or any combination thereof, will exceed four hundred (400) cubic yards.
- Any public (federal, state or local) street, road or highway is to be constructed, enlarged, relocated or substantially reconstructed.
- Any use by a unit of government or by public or private utilities in which underground pipe or facilities will be laid, repaired, replaced or enlarged for a distance over three hundred (300) feet.
- There is a subdivision of land as defined in the Subdivision Regulations of the Town of Middleton.

An erosion control permit application is required through the County and includes completion of an erosion control checklist and all supporting plans and calculations. Dane County reviews the information for conformance to County erosion control standards, and the Town Engineer provides some erosion control review. The County Zoning Department enforces the erosion control in the Town, but the Town Engineer and Building Inspector are also involved with site inspection of erosion control facilities.

Post-Construction Stormwater Management: The Town requires a stormwater permit if any of the following apply:



- Development results in the cumulative addition of twenty thousand (20,000) square feet of impervious surface to the site.
- New agricultural buildings are constructed and the new total impervious surface area exceeds twenty thousand (20,000) square feet.
- The development requires a subdivision plat.
- Commercial or industrial development requires a certified survey map.
- Redevelopment exceeds four thousand (4,000) square feet of land disturbance where site is predominantly developed for commercial, industrial, institutional, or multifamily residential uses.
- Other development or redevelopment may have significant downstream impacts.

An erosion control and stormwater management permit application is required by the County and includes completion of a stormwater checklist and all supporting plans and calculations. A stormwater review is required by the Town, which requires submittal of a checklist with reports and plans as necessary. Dane County and the Town Engineer review the information for conformance to respective stormwater standards. Dane County issues an approval letter, as does the Town. The Town defers the review of infiltration, TSS reduction, and thermal reduction to the County. Therefore, the reviews are generally complimentary. Field inspections are performed by Dane County Zoning and by the Town Engineer or Building inspector. The Town's process for stormwater review and inspection is adequate.

11.2. Permit Tracking and Stormwater GIS

Currently, Dane County has a permit tracking database for all stormwater and erosion control permits issued for the Town of Middleton. Approval letters from the County and Town are archived in the Town's files and the Town Engineer's files.

The Stormwater Master Plan considers developing a stormwater and erosion control permit tracking system. A Stormwater GIS system has been developed which includes permit tracking.

The Stormwater GIS was created primarily for (1) Erosion Control and Stormwater Permit tracking and (2) long term stormwater facility maintenance, but the system was made more robust to include information on existing stormwater facilities and to act as a database for stormwater facilities.

As the Stormwater GIS evolves, it may be appropriate to transfer all stormwater information into the Stormwater GIS. The Stormwater GIS can also be used to track all dry weather monitoring locations (see Section 8 for illicit discharge detection and elimination details).

12. STORMWATER FUNDING OPTIONS

This section includes information on various funding sources for stormwater management activities in the Town of Middleton.

The concept of a stormwater utility was discussed with the Town Board on several occasions. It is recommended that the Town not pursue setting up a stormwater utility at this time. Because of the relatively small amount of non-residential and tax exempt properties in the Town, the cost to set up the utility would likely outweigh the benefit to the Town.



12.1. Property Tax

Stormwater management system operation, maintenance, and improvement costs in the Town of Middleton have historically been funded by property taxes. Property taxes are paid into the Town's general fund that is also used for other public works improvements, public safety, and other related programs. There is often a great deal of competition with other programs for stormwater management system funding. Historically, as a result, stormwater management improvements have sometimes been given a low priority, unless the Town is reacting to a recent storm event or regulatory requirements. However, the Town has taken a more proactive approach to stormwater management in the past 15 to 20 years, addressing issues well before they become serious problems.

Property taxes are based exclusively on assessed property value. The Town's cost to provide stormwater service to individual properties is typically more closely related to physical characteristics of the property served than to the assessed value of the property. Therefore, in many cases, property taxes may not be an equitable means of recovering stormwater management system costs.

12.2. Fees

Fees are a common means of funding stormwater management improvements. Fees are charges for services rendered. Many municipalities, including the Town of Middleton, recover costs of constructing, designing, reviewing, and/or inspecting new developments per ordinance and through development fees. Impact fees and special assessments transfer the cost of infrastructure improvements needed for private development directly to developers or property owners. User fees recover costs over the life of a project.

12.3. Tax Incremental Financing (TIF)

Tax incremental financing captures the projected increase in property tax revenue created by developing an area and uses that increase to assist in paying for development and redevelopment projects. This funding makes it possible to go forward with projects that otherwise would not be built. Upon creation of a development or redevelopment project area or district, the assessor will establish the base-assessed value of that area or district. Each subsequent year, the assessor will certify the current assessed value of the property in the development or redevelopment project area or district. The difference between the amount of regular levy property taxes on the current assessed value and the amount of regular levy property taxes on the base-assessed value is the tax increment. Regular levy property taxes on the base-assessed value of the property will continue to be allocated to the appropriate local taxing bodies. The tax increment will be deposited in a tax increment financing fund for use on projects approved for the project area or district.

Typically, stormwater management projects that will improve the value of the property are eligible for funding under a TIF. Creating a TIF exclusively for the construction of any of the projects identified in this report would probably not be feasible; however, should a TIF be formed in or near any of these project areas, it may be cost-effective to recover project costs through the TIF.



12.4. Bonds

Large capital improvement projects, such as major storm sewers or detention facilities may be funded through bonds or grants. Bonds are a mechanism to borrow capital for a project and distribute repayment over the life span of the project. A popular local bonding program is the Clean Water Fund Program (CWFP). This is one of the subsidized loan programs included in the DNR Environmental Improvement Fund (EIF). The CWFP provides loans to municipalities for wastewater treatment and urban stormwater projects. This program has historically been used extensively for wastewater treatment plant construction. Recent program modifications allow funds to be used for stormwater management improvements.

Most CWFP projects receive a subsidized interest rate of 33 percent, 55 percent, or 70 percent of the EIF market interest rate. CWFP wastewater projects that meet certain criteria may be eligible to receive Hardship Financial Assistance, which may be in the form of a lower interest rate loan or may include a grant.

12.5. Grants

There are various grants available:

- Wisconsin Department of Natural Resources
- Dane County
- Local Groups

12.5.1. Wisconsin DNR Targeted Runoff Management Grants

The Targeted Runoff Management (TRM) Grant Program offers competitive grants for local governments for the control of pollution that comes from diffuse sources, also called “nonpoint source (NPS)” pollution. Grants from the TRM Program reimburse costs for agricultural or urban runoff management practices in targeted, critical geographic areas with surface water or groundwater quality concerns.

12.5.1.1. Small Scale TMDL Projects

Agricultural and urban nonpoint source control projects designed to meet EPA-approved TMDL goals are eligible for funding. Eligible costs are limited to construction of structural best management practices and acquisition of land or land rights if needed to support the practices. Projects run 2-3 years in duration. Grants are limited to \$150,000.

12.5.2. Wisconsin DNR Urban Nonpoint Source and Stormwater Management Grant Programs

The Urban Nonpoint Source & Stormwater (UNPS&SW) Management Grant Program offers competitive grants to local governments for the control of pollution from diffuse urban sources that are carried by stormwater runoff. Grants from the UNPS&SW Program reimburse costs of planning or construction projects controlling urban nonpoint source and stormwater runoff pollution.



12.5.2.1. UNPS and SW Planning Grants

UNPS and SW planning grants can be used to pay for a variety of technical assistance activities. Eligible activities such as stormwater management planning, related information and education activities, ordinance and utility development, and enforcement are cost-shared at 70 percent.

12.5.2.2. UNPS and SW Construction Grants

Eligible UNPS and SW construction grant costs may include such projects as stormwater detention ponds, filtration and infiltration practices, streambank stabilization, and shoreline stabilization.

12.5.3. Wisconsin DNR Municipal Flood Control Grants

Some improvements can be eligible for Municipal Flood Control Grant assistance. The State cost-share reimbursement of eligible costs is set at 50 percent.

Project activities such as acquisition and removal of flood-prone structures from the floodplain tend to rank higher in priority when compared to structural flood control improvement activities. Listed below is a summary of eligible project activities in order of priority for the Municipal Flood Control Grant program.

- a. Acquisition and removal of structures which, due to zoning restrictions, cannot be rebuilt or repaired.
- b. Acquisition and removal of structures in the 100-year floodplain.
- c. Acquisition and removal of repetitive-loss or substantially damaged structures.
- d. Acquisition and removal of other flood-damaged structures.
- e. Floodproofing and elevation of structures.
- f. Riparian restoration projects, including removal of dams and other artificial obstructions, restoration of fish and native plant habitat, erosion control, and streambank restoration projects.
- g. Acquisition of vacant land or perpetual conservation or flowage easements to provide additional flood storage or to facilitate natural or more efficient flood flows.
- h. Construction of structures for the collection, detention, retention, storage, and transmission of stormwater and groundwater for flood control and riparian restoration projects.
- i. Preparation of flood insurance studies and other flood mapping projects.

12.5.4. Wisconsin DNR River Management Grant

The DNR River Management Grant is available to local units of government to implement activities that will help protect or improve streams, rivers, and riverine ecosystems.



Eligible projects

- Development of local regulations or ordinances that will protect or improve the water quality of a river or its natural ecosystem.
- Installation of practices to control nonpoint sources of pollution.
- River restoration projects including dam removal, restoration of in-stream or shoreland habitat
- An activity that is approved by the DNR and that is needed to implement a recommendation made as a result of a river plan to protect or improve the water quality of a river or its natural ecosystem.
- Education, planning and design activities necessary for the implementation of a management project.

Ineligible projects

- Dam repair and operation
- Purchase of property on which a dam is located unless for the purpose of facilitating dam removal
- Dredging
- Design, installation, operation or maintenance of sanitary sewers, treatment plants or onsite sewerage systems

12.5.5. Wisconsin DNR Knowles-Nelson Stewardship Program Grants

The Wisconsin Legislature created the Knowles-Nelson Stewardship Program in 1989 to preserve valuable natural areas and wildlife habitat, protect water quality and fisheries, and expand opportunities for outdoor recreation.

The conservation and recreation goals of the Stewardship Program are achieved through the acquisition of land and easements, development of recreational facilities, and restoration of wildlife habitat.

12.5.5.1. Acquisition and Development of Local Parks Program

The local government must have a Comprehensive Outdoor Recreation Plan that is less than five years old for these grants and the project must be identified in the plan.

Eligible projects

- Land acquisition projects that will provide opportunities for nature based outdoor recreation.
- Property with frontage on rivers, streams, lakes, estuaries and reservoirs that will provide water based outdoor recreation.
- Property that provides special recreation opportunities, such as floodplains, wetlands and areas adjacent to scenic highways.
- Natural areas and outstanding scenic areas where the objective is to preserve the scenic or natural values, including areas of physical or biological importance and wildlife areas. These areas shall be open to the general public for outdoor



recreation use to the extent that the natural attributes of the areas will not be seriously impaired or lost.

- Land within urban areas for day use picnic areas.
- Land for nature-based outdoor recreation trails.

Ineligible project

- A project that is not supported by a local comprehensive outdoor recreational plan.
- Acquisition and development of golf courses.
- A project where stormwater management is the primary purpose.
- Motorized recreation trails.
- Lands that include cell towers.
- In general, land to be used for non nature-based outdoor recreation.

12.5.5.2. Acquisition of Development Rights

The purpose of the Acquisition of Development Rights Program is to protect natural, agricultural or forest lands that enhance and/or provide nature-based outdoor recreation. "Development Rights" are the rights of a landowner to develop their property to the greatest extent allowed under state and local laws.

12.5.6. Dane County Urban Water Quality Grants

The goals of Urban Water Quality Grant (UWQG) are to improve the quality of urban stormwater runoff entering Dane County lakes, rivers and streams, increase public awareness of urban water quality issues, and provide public education for urban stormwater quality improvement practices. Project goals are achieved through the construction of best management practices that provide efficient, cost-effective treatment of urban runoff.

12.5.7. Yahara WINs Grants

Watershed adaptive management success requires addressing all sources of phosphorus and finding the low-cost mix of phosphorus reducing practices that will improve water quality. Projects will be evaluated and awards made primarily on the basis of the cost per pound of phosphorus reduced.

The Town has been pro-active and successful in applying for grants over the years. The grants they have received for stormwater management/water quality projects are:

- UNPS planning grants
 - 2007 Creation of the Stormwater Master Plan
 - 2016 Update of the Stormwater Master Plan



- Dane County UrbanWater Quality Grants
 - 2009 Sauk Point Estates Outlot 1 (Constructed in 2010)
 - 2009 Cherrywood Acres Lot 17 (Town declined the grant)
 - 2016 Hickory Woods 3rd Addition (Constructed in 2017)

12.6. Surface Transportation Program

Surface Transportation Program (STP) funds can be used for a variety of non-highway purposes, such as bicycle and pedestrian facilities, railroad crossing warning devices, transportation planning, transit capital purchases, and environmental mitigation related to transportation projects. In Wisconsin, federal STP apportionments are used in the local assistance program called the "surface transportation program," but also in several other programs, including the state highway construction programs, the railroad crossing protection and installation program, and the transportation alternatives program.

Transportation Alternative Funds (TAP) - With certain exceptions, projects that met eligibility criteria for the [Safe Routes to School Program](#), [Transportation Enhancements](#), and/or the [Bicycle & Pedestrian Facilities Program](#) are eligible TAP projects.

All TAP projects require sponsors to pay 20% of approved projects costs. TAP projects are capped. A TAP project may not be substituted for another project. TAP projects must commence within four years of the award date.

13. PUBLIC INFORMATION, EDUCATION AND OUTREACH

This section discusses the public informational and educational resources that have been developed by co-permittees to help prevent stormwater pollution, and how they are being used by the Town.

13.1. Public Education and Outreach Through MAMSWaP

Co-permittees are responsible for undertaking comprehensive public education and outreach efforts to increase the awareness of stormwater impacts on waters of the State. An education plan has been jointly prepared by the co-permittees that is being implemented throughout the duration of the WPDES permit. The Town participates in these activities by paying a fee based on population category, established by MAMSWaP. All co-permittees participate in this manner. The Town's annual contribution varies on their intergovernmental agreement with MAMSWaP. The fees are based on population. The funds are used by Dane County Land and Water Resources to perform information and education activities including creation of the central web site <http://www.ripple-effects.com>, citizens surveys, radio and television ads, educational articles for distribution to the citizens through the municipalities, stormwater related curriculum, and educational videos. MAMSWaP has provided its members with items such as stenciling for inlets and information for the municipality's web site. Therefore, through MAMSWaP, the public information, education, and outreach requirements of the WPDES permit are being addressed.

14. RECOMMENDATIONS (ACTION ITEMS)

This section includes recommended action items developed through the creation of this report.



14.1. Water Quality

1. To assure that the solid reduction levels do not slip below the TSS and TP requirement thresholds, they should protect and maintain the Town's existing controls per the recommendations of Section 10.
2. Budget for the design (including TSS/water quality modeling) and construction of new BMPs to reach the Rock River TMDL Requirements. New BMPs could include retrofitting existing stormwater management areas, creating new detention areas (especially wet detention basins), and constructing infiltration facilities. Several areas have been identified in section 5.1.
3. Encourage residents to install rain gardens and rain barrels, to participate in composting of household leaf/yard waste, and to use environmentally friendly lawn care practices.
4. Prevent groundwater from getting to the Refuse Hideaway landfill if possible. Practical action items might include simply discouraging infiltration up-gradient (groundwater) from the landfill, or directing surface water and groundwater elsewhere.
5. Require that the Town Engineer review the design of infiltration facilities in the Town.
 - a. Prior to plat approvals, require soil evaluations (soil borings) be completed to ensure adequate soils and clearance from bedrock and groundwater.
 - b. Perform construction administration to ensure that native soils are per the design.
6. Identify areas in the Town that would be good candidates for native prairie restoration, and follow through with the restoration. Native prairie plantings provide increased water quality through reducing frequent flooding and increasing infiltration. The need for chemical fertilizers and weed killers would be eliminated as would frequent mowing.
7. Follow the recommendations of the Water Quantity section. Most of those recommendations would result in increased water quality.

14.2. Water Quantity

1. Initiate planning activities for the wet detention basin near the Swoboda Road – Vicki-Ann Street intersection considering the plans that the Town Engineer recently obtained from the design engineer.
2. Monitor the performance of the detention basin and adjacent drainway downstream from Blue Glacier Valley considering the past flooding problems that have occurred upstream from the Valley Woods Road culverts.
3. Complete a cursory analysis of the Seybold Road – Struck Street area and develop a cost estimate for the analysis efforts that would be required to adequately define the problems. This could include coordination with City of Madison Engineering, topographic survey, and some runoff modeling. Use these efforts to direct action items that are deemed necessary.

14.3. Stormwater Related Ordinances and Policies

1. The Town should work Dane County Land & Water Resources Department to discuss the processes of review and administrative responsibilities.
2. Regarding the Black Earth Creek Watershed, involve and educate the public as outlined in Section 6.



3. Require as-builts of all stormwater facilities. This includes detention basins, infiltration areas, storm sewer, and culverts. It may also include areas with critical drainage patterns.
4. The building inspection process should include conformance to proposed drainage patterns.
5. Develop a Town policy for erosion control certification and inspection for individual home construction.

14.4. Illicit Discharge Detection and Elimination Program

1. Complete follow-up inspections at the discharge locations noted in the 2015 dry weather monitoring field reports. The locations identified were:
 - a. Penske Truck building, left of concrete endwall
 - b. Penske Truck building, southwest corner of building
 - c. Penske Truck building, 10' east of HDPE endwall
 - d. Penske Truck building, east end of ditch to south of building
 - e. Penske Truck building, west end of ditch to south of building
 - f. Penske Truck building, west end of ditch to south of bldg. (next to #e)
 - g. Seybold Road and Struck Street detention pond behind berm and against wall (standing water in pond)
 - h. 50' west of intersection of Seybold Road and Struck Street north of road - small flow coming from pond (g)
 - i. Northwest corner of intersection of Seybold Road and Struck Street - flow coming from pond (g and h)
 - j. Southwest corner of intersection of Seybold Road and Struck Street
 - k. In Watts Road, west of intersection with Struck Street – flow coming from (j)
 - l. In Watts Road, east of intersection with Struck Street
2. Complete illicit discharge monitoring on an annual or bi-annual basis. Monitoring should follow the guidelines in the October 1, 2004 Illicit Discharge Detection Plan.
3. Use the Stormwater GIS to track all dry weather monitoring locations.

14.5. Municipal Pollution Prevention Plan

1. Develop a simplified Municipal Pollution Prevention Plan per Section 9.
2. Keep accurate records of street sweeping, catch basin cleaning, storm sewer cleaning, or salt application activities. Include the amounts of debris, salt, etc. involved. This information is used for annual reporting purposes.
3. Keep accurate records of the amount of fertilizer, pesticide, and herbicide applied to Town property annually, for reporting purposes.

14.6. Stormwater GIS (Includes Detention Basin Inventory and Maintenance)

1. Protect and maintain the Town's existing stormwater facilities through development and adoption of an ongoing Detention Basin Inventory and Maintenance Plan. Emphasize preventive maintenance which in turn will minimize the need for "corrective maintenance" that often results in emergency-type responses. The Stormwater GIS can be used for this activity. See Exhibit 1 for a draft Detention Basin Maintenance Plan.
2. Track all erosion control and stormwater management permits, inspection reports, and routine maintenance activities for Town-owned detention basins and stormwater maintenance agreements for private detention basins through the Stormwater GIS.



3. Continue to actively review maintenance agreements for all BMPs and ensure that maintenance activities are completed. A record of routine maintenance activities should be sent to the Town on a biennial basis. If routine maintenance is not being performed as required in the maintenance agreement, the Town will perform the maintenance activities at the expense of the responsible party as listed on the maintenance agreement. The Stormwater GIS system (see Section 11) should be used for tracking long term maintenance agreements and related activities.
4. Include Stormwater GIS updates in the annual budget. Updates will take only a few hours each year, assuming new sites and facilities/management practices are added to the GIS as they occur with new developments and new phases of existing developments.
5. Explore ways to make the GIS more powerful and more useful, including expanding beyond stormwater management.

14.7. Stormwater Utility and Other Funding Options

1. It is recommended that the Town not pursue setting up a stormwater utility at this time. The cost to set up the utility would likely outweigh the benefit to the Town.
2. Some stormwater related activities in the Town could be completed with financial assistance through grants and other sources listed in Section 12. Activities that may qualify for funding should be identified on a regular basis followed by grant application or other processes as necessary. These funding options should be used in conjunction with annual budgeting to complete stormwater related planning and construction activities.

14.8. Public Information and Education

1. *Cross reference with Water Quality, Water Quantity, and Municipal Pollution Prevention:* Set up displays at public events and/or distribute leaflets, pamphlets, brochures, or e-mail to Town residents regarding topics such as:
 - The EPA and the Clean Water Act
 - The hydrologic cycle and the effects of development on it
 - Awareness of existing open space and recreational resources
 - Proper usage of lawn care products (fertilizers, pesticides, and herbicides)
 - Environmentally friendly lawn care practices such as using corn gluten meal as a fertilizer/weed killer, polymer application for water retention, watering tips for using less water, and letting lawns go dormant in the hot summer months rather than watering
 - Proper disposal of oil and other car care products
 - Proper disposal of hazardous waste
 - Proper approaches to vehicle washing
 - Pet waste collection
 - Water conservation and stormwater management practices for homeowners
 - Composting or proper disposal of household leaf/yard waste, including proper disposal of grass clippings
2. Improve public awareness of the existing natural resources in the Black Earth Creek Watershed. Improve access to natural areas if needed. Consider developing more trails and recreational areas.



3. Track public information/education activities for annual reporting to the DNR. Tracking should include numbers of leaflets and pamphlets, distributed, and related information.
4. Create a separate stormwater page on the Town's web site. At a minimum, keep the link to <http://www.ripple-effects.com> active on the Town's web site.
5. Pursue a river or lake planning grant through DNR as a way to involve and educate the public. These grants provide funds to assess existing resources and recreational access and facilities in addition to educating the public. This process should begin with researching where/how these grants could be used in the Town.

15. SELECTED REFERENCES

This section cites sources used in the production of this master plan.

Dane County Regional Planning Commission, *Dane County Water Quality Plan – Summary Plan 2004*.

Earth Tech, Inc., *Lower Badger Mill Creek Stormwater Management Analyses*, June 2003.

Dane County Regional Planning Commission, *Black Earth Creek Resource Plan*, August 21, 2003.

Vierbicher Associates, Inc., *Town of Middleton Stormwater Permit Requirements – Proposed Illicit Discharge and Pollution Prevention Plan*, October 1, 2004.

U.S. Environmental Protection Agency, web address:
<http://www.epa.gov/owm/mtb/cwns/1996rtc/glossary.htm>

Stormwater Authority, web address:
<http://www.stormwaterauthority.org/glossary.aspx>

Earth Partnership for Schools – Stormwater Curriculum web address:
<http://www.danewaters.com/private/curriculum.aspx>

Earth Partnership for Schools – Restoration Activities and Rain Garden Curriculum web address:
http://uwarboretum.org/eps/tools_for_teachers.php



Exhibit 1

Stormwater Management Facilities Maintenance Plan

Stormwater Management Facilities Maintenance Plan

SWALES

- In addition to semi-annual inspection, also inspect swales after rainfall events of 1.5 inches or greater, for two (2) years following installation.
- Repair any areas that do not have good vegetative cover or show signs of erosion.
- Repairs must restore the swale(s) to the specifications of the original plan.
- Mowing height shall be 6 inches in height or higher to promote filtration.
- Mowing shall occur in-frequently (ideally twice annually) in order to retain taller vegetation.

CULVERTS & STORM SEWER

- Visual inspection of components shall be performed and debris removed from inlets and storm sewer manholes.
- Repair inlet/outlet areas that are damaged or show signs of erosion.
- Rip-rap shall be replaced as necessary.
- Repairs must restore the component to the specifications of the original plan.

WEEPERS

- Inspect weepers semi-annually to determine structural stability.
- Remove accumulated sediment and/or vegetation from face of weeper and replace any stone that has become dislodged.
- Repairs shall restore weeper to specifications of original plan.

WET DETENTION BASINS

- Visually inspect the basin outlet structure(s) and perimeter semi-annually. All undesirable vegetation and volunteer tree growth shall be removed, including close proximity to the outlet structure.
- Check the outlet structure(s) for deterioration or damage, obstructions, sediment, and general operation (including emergency drawdown & overflow devices if present).
- Check the condition at the receiving area/channels at the outlet and downstream from the release structures for stability and signs of erosion damage or sparse vegetation.
- A topographic survey of the pond bottom and sediment depth shall be conducted every 5-years or at the request of the municipality. The survey shall be of sufficient detail so as to evaluate volume of accumulated sediment. Survey data shall be sealed by a registered land surveyor or engineer.
- Accumulated sediment in the permanent pool area, as identified by the topographic survey, shall be dredged and disposed offsite as required by Wisconsin Department of Natural Resources Technical Standard 1001 – Wet Detention Pond.
- Access to the basin must be maintained to perform inspection and maintenance activities.
- No plantings of structures of any kind are permitted within the retention pond area, without prior written approval of the City Engineer.

DRY DETENTION BASINS

- Areas restored with native vegetation shall be mowed a maximum of twice annually (Spring and Fall) to promote sediment filtration and retention.
- Areas restored with turf grass shall be mowed to a minimum of 6".
- Visually inspect the pond outlet structure and pond perimeter annually. All undesirable or invasive vegetation and volunteer tree growth shall be removed, including close proximity to the outlet structure.
- Check the outlet structure(s) for deterioration or damage, obstructions, sediment, and general operation (including emergency drawdown & overflow devices if present).
- Check the condition at the receiving area/channels at the outlet and downstream from the release structures for stability and signs of erosion damage or sparse vegetation.

BIORETENTION BASINS

- Owner shall install a Rain Garden/Bio-Retention System in accordance with plans approved by City Engineer. Bio-Retention for infiltration shall also be installed in accordance with WDNR Conservation Practice Standard #1004. Owner shall maintain records of installation, inspections,

cleaning and any other maintenance. Visual Inspection of the Rain Garden/ Bio-Retention System shall be performed, at a minimum, annually. Maintenance shall be required when system shows standing water beyond 72 hours of rain event. Cleaning shall consist of removal of sediment, two (2) foot undercut, undercut replacement with material consisting of 30% compost and 70% sand and restoration in-kind. Restoration of plant material shall be by plugging, not seeding alone.

INFILTRATION BASINS

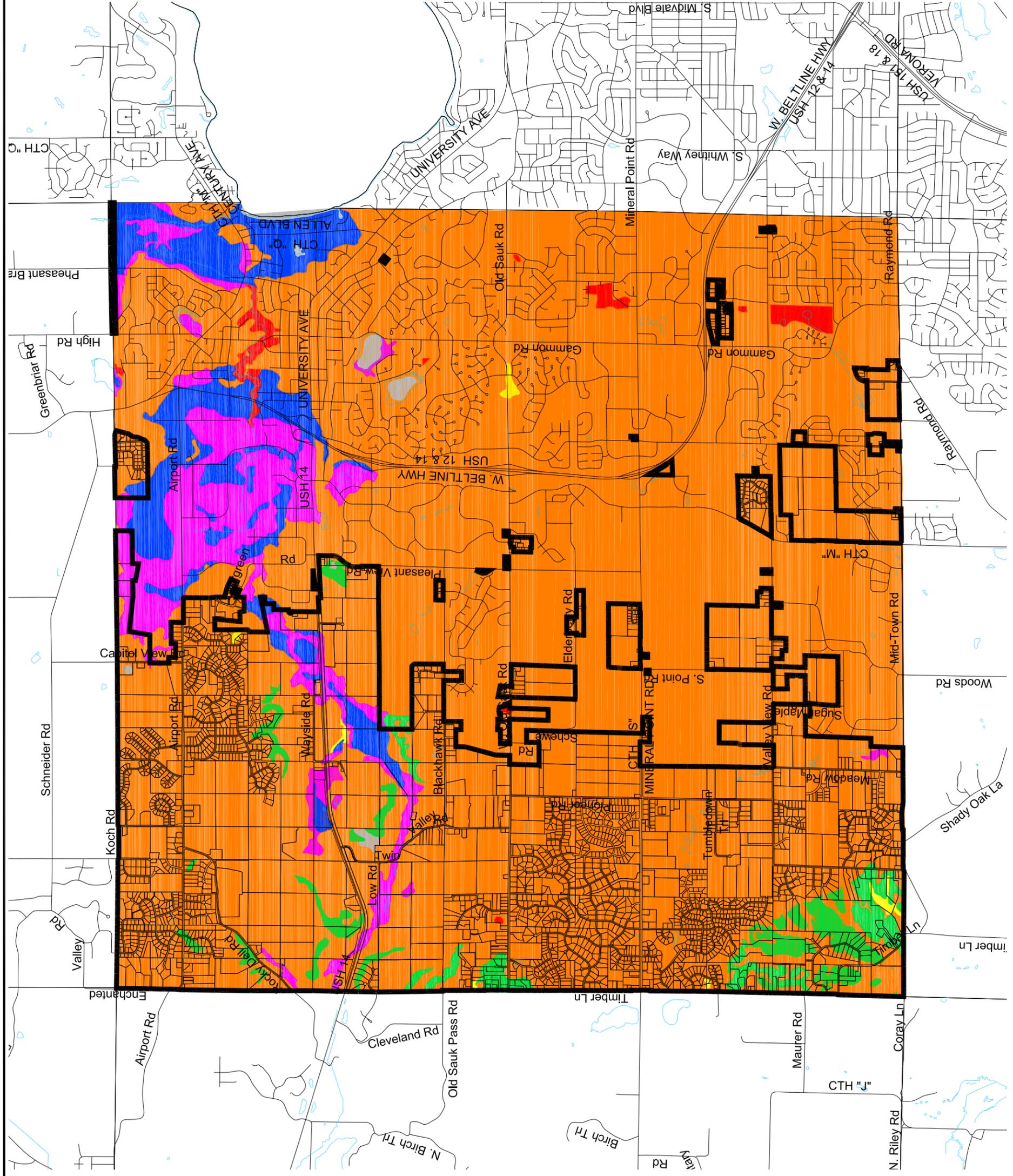
- Infiltration surface shall be protected from construction sediment with staging or through the use of erosion control measures. Basin shall be inspected upon completion to confirm that clogging due to construction sediment has not occurred.
- In the first Spring and Summer after construction, water the area once per week during the first 8 weeks if rainfall has not occurred within the previous 7 days. At least 1 inch of water is necessary per week.
- Remove emergency drawdown plug (if present) for first growing season in basin. This will allow plugs to establish and minimized the risk of plant failure.
- Inspect the area at the beginning and end of each growing season or after every rainstorm greater than 2.5 inches. If the system fails visibly due to sustained sediment loading, the upper soil layer should be replaced and re-vegetated. Growing, native vegetation may be salvaged prior to replacing the upper soil layer. Visible failure is when standing water remains in the infiltration area longer than 24 hours after the termination of previous rainfall event.
- If compromised, Basin shall be restored per specifications of originally approved plan or modified as approved by City Engineer.
- All vehicular or equipment is prohibited from driving onto or across basin
- Pedestrian traffic is prohibited from crossing basin
- Snow shall not be dumped directly onto the infiltration surface.

Exhibit 2

Surface Watersheds – Dane County

Exhibit 3

Soils Map



LEGEND:

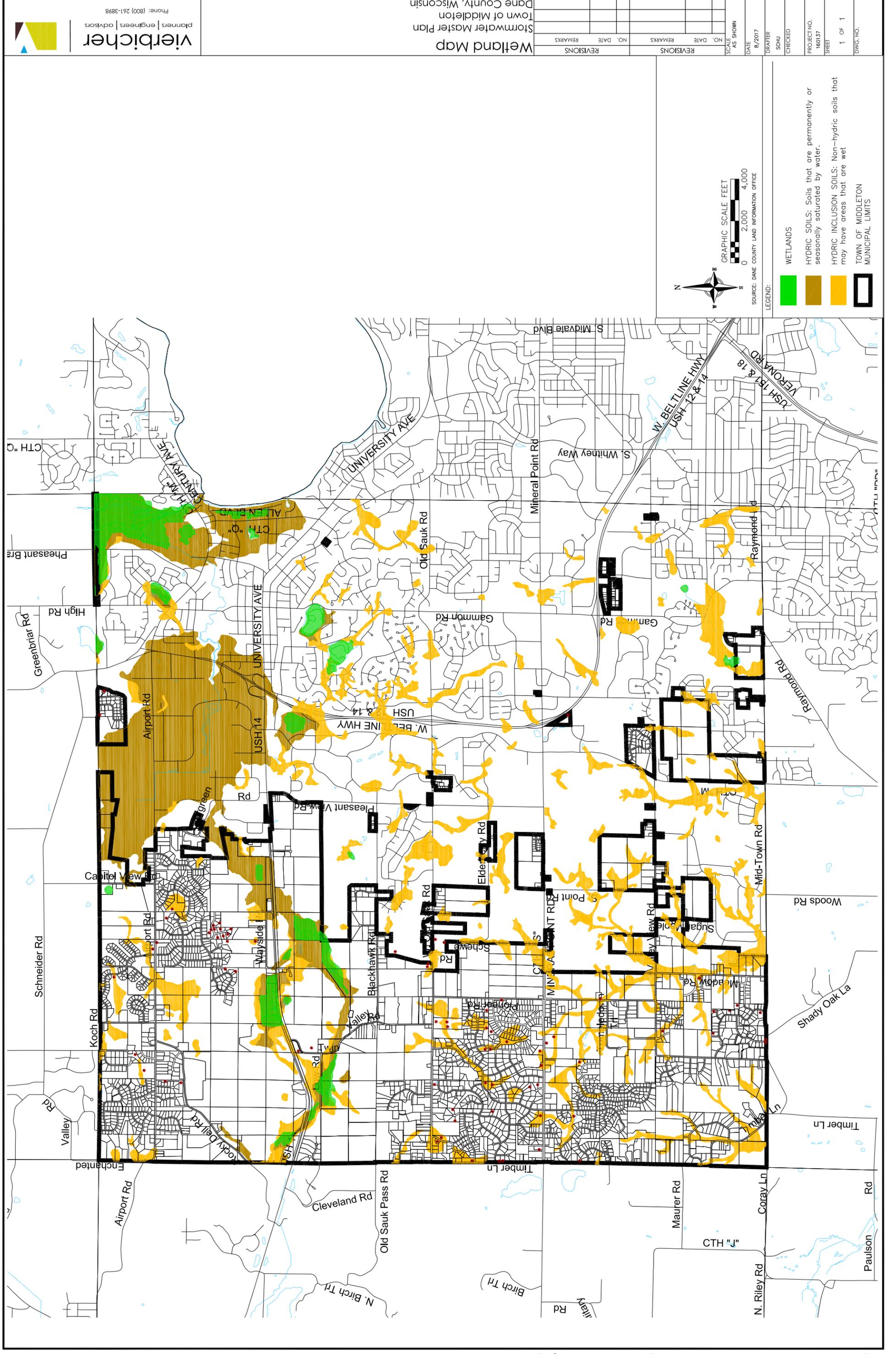
- TYPE A SOILS: Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.
- TYPE A/D SOILS: The first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.
- TYPE B SOILS: Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.
- TYPE B/D SOILS: The first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.
- TYPE C SOILS: Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.
- TYPE D SOILS: Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.
- TYPE N/A SOILS
- TOWN OF MIDDLETON MUNICIPAL LIMITS

Soils Map

NO.	DATE	REVISIONS	REMARKS

Exhibit 4

Wetland Map



PROJECT NO.	160137
SHEET	1 OF 1
DWG. NO.	

DATE: 8/2017
 DRAFTER: SCHU
 CHECKED:

SCALE: AS SHOWN
 GRAPHIC SCALE: FEET
 0 2,000 4,000

SOURCE: DANE COUNTY LAND INFORMATION OFFICE
 TOWN OF MIDDLETON MUNICIPAL LIMITS

REVISIONS	NO.	DATE	REMARKS

Wetland Map
 Stormwater Master Plan
 Town of Middleton
 Dane County, Wisconsin


vierbicher
 planners | engineers | advisors
 Phone: (800) 261-3898

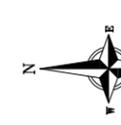
Exhibit 5

Town Stormwater Management Facilities Map

REVISIONS	NO.	DATE	REMARKS

SCALE AS SHOWN
 DATE 8/2017
 DRAFTER
 CHECKED
 PROJECT NO. 160137
 SHEET 1 OF 1
 DWG. NO.

GRAPHIC SCALE FEET
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LEGEND:
 TOWN OWNED
 PRIVATELY OWNED
 TOWN OF MIDDLETON MUNICIPAL LIMITS

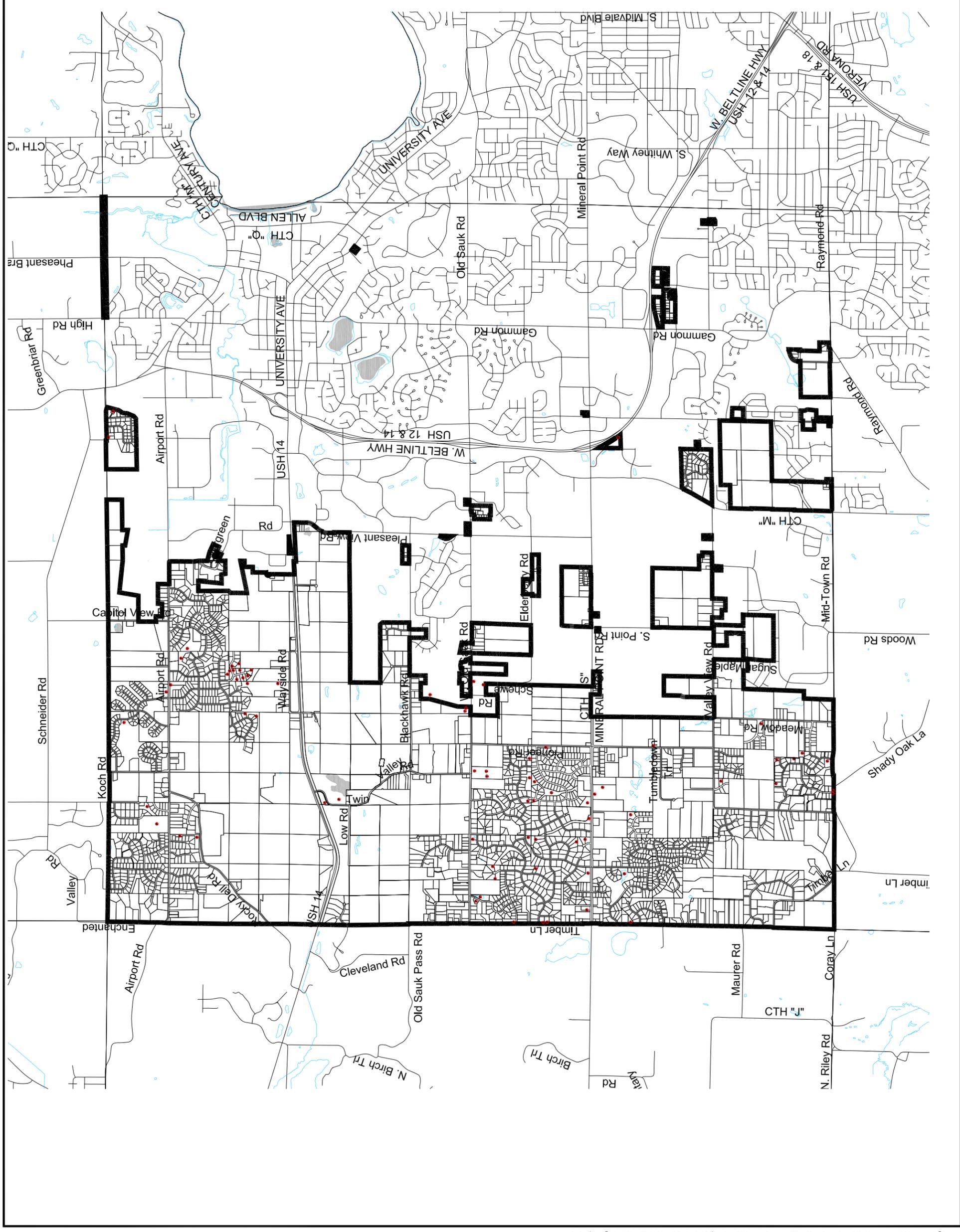
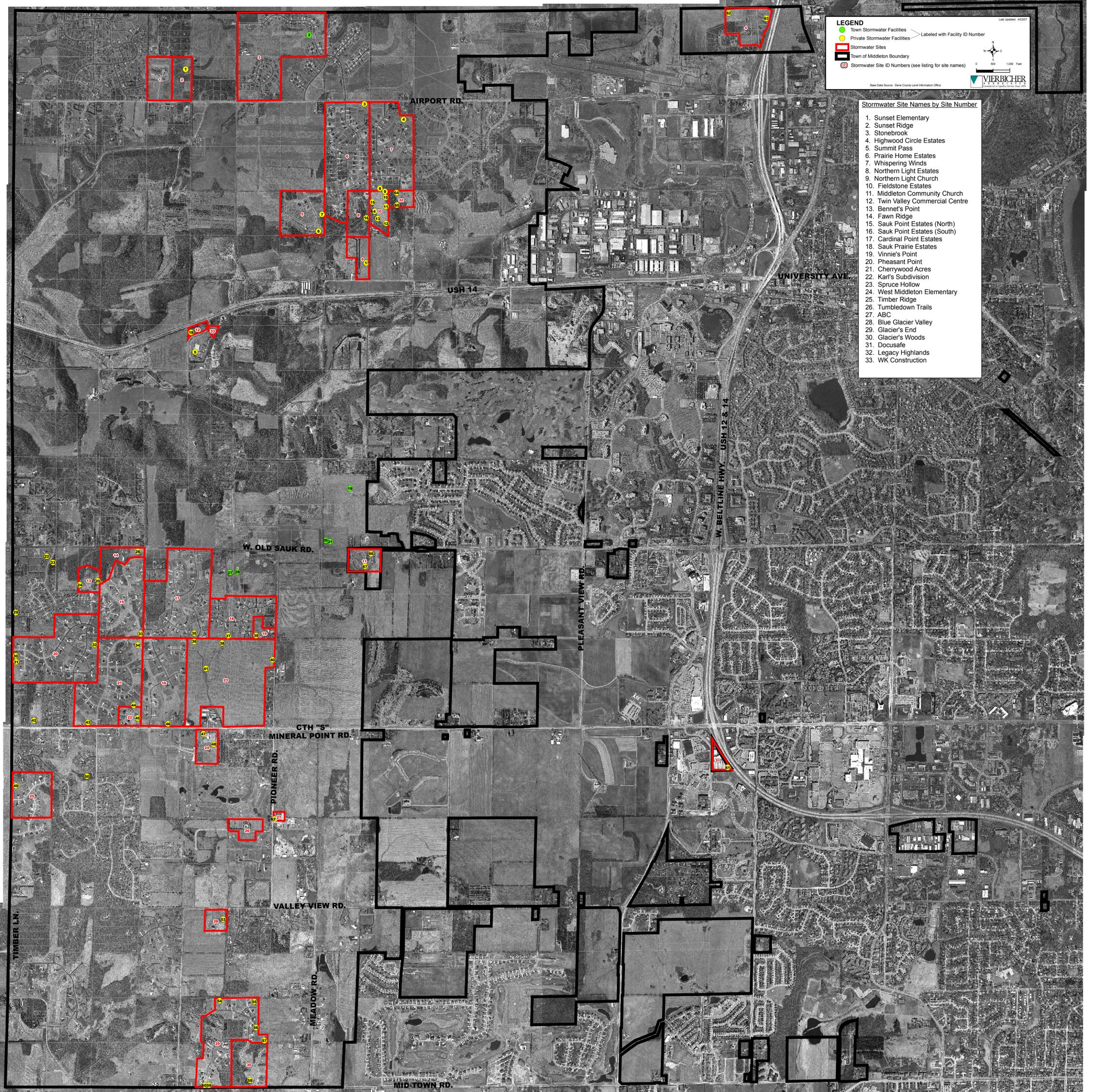


Exhibit 6

Town Stormwater Management Facilities GIS

TOWN OF MIDDLETON STORMWATER GIS



LEGEND

- Town Stormwater Facilities
- Private Stormwater Facilities
- Stormwater Sites
- Town of Middleton Boundary
- 1 Stormwater Site ID Numbers (see listing for site names)

Labeled with Facility ID Number

Base Data Source: Dane County Land Information Office

Last Updated: 6/20/07

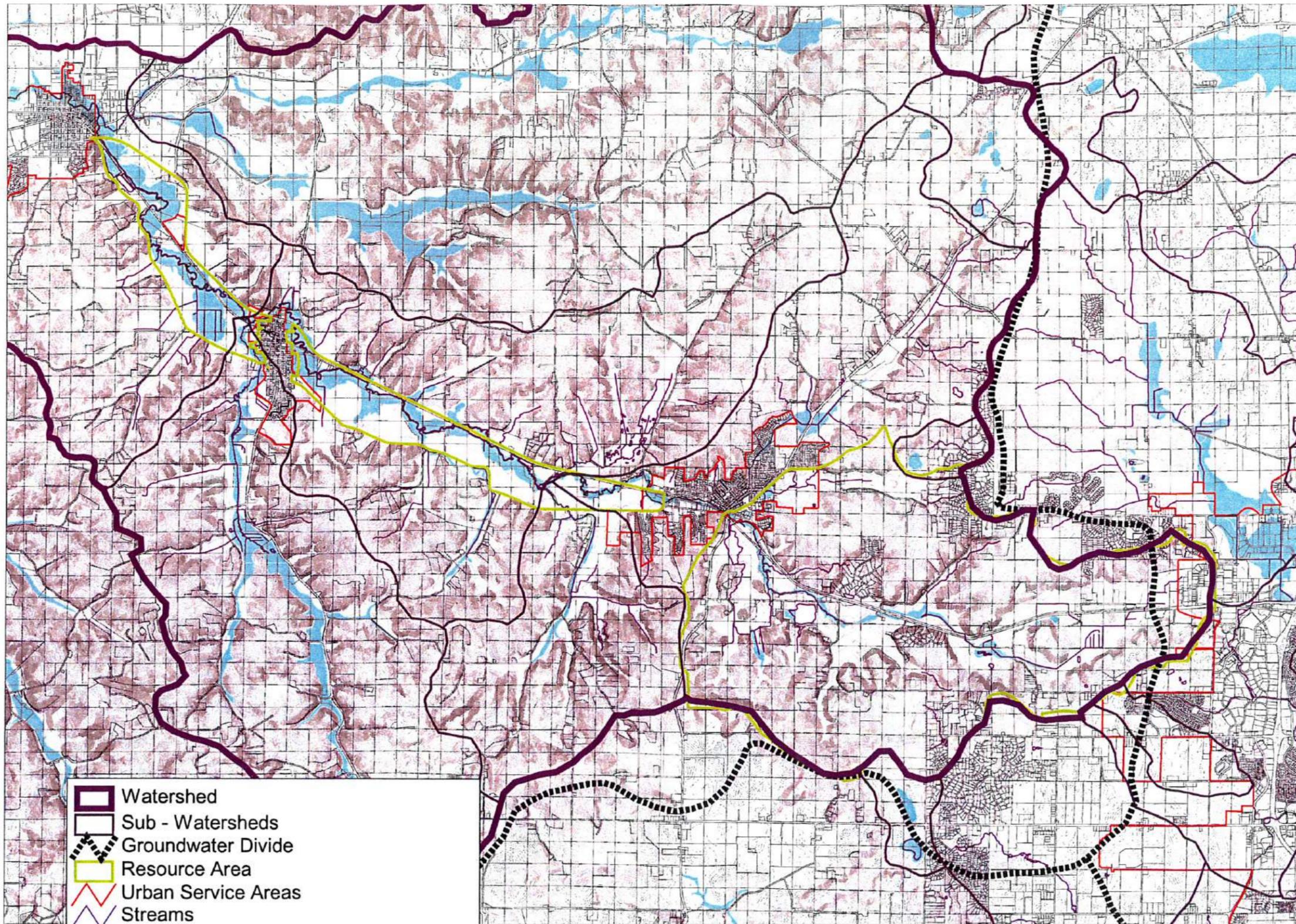
VERBICHER
Environmental & Planning Services, Inc.

- Stormwater Site Names by Site Number**
1. Sunset Elementary
 2. Sunset Ridge
 3. Stonebrook
 4. Highwood Circle Estates
 5. Summit Pass
 6. Prairie Home Estates
 7. Whispering Winds
 8. Northern Light Estates
 9. Northern Light Church
 10. Fieldstone Estates
 11. Middlestone Community Church
 12. Twin Valley Commercial Centre
 13. Bennett's Point
 14. Fawn Ridge
 15. Sauk Point Estates (North)
 16. Sauk Point Estates (South)
 17. Cardinal Point Estates
 18. Sauk Prairie Estates
 19. Vinnie's Point
 20. Pheasant Point
 21. Cherrywood Acres
 22. Karl's Subdivision
 23. Spruce Hollow
 24. West Middleton Elementary
 25. Timber Ridge
 26. Tumbledown Trails
 27. ABC
 28. Blue Glacier Valley
 29. Glacier's End
 30. Glacier's Woods
 31. Docusafe
 32. Legacy Highlands
 33. WK Construction

Exhibit 7

Physical Geography and Hydrology

(Map 3 from the Black Earth Creek Resource Area Plan)



- Watershed
- Sub - Watersheds
- Groundwater Divide
- Resource Area
- Urban Service Areas
- Streams
- 100 Year Flood Plain
- 10' Contours



Map 3: Physical Geography & Hydrology

Black Earth Creek Resource Area

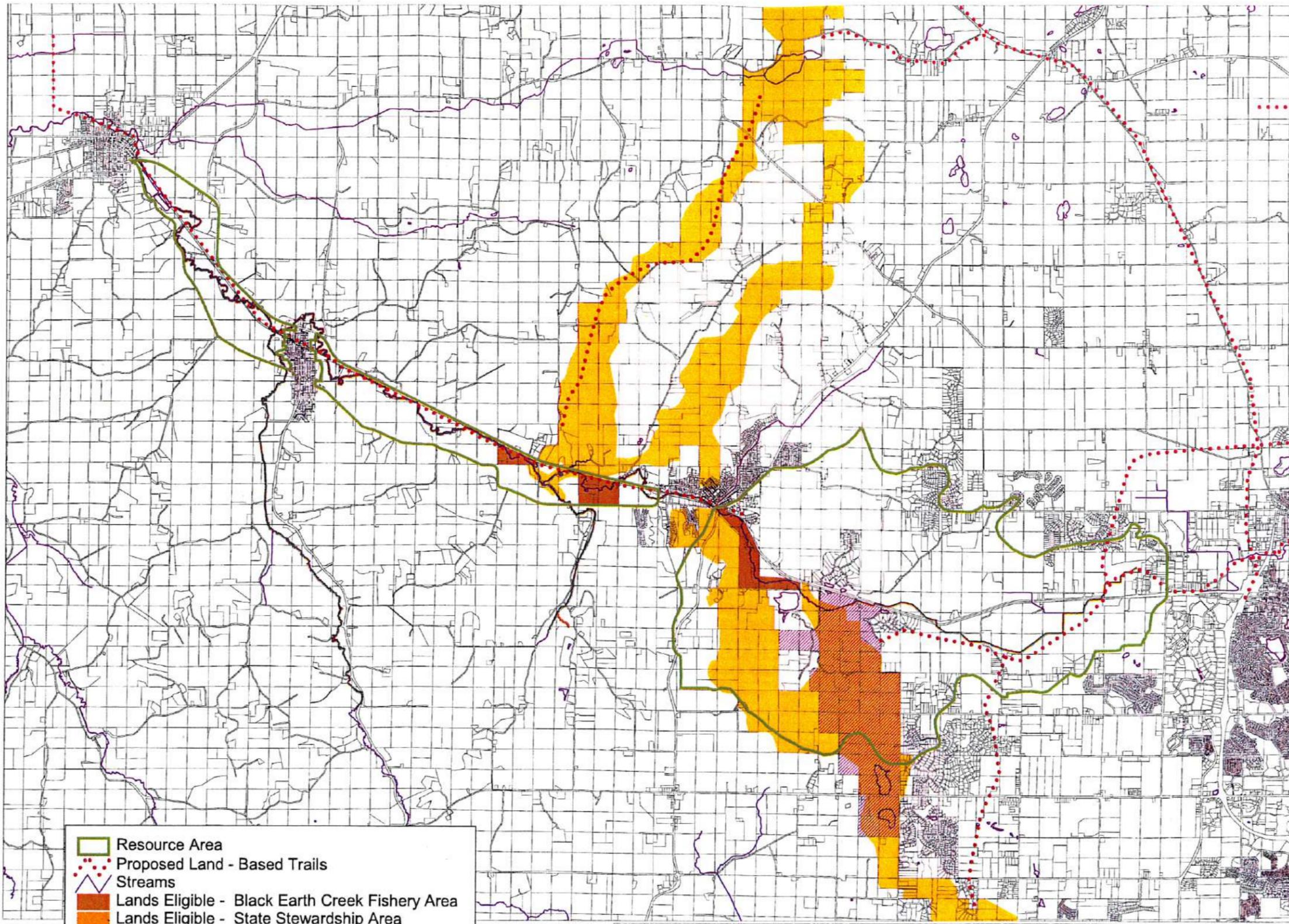


0 5000 10000 Feet

Exhibit 8

Proposed Trails and Corridor Lands

(Map 10 from the Black Earth Creek Resource Area Plan)



- Resource Area
- Proposed Land - Based Trails
- Streams
- Lands Eligible - Black Earth Creek Fishery Area
- Lands Eligible - State Stewardship Area
- Ice Age Scientific Reserve Study Area
- Ice Age Trail Corridor



Map 10: Proposed Trails and Corridor Lands
Black Earth Creek Resource Area



Exhibit 9

DNR Reporting a Spill

Do I have to report my spill?

Your spill **is reportable** to the DNR if:

- **there is an impact to human health;**
Note: An evacuation is considered a threat to human health.
- **there is an impact to the environment;**
Note: Water of the state includes a threat or spill into a sanitary sewer, storm sewer, and/or surface water.
- **there is a fire, explosion or safety hazard;**
Note: A slippery road condition is considered a safety hazard.
- **you have not immediately cleaned up the spill;**
Note: Has it evaporated or been cleaned up in accordance with NR700-726?
- **the spill was more than the reportable quantities listed below.***

*A hazardous substance that is "discharged" into a secondary containment structure, that is completely contained and can be recovered with no discharge to the environment, is not subject to the discharge notification requirements.

Reportable quantities

If your spill is **more** than the amounts listed below, you **must** report it to the DNR.

Petroleum compounds

- Petroleum product completely contained on an impervious surface.
- Less than 1 gallon of gasoline onto a pervious surface or runs off an impervious surface.
- Less than 5 gallons of a petroleum product other than gasoline onto a pervious surface or runs off an impervious surface.

Agrichemical compounds

- Less than 250 pounds dry fertilizer.
- Less than 25 gallons of a liquid fertilizer.
- Pesticides that would cover less than 1 acre of land if applied according to label instructions.

Federal reportable quantities

The federal reportable quantity for a specific substance as outlined in the [CERCLA RQ column of the Sara Title 3 list of lists](#) [[exit DNR](#)].

Additional information

For additional information on reporting a spill, please refer to the DNR guidance [Wisconsin Spill Reporting Requirements RR-560](#).

- [How to report a spill](#)
- [Educational materials](#)



Firefighters respond to a fire at the Adell Co-op in southern Sheboygan County. © Sheboygan Press

Contact information

For information about the DNR spills program, contact:

[John Sager](#)
715-392-7822



DNR Staff Provide Spill Response and Support

RR-559

July 2014

Rarely does anyone ever plan a spill. Spills are typically caused by accidents of some sort, but when they do occur, the people involved with a spill must comply with state requirements. Wisconsin law mandates that spills of hazardous substances be immediately reported and cleaned up to protect Wisconsin's citizens and natural resources. When a spill occurs, the DNR has staff located in regional offices around the state to help in a variety of ways.

Responding To Spills

During Normal Working Hours

When calls are made to the DNR spill hotline during the day, the information comes directly to the DNR office in Madison, and is forwarded to the Regional Spill Coordinator for follow-up.

After Hours

During the evening hours and on weekends, the phone calls are directed to the Wisconsin State Patrol, who will forward the information to a DNR duty officer. That duty officer will then alert the On-Call Spill Coordinator to the situation.

**The DNR encourages the
public to report
hazardous substance
spills using the
24-hour toll-free hotline:
1-800-943-0003**

DNR Field Response

DNR Wardens and Regional Spill Coordinators

The first responders to a hazardous substance spill for the DNR may be a field warden or regional spill coordinator. Wardens are more likely to respond in remote areas since they are widely distributed across the state. Each county has at least one warden. Wardens know local responders, such as fire and police personnel, are familiar with the natural resources impacted by a spill, and can assist the responsible party in managing the spill.

Spill coordinators (working in the DNR's Remediation and Redevelopment Program) are located in each of the regional DNR offices. These spill coordinators specialize in technical spill response issues and are available before, during, and after spills occur.

When a field warden or regional spill coordinator gets a call about a spill, their follow up may include additional phone calls to get more information about the nature of the spill, going to the site, and/or requesting other DNR assistance (e.g. fish managers, water resources staff and public information specialists).

When an emergency situation occurs and the responsible party is not available or willing to take action, DNR will call in a zone contractor to respond to the spill. Zone contractors are emergency response companies that provide statewide emergency response services in such situations.



Wisconsin Department of Natural Resources
P.O. Box 7921, Madison, WI 53707
dnr.wi.gov, search "brownfield"



These companies normally provide a response within two hours of notification, and specialize in emergency response, spill containment and removal. They are able to assess a situation, take actions to prevent spilled materials from harming the public or the environment, sample substances to determine how to manage them, contain the spilled materials and remove those substances from the spill site to a secure facility until analyses are completed to determine their final placement. At the conclusion of the response, the department will seek cost recovery from the responsible party.

Assistance before a Spill

The spill coordinators are part of local planning and response networks. They work with local emergency planning agencies, talk to the local fire departments about spill response issues, and work with the wardens to ensure a consistent DNR approach to spill response. In addition, the spill coordinators work with local industries who may handle hazardous substances as part of their business to provide them with technical support for spill prevention as well as spill response.

Assistance after a Spill

When a spill occurs, field wardens and spill coordinators can provide assistance in a variety of ways. The DNR has developed spill packets that are provided to persons who are responsible for the release. Included in these packets is information on DNR regulations, additional DNR contacts, as well as listings of local contractors and waste management organizations that can assist the responsible party in management of the residual spilled material. The responsible party often consults with the spill coordinators for technical advice, since they are familiar with DNR regulations relating to spill containment and cleanup. Although smaller cleanups may not receive direct DNR oversight, the coordinators can answer questions and guide responsible parties through the process.

RR Program State Spill Response Team

The DNR manages spills through the RR Program's Spill Response Team. This team is comprised of a state spill coordinator, a state emergency management coordinator, a federal removals coordinator, the five regional spill coordinators and legal counsel. These staff meet regularly to identify and resolve spill response issues and help make spill response efforts in Wisconsin as effective as possible.

For more information, please see the following web page: dnr.wi.gov/topic/spills/.

Northeast Regional Spill Coordinator

Rick Joslin (920) 424-7077 (Oshkosh)

State Spill & Federal Removals Coordinator

John Sager (715) 392-7822 (Superior)

Southeast Regional Spill Coordinator

Trevor Nobile (414) 263-8524 (Milwaukee)

State Emergency Response Coordinator

David Woodbury (608) 266-2598 (Madison)

South Central Regional Spill Coordinator

Mike Schmoller (608) 275-3303 (Fitchburg)

Legal Counsel

Jessica Kramer (608) 267-0846 (Madison)

West Central Regional Spill Coordinator

Pat Collins (715) 684-2914 x117 (Baldwin)

This document contains information about certain state statutes and administrative rules but does not necessarily include all of the details found in the statutes and rules. Readers should consult the actual language of the statutes and rules to answer specific questions. The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240.



Wisconsin Department of Natural Resources
P.O. Box 7921, Madison, WI 53707
dnr.wi.gov, search "brownfield"

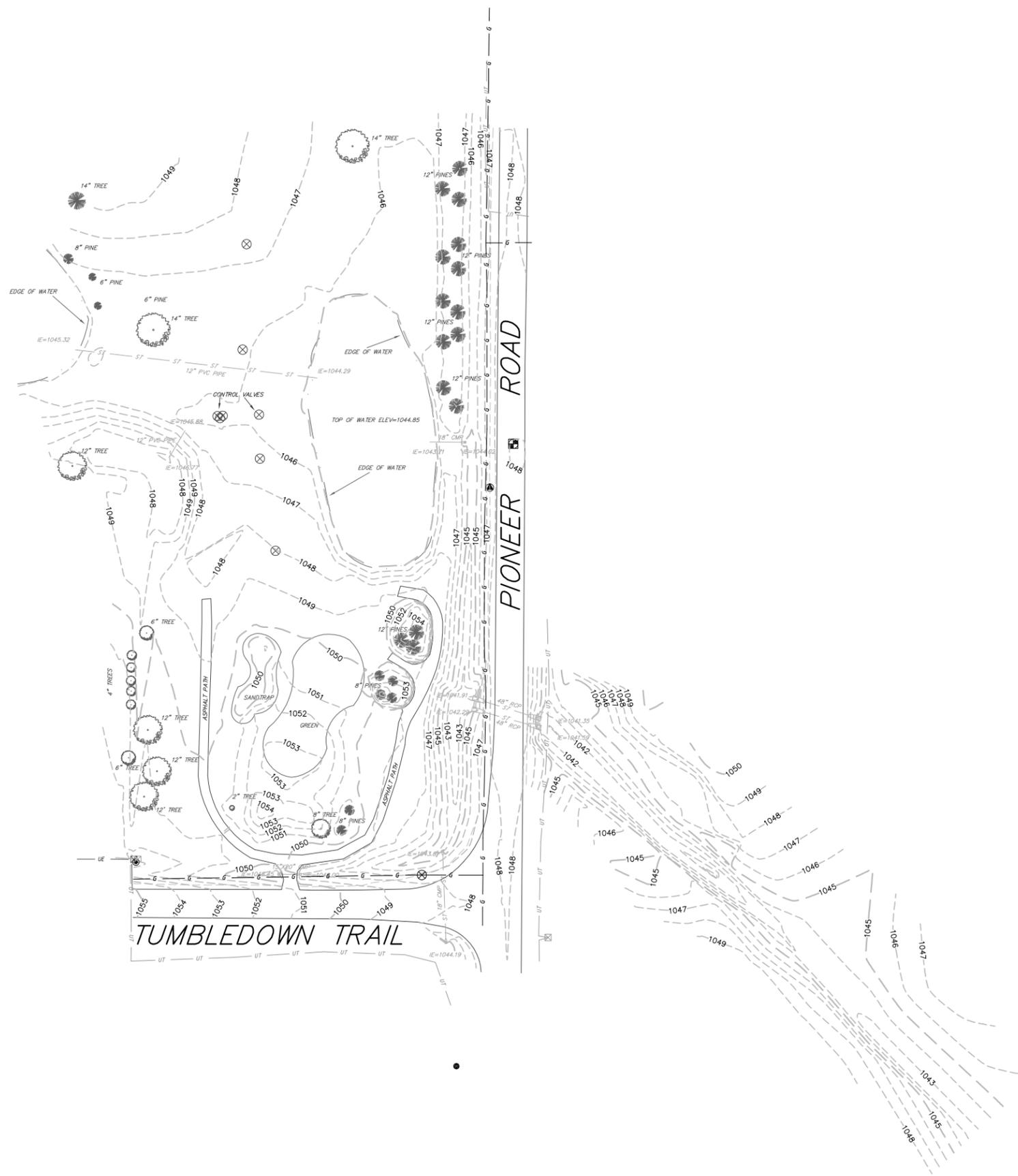


Exhibit 10

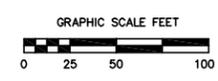
Pioneer Road Drainage

1. Topographic Survey (March 15, 2007)
2. Site Visit & Photo Log: Drainway Downstream From Tumbledown Golf Course (Pioneer Road to Valley View Road)

04 Apr 2007 - 11:16a V:\LDD2\Middleton_26045069_Tumbledown.dwg Middleton_Storm Topo At Tumbledown_5069.dwg by: jrod



- TOPOGRAPHIC LEGEND**
- SAN — EXISTING SANITARY SEWER (SIZE NOTED)
 - FH — EXISTING SANITARY FORCEMAIN (SIZE NOTED)
 - W — EXISTING WATER MAIN (SIZE NOTED)
 - ST — EXISTING STORM SEWER (SIZE NOTED)
 - G — EXISTING GAS MAIN
 - UE — EXISTING UNDERGROUND ELECTRIC
 - OHE — EXISTING OVERHEAD ELECTRIC
 - GUY — EXISTING GUY LINE
 - OHT — EXISTING OVERHEAD UTILITIES
 - UT — EXISTING UNDERGROUND TELEPHONE
 - FO — EXISTING FIBER OPTIC TELEPHONE
 - OHT — EXISTING OVERHEAD TELEPHONE
 - UTV — EXISTING UNDERGROUND CABLE TV
 - OHTV — EXISTING OVERHEAD CABLE TV
 - FOD — EXISTING FIBER OPTIC DATA LINE
 - WETL — EXISTING DELINEATED WETLAND LINE
 - SM — EXISTING SANITARY MANHOLE
 - SC — EXISTING SANITARY CLEANOUT
 - SV — EXISTING SEPTIC VENT
 - WMV — EXISTING WATER MAIN VALVE
 - WM — EXISTING WATER MANHOLE
 - CS — EXISTING CURB STOP
 - FH — EXISTING FIRE HYDRANT
 - CI — EXISTING CURB INLET
 - FI — EXISTING FIELD INLET
 - SMH — EXISTING STORM MANHOLE
 - EW — EXISTING ENDWALL
 - UP — EXISTING UTILITY POLE
 - GP — EXISTING GUY POLE
 - LP — EXISTING LIGHT POLE
 - DG — EXISTING DOWN GUY
 - EM — EXISTING ELECTRIC MANHOLE
 - EP — EXISTING ELECTRIC PEDESTAL
 - TR — EXISTING TRANSFORMER
 - GP — EXISTING GAS VALVE
 - TMH — EXISTING TELEPHONE MANHOLE
 - TP — EXISTING TELEPHONE PEDESTAL
 - TVP — EXISTING TV PEDESTAL
 - F — EXISTING FENCE
 - CLF — EXISTING CHAINLINK FENCE
 - FE — EXISTING FIRST FLOOR ELEVATION
 - MB — EXISTING MAILBOX
 - S — EXISTING SIGN (TYPE NOTED)
 - W — EXISTING WELL
 - MW — EXISTING MONITORING WELL
 - SB — EXISTING SOIL BORING
 - LBTV — LIMITS OF BRUSH, TREES OR VEGETATION
 - SH — EXISTING SHRUB
 - CT — EXISTING CONIFEROUS TREE
 - DT — EXISTING DECIDUOUS TREE
 - MC — EXISTING MAJOR CONTOUR
 - MNC — EXISTING MINOR CONTOUR
 - TL — TRAFFIC LIGHT
 - FLP — EXISTING FLAG POLE
- SURVEY LEGEND**
- FOUND 1 1/4" # IRON ROD
 - FOUND 3/4" # IRON ROD
 - FOUND RAILROAD SPIKE
 - ▲ FOUND P.K. NAIL
 - FOUND NAIL
 - ⊗ FOUND 2" # IRON PIPE
 - ⊗ FOUND 1" # IRON PIPE UNLESS OTHERWISE NOTED
 - ⊗ PUBLIC LAND CORNER AS NOTED
 - ⊗ BENCHMARK
 - FOUND IRON STAKE, TYPE NOTED
 - ✕ FOUND CHISELED "X"
 - SET 1 1/4" REBAR, 24" LONG, 4.17 LBS PER LINEAL FOOT WEIGHT
 - ◇ SET 3/4" REBAR, 24" LONG, 1.51 LBS PER LINEAL FOOT WEIGHT
 - ✕ SET CHISELED "X"
 - ⊗ SET NAIL
 - ▲ SET P.K. NAIL
 - ⊗ SET RAILROAD SPIKE
 - SET IRON STAKE, TYPE NOTED
 - ⊗ CONTROL POINT



TUMBLEDOWN GOLF COURSE
Southeast Corner at Pioneer Road
Town of Middleton
Dane County, WI

REVISIONS	REVISIONS	REVISIONS	REVISIONS
NO.	DATE	REMARKS	REMARKS

SCALE
AS SHOWN

DATE
03-16-07

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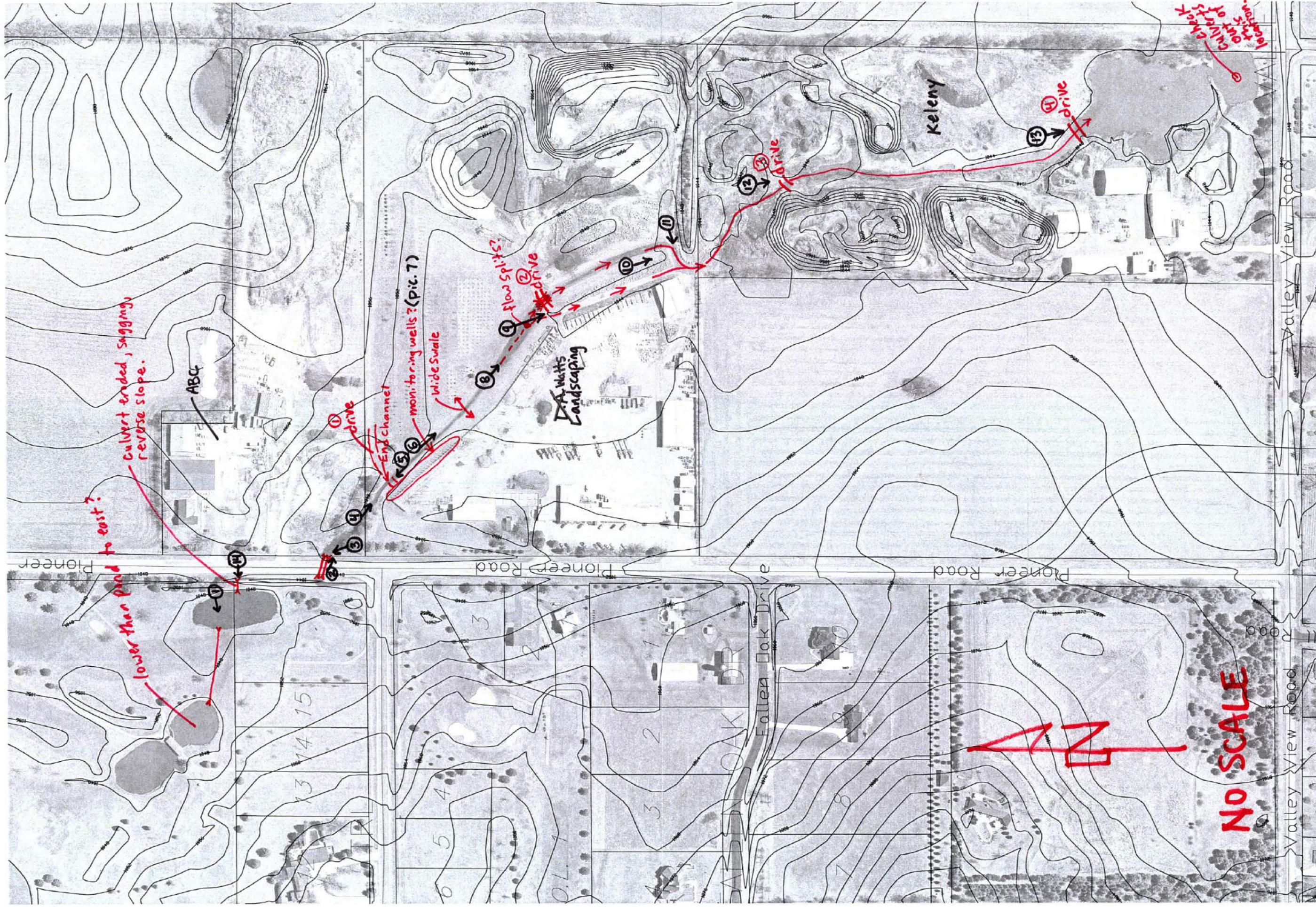
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PROJECT NO.
026045069.00

SHEET
1 OF 1

DWG. NO.

VIERBICHER ASSOCIATES
Committed to Quality Service Since 1976
REEDSBURG - MADISON - PRAIRIE DU CHIEN
999 Foutier Drive, Suite 201, Madison, Wisconsin 53717
Phone: (608) 828-0532 Fax: (608) 828-0530



11/10/06

Exhibit 11

Town of Middleton Stormwater Management Facilities

EXHIBIT 11- Town of Middleton Stormwater Management Facilities

		Owner	Inspection Frequency	Responsible for Inspections	Responsible for Maintenance
1	Third Addition to Hickory Woods (prior to Vierbicher)	Town	Every 4 years	Town	Town
2	Valley View Woods (prior to Vierbicher)	Town	Every 4 years	Town	Town
3	Pioneer Park - Old Basins	Town	Every 4 years	Town	Town
4	Pioneer Park - OSR Dry Basin	Town	Every 4 years	Town	Town
5	Pope Farm Conservancy	Town	Every 4 years	Town	Town
6	Settlers Prairie Park - Swale	Town	Every 4 years	Town	Town
7	Voss Park	Town	Every 4 years	Town	Town
8	Applewood Park Drainageway	Town	Every 4 years	Town	Town
9	Cherry Wood Acres (prior to Vierbicher)	Town	Every 4 years	Town	Town
10	Twin Valley Road Gabions	Town	Every 4 years	Town	Town
11	Pheasant Point I	Town	Every 4 years	Town	Town
12	Cherrywood (prior to Vierbicher)	HOA	Every 4 years	Town	HOA
13	Enchanted Valley / Thunder Valley (prior to Vierbicher)	HOA	Every 4 years	Town	HOA
14	Hickory Hill (prior to Vierbicher)	HOA	Every 4 years	Town	HOA
15	Noll Valley (prior to Vierbicher)	HOA	Every 4 years	Town	HOA
16	Pheasant Point Replat / Prairie Vista (prior to Vierbicher)	HOA	Every 4 years	Town	HOA
17	Cardinal Point Estates	HOA	Every 4 years	Town	HOA
18	Murphy Park - Swale	HOA	Every 4 years	Town	HOA
19	Prairie Home Estates	HOA	Every 4 years	Town	HOA
20	Prairie Home Estates 1st Addition	HOA	Every 4 years	Town	HOA
21	Stonebrook Estates	HOA	Every 4 years	Town	HOA
22	Whispering Winds	HOA	Every 4 years	Town	HOA
23	Pioneer Lands	HOA	Every 4 years	Town	HOA
24	Blackhawk Ridge	HOA	Every 4 years	Town	HOA
25	Glacier's End	HOA	Every 4 years	Town	HOA
26	Northern Lights Estates	HOA	Every 4 years	Town	HOA
27	Sauk Point Estates	HOA	Every 4 years	Town	HOA
28	Sauk Prairie Estates	HOA	Every 4 years	Town	HOA
29	Timber Ridge	HOA	Every 4 years	Town	HOA
30	Vickiann Drainage Way	HOA	Every 4 years	Town	HOA
31	Sauk Point Estates (City of Verona)	HOA	Every 2 years	City of Verona	City of Verona
32	ABC	HOA	Every 2 years	HOA	HOA
33	ATC	HOA	Every 2 years	HOA	HOA
34	Bennet's Point	HOA	Every 2 years	HOA	HOA
35	Blue Glacier Valley	HOA	Every 2 years	HOA	HOA
36	Chalet Meadows	HOA	Every 2 years	HOA	HOA
37	Cherrywood Forest	HOA	Every 2 years	HOA	HOA
38	Fawn Ridge	HOA	Every 2 years	HOA	HOA
39	Fieldstone Estates	HOA	Every 2 years	HOA	HOA
40	Glacier's Woods	HOA	Every 2 years	HOA	HOA
41	Highwood Circle Estates	HOA	Every 2 years	HOA	HOA
42	Karl's Subdivision	HOA	Every 2 years	HOA	HOA
43	Legacy Highlands	HOA	Every 2 years	HOA	HOA
44	Madison Central Montessori School	MCMS	Every 2 years	MCMS	MCMS
45	Northern Light Church	HOA	Every 2 years	HOA	HOA
46	Rocky Dell Estates	HOA	Every 2 years	HOA	HOA
47	Spruce Hollow	HOA	Every 2 years	HOA	HOA
48	Summit Pass	HOA	Every 2 years	HOA	HOA
49	Sunset Ridge Elementary School	MCPSPD	Every 2 years	MCPSPD	MCPSPD
50	Sunset Ridge Estates	HOA	Every 2 years	HOA	HOA
51	Tumbledown Trails	HOA	Every 2 years	HOA	HOA
52	Twin Valley Commercial Centre	HOA	Every 2 years	HOA	HOA
53	Ultimate Rides	HOA	Every 2 years	HOA	HOA
54	Vinnie's Point	HOA	Every 2 years	HOA	HOA
55	West Middleton Elementary	MCPSPD	Every 2 years	MCPSPD	MCPSPD
56	Aspen Meadow Estates	HOA	Every 2 years	HOA	HOA
57	Meadow Road Estates	HOA	Every 2 years	HOA	HOA
58	Daybreak Valley	HOA	Every 2 years	HOA	HOA
59	Natures Cove	HOA	Every 2 years	HOA	HOA
60	Spruce Valley	HOA	Every 2 years	HOA	HOA
61	Welcome Home	HOA	Every 2 years	HOA	HOA
62	Tumbledown Farm	HOA	Every 2 years	HOA	HOA
63	Cherrywood Ridge	HOA	Every 2 years	HOA	HOA

Amendment #1

November 2019 Amendment to Stormwater Master Plan

Amendment #1 – November 2019

Since the plan was completed in September of 2017, several items have been addressed and the Town was issued a new Wisconsin Pollutant Discharge Elimination System (WPDES) permit from the Department of Natural Resources (DNR). The issuance of this permit in July 2019 requires new/additional information from the Town as well as a compliance schedule for the Rock River TMDL.

In the fall of 2018 the Town completed the Prairie Home Estates Stormwater Management project. This resulted in updates to the Town’s water quality modeling and the Town’s Rock River TMDL status. These revisions are summarized below.

3. WATER QUALITY

3.3 Water Quality Modeling (SLAMM) - This section replaces section 3.3 of the Master Plan approved in 2017.

In the Town of Middleton, developed areas were required to reduce Total Suspended Solids (TSS) in stormwater runoff by 20 percent before March 10, 2008 and by 40 percent before March 10, 2013 (or to the maximum extent practicable by these dates). The 40% requirement was suspended in 2012. However, the Rock River TMDL (Total Maximum Daily Load) requires a higher removal rate for the Pheasant Branch and Lake Mendota watersheds. The table below summarizes the Town’s current (after PHE and before Stone) water quality modeling.

Watershed	% TSS Removal	% Total Phosphorous Removal
Pheasant Branch	74.74%	69.38%
Lake Mendota	0%	0%
Sugar River/Black Earth Creek	58.46%	54.79%
TOTAL	62.97%	58.83%

3.4 Rock River Total Maximum Daily Load (TMDL) This section replaces section 3.4 of the Master Plan approved in 2017.

The Rock River TMDL is a Total Maximum Daily Load allocation for total phosphorus (TP) and total suspended solids (TSS) in the Rock River Basin, including Columbia, Dane, Dodge, Fond du Lac, Green, Green Lake, Jefferson, Rock, Walworth, Washington, and Waukesha Counties, Wisconsin. The Rock River TMDL was approved by US EPA on September 28, 2011.

The entire watershed covers 3,750 sq. mi. Pollutants of concern addressed in the Rock River TMDL are sediment or Total Suspended Solids (TSS) and Total Phosphorus (TP). Construction sites, eroding stormwater conveyance systems and any other areas of bare soil or disturbed ground have a potential for soil loss which also have associated phosphorus. Municipal stormwater has the highest concentration of phosphorus discharge in the fall due to the release phosphorus from leaves; the next highest phosphorus discharge period is in the spring

due to the release of tree pollen. Municipal Separate Storm Sewer Systems (MS4s) are efficient systems designed to carry stormwater runoff away from roadways and parking lots; however, MS4s also carry many pollutants including sediment and phosphorus into our lakes, streams and wetlands. TMDL goals have been established as percent reductions in baseline TP and TSS for MS4 communities.

The DNR released their preliminary guidance for the TMDL planning, implementation, and modeling on October 28, 2014. The Town of Middleton will be required to prepare a plan to establish “benchmarks” throughout the compliance schedule. The compliance schedule will be laid out in the next MAMSWaP permit issued to the Town (the permit expired in June 2014 because the permits last 5 years and the DNR has yet to re-issue the permit). It is anticipated/expected that the Town be in compliance with the Rock River TMDL by 2031 (20 years from when the TMDL was approved). A new schedule from the DNR’s re-issued permit is provided in section 14 of this amendment.

The Rock River TMDL has two riversheds within the Town as shown on the Watershed Map. These riversheds must reduce the Total Suspended Solids (TSS) and Total Phosphorus (TP) at the following rate:

Pheasant Branch (reach 62)

TP = 78%

TSS = 82%

Lake Mendota (reach 64)

TP = 61%

TSS = 73%

In 2012, the Town’s removal rates were as follows:

Pheasant Branch Creek

TP = 62.4%

TSS = 67%

Lake Mendota

TP = 0%

TSS = 0%

Since 2012, the Town has completed two stormwater management facility projects in the Pheasant Branch Creek watershed; a 2017 project in the Hickory Woods Neighborhood and a 2018 Prairie Home Estates Neighborhood project. These projects were both designed and constructed by applying for and obtaining Dane County Urban Water Quality Grants. The grant covered 75% of the design and construction costs. In addition to water quality improvements these projects result in additional benefits such as reduced peak runoff rates, volume reductions, and reduced erosion.



As of 2018 (after the Hickory Woods Neighborhood and Prairie Home Estates Neighborhood projects were completed) the Town's removal rates were as follows:

Pheasant Branch Creek

TP = 69.38%

TSS = 74.74%

Lake Mendota

TP = 0%

TSS = 0%

If the Stonebrook Estates Stormwater Management project is completed (planned for 2020 construction), it could potentially improve the Town's removal rates to the following:

Pheasant Branch Creek

TP = 74.15%

TSS = 78.69%

Lake Mendota

TP = 0%

TSS = 0%

The Town's approach to achieving these required reductions has been to find funding for practices to aid the Town in meeting the permit requirements when the funding is made available to the Town. The Town has been successful in receiving grants from Dane County for three stormwater management projects, including the 2017 Hickory Woods, 2018 Prairie Home Estates, and 2019/2020 Stonebrook Estates.

The Town's pro-activeness continues to produce cost effective solutions to meeting permit requirements. With the future funding opportunities being an unknown and competition for the funding likely to increase as the TMDL deadline approaches, cost-effective solutions may become more difficult to find.

3.4.1 Yahara WINS

The Town partnered with Madison Metropolitan Sewerage District (MMSD) in 2012 to participate in an adaptive management pilot project before moving to full implementation in the Yahara River Watershed. The pilot project was conducted in the Sixmile Creek Subwatershed, which is located northwest of Lake Mendota. In watershed adaptive management, all sources of phosphorus work together to implement cost effective phosphorus reduction practices.

In 2015, Yahara WINS received DNR approval to move forward with a full scale adaptive management plan. The Town decided in 2016 that they would participate in the full scale adaptive management plan but would continue to



evaluate areas to construct stormwater management facilities that would aid the Town in achieving their TMDL requirements.

14. RECOMMENDATIONS (ACTION ITEMS) - This section replaces section 14 of the Master Plan approved in 2017.

The Town is required to have a Wisconsin Pollutant Discharge Elimination System (WPDES) permit from the Department of Natural Resources (DNR). This permit is referred to as the Municipal Separate Storm Sewer System (MS4) permit. This permit is required by NR 216, Wisconsin Administrative Code because of the Town's proximity to Middleton and Madison. The Town is part of a group MS4 permit which is commonly referred to as Madison Area Stormwater Partnership (MAMSWaP). There are 21 co-permittees in the group permit; 19 municipalities, Dane County, and University of Wisconsin – Madison. The permit is renewed every 5 years; the Town's permit was recently issued July 1, 2019.

The permit contains requirements for the following:

- Public Education and Outreach
- Public Involvement and Participation
- Illicit Discharge Detection and Elimination
- Construction Site Pollutant Control
- Post-Construction Stormwater Management
- Pollution Prevention Practices for the Municipality
- Developed Urbanized Area Standard
- Storm Sewer System Maps
- Impaired Waters (Total Maximum Daily Loads – TMDL)

Of the items listed above the items that impact the Town the most are:

- Impaired Waters (Total Maximum Daily Loads – TMDL)
- Public Education and Outreach
- Public Involvement and Participation

Impaired Waters (Total Maximum Daily Loads – TMDL)

Since a portion of the Town drains to the Rock River watershed it is required to meet higher total suspended solids (TSS) and total phosphorous (TP) reduction standards for those watersheds (Pheasant Branch Creek and Lake Mendota). The Pheasant Branch Creek is an impaired waterway and therefore has even higher reduction requirements. Approximately 846.62 acres of Town land are in the Pheasant Branch Creek and 1.08 acres of Town land are in the Lake Mendota watershed.

Any municipality covered by a MS4 permit is required to develop a plan to reduce TSS and TP as laid out in an Environmental Protection Agency (EPA) TMDL. The Town of Middleton is required to prepare a plan to establish "benchmarks" throughout the compliance schedule. The compliance schedule has been laid out in the MAMSWaP permit issued to the Town in July 2019. It was anticipated/expected that the Town be in compliance with the Rock River



TMDL by 2031 (20 years from when the TMDL was approved). However, the new permit has laid out a different compliance schedule as follows:

- **October 31, 2023** - the Town must submit necessary data and documentation to the DNR that demonstrates the Town meets the TMDL requirements.
- If by **March 31, 2020** the Town determines that it can't meet the TMDL requirements by October 31, 2023, they have to notify the DNR in writing which areas and pollutants are not in compliance.
 - By **October 31, 2021** the Town must submit a written TMDL implementation plan to the DNR to achieve the following by **June 30, 2024** (end of the permit term):
 - A level of reduction that achieves at least 20% of the remaining reduction needed beyond the current 40% baseline to achieve complete compliance in sediment or TSS.
 - A level of reduction that achieves at least 10% of the remaining reduction needed beyond 27% TP reduction to achieve full compliance in TP.

Public Education and Outreach

Permittees that are a City, Village, Town, or University with a population of **5,000** or more based on the latest U.S. Census shall address a minimum of six topics each year.

Table 1: Public Education and Outreach Topic Areas and Descriptions

#	Topic Area	Description
1	Illicit Discharge Detection and Elimination	Promote detection and elimination of illicit discharges and water quality impacts associated with such discharges from municipal separate storm sewer systems.
2	Household Hazardous Waste Disposal/Pet Waste Management/Vehicle Washing	Inform and educate the public about the proper management of materials that may cause storm water pollution from sources including automobiles, pet waste, household hazardous waste and household practices.
3	Yard Waste Management/Pesticide and Fertilizer Application	Promote beneficial onsite reuse of leaves and grass clippings and proper use of lawn and garden fertilizers and pesticides.
4	Stream and Shoreline Management	Promote the management of streambanks and shorelines by riparian landowners to minimize erosion and restore and enhance the ecological value of waterways.
5	Residential Infiltration	Promote infiltration of residential storm water runoff from rooftop downspouts, driveways and



		sidewalks.
6	Construction Sites and Post-Construction Storm Water Management	Inform and educate those responsible for the design, installation, and maintenance of construction site erosion control practices and storm water management facilities on how to design, install and maintain the practices.
7	Pollution Prevention	Identify businesses and activities that may pose a storm water contamination concern, and educate those specific audiences on methods of storm water pollution prevention.
8	Green Infrastructure/Low Impact Development	Promote environmentally sensitive land development designs by developers and designers, including green infrastructure and low impact development.

Permittees that are a City, Village, Town, or University with a population of 5,000 or more based on the latest U.S. census shall use at least two from the Active/Interactive Mechanisms column in Table 2 each year.

Table 2: Public Education and Outreach Delivery Mechanisms (Active and Passive)

Active/Interactive Mechanisms	Passive Mechanisms
<ul style="list-style-type: none"> • Educational activities (school presentations, summer camps) • Informational booth at event • Targeted group training (contractors, consultants, etc.) • Government event (public hearing, council meeting) • Workshops • Tours • Other 	<ul style="list-style-type: none"> • Passive print media (brochures at front desk, posters, etc.) • Distribution of print media (mailings, newsletters, etc.) via mail or email • Media offerings (radio and TV ads, press release, etc.) • Social media posts • Signage • Website • Other

Public Involvement and Participation

The permittee shall provide a minimum of one opportunity annually for the public to provide input on each of the following permit activities: annual report, storm water management program, and if applicable, the adoption or amendment of storm water related ordinances.

- a. **Delivery mechanism.** The permittee shall identify the public involvement and participation delivery mechanism for each permit activity. Delivery mechanisms may include public workshop, presentation of storm water information, government event (public hearing, council meeting, etc.), citizen committee meeting, or website.
- b. **Volunteer activities** The permittee shall implement at a minimum one of the following volunteer activities per year: group best management practice (BMP) installation or maintenance, storm drain stenciling, planting community rain garden, clean up event, stream monitoring, citizen committee meeting, public workshop, presentation of storm water information, or other hands-on event.

The public education and outreach in addition to the public involvement participation will need to be tracked. This will require the Town to develop a plan on how these items will be achieved over a permit cycle (5 years).



15. 7.1 Town Ordinances - This section replaces section 7.1 of the Master Plan approved in 2017.

Subsequent to the adoption of the 2017 Stormwater Master Plan, the Town adopted new ordinances that impact how the Town plans for and manages stormwater and erosion control.

The new ordinances adopted in February 2019 include a new Land Division and Subdivision code (Chapter 15), and a new Stormwater Management chapter (17). These new ordinances are included in this amendment as Exhibit A. These ordinances also include updated requirements for illicit discharge and swimming pools which were previously adopted by the Town in 2003 - 2005.



Exhibit A

Updated Town Ordinances

CHAPTER 17

STORMWATER MANAGEMENT AND EROSION CONTROL

- 17.01 Title**
- 17.02 Finding and declaration of purpose.**
- 17.03 Applicability; performance time**
- 17.04 Definitions**
- 17.05 Land-disturbing activities subject to control**
- 17.06 Reporting on stormwater facilities**
- 17.07 Prohibited acts**
- 17.08 Standards and criteria**
- 17.09 Application and issuance of permits**
- 17.10 Violations and penalties**
- 17.11 Appeals**

17.01 Title. This chapter shall be known, cited and referred to as the "Erosion and Stormwater Runoff Control Ordinance."

17.02 Finding and declaration of purpose. The Town finds that urbanizing land uses have accelerated the process of soil erosion, runoff and sediment deposition in the waters of the Town of Middleton. Therefore, it is declared to be the purpose of this chapter to control and prevent soil erosion and minimize stormwater runoff increases and thereby to preserve the natural resources, control floods and prevent impairment of dams and reservoirs, protect the quality of public waters, protect wildlife, protect the tax base and protect and promote the health, safety and general welfare of the people of the Town of Middleton.

17.03 Applicability; performance time.

- (1) Applicability. This chapter applies to the use of lands within the boundaries of the Town of Middleton.
- (2) Performance time requirement. All action required in this chapter shall be conducted as soon as possible as determined by the Administrative Authority.

17.04 Definitions. For the purposes of this chapter, certain words used herein are defined as follows:

- (1) ADMINISTRATIVE AUTHORITY — The governmental employee designated by the Town Board to administer this chapter and includes any other governmental employees who are supervised by the said administrator, for the implementation and enforcement of this chapter.
- (2) AGRICULTURAL LAND USES — Alterations or disturbances of the land used for the production of food and fiber.

- (3) **CEASE AND DESIST ORDER** — A means of giving notice to the permittee or violator that the Administrative Authority believes that the permittee or violator has violated one or more provisions of this chapter. Notice is given by posting upon the lands where the disturbing activity occurs one or more copies of a poster so stating the violation and by mailing a copy of this poster by certified mail to the permittee or violator at the address shown on the permit or to the violator at any address of record.
- (4) **CONTROL PLAN (EROSION AND SEDIMENT CONTROL PLAN and RUNOFF CONTROL PLAN)** — A plan approved by the Administrative Authority of methods for controlling soil erosion, surface water runoff and sediment deposition caused by or resulting from land-disturbing activities.
- (5) **DETENTION STORAGE** — The temporary detaining or storage of stormwater in reservoirs, under predetermined and controlled conditions, with the rate of discharge therefrom regulated by installed devices.
- (6) **DRAINAGE WAY – MAJOR** – Any watercourse, drainage way, channel, stream or swale that has a tributary drainage area of 10 acres or more.
- (7) **DRAINAGE WAY – MINOR** – Any watercourse, drainage way, channel, stream or swale that has a tributary drainage area of 5 acres.
- (8) **EROSION (SOIL EROSION)** — The detachment and movement of soil or rock fragments by water, wind, ice or gravity.
- (9) **EXISTING GRADE** — The vertical location of the existing ground surface prior to excavating or filling.
- (10) **GRADING** — Altering the elevation of the land surface by stripping, excavating, filling, stockpiling of solid materials or any combination thereof and shall include the land from which the material was removed or upon which it was placed.
- (11) **LAND IN ITS NATURAL UNDEVELOPED STATE** — Land that has runoff characteristics equivalent to the maximum Runoff Curve Numbers as shown below for the sites as they existed prior to August 22, 2001.

Runoff Curve Number	Hydrologic Soil Group*			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	51	68	78	83

*Hydraulic Soil Group defined by Natural Resources Conservation Services.

- (12) BEST MANAGEMENT PRACTICES — A practice, technique, or measure that is an effective, practical means of preventing or reducing soil erosion or water pollution, or both, from runoff both during and after land development activities. These can include structural, vegetative or operational practices.
- (13) LAND-DISTURBING ACTIVITIES OR USES — Any land changes which may result in soil erosion, sedimentation and/or the increase in runoff, including but not limited to filling, removal of ground cover, grading, excavating and filling of land, except that the term shall not include such minor land-disturbing activities as home gardens and repair and maintenance of private roads. Additionally, this term does not include agricultural land uses and wildlife plantings.
- (14) PEAK FLOW — The maximum rate of flow of water at a given point in a channel, watercourse or conduit resulting from a predetermined storm or flood.
- (15) PUBLIC LANDS — All government owned lands which are subject to regulation by the Town, including but not limited to:
 - (a) All lands owned or controlled by the Town;
 - (b) All lands owned by another unit of government.
- (16) SEDIMENT — Solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water or ice and has come to rest on the earth's surface at a different site.
- (17) SEDIMENTATION — The transportation and deposition of eroded soils at a site different from the one where the erosion occurred.
- (18) SOIL LOSS — Soil moved from a given site because of land-disturbing activities or by the forces of erosion and redeposited at another site on land or in a body of water.
- (19) STORM EVENTS — The average period of time which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- (20) STORMWATER RUNOFF — The waters derived from rains falling or snowmelt or icemelt occurring within a drainage area, flowing over the surface of the ground and collected in channels, watercourses, or conduits.
- (21) STRUCTURAL MEASURES — Works of improvement for land stabilization to prevent erosion, sedimentation or runoff.
- (22) TOWN — The Town of Middleton Town Board.

17.05 Land-disturbing activities subject to control.

- (1) General requirement. Any owner, occupant or user who undertakes, commences or performs land-disturbing activities; or who permits another person to do the same, on land subject to this section, shall be subject to this chapter.
- (2) Land-disturbing activities subject to erosion and sediment control. Activities on public lands and on all private lands shall be subject to this chapter if:
 - (a) An area of 4,000 square feet or greater will be disturbed resulting in the loss or removal of protective ground cover or vegetation.
 - (b) Excavation, fill, or any combination thereof, will exceed 400 cubic yards.
 - (c) Any public (federal, state or local) street, road or highway is to be constructed, enlarged, relocated or substantially reconstructed.
 - (d) Any use by a unit of government or by public or private utilities in which underground pipe or facilities will be laid, repaired, replaced or enlarged for a distance over 300 feet.
 - (e) There is a subdivision of land as defined in Chapter 15 of this Code.
 - (f) Any land disturbance within the Shoreland Zone, as defined in Dane County Ordinance Section 11:02(5).
- (3) Land disturbing activities subject to on-site detention and runoff control. Activities on public lands and on all private lands shall be subject to this chapter if:
 - (a) Development results in the cumulative addition of 20,000 square feet of impervious surface to the site since August 22, 2001.
 - (b) New agricultural buildings are constructed and the new total impervious surface area exceeds 20,000 square feet.
 - (c) The development requires a subdivision plat.
 - (d) Commercial or industrial development requires a certified survey map.
 - (e) Redevelopment exceeds 4,000 square feet of land disturbance where site is predominantly developed to commercial, industrial, institutional, or multifamily residential uses.
 - (f) Other development or redevelopment may have significant downstream impacts as determined by the Town Engineer.

- (4) Shoreland Zoning. Land areas within the Shoreland district as defined by Dane County Ordinance Section 11.02(5) are subject to Dane County's Shoreland regulations.
- (5) Compliance with this section. The owner, occupant or user shall be in compliance with this section if the procedure of § 17.09 is followed.

17.06 Reporting on stormwater facilities. [Added 12-15-2008] Any development or land disturbing activity required to have a recorded Stormwater Maintenance Agreement per § 14.49(3)(d), Dane County Ordinances, rev. January 31, 2017 (or similar section in earlier or later versions of the Ordinances), or any development or land disturbing activity required to record a Stormwater Maintenance Agreement or Plan by the Town of Middleton or other regulatory agency (either as part of Covenants and Restrictions for a development or by other instrument) is subject to biennial reporting of the activities required by the Stormwater Maintenance Agreement or Plan. The Landowner or Homeowners' Association must submit a report and certification to the Town of Middleton in every odd numbered year describing the inspection and maintenance activities of the stormwater facilities, as required by the Stormwater Maintenance Agreement, that took place during the previous two years. The report must be completed by an Engineer or qualified individual suitable to the Town, and must be submitted to the Town by November 1 of each odd numbered calendar year. Frequency of the report and contents of the report shall be per Town of Middleton Stormwater Reporting Guidelines Policy.¹ The fee for the report and certification shall be as indicated on the Town Fee Schedule, if complete reports are not received by November 1 of each odd numbered calendar year, a penalty (per the Town Fee Schedule) will be assessed to all owners of the stormwater facilities. In addition, for those reports not received by the due date, the Town may complete the report, charge the report fee indicated on the Town Fee Schedule, and assess the cost to all owners of the stormwater facilities.

17.07 Prohibited acts. Any person, firm or corporation who causes or permits erosion, sediment deposits, tracking or dropping of dirt on adjacent land, public streets or bodies of water from any land, whether otherwise subject to this chapter or not, shall be deemed in violation of this chapter and subject to the penalties provided in § 17.10.

17.08 Standards and criteria.

- (1) Standard for erosion and sediment control for land-disturbing activities. Plans will not be approved nor permits issued unless erosion and sedimentation leaving the site during and after the land disturbance will not exceed that which would have eroded if the land had been left in its undisturbed state and/or are controlled in accordance with established procedures, including but not limited to, "Minimizing Erosion in Urbanizing Areas" or other technical guidelines as developed by Dane County Land Conservation District in cooperation with the U.S. Department of Agriculture, Soil Conservation Service.
- (2) Standards for on-site detention and runoff control for land-disturbing activities.

1. Editor's Note: The Stormwater Reporting Guidelines Policy is included at the end of this chapter.

Activities subject to on-site detention and runoff control regulation under this chapter shall accomplish the following:

- (a) Maintain predevelopment peak runoff rates for the 1-year, 24 hour storm event (2.49 inches over 24-hour duration using NRCS MSE4 storm distribution).
 - (b) Maintain predevelopment peak runoff rates for the 2-year, 24 hour storm event (2.84 inches over 24-hour duration using NRCS MSE4 storm distribution).
 - (c) Maintain predevelopment peak runoff rates for the 5-year, 24 hour storm event (3.49 inches over 24-hour duration using NRCS MSE4 storm distribution).
 - (d) Maintain predevelopment peak runoff rates for the 10-year, 24 hour storm event (4.09 inches over 24-hour duration using NRCS MSE4 storm distribution).
 - (e) Maintain predevelopment peak runoff rates for the 25-year, 24 hour storm event (5.01 inches over 24-hour duration using NRCS MSE4 storm distribution).
 - (f) Maintain predevelopment peak runoff rates for the 100-year, 24 hour storm event (6.66 inches over 24-hour duration using NRCS MSE4 storm distribution).
- (3) Design Requirements for Public Improvements. In addition to meeting the requirements of this chapter, land disturbing activities and sites requiring stormwater management shall meet the requirements of the Design Requirements for Public Improvements document which is developed, modified, and approved, from time to time by the Town Board and which is incorporated in this chapter by reference.
- (4) Design criteria engineering standards and general principals.
- (a) The applicant for a permit may employ any structural or nonstructural measures necessary to achieve all applicable standards set out in this Chapter provided these measures shall meet accepted design criteria and engineering standards.
 - (b) The following general principles shall be used when evaluating control plans and granting permits under this chapter:
 - (i) The smallest area of land shall be exposed for the shortest period of any given time during development.

- (ii) The rough grading of the lot shall include backfilling the basement and all excess earth shall be hauled off the lot.
- (iii) Accommodation of the increased runoff caused by changed soil and surface conditions during and after development.
- (iv) Permanent, final plant covering or structures shall be installed prior to final acceptance.
- (v) The plan of development shall relate to the topography and soils of the site so that the lowest potential for erosion is created.
- (vi) Natural plant covering shall be retained and protected and shall be deemed a dominating factor in developing the site and temporary vegetation, mulching or other cover shall be used to protect the area exposed during the land-disturbing activity.

17.09 Application and issuance of permits.

- (1) Permit required; procedure and fee.
 - (a) Unless specifically excluded by this chapter, no owner, occupant or user may undertake an activity subject to this chapter without receiving a permit. Each owner, occupant or user desiring to undertake a regulated activity subject to this chapter shall submit an application for a permit together with the appropriate fee. The permit fee shall be as indicated on the Town Fee Schedule.
 - (b) Exceptions to this requirement are as follows:
 - (i) No permit fee shall be assessed against public lands unless those public lands are being developed for private purposes.
 - (ii) The Town may enter into an agreement with public or private utilities and governmental agencies to waive the need for a permit for each individual activity upon their written agreement to comply with this chapter.
 - (iii) Any subdivision of land as defined by the subdivision regulations of the Town of Middleton shall reimburse the Town for actual costs incurred for administration of this Chapter related to the subdivision, in lieu of the permit fee.
- (2) Control plan required.
 - (a) Unless specifically exempted by this chapter, every applicant for a permit

shall submit a plan to control erosion, sedimentation and runoff that would result from the proposed activity.

- (b) Permit applicants are exempted from the requirement of the submission of a control plan if the proposed activity is on 1/4 acre or less of land, and the permit devices to implement all the control techniques which are necessary to meet all the applicable standards in § 17.08.
- (3) Contents of the control plan. The Control Plan required by Subsection B shall contain such information as needed to determine soil erosion, sedimentation and runoff control:
- (a) A map of the site location showing the location of the predominant soil types.
 - (b) An existing topographic map with a maximum of one foot contour intervals of the site location, including the contiguous properties, existing drainage patterns and watercourses affected by the proposed development of the site and the existing vegetative cover.
 - (c) A proposed plan of the site showing:
 - (i) Name, address and telephone number of the occupant and party responsible for maintaining erosion control.
 - (ii) Limits of natural floodplain(s), based on a one-hundred-year flood, if any.
 - (iii) A timing schedule indicating the anticipated starting and completion dates of the development sequence.
 - (iv) Proposed topography of the site location with a maximum of one foot contour intervals showing:
 1. Location of activity, disturbance of protective cover, any additional structure on the site, areas to be seeded or mulched, areas to be vegetatively stabilized and areas to be left undisturbed.
 2. Elevations, dimensions, location of all activities including where topsoil will be stockpiled.
 3. The finished grade, stated in feet horizontal to feet vertical, of cut and fill slopes.
 4. Kinds of utilities and areas of installation, including special

erosion control practices for utility installation.

5. Impervious areas in square feet or to scale on a plan map for each watershed.
 6. Existing and proposed culvert sizes, drainage area map for each culvert.
 7. Proposed watershed size for each drainage area.
 8. Cross section of and profiles of channels, swales, and ditches.
- (v) Provisions to prevent tracking material off-site onto public streets during construction.
 - (vi) Copies of permits and permit applications required by any other agencies.
 - (vii) Proposed limits of disturbance.
- (d) Hydraulic computations for all structural or nonstructural measures or other protective devices to be constructed in connection with the proposed work showing:
- (i) Estimated rate of discharge in cubic feet per second at all structural or nonstructural measures and at the point of discharge from the site location for the one- through one-hundred-year frequency storm event after development.
 - (ii) Estimated rate of discharge in cubic feet per second from the site for the one- through one-hundred-year frequency storm event prior to development.
 - (iii) Provisions to carry runoff to the nearest adequate outlet.
 - (iv) Design computations and applicable assumptions for all structural measures for erosion and sediment pollution control and water management. Volume and velocity of flow must be given for all surface water conveyance measures and pipe outfalls.
- (e) Provisions for perpetual maintenance of control facilities including easements.
- (4) Review of application.
- (a) The Administrative Authority shall review all permit applications

accompanied by the control plan, if required, and the appropriate fee and shall determine if measures are adequate to meet all the applicable standards as set out in § 17.08. The determination shall be made within 15 work days from receipt of the completed application. The applicant will be informed in writing whether the control plan is approved, disapproved and modified or if additional information is required. Failure to render a written decision within 15 work days shall be deemed an approval of the plan as submitted, and the applicant may proceed as if a permit has been issued.

- (b) In the event that the plan is disapproved, the applicant may resubmit a new control plan or may appeal the Administrative Authority's decision as provided in § 17.11. No additional permit fee is required.
- (5) Permit; conditions. All permits under this chapter shall be issued subject to the following conditions and requirements:
- (a) All land disturbances will be done pursuant to the approved control plan.
 - (b) The permittee gives two working days' notice to the Town Office in advance of the start of any activity.
 - (c) The permittee shall file a notice with the Town Office within 10 work days after completion of land-disturbing activities.
 - (d) Approval in writing must be obtained prior to any modifications to the approved control plan.
 - (e) The permittee shall be responsible for maintaining all proposed public roads, road rights-of-way, streets, runoff and drainage facilities and drainage ways as specified in the approved plan until they are accepted and become the responsibility of the Town.
 - (f) The permittee shall be responsible, at permittee's expense, for repairing any damage to all adjoining surfaces and drainage ways caused by runoff and/or sedimentation resulting from permittee's activities.
 - (g) The permittee shall provide and install at permittee's expense all drainage, runoff control and erosion control improvements as required by this chapter and the approved control plan and shall provide perpetual maintenance on all these private control facilities.
 - (h) No portion of the land which is disturbed will be allowed to remain uncovered for greater than 7 days after notice is given that the activity is completed.

- (i) The permittee agrees to permit the Administrative Authority to enter onto the land regulated under this chapter for the purpose of inspecting for compliance with the approved control plan and permit.
 - (j) The permittee authorizes the Administrative Authority to perform any work or operations necessary to bring the condition of the lands into conformity with the approved control plan and further consents to the Town collecting the total of the costs and expenses of such work and operations as a special charge against the property for current services rendered as provided by law.
 - (k) The permittee shall inspect, or cause to be inspected, each site following any one-half inch (1/2") rainfall in any twenty-four (24) hour period. Such inspections shall ensure compliance with the control plan.
- (6) Permit duration. Permits issued under this chapter shall be valid for a period of six months from the date of issuance. The Administrative Authority is authorized to extend the expiration date of the permit. The Administrative Authority is authorized to modify the plans to prevent any increase in sedimentation, erosion or runoff resulting from any extension.

17.10 Violations and penalties.

- (1) General penalty. Unless otherwise provided, any person who shall violate any of the provisions of this chapter shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:
 - (a) First offense. Any person who shall violate any provision of this chapter shall, upon conviction thereof, forfeit not less than \$100 nor more than \$500, together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 90 days.
 - (b) Second or subsequent offense. Any person found guilty of violating any provision of this chapter who shall previously have been convicted of a violation of the same provision within one year shall, upon conviction thereof, forfeit not less than \$250 nor more than \$1,000 for each such offense, together with costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six months.
 - (c) Continued violations. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this chapter shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this chapter.

- (d) Other remedies. The Town shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above. In any such action, the fact that a permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the Administrative Authority, or the Administrative Authority's designee, or other Town officials constitute a defense.
- (2) Enforcement by injunction. Compliance with the provisions of this Ordinance may also be enforced by injunction at the suit of the Town of Middleton.
- (3) Performance of work by the Administrative Authority. Where it is found that any of the provisions of this chapter are not being observed on particular lands, the Administrative Authority is hereby authorized to require the owner, occupant or user to perform the work or Best Management Practices within 10 working days of receipt of written notice of deficiency by the Town or the Town's designee and to order that if the owner, occupant or user fails to perform, the Administrative Authority may go on the land and bring the condition of said lands into conformity with the requirements of this chapter and recover the costs and expenses thereof from the owner. In the event that the owner fails to pay the amount due, it shall be collected as a special charge for current services rendered upon the property as provided by law.

17.11 Appeals.

- (1) Authority. The Town Board shall:
 - (a) Hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Administrative Authority in administering this chapter.
 - (b) Authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done. Such variance may be granted to two or more property owners, including governmental agencies that submit one runoff control plan for two or more parcels of land. In the event it is in the interest of the Town of Middleton to participate with another property owner(s) in a runoff control plan and contribute available stormwater detention capacity, or construct stormwater detention on Town lands, the other participant(s) shall reimburse the Town an amount equal to the value of the Town lands used but not less than the fair market value of unimproved lands plus the estimated construction cost of the detention capacity that would have been required of the other participant(s) to serve their lands in order to comply

with this chapter.

- (2) Procedure. The rules, procedures, duties and powers of the Town Board shall apply to appeals under this chapter.
- (3) Who may appeal. Appeals may be taken by any person, firm or corporation aggrieved or by an officer, department, board or commission of the Town of Middleton affected by the order, requirement, decision or determination made by the Administrative Authority. For the purpose of this chapter, "aggrieved person" shall include applicants and property owners who own land that is subject to this chapter.

[HISTORY: Adopted by the Town Board of the Town of Middleton 8-2-2004 as Title 10, Ch. 3 of the 2004 Code. Amendments noted where applicable.]

TOWN OF MIDDLETON -STORMWATER REPORTING GUIDELINES POLICY

Original Adoption Date: 12/15/08 Last

Updated: 1/21/14

This document lists the required contents of the report for each type of stormwater facility and the frequency of required reporting for each type of facility. This document does not list the inspection and maintenance requirements of each facility. *Note: The frequency of the reports may differ from the frequency of required inspection and maintenance activities.*

These stormwater reporting guidelines shall be followed for any development within the Town of Middleton subject to the requirements of Chapter 17 of the Town's Code of Ordinances.

Reports must contain:

- The date of the previous report.
- Records of all inspection and maintenance activities occurring since the previous report.
- A written assessment of all inspection and maintenance activities occurring since the previous report.
- Photographs and any other backup documentation the inspector feels is necessary.

- A. Dry Detention Basins: Reports due every odd calendar year.
- B. Wet Detention Basins: Reports due every odd calendar year.
- C. Infiltration Facilities (Includes Rain Gardens): Reports due every odd calendar year.
- D. Bioretention Facilities: Reports due every odd calendar year.
- E. Storm Sewer System: Reports due every odd calendar year.
- F. Culverts: This includes erosion protection at end sections. Reports due every odd calendar year.
- G. Swales and Drainways: Reports due every odd calendar year.

ORDINANCE NO: _____

AN ORDINANCE TO CREATE CHAPTER 15 OF THE CODE OF ORDINANCES OF THE TOWN OF MIDDLETON, DANE COUNTY, WISCONSIN, RELATING TO LAND DIVISION AND SUBDIVISIONS

THE TOWN BOARD OF THE TOWN OF MIDDLETON, DANE COUNTY, WISCONSIN, DO ORDAIN AS FOLLOWS:

Section I. Chapter 15 of the Code of Ordinances of the Town of Middleton shall be and hereby is created to read as follows:

**“CHAPTER
15**

LAND DIVISION AND SUBDIVISIONS

15.01 Introduction and purpose 15.02 Abrogation and greater restrictions 15.03 Interpretation 15.04 Title 15.05 Definitions 15.06 Transition area 15.07 Compliance; jurisdiction; minor subdivisions; building permits; condominiums 15.08 Land suitability 15.09 Condominium developments 15.10 Dedication and reservation of land 15.11 Hillside protection 15.12 Administrative fees 15.13 Landscape requirements 15.14 Preliminary consultation 15.15 Submission of Preliminary Plat for major subdivisions 15.16 Preliminary plat review and approval 15.17 Final plat review and approval 15.18 Replat 15.19 Assessor's plat 15.20 Technical requirements for Preliminary Plats 15.21 Technical requirements for final plats 15.22 Technical requirements for certified survey land divisions; review and approval 15.23 Cost of improvements; general standards 15.24 Required agreement providing for proper installation of improvements 15.25 Required construction plans; Town Review; inspections 15.26 Street improvements 15.27 Curb and gutter 15.28 Sidewalks 15.29 Park and trail improvements 15.30 Sanitary sewerage system 15.31 Stormwater drainage facilities

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15.32 Other utilities 15.33 Street signs and lighting 15.34 Erosion control 15.35 Partition fences 15.36 Easements 15.37 Buffer strips 15.38 Greenways 15.39 Vegetation in right-of-way 15.40 General street design standards 15.41 Pedestrian pathways 15.42 Lot design standards 15.43 Drainage system 15.44 Nonresidential land divisions 15.45 General

park, conservancy area, recreational trail, and public land dedication requirements 15.46 Parkland, conservancy areas, and recreational trail dedication 15.47 Reservation of additional land 15.48 Development of park area 15.49 Development of trails 15.50 Preservation of conservancy areas 15.51 Variances and exceptions 15.52 Violations and penalties; appeals 15.53 Impact fees imposed 15.54 Definitions 15.55 Use of impact fees 15.56 Appeal from impact fee assessment 15.57 Refund of impact fees 15.58 Deposit of impact fees 15.59 Impact fee imposition ordinances 15.60 No impact on park fees, land dedications, donations or exactions

15.01 Introduction and purpose.

(1) Introduction. In accordance with the authority granted by § 236.45 of the Wisconsin Statutes and for the purposes listed in §§ 236.01 and 236.45 of the Wisconsin Statutes, the Town Board of the Town of Middleton, Dane County, Wisconsin, does hereby ordain as follows:

(a) The provisions of this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Town of Middleton.

(b) This chapter shall not repeal, impair or modify private covenants or public laws, except that it may apply whenever it imposes stricter restrictions on division of land.

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(2) Purpose.

(a) The purpose of this chapter is to promote the public health, safety, convenience and general welfare of the Town of Middleton. The regulations are designed to foster the orderly layout and use of land; to facilitate adequate provision for transportation, water and sewerage systems, parks, playgrounds, schools and educational facilities, and other public necessities; to discourage overcrowding of the land; to provide for a system of transportation which meets or exceeds minimum standards for public safety; to lessen congestion on Town roads, highways and streets; to secure safety from fire, panic, and other dangers;

and to facilitate the further division of large tracts of land into smaller parcels.

(b) The regulations are made with reasonable consideration of, but not limited to, the present character of the Town and its environs, with the objectives of conserving the value of the land and improvements placed thereon, providing for the most appropriate environment for human habitation, encouraging open space, and providing for the most appropriate use of land in the Town of Middleton.

15.02 Abrogation and greater restrictions.

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

15.03 Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements and shall be liberally construed in favor of the Town of Middleton and shall not be deemed to be a limitation or repeal of any other power granted by the Wisconsin Statutes. Land Dividers, Owners, Applicants, etc. who propose a land division per this Chapter should understand all risks, financial and otherwise, associated with their proposals. As such, they will be asked to agree to pay all Town costs incurred with review of their application with no guarantee of gaining the approval they seek.

15.04 Title.

This chapter shall be known as, referred to, or cited as the "Town of Middleton Subdivision Ordinance" or "Town of Middleton Land Division and Subdivision Ordinance."

15.05 Definitions. The following definitions shall be applicable to this chapter:

(1) ALLEY — A public or private right-of-way in a Major or Minor Subdivision,

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which provides secondary access to a lot, block or parcel of land.

(2) ARTERIAL STREET — A street that provides for the movement of relatively heavy

traffic to, from, and within the Town. It has a secondary function of providing access to abutting land.

(3) BLOCK — An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or bodies of water.

(4) BUILDING ENVELOPE — The area within which structures are permitted to be built on a Lot, as defined by the existing ground level, all applicable setback, side yard and rear yard requirements (notwithstanding any variances, special exceptions, or special or conditional uses in effect) and any Land Use Plan and Town Ordinances adopted by the Town.

(5) CERTIFIED SURVEY MAP — A map or plan of record of a Minor Subdivision meeting all the requirements of § 236.34, Wis. Stats., the Dane County Land Division Ordinance and this chapter.

(6) CLUSTER SUBDIVISION/SUBDIVISION, CLUSTER — A Major Subdivision where the Parcel to be divided is 15 acres or more in size and uses smaller (as defined in § 15.42(1) of this chapter) individual Lot sizes and common open space areas as a means to reduce site disturbances, preserve sensitive features and open space, ensure a rural-like atmosphere, yet maintain gross densities similar to those permitted under Traditional Subdivision controls.

(7) COLLECTOR STREET — A street that collects and distributes internal traffic within an urban area such as a residential neighborhood, between Arterial and Local Streets.

(8) COMMISSION — The Plan Commission created by the Town Board pursuant to § 62.23 of the Wisconsin Statutes.

(9) COMPREHENSIVE PLAN – The Town adopted Plan as defined by Chapter 66.1001, Wis. Stats., and Chapter 14 of these Ordinances. For purposes of this chapter, the “Comprehensive Plan” shall also be referred to as “Land Use Plan” and “Master Plan.”

(10) CONDOMINIUM — Property subject to a Condominium declaration established under Chapter 703, Wis. Stats.

(11) CORNER LOT/LOT, CORNER — A Lot abutting intersecting streets at their intersection.

(12) CUL-DE-SAC — A short street having but one end open to traffic and the other

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end being terminated in a vehicular
turnaround.

(13) DESIGN REQUIREMENTS FOR PUBLIC IMPROVEMENTS — A separate document developed, approved, and modified from time to time by the Town Board. The document details design and construction standards for public street and drainage improvements in the Town.

(14) DEVELOPER — A Person that constructs or creates a Development or
Redevelopment.

(15) DEVELOPMENT/REDEVELOPMENT — The construction or modification of improvements to improved or unimproved real property that creates additional residential Dwelling Units or that results in new or expanded nonresidential uses, the use of any principal structure or land, or any other activity that requires issuance of a building permit or creates a need for new, expanded or improved public facilities within the Town.

(16) DIVISION OF LAND/LAND DIVISION — Any action which creates or
modifies a Parcel of land that is less than 35
acres.

(17) DRAINAGE WAY – MAJOR – Any watercourse, drainage way, channel, stream
or swale that has a tributary drainage area of 10 acres or more.

(18) DRAINAGE WAY – MINOR – Any watercourse, drainage way, channel, stream or
swale that has a tributary drainage area of at least 3 and less than 10 acres , or that drains
2 or more lots.

(19) DWELLING UNIT — Each separate living unit authorized to be constructed on a
parcel of land (e.g., a single-family residence shall be considered one Dwelling Unit; a
duplex shall be considered two Dwelling Units; a four-family building shall be
considered four Dwelling Units, etc.).

(20) EASEMENT — The area of land set aside or over or through which a liberty,

privilege or advantage in land, distinct from ownership of the land, is granted to the public or some particular Person or part of the public.

(21) EXTRATERRITORIAL PLAT APPROVAL JURISDICTION — The unincorporated area within 1 1/2 miles of a fourth-class city or a village and within three miles of all other cities.

(22) FILING DATE — The date on which a Certified Survey map, Preliminary Plat, or Final Plat is submitted to the Town Office.

(23) FINAL PLAT/PLAT, FINAL — The final map on which the Land Divider's plan of subdivision is presented for approval and which, if approved, will be submitted to the County Register of Deeds for recordation.

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(24) FRONTAGE STREET — A Local Street auxiliary to and located on the side of an Arterial Street for control of access and for service to the abutting land.

(25) GREENWAY — An open area of land, the primary purpose of which is to carry stormwater 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, stormwater retention basins, and park development.

(26) IMPROVEMENT, PUBLIC/PUBLIC IMPROVEMENT — Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip or other facility for which the Town may ultimately assume the responsibility for maintenance and operation.

(27) LAND DIVIDER/SUBDIVIDER — A Developer or Owner, or any agent thereof, dividing or proposing to divide land resulting in a Major Subdivision, Minor Subdivision or Replat.

(28) LAND DIVISION/DIVISION OF LAND — See definition for "Division of Land/Land Division".

(29) LAND USE PLAN — Also known, or referred to as the "Comprehensive Plan" or the "Master Plan," as defined below.

(30) LOCAL STREET — A street of little or no continuity designed to provide access to abutting property and leading into Collector Streets. (31) LOT — A Parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the Lot Width, Lot frontage, Lot Area, yard, parking area and other open space provisions of this chapter and any applicable zoning ordinance.

(32) LOT AREA — The area contained within the exterior boundaries of a Lot, excluding streets and land under navigable bodies of water.

(33) LOT, CORNER/CORNER LOT — See definition for "Corner Lot/Lot, Corner."

(34) LOT LINES — The peripheral boundaries of a Lot as defined herein.

(35) LOT, REVERSED CORNER/REVERSED CORNER LOT — A Corner Lot which is oriented so that it has its rear Lot Line coincident with or parallel to the side Lot Line of the interior Lot immediately to its rear.

(36) LOT, THROUGH/THROUGH LOT — A Lot having a pair of opposite Lot Lines

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along two more or less parallel public streets and which is not a Corner Lot. On a "Through Lot" both street lines shall be deemed front Lot Lines.

(37) LOT WIDTH — The width of a Parcel of land measured along the front boundary line.

(38) MAJOR SUBDIVISION/SUBDIVISION, MAJOR — Any Land Division that is not a "Minor Subdivision."

(39) MAJOR THOROUGHFARE — A street used or intended to be used primarily for fast or heavy through traffic. Major Thoroughfares shall include freeways, expressways and other highways and parkways, as well as Arterial Streets.

(40) MASTER PLAN — A plan for guiding and shaping the growth and development of the Town which has been or will be adopted from time to time by the Town Board. Also

known as, or referred to as the “Comprehensive Plan” or the "Land Use Plan."

(41) MINOR STREET — A street used, or intended to be used, primarily for access to abutting properties; also referred to as a "Local Street."

(42) MINOR SUBDIVISION/SUBDIVISION, MINOR — The Division of Land by the Owner or Land Divider resulting in the creation of not more than four Parcels or building sites, except where the act of division creates five or more Parcels or building sites by successive division within a period of five years, whether done by the original Owner or by a successor Owner.

(43) NATIVE TREES — Trees known to grow naturally (as opposed to cultivated or introduced) in Southern Wisconsin.

(44) OFFICIAL MAP — The map indicating the location, width and/or extent of existing and proposed streets, highways, parkways, parks and playgrounds, as adopted by the Town Board pursuant to § 62.23(6), Wis. Stats.

(45) OWNER — Includes the plural as well as the singular and may mean either a natural Person, firm, association, partnership, limited liability company, private corporation, public or quasi-public corporation, or a combination of these that has title to a Parcel of real estate.

(46) PARCEL — Contiguous lands under the control of a Land Divider(s), Developer(s) and/or Owner(s) not separated by streets, highways or railroad rights-of-way.

(47) PARK COMMISSION — The Town of Middleton Park Commission.

(48) PEDESTRIAN PATHWAY — A public way, usually running at right angles to

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streets, which is intended for the convenience of pedestrians only; it may also provide public right-of-way for utilities.

(49) PERSON — Any individual, association, partnership, corporation or limited liability company, and includes any officer, employee, department, agency or instrumentality of a state or political subdivision of a state.

(50) PLAN COMMISSION — The Town of Middleton Plan Commission.

(51) PLAT — The map on which the Land Divider's Plat of subdivision is presented to the Town for approval.

(52) PLAT, FINAL/FINAL PLAT — See definition for "Final Plat/Plat, Final".

(53) PLAT, PRELIMINARY/PRELIMINARY PLAT — The Preliminary Plat map indicating the proposed layout of the subdivision to be submitted to the Town Board for its consideration as to compliance with the regulations contained in this chapter along with required supporting data.

(54) PRELIMINARY PLAT/PLAT, PRELIMINARY — See definition for "Plat, Preliminary/Preliminary Plat".

(55) PRIMARY RECREATIONAL TRAIL/RECREATIONAL TRAIL, PRIMARY — An Easement or dedication of a curvilinear or linear corridor, at least 30 feet in width (or at least 20 feet in width if adjacent to a public right-of-way), that is proposed for development by the Town of Middleton as part of a continuous public trail system linking neighborhoods with parks, schools, conservancy areas, historic sites, and other public facilities and public open spaces. As Owner of the Public Recreational Trail, the Town shall have the right to improve, repair, maintain, and allow public use of the Public Recreational Trail Easement as the Town from time to time determines. Trail surfaces are typically crushed stone or crushed limestone screenings. Other surfaces, such as compacted earth, mowed grass, wood chips, or asphalt pavement, may be permissible as determined by the Town. These trails are primarily intended for use by bicycles and pedestrians. Other uses may be permissible as determined by the Town.

(56) PRIVATE IMPROVEMENT — Any sanitary sewer, storm sewer, open channel, water main, roadway, park, parkway, private access, sidewalk, pedestrian way, planting strip, or other facility for which the maintenance and operation is the responsibility of the Land Divider, Owner, or homeowners' association. Private roadways shall be constructed according to § 15-26(1).

(57) PROTECTIVE COVENANTS/RESTRICTIVE COVENANTS — Contracts entered into between private parties or between private parties and public bodies pursuant to § 236.293, Wis. Stats., which constitute a restriction on the use of all private or platted property within a Certified Survey or Subdivision for the benefit

of the public or property Owners and to provide mutual protection against the undesirable aspects of Development which would tend to impair the stability of property values.

(58) PUBLIC IMPROVEMENT/IMPROVEMENT, PUBLIC — See definition for "Improvement, Public/Public Improvement".

(59) RECREATIONAL EASEMENT — An Easement to the Town of Middleton to place, replace, maintain or operate recreational facilities according to the rules and regulations of the Town.

(60) RECREATIONAL TRAIL, PRIMARY/PRIMARY RECREATIONAL TRAIL — See definition for "Primary Recreational Trail/Recreational Trail, Primary".

(61) RECREATIONAL TRAIL, SECONDARY/SECONDARY RECREATIONAL TRAIL — An Easement or dedication of a curvilinear or linear corridor, at least 15 feet in width, that is proposed for development by the Town of Middleton as part of a public trail system within neighborhoods, parkland, conservancy areas and other public open spaces providing access to Primary Recreational Trails from neighborhoods and/or providing corridors within and throughout parkland, conservancy areas and other public open spaces. As Owner of the Public Recreational Trail, the Town shall have the right to improve, repair, maintain, and allow public use of the Public Recreational Trail Easement as the Town from time to time determines. Trail surfaces are typically compacted earth, mowed grass, or wood chips. Other surfaces, such as crushed stone, crushed limestone screenings, or asphalt pavement may be permissible as determined by the Town. These trails are primarily intended for use by pedestrians. Other uses, such as bicycle uses, may be permissible as determined by the Town. (62) REDEVELOPMENT/DEVELOPMENT — See definition for

"Development/Redevelopment."
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(63) REPLAT — The process of changing, or the map or Plat which changes, the boundaries of a recorded subdivision Plat or part thereof. The legal dividing of a Block, Lot or Outlot within a recorded Subdivision Plat without changing exterior boundaries of said Block, Lot or Outlot is not a Replat.

(64) RESTRICTIVE COVENANTS/PROTECTIVE COVENANTS — See definition for "Protective Covenants/Restrictive Covenants".

(65) REVERSED CORNER LOT/LOT, REVERSED CORNER — See definition for "Lot, Reversed Corner/Reversed Corner Lot".

(66) SANITARY DISTRICT COMMISSION — A commission established under § 60.74, Wis. Stats.

(67) SECONDARY RECREATIONAL TRAIL/RECREATIONAL TRAIL,

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SECONDARY — See definition for "Recreational Trail, Secondary/Secondary Recreational Trail".

(68) SHORELANDS — Those lands within the following distances: 1,000 feet from the ordinary high-water mark of navigable lakes, ponds or flowages, or 300 feet from the ordinary high-water mark of navigable streams or to the landward side of a floodplain, whichever is greater.

(69) STORMWATER MASTER PLAN — Also known as Stormwater Master Plan — Town of Middleton (2017). A Stormwater report developed primarily to address requirements of Wisconsin Pollutant Discharge Elimination System (WPDES) Permit No. WI-S058416-2

(70) SUBDIVIDER/LAND DIVIDER — See definition for "Land Divider/Subdivider"

(71) SUBDIVISION, CLUSTER/CLUSTER SUBDIVISION — See definition for "Cluster Subdivision/Subdivision, Cluster".

(72) SUBDIVISION, MAJOR/MAJOR SUBDIVISION — See definition for "Major Subdivision/Subdivision, Major".

(73) SUBDIVISION, MINOR/MINOR SUBDIVISION — See definition for "Minor

Subdivision/Subdivision, Minor".

(74) SUBDIVISION, TRADITIONAL/TRADITIONAL SUBDIVISION — Any Major Subdivision that does not meet the definition of a Cluster Subdivision.

(75) THROUGH LOT/LOT, THROUGH — See definition for "Lot, Through/Through Lot".

(76) TOWN — The Town of Middleton, Dane County.

(77) TRADITIONAL SUBDIVISION/SUBDIVISION, TRADITIONAL — See definition for "Subdivision, Traditional/Traditional Subdivision".

(78) URBAN SERVICE AREA — That area in the Town served by public water and sewer facilities, designated on a map adopted by the Town Board and the former Dane County Regional Planning Commission, the Capital Area Regional Planning Commission, or other future or subsequent equivalent bodies.

(79) WETLANDS — An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. [See § 23.32(1), Wis. Stats.]

(80) WISCONSIN ADMINISTRATIVE CODE — The rules of the administrative

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agencies having rule-making authority in Wisconsin, published in a loose-leaf, continual revision system, as directed by § 35.93 and Chapter 227 of the Wisconsin Statutes, including subsequent amendments to those rules.

15.06 Transition area.

(1) Transition area defined. In furtherance of the purposes of the Town's Land Division and Subdivision Ordinance, a Transition Area has been created lying south of Old Sauk Road and east of a line 1/2 mile west of and parallel to Pioneer Road and Pioneer Road extended (the west section lines of Sections 20, 29 and 32) and is subject to Intergovernmental Agreement between the City of Madison and Town of Middleton

dated March 28, 2002, and City of Madison and Town of Middleton Cooperative Plan under § 66.0307, Wis. Stats., signed September 22, 2003, and dated September 29, 2003.

(2) Transition area cluster subdivisions. Notwithstanding any provisions to the contrary contained elsewhere in the Town's Land Division and Subdivision Ordinance, any Cluster Subdivision created within the Transition Area shall comply with the following minimum standards for open space, Lot size and development density.

(a) Open space requirements. Open space (excluding streets and dedicated parkland) shall be provided for Cluster Subdivision Lots within the Transition Area according to the following:

(i) For Lots served by public sewer containing between 12,000 square feet and 25,000, an associated minimum open space of 10,000 square feet, plus 32,700 minus the Lot size. (ii) For Lots (sewered and unsewered) containing between 25,000 square feet and 32,700 square feet, an associated minimum open space of 10,000 square feet, plus 32,700 square feet minus the Lot size.

(iii) For Lots (sewered and unsewered) containing between 32,700 square feet and 65,000 square feet, an associated open space of 5,000 square feet.

(iv) For Lots (sewered and unsewered) containing 65,000 square feet or more and only one Dwelling Unit, no open space shall be required.

(v) For all sewered and unsewered lots containing multiple Dwelling Units, the required total space (open space plus lot area) shall be calculated by summing: 1) the product of the number of dwelling units on the lot by the open space derived from the formulas listed under §15.06(2)(a)(i-iv), and 2) the product of the number of dwelling units on the lot multiplied by the lot size.

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Example 1: a 14,000 sf lot with 2 dwelling units would require the following:

1. $(32,700 \text{ sf} - 14,000 \text{ sf} + 10,000 \text{ sf}) \times 2 = 57,400 \text{ sf}$ 2.

$$(2 \text{ dwelling units} \times 14,000 \text{ sf}) = 28,000 \text{ sf}$$

Total open space and lot area required = 85,400 sf

Example 2: a 60,000 sf lot with 2 dwelling units would require the following:

$$3. (5,000 \text{ sf}) \times 2 = 10,000 \text{ sf} \quad 4. (2 \text{ dwelling units} \times 60,000 \text{ sf}) = 120,000 \text{ sf}$$

Total open space and lot area required = 130,000 sf

(b) Lot size standards.

(i) Calculation of lot size. New Lots in any Cluster Subdivision created in the Transition Area shall be at least 80% of the size of abutting Lots or Parcels three acres in size or less. If the new Lot abuts two or more existing Lots or Parcels, the size of the new Lot shall be calculated based on the size of the abutting existing Lot or Parcel with which it shares the greatest length of common lot line. In the event required open space within the Plat separates a new Lot from an existing Lot or Parcel, such Lots or Parcels shall be considered to be abutting Lots or Parcels, and the area of open space located between the two Lots or Lot and Parcel and within the extended Lot Lines of the new Lot shall be counted toward the required square footage of the new Lot. No new Lot will be required to exceed 65,000 square feet.

(ii) Minimum lot size. New unsewered Lots in any Cluster Subdivision created in the Transition Area shall have a minimum Lot size of 25,000 square feet.

(iii) Minimum lot size. New sewerred Lots created in the Transition Area shall have a minimum Lot size of 12,000 square feet, with an additional 2,000 square feet required for each additional Dwelling Unit.

(iv) Development density. The development density for Cluster Subdivisions created within the Transition Area shall be a maximum of one Dwelling Unit per 50,000 square feet.

(3) All other subdivision requirements contained in the Town's Land Division and Subdivision Ordinance, including Cluster Subdivision requirements not modified herein, shall apply to subdivisions created in the Transition Area.

15.07 Compliance; jurisdiction; minor subdivisions; building permits; condominiums.

(1) Compliance. No Person shall divide any land located within the jurisdictional limits of these regulations which results in a Land Division or a Replat as defined herein; no such Land Division or Replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this chapter and the following:

- (a) The provisions of Chapter 236 and § 82.18 of the Wisconsin Statutes.
- (b) Comprehensive plans or components of such plans prepared by state, regional, county or municipal agencies duly adopted by the Town Board.
- (c) All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.
- (d) Applicable provisions of the Dane County Code of Ordinances.
- (e) All applicable rules contained in the Wisconsin Administrative Code not listed in this subsection.

(2) Jurisdiction. Jurisdiction of these regulations shall include all lands within the limits of the Town of Middleton. The provisions of this chapter, as they apply to Major and Minor Subdivisions, 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 10 years, mortgages or Easements;
- (c) The sale or exchange of parcels of land between owners of adjoining property if all of the following are complied with:

(i) The number of parcels is equal to or less than the original number of parcels.

(ii) A deed is recorded at the Register of Deeds and a plat of survey is filed at the County Surveyor's office for each newly arranged parcel created by conveyance and/or reconveyance to each property owner within the limits of the transfer. In addition, the plat of survey is included as an exhibit in the deed.

(iii) The newly created parcels do not violate zoning setbacks.

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(iv) The parcels are of the same zoning classification.

(v) Lot sizes are not changed beyond area thresholds of zoning classifications or this ordinance.

(vi) If there are multiple tax parcels that make up one ownership parcel, they are all included within the newly formed boundary.

(3) Minor subdivisions. Any Minor Subdivision other than a subdivision as defined in § 236.02(12), Wis. Stats., shall be surveyed and a Certified Survey map prepared as provided in § 236.34, Wis. Stats.

(4) Building permits. The Town of Middleton shall not issue any building permit relating to any Parcel of land forming all or any part of lands included in a Major Subdivision, Minor Subdivision or Replat originally submitted to the Town of Middleton on or after the effective date of this chapter until the Land Divider has complied with all of the provisions and requirements of this chapter. The following represents the minimum site improvements and other requirements that must be completed in order to obtain a building permit:

(a) The lower course or lower layer of asphalt pavement must be installed along the entire street frontage for a Lot requesting a permit (including the placement of shoulder stone laid up to and flush with the lower course of pavement).

(b) Installation of all street and regulatory signs shall be installed if the Lot is in a platted subdivision.

(c) Approval of a driveway culvert map must be obtained if the Lot is contained in a platted subdivision.

(d) Recorded copies of the Final Plat or Certified Survey map, deed restrictions and Protective Covenants, and other recorded documents required by the Town to gain a Land Division approval, are submitted to the Town Office, the Town Attorney, and the Town Engineer.

(e) All other subdivision (or phase of a subdivision in which a Lot is located) street and drainage improvements are substantially complete.

(5) Applicability to condominiums. This chapter is expressly applicable to Condominium Developments within the Town's jurisdiction, pursuant to § 703.27(1), Wis. Stats. For purposes of this chapter, a Condominium unit and any associated limited common elements shall be deemed to be equivalent to a Lot or Parcel created by the act of Land Division.

15.08 Land suitability.

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(1) Suitability.

(a) No Land Division shall be allowed for residential, commercial or industrial use which is held unsuitable for such use by the Town Board for reason of flooding, inadequate drainage, unsuitable soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of future residents of the Town. The Town Board, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for residential, commercial or industrial use and afford the Land Divider an opportunity to present evidence regarding such unsuitability if the Land Divider so desires. Thereafter, the Town Board may affirm, modify or withdraw its determination of unsuitability.

(b) Except as provided herein, the Plan Commission shall preferably determine land suitability at the time of the preliminary consultation, following review and recommendation by the Town Engineer and comment by the Dane County Soil and Water Conservation District. The Land Divider shall furnish such maps, data and information as may be requested by the Town, or as are necessary to make a determination of land suitability. In addition to the data required to be submitted with the Preliminary Plat or Certified Survey, the Land Divider may be required to submit some or all of the following additional information for Development located in an area where flooding or potential flooding may be a hazard:

(i) Two copies of an aerial photograph, or two maps prepared by a professional land surveyor or engineer which accurately locate the proposed development with respect to the floodplain zoning limits, if present, channel or stream fill limits and elevations, and flood-proofing measures taken or proposed to be taken.

(ii) Two copies of a typical valley cross-section showing the channel or stream, the floodplain adjoining each side of the channel or stream, cross-sectional area to be occupied by the proposed development and high-water information.

(iii) Two copies of a profile showing the slope of the bottom of the channel or the flow line of the stream.

(iv) Such other data as may be requested or required.

(c) When a proposed Land Division is located in an area where flooding or potential flooding may be a hazard, the Town Board may transmit to the Department of Natural Resources, information provided by the Land

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Divider and may request that the Department provide technical assistance in determining whether the land is suitable or unsuitable for the use proposed.

(d) Where a proposed Land Division is located wholly or partly in an area where flooding or potential flooding may be a hazard, the applicable County Ordinances

shall apply.

(e) The Land Divider may, as part of the preliminary consultation procedures, request a determination of land suitability providing that the Land Divider shall provide all necessary maps, data and information necessary for such a determination to be made.

(2) Existing flora. The Land Divider shall make every reasonable effort to protect and retain all existing Native Trees, shrubbery, vines, and grasses not actually lying in public roadways, drainage ways, building foundation sites, private driveways, soil absorption waste disposal areas, paths and trails. Such vegetation is to be protected and preserved during the construction in accordance with sound conservation plans pursuant to a landscaping plan filed with the Town by the Land Divider and as approved by the Town Board or Town Engineer. The Town may, at its discretion, require the Land Divider to replace Native Canopy trees disturbed by subdivision improvements with new Native Canopy trees located within the Land Division. The Town may require up the following amount of trees to be planted in open space or outlots at locations approved by the Town:

(a) For each Native Canopy tree removed with a diameter between 8” and 15”, two (2) Native Canopy trees shall be installed.

(b) For each Native Canopy tree removed with a diameter between 15” and 36”, three (3) Native Canopy trees shall be installed.

(c) For each Native Canopy tree removed with a diameter larger than 36”, four (4) Native Canopy trees shall be installed.

(d) New Native Canopy trees shall meet the requirements of §15.13. The required planting here shall be in addition to any required by the requirements of §15-13.

(3) Additional considerations.

(a) The Land Divider shall make every effort to preserve and protect:

(i) Areas of archaeological and/or historical interest including, but not limited to, those areas designated by the State Historical Society.

(ii) Areas of geological interest including, but not limited to, those

areas designated by the State Geological and Natural History Survey.

(b) In addition, the suitability of land for private sewerage systems shall be determined in accordance with the appropriate provisions of the Wisconsin Statutes and Wisconsin Administrative Code, and all Land Divisions shall satisfy the environmental assessment criteria of this chapter.

15.09 Condominium developments.

(1) Purpose.

(a) The Town Board hereby finds that certain issues arise in Condominium developments that require limited applicability of this chapter to Condominium Developments. The State Legislature has recognized that Land Division ordinances may apply to Condominiums, but that subdivision ordinances shall not impose burdens upon Condominiums that are different from those imposed on other property of a similar character not subject to a declaration of Condominium.

(b) The factor that makes this chapter applicable to a Condominium Development is the creation of multiple, distinct property entities at or near the ground surface, subject to property taxation as separate "Parcels" with each property entity having different ownership and management. The Town determines that this factor makes a Condominium Development dissimilar, both physically and in ownership, from developments in which the land and improvements are under unitary ownership, management and control.

(c) Thus, the Town Board hereby finds that new Condominium Developments can place impacts on community resources in the same manner as other new developments that are characterized by Division of Land into Lots. These impacts include:

(i) Additional population density;

(ii) Possibility of use of particular land in a manner unsuitable to the land's characteristics;

(iii) Additional demands upon Town area parks, recreation programs and areas, utility facilities and schools;

(iv) Additional traffic and street use.

(2) Portions of chapter Applicable to Condominium Developments. The following

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Sections of this chapter shall apply to Condominium Developments:

(a) Section 15.08, relating to land suitability and construction practices;

(b) Sections 15.14 through 15.16, relating to Preliminary Plat approval. The technical requirements for Preliminary Plats set forth in § 315-21 shall not apply, since Condominiums have separate technical standards set forth in Chapter 703, Wis. Stats.

(c) Section 15.12, relating to fees for review;

(d) Sections 15.23 through 15.39, relating to required improvements;

(e) Sections 15.40 through 15.44, relating to design standards for improvements;

(f) Sections 15.45 through 15.50, relating to dedication requirements;

(g) Sections 15.51 through 15.52, relating to variances, penalties and violations;

(h) Sections 15.53 through 15.60, relating to impact fees.

(3) This section shall not apply to the following condominiums:

(a) Any Condominium Plat recorded prior to the effective date of this chapter;

(b) Any conversion of a structure or structures in existence on the effective date of

this chapter to a Condominium after the effective date of this chapter, unless additional residential or commercial units are created.

(c) Any Condominium Plat where no actual Land Division results.

15.10 Dedication and reservation of land.

(1) Public ways. Whenever a tract of land to be divided within the Town encompasses all or any part of a street, highway, trail, greenway, environmental corridor, waterway, or a drainage or utility easement designated in the Town Land Use Plan, Official Map or other duly adopted plan implementation device of the Town, the Subdivider shall plat said public way in the locations and dimensions indicated on said Land Use Plan or other plan implementation device. The Town Board shall (with or without a recommendation from the Plan Commission) determine whether said public way should be dedicated to the public or reserved by the Subdivider.

(2) Parks, conservancies, and schools. Whenever a tract of land to be divided within

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the Town encompasses all or part of a park site, open space, conservancy, Recreational Trail or other recreation area or school site designated in the Town Land Use Plan, Recreational Trail Plan, Comprehensive Outdoor Recreation Plan, Official Map or other duly adopted plan implementation device of the Town, the Subdivider shall plat said public sites in the locations and dimensions indicated on said plans, map, or other plan implementation device in accordance with §§ 15.45 through 15.50 of this chapter. The Town Board shall (with or without a recommendation from the Plan Commission and/or Parks Commission) determine whether said public sites should be dedicated to the public or reserved by the Subdivider.

15.11 Hillside protection.

(1) Except if provided a variance by the Board, no Land Division for residential, commercial, or industrial purposes shall be approved which would result in, or authorize a use or disturbance of land, including the construction of private roads and driveways, on hillsides with a natural slope of 20% or more. An exception will be made for slopes in excess of 20% created as part of previously installed public street or drainage improvement or other man-made slopes created by home driveway or septic system

construction, etc.

(2) Individual Lots containing some slopes in excess of 20% are not permitted, unless the entire Building Envelope and areas to be disturbed by driveway and septic system installation have no slopes in excess of 15%.

(3) The Town Board may approve a variance to this section provided that any one or more of the following conditions exist, in substantial part:

(a) The area with slopes greater than 20% for which all or part of this area will be disturbed is smaller than 2,500 square feet.

(b) It is necessary to cross the area with slopes greater than 20% to access developable portions of the property or Lot.

(c) Other unusual situations exist.

15.12 Administrative fees.

(1) General. The Land Divider shall pay the Town all fees as hereinafter required and at the times specified before being entitled to recording of a Plat or Certified Survey map.

(2) Engineering fees. The Land Divider shall pay a fee equal to the actual cost to the Town for all engineering and technical assistance work incurred by the Town in connection with the Preliminary Plat, Final Plat or Certified Survey map, including inspections required by the Town to determine the quality and potential

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acceptance of improvements and the compliance with provisions of the Developer Agreement and Restrictive Covenants which the Town may have an interest in. The Land Divider shall pay a fee equal to the actual cost to the Town for such inspection as the Town Board deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Town and any other governmental agency.

(3) Legal fees. The Land Divider shall pay a fee equal to the actual cost to the Town for

all legal fees and costs incurred by the Town in connection with the Preliminary Plat, Final Plat or Certified Survey map, including acceptance of improvements and the compliance with provisions of the Developer Agreement and Restrictive Covenants in which the Town may have an interest. Such legal services include, but are not limited to, conferences, review and preparation of documents, and consultations with the Land Divider or the Town.

(4) Administrative fees. The Land Divider shall pay a fee equal to the cost of any administrative or fiscal work, publication and special meeting costs which may be incurred or undertaken by the Town in connection with the Preliminary Plat, Final Plat or Certified Survey map or acceptance of improvements and the compliance with provisions of the Developer Agreement and Restrictive Covenants in which the Town may have an interest.

(5) Preliminary plat and certified survey review and final plat review fees. The Land Divider shall pay fees for Town review of Preliminary Plats, Final Plats, Replats, special meetings and Certified Survey maps as established by resolution of the Town Board.

(6) Escrow account.

(a) At the time of filing with the Town Office a Preliminary Plat or Certified Survey map, the Land Divider shall deposit with the Town Office an escrow fund amount of \$10,000 for Plats which include fewer than 15 Lots, \$15,000 for Plats which include 15 or more Lots, and \$2,500 for Certified Surveys. As required at the sole discretion of the Town Board, funds may be drawn against such escrow accounts for the payment of engineering, legal, administrative and other costs incurred by the Town in reviewing the proposed Land Division.

(b) Monies not required for such engineering, legal, administrative and other costs shall be returned to the Land Divider within 180 days of final acceptance of all improvements required by the Town and compliance with all provisions of the Developer Agreement and provisions of the Restrictive Covenants to which the Town may be a party. If Town costs exceed the initial amount deposited in the escrow account, the Town shall require the Land Divider to deposit an additional amount in the escrow account.

(c) Escrow amounts may not reflect final costs for review, and in fact could vary

significantly based on the size and complexity of the proposed Land Division.

(7) Digital mapping maintenance fees. The Land Divider shall provide electronic as-built data for all new stormwater, trails, parks, and signage infrastructure installed for a new land division in the format required by the Town.

(8) The Land Divider shall also pay a fee per each new lot created (pursuant to the Town Fee Schedule) to cover Town costs to collect data and attribute information on new infrastructure for use in updating the Town's digital database.

15.13 Landscape requirements.

(1) Purpose. The purpose of this section is to:

(a) Develop new residential Major and Minor Subdivisions in the Town of Middleton in a manner keeping with a rural landscape character.

(b) Preserve the rural character of the Town and to provide a regulatory mechanism through which Development can occur without damaging the natural characteristics of the environment.

(c) Set forth minimum requirements for landscaping of buffer areas of residential developments adjacent to State and County Highways and certain Town roads.

(2) Applicability. This section shall apply to all new Major and Minor Subdivisions adjacent to State and County Highways and certain Town roads as noted below:

(a)

Airport Road RMA Blackhawk Road RMIC
Bronner Road RMIC Capital View Road
RMIC Koch Road RMIC Meadow Road
RMAC Mid Town Road RMIC Mineral
Point Road RMA Mound View Road RMIC
Old Sauk Road RMAC Pioneer Road
RMAC Pleasant View Road RMAC Rocky
Dell Road RMAC Timber Lane RMIC

Twin Valley Road RMIC US Highway 14
RPA Valley View Road RMIC Wayside
Road RMIC

Functional Classifications RPA: Rural Principal Arterial
RMAC: Rural Major Collector RMA: Rural Minor Arterial
RMIC: Rural Minor Collector

(b) The functional classifications shall be used as indicated in this section and shall be considered the official Town Road Functional Classification until such time as the Town adopts a new Transportation Master Plan after January 1, 2018. Following the adoption of the Transportation Master Plan, the Transportation Master Plan shall then replace this section as the source for the official Town Road Functional Classifications.

(i) Rural Principal Arterial: Principal arterials serve corridor movements having trip length and travel density characteristics of an interstate or interregional nature.

(ii) Rural Minor Arterial: Minor arterials, in conjunction with principal arterials, serve moderate to large-sized places (cities, villages, towns, and clusters of communities), and other traffic generators providing intraregional and inter-area traffic movements.

(iii) Rural Major Collector: Major collectors provide service to smaller-to-moderate sized places and other intra-area traffic generators, and link those generators to nearby larger population centers (cities, villages, and towns) or higher function routes.

(iv) Rural Minor Collector: Minor collectors provide service to all remaining smaller places, link the locally important traffic generators with their rural hinterland, and are spaced consistent with population density so as to collect traffic from local roads and bring all developed areas within a reasonable distance of a collector road.

(3) Design standards.

(a) Major and Minor subdivisions. Landscaping for Major Subdivisions (Cluster and Traditional) and Minor Subdivisions shall be designed in accord with the following standards:

(i) Setback landscape areas. The setback landscape is the area

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reserved for the placement of landscaping. This area, which may lie on an Outlot or Lot, lies outside of and typically adjacent to the street right-of-way. Structures are not allowed in the setback landscape area unless approved by the Town Board. If the setback is at least 150 feet in a Major Subdivision and at least 100 feet in a Minor Subdivision, there shall be no landscaping requirements. If the setback is at least 80 feet, then the landscaping requirements listed below shall apply. Upon approval of the Town Board, the setback may be reduced to no less than 60 feet, but the density of the landscaping requirements listed below will be increased by 50%.

(ii) Landscape requirements.

1. Planting shall be clustered and massed in natural groupings.
2. Clusters should be randomly spaced.
3. When appropriate, berms shall be designed in an intermittent and undulating design and used only to supplement plantings and not to be a substitute.
4. All landscape measurements are stated in terms of the number of plant units required. One plant unit is equivalent to a rectangular area of 50 feet by 80 feet. Plant unit alternatives are identified as follows. A combination of the two Alternatives is allowed.

**Plant Unit
Alternatives**

Alternative 1 Minimum requirements:

1 Canopy tree (2-inch caliper) minimum 2
Understory trees (6-foot to 8-foot height)
10 Shrubs (18- to 24-inch or 3- to 4-foot
height/width)

Alternative 2 Minimum requirements:

1 Canopy tree (2-inch caliper) minimum 3
Understory trees (6-foot to 8-foot height) 6
Shrubs (18- to 24-inch or 3- to 4-foot
height/width)

5. Existing canopy trees only, four inches DBH (Diameter at Breast Height) or greater, will fulfill 1/2 plant unit measurement.

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6. Acceptable plant species by canopy, understory, and shrub classifications are identified in the Preferred Planting List maintained and updated time to time by the Town. The Preferred Planting List is available at the Town Hall.

(iii) Landscaped area must be completed in first phase of Development or within 12 months after recording of Plat or Certified Survey map or as approved by the Town Board.

(iv) Landscape plans are required at time of Preliminary Plat submittal if requested by the Town Engineer. Otherwise landscape plans are required at the time of Final Plat or Certified Survey map submittal.

(v) The Landscape Plan shall be submitted by a Landscape Designer unless this requirement is waived by the Town Board.

(vi) If the existing topography, natural vegetation, screening or other features promote the rural landscape character of the proposed subdivision, then the Town Board may reduce the number of plant units

required.

(vii) When a required vision corner conflicts with the setback landscape area, the vision corner area shall not be included in the area considered when determining required plant units. Landscaping plantings shall not be placed in vision corners unless approved by the Town Board after it considers the effect of the plantings on the intent of the vision corner. (b) Developer agreement. All subdivision landscape requirements shall be a part of the Developer Agreement, with cost allocations included in the letter of credit.

15.14 Preliminary consultation.

(1) The Land Divider shall complete a preliminary consultation with the Plan Commission and the Town Engineer regarding general subdivision requirements before filing a Preliminary Plat. The Land Divider shall inform the Town Office in writing of the proposed Land Division and shall request information on meeting dates, agenda deadlines and filing requirements. The Environmental Assessment Checklist, found in Attachment 1,¹ shall be provided to the Land Divider prior to the preliminary consultation and shall be completed for submission with the Preliminary Plat. Such information shall be obtained from the Town Office.

1. Editor's Note: Attachment 1 is included at the end of this chapter.

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(2) The Land Divider shall, at the time of preliminary consultation, submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities.

(3) The Preliminary Consultation is intended to inform the Land Divider of the purpose and objectives of these ordinances, the Town Land Use Plan and duly adopted plan implementation devices of the Town and to otherwise assist the Land Divider in planning the proposed development. The Preliminary Consultation is also designed to provide the Plan Commission with information regarding the potential impact of the contemplated Land Division.

(4) The Plan Commission and the Land Divider may reach non-binding mutual

conclusions regarding the general program and objectives of the proposed development and its potential impact and effects on the neighborhood and community during the Preliminary Consultation.

(5) If it is determined during preliminary consultation that the Town will incur out-of-pocket expenses from the Town Engineer, Town Attorney or otherwise with regard to review of the concept plan, the Land Divider shall submit to the Town a deposit of One Thousand Dollars (\$1,000) to be applied to Town expenses. Should the Town's fees and expenses exceed the initial deposit during review of the concept plan, the Land Divider shall submit an additional One Thousand Dollars (\$1,000) as a deposit. The Land Divider shall be responsible for all Town expenses, even if they exceed the amount of the deposit(s). The Land Divider shall sign an Agreement with the Town accepting responsibility for all said costs.

15.15 Submission of Preliminary Plat for major subdivisions.

(1) Submission.

(a) Before submitting a Final Plat for approval, the Land Divider shall prepare a Preliminary Plat and an application. The Land Divider shall submit one hard copy and one electronic copy of the Preliminary Plat, application and all other submittal documents. The Preliminary Plat shall be prepared in accordance with the provisions and requirements of this chapter and Chapter 236, Wis. Stats. The Land Divider shall file the copies of the Preliminary Plat and application with the Town Office at least 21 calendar days prior to the regular meeting of the Plan Commission at which review of the Preliminary Plat is desired.

(b) The application shall include the following:

(i) Written description. A written description of the proposed Land Division;

(ii) Use statement. A statement of the proposed use of Lots stating the

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type of residential buildings with the number of proposed Dwelling Units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards, police services and congestion

of population;

(iii) Zoning changes. If any zoning changes are contemplated, the proposed zoning plans for the areas, including dimensions;

(iv) Area plan. Where the Land Divider, Developer and/or Owner owns property adjacent to the property which is being proposed for the Land Division, the Land Divider shall submit a concept plan for the remainder of the property so as to show the possible relationships between the proposed Land Division and future Land Divisions. All Land Divisions must be shown to be compatible and consistent with existing or potential adjacent Land Divisions;

(v) Adjacent land divisions. A record of any adjacent Land Divisions made within the last five years; and

(vi) Environmental assessment checklist. A completed copy of the Environmental Assessment Checklist as shown in Attachment 1 to this chapter.

(c) The Land Divider shall also submit with the Preliminary Plat two copies of a current title commitment or registered property report and such other evidence as the Town Board or Town Attorney may require showing title or control in the Land Divider or Owner. With a Final Plat submittal and prior to final sign-off of Final Plat documents, updated title information shall be submitted to the Town Attorney.

(d) The Town Office shall submit a copy of the Preliminary Plat submittals to the Plan Commission and the Town Engineer for review and comment. The Town Engineer shall prepare and submit to the Plan Commission and Town Board a written report regarding the review of the Preliminary Plat. The report shall include observations and recommendations regarding the Preliminary Plat.

(2) Engineering report.

(a) Simultaneously with the filing of the Preliminary Plat, the Land Divider shall file with the Town Office one complete hard copy and one electronic copy of engineering reports, specifically addressing sewer and water feasibility, drainage facilities, traffic patterns, typical street cross-sections, erosion control, pavement

design and other improvements necessary in the Land Division.

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(b) The engineering report must include a summary of calculations and other information necessary to provide preliminary sizing of all stormwater facilities. Stormwater and Erosion Control designs shall meet the requirements of Stormwater Management, Chapter 17 of this Code, and the Town's "Design Requirements for Public Infrastructure."

(3) Affidavit. The surveyor preparing the Preliminary Plat shall certify on the Preliminary Plat that it is a correct representation of all existing Land Divisions and features and that the surveyor has fully complied with all provisions of this chapter.

(4) Street plans and profiles. The Land Divider shall provide the Town Office with one complete hard copy and one electronic copy of street plans and profiles showing existing ground surface, and proposed and established street grades, including extensions for a minimum of 300 feet beyond the limits of the proposed Land Division.

(5) Soil testing.

(a) Soil testing for suitability of Private On-Site Wastewater Treatment Systems (POWTS) is not required by the Town. POWTS are regulated by the Department of Public Health Madison and Dane County (PHMDC). Land Dividers and Lot owners are required to work with PHMDC to evaluate, permit and connect POWTS. The Town shall not be held responsible by a Land Divider or Lot Owner if developed Lots are unbuildable because they are unsuitable for on-site sanitary sewer collection systems. Holding tanks shall not be considered an acceptable system in the Town for septic systems.

(b) The Land Divider shall evaluate the site per Wisconsin Department of Natural Resources Technical Standard 1002- Site Evaluation for Stormwater Evaluation if infiltration requirements are required by Dane County.

(6) Environmental assessment and evaluation. The purpose of the Environmental Assessment and Evaluation is to provide the basis for an orderly, systematic review of the effects of the proposed Land Division upon the community environment in accordance with the principles and procedures of § 236.45(1), Wis. Stats. The goals of the

community are to eliminate pollution and siltation or reduce them to acceptable standards; assure ample living space per capita; preserve open space and parks for recreation; to provide adequately for stormwater control; maintain scenic beauty and aesthetic surroundings; administer to the economic and cultural needs of the citizens; and, to provide for the effective and efficient flow of goods and services.

(a) Determination of need for expanded environmental assessment. The Plan

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Commission shall review the Environmental Assessment Checklist following submittal and make its recommendation to the Town Board. The Town Board may, for reasons stated in a written determination, decide that the preliminary environmental assessment raises significant questions regarding the effects of the proposed Land Division on the environment and/or that a high level of citizen interest has resulted from the preliminary assessment. Such a decision shall be made within 14 days of the review of the Preliminary Plat by resolution of the Town Board and shall specifically identify the questions and/or issues on which it requires additional research, data, evaluation or input from the Land Divider, Developer, Owner, or other governmental agencies or interested parties. The Town Board shall establish a reasonable date for the return and review of the additional information requested and may specify the format in which the information is to be presented.

(b) Hearing on expanded environmental assessment. Following the return to the Town Board of the additional information requested, the Town Board shall make such information available for inspection by the Land Divider, Owner, Town department(s), commission(s) and committee(s), and any other interested parties who shall be given a minimum of 30 days to review the information and submit written comments to the Town Board. The Town Board shall schedule and hold a public hearing regarding the expanded environmental assessment within 45 days of the deadline established for submission of written comments. The public hearing shall be preceded by a Class 1 notice under Chapter 985, Wis. Stats. Persons attending the public hearing shall be afforded an opportunity to comment on the report.

(c) Review. The Plan Commission and the Town Board shall review, as part of the

analysis and evaluation of the Preliminary Plat, any environmental assessment reports, supporting data and information, and Town department, commission and committee reviews as the Town Board may require for determining the suitability of the proposed Land Division and subsequent Development.

(7) Referral to other agencies.

(a) The Land Divider shall, within two days after filing of the Preliminary Plat and application, transmit the necessary copies of the Preliminary Plat to the appropriate agencies for approval or objection as specified in Chapter 236, Wis. Stats. The Land Divider shall submit a letter to the Town Office certifying that all necessary copies of the Preliminary Plat and related documents have been submitted to the approving authorities, other than the Town of Middleton, and the objecting agencies which are required by statute to receive such Preliminary Plat and related documents.

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(b) In lieu of the above Town procedure, the Land Divider may use any other procedure for Preliminary Plat submittal provided for in Chapter 236, Wis. Stats. The Land Divider shall specify which submittal procedure is being used at the time the Preliminary Plat is submitted to the Town. If none is specified, it is assumed that the Town procedure is being used.

(8) Drafting standards. The Land Divider shall submit to the Town Office and to those agencies having the authority to object to Plats under provisions in Chapter 236, Wis. Stats., copies of a Preliminary Plat based upon an accurate exterior boundary survey by a professional land surveyor which shall show clearly the proposed subdivision at a scale of no less detail than one inch per 100 feet having one foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), and Easements which the Land Divider proposes to make and shall indicate by accompanying letter when the improvements will be provided.

(9) Incomplete submission. All items and documents required by this section must be submitted to the Town Office before the time requirements for review of Land Divisions will legally commence. Failure to submit all items and documents required by this section may constitute a reason for the Town Plan Commission to recommend rejection, and the

Town Board to reject a Preliminary Plat.

15.16 Preliminary plat review and approval.

(1) Notice

(a) The Town Clerk shall give notice of the Plan Commission's and Park Commission's review of the Preliminary Plat by listing it as an agenda item in the Plan and Park Commissions' posted meeting notices. The notice shall include the name of the Land Divider, the address of the property proposed to be divided and the requested action.

(b) The Land Divider shall obtain one or more sign posts from the Town Office and place signs on the property that is the subject of the Preliminary Plat review as provided in this section. A sign shall be placed on the sign post that must list the times and locations of all meetings and public hearings to consider the Preliminary Plat. The sign shall be posted at least seven (7) days before any meeting that is not a public hearing and at least twenty-one (21) days prior to any public hearing. The sign shall be located in a position on the property so it can be read from the sidewalk or other public right-of-way. If a property abuts more than one (1) right of way, a sign shall be placed facing each public right-of-way. The sign shall be removed within seven (7) days of the last public hearing listed on the sign and the sign post returned to the Town Office. Failure to post the sign shall not invalidate any action taken on the Preliminary Plat by the

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Plan Commission or the Town Board.

(c) The Town Clerk shall give notice of the Town Board's review and public hearing on the Preliminary Plat by listing it as an agenda item in the Board's posted meeting notice. The Land Divider shall also be notified in writing. The meeting notice shall include the name of the Land Divider, the address of the property in question and the requested action. Abutting property Owners and property Owners within 600 feet of the Land Divider's total Parcel shall receive written notice of the public hearing.

(2) Plan Commission and Park Commission recommendations.

After the preliminary consultation, an initial review of the Preliminary Plat submittals, and negotiations with the Land Divider regarding changes and the kind and extent of Public Improvements which will be required, the Plan Commission and Park Commission shall recommend to the Town Board disapproval, approval or conditional approval of the Preliminary Plat.

(3) Town Board review; public hearing. The Town Clerk shall schedule a public hearing on the Preliminary Plat before the Town Board.

(4) Town Board action. Within 90 days of the date the Preliminary Plat was filed with the Town Office, the Town Board shall, taking into consideration the Plan Commission's recommendations, if any, approve, approve conditionally or reject such Preliminary Plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement with the Land Divider. Failure of the Town Board to act within 90 days or extension thereof shall constitute an approval of the Preliminary Plat, unless other authorized agencies object to the Preliminary Plat. The Town Office shall communicate in writing to the Land Divider the action of the Town Board. If the Preliminary Plat is approved, the Town Clerk shall endorse it for the Town Board. [Note: An extension of time may only be made by written agreement with the Land Divider. Section 236.11(1)(a), Wis. Stats.]

(5) Soil testing.

(a) Soil testing for suitability of Private On-Site Wastewater Treatment Systems (POWTS) is not required by the Town. POWTS are regulated by the Department of Public Health Madison and Dane County (PHMDC). Land Dividers and Lot owners are required to work with PHMDC to evaluate, permit and connect POWTS. The Town shall not be held responsible by a Land Divider or Lot Owner if developed Lots are unbuildable because they are unsuitable for on-site sanitary sewer collection systems. Holding tanks shall not be considered an acceptable system in the Town for septic systems.

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(b) The Land Divider shall evaluate the site per Wisconsin Department of Natural Resources Technical Standard 1002- Site Evaluation for Stormwater Evaluation if infiltration requirements are required by Dane County.

(6) Determination of adequacy of public facilities and services.

(a) A Preliminary Plat shall not be approved unless the Town Board determines that adequate public facilities and public services are available to meet the needs of the proposed Land Division and that no public funds, other than those already provided in an adopted capital budget or operating budget, are required.

(b) The Land Divider shall furnish to the Town Office any data requested by the Town Board or its designee, who shall transmit this information to the appropriate Town commission(s) and committee(s) for review and shall act as coordinator for their reports to the Plan Commission, Park Commission, Sanitary District Commission and the Town Board on the adequacy of water, sanitary and storm sewers, fire service, police, parks and open space and recreational facilities, transportation facilities and schools.

(c) Public facilities and public services for a proposed Land Division may be found to be adequate when the following conditions exist, if applicable:

(i) The proposed Land Division is located in an Urban Service Area where mainline interceptor sewer service is presently available, under construction, or designated by the Town Board or Sanitary District Commission for extension of sewer service within the current capital budget year and funds are specifically provided for such extension either from public or private financing. The Plan Commission and the Town Board shall also consider the recommendations of the Town Board's designee and appropriate committee(s) on the capacity of trunk lines and of sewerage treatment facilities and any other information presented.

(ii) The proposed Land Division is located within an Urban Service Area contingent to an arterial transmission water main of adequate capacity for the proposed development or if the water distribution system that is needed is under construction or scheduled for construction within the current budget year, and funds, either public or private, are available for the program. The Plan Commission and the Town Board shall consider the recommendations of the Town Board or its designee and the appropriate committee(s) on line capacities, water sources and storage facilities as well as any other information presented.

(iii) The Town Treasurer or his/her designee certifies to the Plan Commission and the Town Board that adequate funds, either public or private, are available to insure the installation of all necessary stormwater management facilities.

(iv) The future residents of the proposed subdivision can be assured park, recreation and open space facilities and services which meet the standards of the "Comprehensive Outdoor Recreation Plan" and any subsequent revisions or amendments thereto.

(v) The appropriate law enforcement agency, emergency medical service and fire district verify that timely and adequate service can be provided to the residents of the proposed subdivision.

(vi) The appropriate school district is provided an opportunity to review and comment regarding the impact of the proposed subdivision on school facilities and programs.

(vii) The proposed Land Division is accessible by existing publicly maintained, all weather roads, adequate to accommodate both existing traffic and that traffic to be generated by the proposed Land Division, or necessary additional roads and road improvements are budgeted in the current adopted budget for construction with public or private financing.

(d) Where the Town Board determines 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.

(7) Effect of Preliminary Plat approval. Approval or conditional approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, except that if the Final Plat is submitted within thirty-six (36) months after the last required approval of the Preliminary Plat and conforms substantially to the Preliminary Plat as approved, including layout, any

conditions of that approval, and local plans and ordinances that were in effect at the time the Preliminary Plat was submitted and state laws, the Final Plat shall be entitled to approval with respect to such layout. An approved or conditionally approved Preliminary Plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the Final Plat, which will be subject to further consideration by the Town Board at the time of its submission. If a Final Plat is not filed within thirty six (36) months after the last required approval of the Preliminary Plat, the Town Board may reject the Final Plat, and the Land Divider

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shall be required to resubmit the Preliminary Plat and meet the requirements of § 315-16 and this section. [Note that an extension of time may only be made by written agreement between the Town Board and Land Divider.]

(8) Preliminary plat amendment. Should the Land Divider amend the Preliminary Plat as approved, the Land Divider may submit an amended Preliminary Plat which shall follow the same submittal procedure as described in § 15.15 and shall be subject to the same approval and review procedures described in § 15.16, including the Town having 90 days to approve, conditionally approve or reject the amended Preliminary Plat. The Town Board may waive any of the requirements of § 15.15 and/or § 15-16, including the fee deposit, if the amendment is, in the opinion of the Town Board, of such minor scope that it is unnecessary to require that such requirements be met.

(9) Multi-Phase Plats. The Town Board may, in its sole discretion, approve a Preliminary Plat for a Land Division that will be Final Platted all at once, but built in multiple construction phases, or that will be Final Platted with multiple Final Plats and built in multiple corresponding construction phases. The Town Board finds it reasonable and necessary to require that a Land Division shall meet the requirements for open space and parkland dedication, or fees in lieu of, and all other requirements of this chapter within each construction phase or Final Plat of the Land Division whether it is Final Platted all at once or with multiple Final Plats. The Town Board also finds it reasonable and necessary to require, as conditions of such approval, that the Land Divider and Owner shall, among other things, enter into a Developer Agreement, record Deed Restrictions, and provide financial guarantees as provided for in §§ 15.24(1) and 15-24(2). If a construction phase or Final Plat of a Land Division does not meet the requirements for open space and parkland dedication, or fees in lieu of, and all other requirements of this chapter, the Land Divider and Owner may voluntarily Final Plat the entire Land Division and enter into a Developer

Agreement for the entire Land Division and provide financial guarantees for the entire Land Division as provided for in §§ 15.24(1) and 15-24(2).

15.17 Final plat review and approval.

(1) Filing requirements.

(a) The Land Divider shall prepare a Final Plat and application in accordance with this chapter and shall file one hard copy and one electronic copy of the Final Plat and the application with the Town Office 21 days prior to the meeting of the Plan Commission at which action is desired. One hard copy and one electronic copy of all documents required on the Final Plat submittal checklist shall be also be provided. The Town Office shall give notice of the Plan Commission's meeting in the manner prescribed in § 15- 16.

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(i) The letter of application shall include the following:

1. Written description. A written description of the proposed Land Division; and

2. Update on Preliminary Plat conditions of approval. A written description updating how conditions of Preliminary Plat approval have been addressed with the Final Plat submitted and/or a written description updating how conditions of Preliminary Plat approval are not met, including a plan as to how they will be met.

(ii) The Land Divider shall also submit with the Final Plat two copies of a current title commitment or registered property report and such other evidence as the Town Board or Town Attorney may require showing title or control in the Land Divider or Owner. Prior to final sign-off of Final Plat documents, updated title information shall be submitted to the Town Attorney.

(b) The Land Divider shall, within two days after filing of the Final Plat and application, transmit the necessary copies of the Final Plat to the appropriate agencies for approval or objection as specified in Chapter 236, Wis. Stats. The

Land Divider shall submit a letter to the Town Office certifying that all necessary copies of the Final Plat and related documents have been submitted to the approving authorities, other than the Town of Middleton, and to the objecting agencies which are required by statute to receive such Final Plat and related documents. In lieu of the above Town procedure, the Land Divider may use any other procedure for Final Plat submittal provided for in Chapter 236, Wis. Stats. The Land Divider shall specify which submittal procedure is being used at the time the Final Plat is submitted to the Town. If none is specified, it shall be presumed that the Town procedure is being used.

(c) The Land Divider shall also submit copies of the Final Plat to the telephone, power, and all other applicable utility companies.

(d) The Final Plat shall conform to the Preliminary Plat as approved, including layout, any conditions of that approval, and local plans and ordinances and state laws, and shall be submitted by the Land Divider for certification of those agencies having the authority to object as provided by § 236.12(2), Wis. Stats.

(e) Simultaneously with the filing of the Final Plat, the Land Divider shall file with the Town Office one hard copy and one electronic copy of the final plans and specifications for Public Improvements required by this chapter and one hard copy and one electronic copy of a driveway culvert map for

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review and approval. All plans and maps shall meet the requirements of the Town's "Design Requirements for Public Improvements." The Land Divider shall also submit a Stormwater Management and Erosion Control plan for the Development that meets the requirements of Stormwater Management, Chapter 17 of this Code, and the Town's "Design Requirements for Public Infrastructure." One hard copy and one electronic copy of Property Owners Association and Restrictive Covenant/Easement documents and one hard copy and one electronic copy of Landscape Plans shall be submitted for review and approval.

(f) The Town Office shall provide copies of the Final Plat to the Park Commission, Plan Commission, and Town Engineer. The title commitment or registered property report shall be referred to the Town Attorney for examination.

(i) The Town Office shall also refer the final plans and specifications of Public Improvements to the Town Engineer for review prior to the Town signing Final Plat documents. The Town Engineer and/or Town Attorney shall examine the Final Plat, final plans and specifications of Public Improvements, driveway culvert map, and Association and Restrictive Covenants/Easement documents for technical details and, if the Town Engineer and/or Town Attorney finds them satisfactory, shall so certify in writing to the Town Board.

(ii) If the Final Plat, plans and specifications of Public Improvements, driveway culvert map, and Association and Restrictive Covenants/Easement documents are not satisfactory, the Town Engineer and/or Town Attorney shall return them to the Land Divider and advise the Town Board, in writing, as to the items which are not satisfactory.

(iii) The recommendations of the Town Engineer shall be made within 30 days of the filing of the Final Plat.

(2) Incomplete submission. All items and documents required by this section must be submitted to the Town Office before the time requirements for review of Land Divisions will legally commence. Failure to submit all items and documents required by this section may constitute a reason for the Town Board to reject a Final Plat.

(3) Plan Commission and Park Commission review. The Plan Commission and Park Commission shall examine the Final Plat as to its conformance with the approved Preliminary Plat, any conditions of approval of the Preliminary Plat, this chapter and all applicable ordinances, rules, regulations, comprehensive plans and comprehensive plan components which may affect it and shall recommend

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approval, conditional approval or rejection of the Final Plat to the Town Board. The Plan Commission and Park Commission may recommend rejection of the Final Plat if there is incomplete or inadequate information.

(4) Town Board review and approval.

(a) The Town Board shall, within 60 days of the date of filing the original Final

Plat with the Town Office, approve, conditionally approve, or reject such Final Plat unless the time is extended by written agreement with the Land Divider. If the Final Plat is rejected, the reasons shall be stated in the minutes of the Town Board meeting and a written statement of the reasons for rejection shall be forwarded to the Land Divider. The Town Board may not inscribe its approval on the Final Plat unless the Town Office certifies on the Final Plat that the copies were forwarded to objecting agencies as required herein, the date thereof and that no objections have been filed within the time required, or if filed, such objections have been met. Such certification shall be based, in part, upon the Land Divider's certified letter under § 15.15(6) and Subsection (1)(b) of this section. The Town Engineer, or other person designated by the Town Board to review Plats shall determine if a Final Plat substantially conforms to the Preliminary Plat. The determination shall be given to the Town Board along with a recommendation for approval/denial of the Final Plat. The conclusion and recommendation are not required to be in writing but must be made part of the public record at the Town Board meeting where the Final Plat is being considered.

(b) Failure of the Town Board to act within 60 days, the time having not been extended and no unsatisfied objections having been filed, the Final Plat shall be deemed approved.

(c) After the Final Plat has been approved by the Town Board, and all conditions of approval have been resolved to the Town's satisfaction and required improvements either installed or a contract and sureties insuring their installation are filed, the Town Office shall cause the certificate inscribed upon the Final Plat attesting to such approval to be duly executed and the Final Plat shall be returned to the Land Divider for recording with the County Register of Deeds. The County Register of Deeds cannot record the Final Plat unless it is offered within the time frame specified in the Wisconsin Statutes. In addition, the Town Clerk shall not sign the Final Plat if it is presented to the Clerk for signature after resolution of all outstanding conditions of approval, if more than 36 months have passed since the date the Town Board approved or conditionally approved the Final Plat. [Note that an extension of time may only be made by written agreement between the Town Board and Land Divider.]

(d) If the Final Plat is not submitted within 36 months after the date of the last

required approval of the Preliminary Plat, the Town Board may reject the Final Plat. [Note that an extension of time may only be made by written agreement between the Town Board and Land Divider.]

(e) The Land Divider shall file one electronic, three full-size and three reduced size (11 inches by 17 inches maximum) copies of the recorded Final Plat with the Town Office. The Clerk will forward one copy each to the Town Attorney and Town Engineer. One full-size copy for the Town shall be laminated (minimum five mil).

(5) Partial Platting and Multi-Phase Plats. The Final Plat may, if permitted by the Town Board in its sole discretion, constitute only a portion of the approved Preliminary Plat which the Land Divider proposes to record at that time. The Town Board finds it reasonable and necessary to require that a Land Division shall meet the requirements for open space and parkland dedication, or fees in lieu of, and all other requirements of this chapter within each construction phase or Final Plat of the Land Division whether it is Final Platted all at once or with multiple Final Plats. The Town Board also finds it reasonable and necessary to require, as conditions of such approval, that the Land Divider and Owner shall, among other things, enter into a Developer Agreement, record Deed Restrictions, and provide financial guarantees as provided for in §§ 15.24(1) and 15-24(2)(a). If a construction phase or Final Plat of a Land Division does not meet the requirements for open space and parkland dedication, or fees in lieu of, and all other requirements of this chapter, the Land Divider and Owner may voluntarily Final Plat the entire Land Division and enter into a Developer Agreement for the entire Land Division and provide financial guarantees for the entire Land Division as provided for in Sections §§ 15.24(1) and 15-24(2)(a).

15.18 Replat.

(1) Except as provided in § 70.27(1), Wis. Stats., when it is proposed to Replat a recorded subdivision, or part thereof, so as to alter areas dedicated to the public, the Land Divider shall simultaneously vacate or alter the recorded Plat as provided in §§ 236.40 through 236.44, Wis. Stats. The Land Divider shall then proceed, using the procedures for Preliminary and Final Plats contained in this chapter.

(2) The Town Clerk shall schedule a public hearing before the Town Board when a Preliminary Plat of a Replat of lands within the Town is filed, and shall cause notices of the proposed Replat and public hearing to be mailed to the Land Divider and to the Owners of all properties within the limits of the exterior boundaries of the proposed

Replat, to all abutting property Owners, and to the Owners of all properties within 600 feet of the exterior boundaries of the proposed Replat. The Land Divider shall obtain one or more sign posts from the Town Office and place signs on the property that is the subject of the proposed

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Replat as provided in this section. A sign shall be placed on the sign post that must list the time and location of the public hearing. The sign shall be posted at least twenty-one (21) days prior to the public hearing. The sign shall be located in a position on the property so it can be read from the sidewalk or other public right-of-way. If a property abuts more than one (1) right of way, a sign shall be placed facing each public right-of-way. The sign shall be removed within seven (7) days of the public hearing and the sign post returned to the Town Office. Failure to post the sign shall not invalidate any action taken on the Replat by the Town Board.

(3) Where Lots are more than double the minimum size required for the applicable zoning district, the Town Board may require that such Lots be arranged so as to allow the resubdivision of such Parcels into smaller Lots in accordance with the provisions of this chapter.

15.19 Assessor's plat.

Assessor's Plat under § 70.27, Wis. Stats., may be ordered by the Town at the expense of the Land Divider when a subdivision is created by successive divisions.

15.20 Technical requirements for Preliminary Plats.

(1) General. When a Land Divider proposes to create a Major Subdivision, the Land Divider shall provide a Preliminary Plat prior to submitting a Final Plat. It shall be clearly marked "Preliminary Plat" and shall be in sufficient detail to determine whether the Final Plat will meet layout requirements. The Preliminary Plat shall be based upon a survey by a professional land surveyor, prepared on durable white media, with permanent nonfading black image at a scale of no less detail than 100 feet to the inch and shall comply in all respects with the requirements of Chapter 236, Wis. Stats., and this chapter.

(2) Plat data. All Preliminary Plats shall show correctly on their face the following

information:

- (a) Title under which the proposed subdivision is to be recorded.
- (b) Location of the proposed subdivision by government Lot, quarter-quarter section, section, township, range, county, and state.
- (c) Date, scale, and North point.
- (d) Names and addresses of the Owner, Land Divider, and land surveyor preparing the Preliminary Plat.
- (e) Entire area contiguous to the proposed Preliminary Plat owned or controlled by the Land Divider or Owner shall be included on the

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Preliminary Plat even though only a portion of such area is proposed for immediate Development. The Town Board may waive this requirement where it is unnecessary to fulfill the purposes and intent of this chapter and undue hardship would result from strict application thereof.

- (f) Proposed Land Division phasing, if any, including proposed schedule for completing the improvements for each phase of the Land Division.
- (g) Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
- (h) Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks, and other significant features within the tract being subdivided or immediately adjacent thereto.
- (i) Location, right-of-way width, and names of all existing streets, Alleys or other public ways, Easements, railroad and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the Preliminary Plat or

immediately adjacent thereto.

(j) Location and names of any adjacent subdivisions, parks and cemeteries and Owners of record of abutting unplatted lands.

(k) Type, width, elevation and centerline profile grade of any existing street pavements within the exterior boundaries of the Preliminary Plat or immediately adjacent thereto, together with any legally established center line elevations.

(l) Location, size, and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes, the location of manholes, catch basins, hydrants, electric and communication facilities, whether overhead or underground, and the location and size of any existing water and gas mains within the exterior boundaries of the Preliminary Plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains that might be extended to serve the tract shall be indicated by the direction and distance from the tract, size, and invert elevations.

(m) Corporate limit lines within the exterior boundaries of the Preliminary Plat or immediately adjacent thereto.

(n) Existing zoning on and adjacent to the proposed subdivision.

(o) Contours within the exterior boundaries of the Preliminary Plat and

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extending to the center line of adjacent public streets to National Map Accuracy Standards based upon the North American Vertical Datum of 1988 (or future National Vertical Datums) at vertical intervals of not more than one foot. At least two permanent bench marks shall be located in the immediate vicinity of the Preliminary Plat; the location of the bench marks shall be indicated on the Preliminary Plat; together with their elevations referenced to North American Vertical Datum of 1988 (or future National Vertical Datums) and the monumentation of the bench marks clearly and completely described.

(p) Ordinary high-water elevation of all ponds, streams, lakes, flowages, and Wetlands within the exterior boundaries of the Preliminary Plat or located within 100 feet therefrom.

(q) Water elevation of all ponds, streams, lakes, flowages, and Wetlands within the exterior boundaries of the Preliminary Plat or located within 100 feet therefrom at the date of the survey.

(r) Floodplain and Shoreland boundaries and the contour line lying a vertical distance of two feet above the elevation of the one-hundred-year recurrence interval flood or, where such data is not available, two feet above the elevation of the maximum flood of record within the exterior boundaries of the Preliminary Plat or within 100 feet therefrom.

(s) Soil types and their boundaries, as shown on the operational soil survey maps prepared by the U.S. Department of Agriculture, Soil Conservation Service.

(t) Location, width, and names of all proposed streets and public rights-of-way such as Alleys and Easements.

(u) Approximate dimensions of all Lots and Outlots together with proposed Lot, Outlot and Block numbers. The area in square feet of each Lot and Outlot shall be provided.

(v) Location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, conservancy areas, Recreational Trails, drainage ways, or other public uses or which are to be used for group housing, shopping centers, church sites, or other nonpublic uses.

(w) Location of Building Envelopes within each Lot if non-standard.

(x) Identification of the land area that is to be deed restricted, dedicated, or otherwise protected from future Development in order to meet the definition of a Cluster Subdivision. (y) Radii of all curves.

- (z) Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to access.
- (aa) Any proposed lake and stream improvement or relocation, and notice of application for approval by the Department of Natural Resources, when applicable.
- (bb) Identification of land that has a slope of 20% or more.
- (cc) A tree survey for all or part of the proposed development shall be required if requested by the Town Plan Commission or Town Board. Location of all Native Canopy Trees eight inches DBH (Diameter at Breast Height) or larger located in proposed street right-of-ways, Building Envelopes, or in areas proposed to be used for stormwater management or other subdivision improvements.
- (dd) Location of proposed subdivision entrance signs and associated lighting.
- (ee) Location of Clustered Mailbox Units (CBUs) if CBUs are required by the United States Post Office.
- (ff) Where the Plan Commission, Town Board or Town Engineer finds that it requires additional information relative to a particular problem presented by a proposed development in order to review the Preliminary Plat, it shall have the authority to request in writing such information from the Land Divider.

15.21 Technical requirements for final plats.

- (1) General. A Final Plat prepared by a professional land surveyor shall be required for all Major Subdivisions. It shall comply in all respects with the requirements of § 236.20, Wis. Stats., and this chapter. If a Land Divider chooses to Final Plat only a portion of the area approved within a Preliminary Plat, the area contained within that Final Plat shall also meet the requirements of §236.20, Wis. Stats., and this chapter.
- (2) Additional information. The Final Plat shall show correctly on its face, in addition to the information required by § 236.20, Wis. Stats., the following:
 - (a) Exact street width along the line of any obliquely intersecting street.

(b) Exact location and description of street lighting and lighting utility Easements.

(c) When determined by the Town Engineer, minimum lowest window or

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door openings for proposed Lots shall be identified on the Final Plat and shall be detailed in Restrictive Covenants. In general, the lowest opening for any structure on a Lot adjacent to a major drainage way, or other stormwater management improvement shall be two feet above the calculated water elevation in a one-hundred-year rainfall event.

(d) Railroad rights-of-way within and abutting the Plat.

(e) All lands reserved for future public acquisition or reserved for the common use of property Owners within the Plat.

(f) Special restrictions required by the Town Board relating to access control along public ways or to the provision of planting strips.

(g) Location of Building Envelopes within each non-standard Lot.

(h) Identification of all land outside a Building Envelope as deed restricted to prohibit construction of any structures.

(i) Identification of land that is to be deed restricted, dedicated, or otherwise protected from future Development in order to meet the definition of a "Cluster Subdivision."

(j) Identification of restrictions required at intersections that will provide for the proper Intersection Sight Distance and Vision Corner, as detailed in § 8.02 of this Code.

(k) Location of proposed subdivision entrance signs and associated lighting.

(l) Location of Clustered Mailbox Units (CBUs) if CBUs are required by the

United States Post Office and if the CBU's are located outside a public right-of-way.

(3) Stormwater maintenance agreement requirements.

(a) At the discretion of the Town Board, or its designee, a Stormwater Maintenance Agreement or Plan may be waived for any water quality or quantity facilities required by the Town of Middleton or other regulatory agency.

(b) The Stormwater Maintenance Agreement must describe the entity responsible for long-term upkeep of water quality or quantity facilities and the type of maintenance required. The Stormwater Maintenance Agreement must be deed recorded prior to recording the Plat, or later, as determined by the Town Board.

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(4) Property owners association; restrictive covenants. One hard copy and one electronic copy of the legal instruments and rules for proposed property Owners associations or Lot Owners, and proposed deed restrictions and/or covenants, shall be submitted at the time of filing of the Final Plat with the Town Office. The Town Board may require that those provisions that impact or affect the Town may not be amended or terminated without the written approval of the Town Board. (Note: Deed restrictions and Restrictive Covenants in subdivisions may be private contractual agreements not enforceable by the Town.)

(5) Survey accuracy.

(a) Examination. The Town Board may examine all Final Plats within the Town and may check for the accuracy and closure of the survey, the proper kind and location of monuments, and legibility and completeness of the drawing.

(b) Maximum error of closure. Maximum error of closure shall meet the requirements of Chapter 236, Wis. Stats.

(c) Street, block, and lot dimensions. All dimensions shall meet the requirements of Chapter 236, Wis. Stats.

(d) Plat location. All Plats shall be referenced to the Wisconsin County Coordinate System, Dane County Zone.

(6) Surveying and monumenting.

(a) All Final Plats shall meet all the surveying and monumenting requirements of § 236.15, Wis. Stats.

(b) In addition, Land Dividers shall be required to monument trail Easements with permanent monumentation, as required by the Town Engineer.

(7) Coordinate system. The Plat shall be tied directly to two (2) section or quarter corners within the section the Plat is located. The exact bearing and distance of such tie shall be determined by field measurements, and the material and coordinate values of the monuments marking the section corner or quarter corner to which the Plat is tied shall be indicated on the face of the Plat. All bearings, distances and coordinate values shall be referenced to the Wisconsin County Coordinate System, Dane Zone, NAD83, current adjustment (2011 adjustment), or as modified by subsequent adjustments.

(8) Certificates. All Final Plats shall provide all the certificates required by § 236.21, Wis. Stats.; and in addition, the surveyor shall certify on the Final Plat that he has fully complied with all the provisions of this chapter. (9) AutoCAD drawing file. The Land Divider shall provide a file that is either an

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AutoCAD drawing file in model space or a file that is compatible with AutoCAD such that it can be converted by AutoCAD into an AutoCAD drawing file.

15.22 Technical requirements for certified survey land divisions; review and approval.

(1) Certified survey requirements. When a Land Divider proposes to create a Minor Subdivision, the Land Divider shall subdivide by use of a Certified Survey map, prepared in accordance with § 236.34, Wis. Stats., and this chapter.

(2) Preliminary consultation.

(a) Before filing a Certified Survey map, the Land Divider shall consult with the Town staff regarding requirements for certified surveys. Information on meeting dates, agenda deadlines and filing requirements may be obtained from the Town Office. This consultation is intended to inform the Land Divider of the purpose

and objectives of these regulations, the Town Land Use Plan, and duly adopted plan implementation devices of the Town and to otherwise assist the Land Divider in planning his development. In so doing, both the Land Divider and the Town may reach mutual conclusions regarding the general program and objectives of the proposed development and its possible effects on the neighborhood and community, and the Land Divider may gain a better understanding of the subsequent required procedures.

(b) If it is determined during the preliminary consultation that the Town will incur out-of-pocket expenses from the Town Engineer, Town Attorney, or otherwise, with regards to review of the concept plan, the Land Divider shall submit to the Town a One Thousand Dollar (\$1,000.00) deposit to be applied for Town expenses. Should the Town's fees and expenses exceed the initial deposit during review of the concept plan, the Land Divider shall submit an additional One Thousand Dollars (\$1,000.00) as a deposit. The Land Divider shall be responsible for all Town expenses, even if they exceed the amount of the deposit(s). The Land Divider shall sign an Agreement with the Town to be responsible for all said costs.

(3) Submission and review.

(a) Following consultation, one hard copy and one electronic copy of the final map in the form of a Certified Survey map and application shall be submitted to the Town Office 21 days prior to the Town Plan Commission meeting at which action is desired. In addition one hard copy and one electronic copy of submittal documents required on the Certified Survey map submittal checklist shall be provided. The Town Administrator may after receiving the submittal make a determination whether the specifications of the Certified Survey Map meets the Town's standards for requiring only an administrative review, as listed under §15.22 below. The

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Certified Survey shall be reviewed by the Plan Commission and Park Commission, and their recommendations, if any, made to the Town Board. The Town Board shall approve, conditionally approve or reject the Certified Survey. Town review and action shall be completed within 90 days of filing with the Town Office.

(b) The application shall include the following:

(i) Written description. A written description of the proposed Land Division;

(ii) Use statement. A statement of the proposed use of Lots stating the type of residential buildings with the number of proposed Dwelling Units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards, police services and congestion of population;

(iii) Zoning changes. If any zoning changes are contemplated, the proposed zoning plans for the areas, including dimensions;

(iv) Area plan. Where the Land Divider, Developer, and/or Owner owns property adjacent to the property which is being proposed for the Land Division, the Land Divider shall submit to the Plan Commission a concept plan for the remainder of the property so as to show the possible relationships between the proposed Land Division and future Land Divisions. All Land Divisions must be shown to be compatible with and to be consistent with existing or potential adjacent Land Divisions;

(v) Adjacent land divisions. A record of any adjacent Land Divisions made within the last five years;

(vi) Street plan and profiles. When made necessary by the Certified Survey, the Land Divider shall provide street plan and profiles showing existing ground surface, and the proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed Land Division when requested by the Town Engineer or the Town Board. Where requested by the Town Engineer, cross sections depicting the existing and proposed street surfaces shall be provided at an interval frequency appropriate to the scale of the project and at such locations where needed to evaluate the proposed road design.

(vii) Soil testing.

1. Soil testing for suitability of Private On-Site Wastewater

Treatment Systems (POWTS) is not required by the Town. POWTS are regulated by the Department of Public Health Madison and Dane County (PHMDC). Land Dividers and Lot owners are required to work with PHMDC to evaluate, permit and construct POWTS. The Town shall not be held responsible by a Land Divider or Lot Owner if developed Lots are unbuildable because they are unsuitable for on-site sanitary sewer collection systems. Holding tanks shall not be considered an acceptable system in the Town for septic systems.

2. The Land Divider shall evaluate the site per Wisconsin Department of Natural Resources Technical Standard 1002 – Site Evaluation for Stormwater Evaluation if infiltration is required by Dane County.

(viii) Environmental assessment checklist. A completed copy of the Environmental Assessment Checklist as shown in Attachment 1 of this chapter.²

(ix) Title requirements. The Land Divider shall also submit with the Certified Survey map two copies of a current title commitment or registered property report and such other evidence as the Town Board or Town Attorney may require showing title or control in the Land Divider or Owner. Prior to final sign-off of Certified Survey map documents, updated title information shall be submitted to the Town Attorney.

(c) The Town Clerk shall give notice of the Plan Commission's and Park Commission's review of the Certified Survey by listing it as an agenda item in the Plan and Park Commissions' meeting notices. The notices shall include the name of the Land Divider, the address of the property in question and the requested action. Abutting property Owners and property Owners within 600 feet of the Land Divider's total Parcel shall receive written notice of the public hearing.

(d) The Town Clerk shall schedule a public hearing on the Certified Survey before

the Town Board. The Town Clerk shall give notice of the Town Board's review and public hearing on the Certified Survey by listing it as an agenda item in the Board's posted meeting notice. The Land Divider shall also be notified. The notice shall include the name of the Land Divider, the address of the property in question and the requested action. Abutting property Owners and property Owners within 600 feet of the Land Divider's total Parcel shall receive written notice of the public

2. Editor's Note: Attachment 1 is included at the end of this chapter.

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hearing.

(e) The Land Divider shall obtain one or more sign posts from the Town Office and place signs on the property that is the subject of the Certified Survey review as provided in this section. A sign shall be placed on the sign post that must list the times and locations of all meetings and public hearings to consider the Preliminary Plat. The sign shall be posted at least seven (7) days before any meeting that is not a public hearing and at least twenty-one (21) days prior to any public hearing. The sign shall be located in a position on the property so it can be read from the sidewalk or other public right-of-way. If a property abuts more than one (1) right of way, a sign shall be placed facing each public right-of-way. The sign shall be removed within seven (7) days of the last public hearing listed on the sign and the sign post returned to the Town Office. Failure to post the sign shall not invalidate any action taken on the Preliminary Plat by the Plan Commission or the Town Board.

(4) Additional map information. The Certified Survey map shall show correctly on its face, in addition to the information required by § 236.34, Wis. Stats., the following:

(a) All existing buildings, watercourses, drainage ditches and other features pertinent to property division.

(b) Setbacks or building lines required by the Town Ordinances and the Dane County Zoning Code if non-typical.

- (c) All lands reserved for future public acquisition.
- (d) Date of the map.
- (e) Graphic scale.
- (f) Name and address of the Owner, Land Divider, and surveyor.
- (g) Square footage of each Parcel.
- (h) Location of Building Envelopes within each Lot if non-standard.
- (i) Identification of all land outside a Building Envelope as deed restricted to prohibit construction of any structures.
- (j) Notification that shall read as follows: "Further Land Divisions by Certified Survey may be restricted for a period of up to five years under the provision of § 15.22 of the Town of Middleton Land Division and Subdivision Ordinance."

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- (k) Identification of land that has a slope of 20% or more.(12) Identification of restrictions required at intersections, if any, that will provide for the proper Intersection Sight Distance and Vision Corner, as detailed in § 8.02 of this Code.
- (l) A tree survey shall be required as determined by the Town Plan Commission or Town Board. Location of all Native Canopy Trees exceeding eight inches DBH (Diameter at Breast Height) located in proposed street right-of-ways, Building Envelopes, or in areas proposed to be used for stormwater management or other subdivision improvements.
- (m) When determined by the Town Engineer, minimum lowest window or door openings for proposed Lots shall be identified on the Certified Survey map, and shall be detailed in Restrictive Covenants. The lowest opening for any structure on a Lot adjacent to a major drainageway or other stormwater management

improvement shall be two feet above the calculated water elevation in a one-hundred-year rainfall event.

(5) Stormwater requirements. Land Development activities involving Certified Survey map (CSM) approval shall meet the requirements for Stormwater and Erosion Control and the Town's "Design Requirements for Public Infrastructure" under Chapter 17 of this Code.

(6) Property owners association; restrictive covenants. When a Land Divider proposes common property within a Certified Survey will be either owned or maintained by an organization of property Owners or the Town, or if the Certified Survey contains areas of interest, such as, but not limited to stormwater management areas, parks or landscape buffers, the Land Divider shall provide the Town with one hard copy and one electronic copy of the legal instruments and rules for proposed property Owners associations or Lot Owners, and proposed deed restrictions or Restrictive Covenants/Easements for Town Board approval. The Town Board may require that those provisions which impact or affect the Town may not be amended or terminated without the written approval of the Town Board. (Note: Deed restrictions and Restrictive Covenants in subdivisions may be private contractual agreements not enforceable by the Town.)

(7) Environmental assessment checklist.

(a) Submission. The Environmental Assessment Checklist, found in "Attachment 1," shall be provided to the Land Divider for a Certified Survey map, before the preliminary consultation conference, to be completed for submission with the Certified Survey map.

(b) Purpose. The purpose of the Environmental Assessment and Evaluation is to provide the basis for an orderly, systematic review of the effects of the

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proposed Land Division upon the community environment in accordance with the principles and procedures of § 236.45(1), Wis. Stats. The goals of the community are to eliminate pollution and siltation or reduce them to acceptable standards, assure ample living space per capita, preserve open space and parks for recreation, to provide adequately for stormwater control; maintain scenic beauty and aesthetic surroundings, administer to the economic and cultural needs of the citizens; and to provide for the

effective and efficient flow of goods and services.

(c) Determination of need for expanded environmental assessment. The Plan Commission shall review the Environmental Assessment Checklist following submittal and make its recommendation to the Town Board. The Town Board may, for reasons stated in a written determination, decide that the preliminary environmental assessment raises significant questions regarding the effects of the proposed Land Division on the environment and/or that a high level of citizen interest has resulted from the preliminary assessment. Such a decision shall be made within 14 days of the review of the Certified Survey map by resolution of the Town Board and shall specifically identify the questions and/or issues on which it requires additional research, data, evaluation or input from the Land Divider, Developer, Owner, or other governmental agencies or interested parties. The Town Board shall establish a reasonable date for the return and review of the additional information requested and may specify the format in which the information is to be presented.

(d) Hearing on expanded environmental assessment. Following the return to the Town Board of the additional information requested, the Town Board shall make such information available for inspection by the Land Divider, Owner, Town department(s), commission(s) and committee(s), and any other interested parties who shall be given a minimum of 30 days to review the information and submit written comments to the Town Board. The Town Board shall schedule and hold a public hearing regarding the expanded environmental assessment within 45 days of the deadline established for submission of written comments. The public hearing shall be preceded by a Class 1 notice under Chapter 985, Wis. Stats. Persons attending the public hearing shall be afforded an opportunity to comment on the report.

(e) Review. The Plan Commission and the Town Board shall review, as part of the analysis and evaluation of the Certified Survey map, any environmental assessment reports, supporting data and information, and Town staff, Town Engineer, commission and committee reviews as the Town Board may require for determining the suitability of the proposed Land Division and subsequent Development.

(8) Drafting standards. The Land Divider shall submit to the Town Office copies of a

Certified Survey map which shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land) and Easements which the Land Divider or Owner proposes to make and shall indicate by accompanying letter when the improvements will be provided.

(9) Coordinate system. The Certified Survey Map shall be tied directly to two (2) section or quarter corners within the section the Certified Survey Map is located. The exact bearing and distance of such tie shall be determined by field measurements, and the material and coordinate values of the monuments marking the section corner or quarter corner to which the Certified Survey Map is tied shall be indicated on the face of the Certified Survey Map. All bearings, distances and coordinate values shall be referenced to the Wisconsin County Coordinate System, Dane Zone, NAD83, current adjustment (2011 adjustment), or as modified by subsequent adjustments.

(10) Certificates. All Certified Survey maps shall provide all the certificates required by § 236.34, Wis. Stats.; and in addition, the surveyor shall certify on the Certified Survey map that he has fully complied with all the provisions of this chapter.

(11) Street dedication. Dedication of streets and other public areas shall require, in addition, the Owner's certificate and the mortgagee's certificate in substantially the same form as required by § 236.21(2)(a), Wis. Stats.

(12) Incomplete submission. All items and documents required by this section must be submitted to the Town Office before the time requirements for review of Land Divisions will legally commence. Failure to submit all items and documents required by this section may constitute a reason for the Town Board to reject a Certified Survey map.

(13) Town Board review and approval.

(a) Within 90 days of the date the Certified Survey map was filed with the Town Office, the Town Board shall, taking into consideration the Plan Commission's recommendation, if any, approve, approve conditionally, or reject such Certified Survey and shall state in writing any conditions of approval or reasons for rejection, unless the time is extended by written agreement with the Land Divider. The Town Clerk shall communicate in writing to the Land Divider the action of the Town Board.

(b) After the Certified Survey map is approved by the Town Board and the required improvements, if any, including street, stormwater management facilities, sewer, water main, etc., are either installed or a contract and sureties insuring their installation is filed, and all conditions of approval have been resolved, including payment of any fees or charges under this chapter, the Town Clerk shall sign the Certified Survey map.

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(c) The County Register of Deeds cannot record the Certified Survey map unless it is offered within the time frame specified in the Wisconsin Statutes. In addition, the Town Clerk shall not sign the Certified Survey map if it is presented to the Clerk for signature after resolution of all outstanding conditions of approval, if more than 24 months have passed since the date the Town Board approved or conditionally approved the Certified Survey map. [Note that an extension of time may only be made by written agreement between the Town Board and Land Divider.] Failure to do so shall necessitate a new filing and review and approval of the Certified Survey map by the Town Board.

(d) The Land Divider shall file three full-size and three reduced size (11 inches by 17 inches maximum) copies of the recorded Certified Survey map with the Town Office. The Clerk will forward one copy each to the Town Attorney and Town Engineer. One full-size copy for the Town shall be laminated (minimum five mil).

(14) Requirements. To the extent reasonably practicable, the Land Divider with a Certified Survey shall comply with the provisions of this chapter relating to general requirements, design standards, and required improvements prescribed in Articles VI, VII and VIII of this chapter. Conveyance by metes and bounds shall be prohibited where the Lot(s) involved is less than 35 acres.

(15) AutoCAD drawing file. The Land Divider shall provide a file that is either an AutoCAD drawing file in model space or a file that is compatible with AutoCAD such that it can be converted by AutoCAD into an AutoCAD drawing file.

15.23 Cost of improvements; general standards.

(1) Payment for improvements. The improvements prescribed in this chapter are required

as a condition of approval of a Land Division. The required improvements described in this chapter shall be installed, furnished and financed at the sole expense of the Land Divider. However, in the case of required improvements in a commercial or industrial area, the cost of such improvements may, at the sole discretion of the Town Board, be financed through special assessments.

(2) General standards.

(a) The following required improvements in this chapter shall be designed and installed in accordance with the engineering standards and specifications that have been adopted or approved by the Town Board. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good and accepted engineering practices. All engineering designs, standards and specifications must be approved by the

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Town Engineer prior to the start of any construction and shall meet the requirements of the Town's "Design Requirements for public Infrastructure.

(b) All features, amenities, and improvements that are depicted, shown, or referred to in or on any documents, drawings, or maps shall be considered to be part of the plan to divide the land and shall be the responsibility of the Land Divider to provide and/or install unless specifically noted in the documents, drawings, or maps to the contrary.

15.24 Required agreement providing for proper installation of improvements.

(1) Contract. Prior to installation of required improvements, if any, and prior to the Town signing the Final Plat or Certified Survey map, the Land Divider and Owner shall enter into a written contract, termed a "Developer Agreement," with the Town requiring the Land Divider to furnish and construct said improvements at his or her sole cost and in accordance with plans and specifications and usual contract conditions, which shall include provision for inspection and approval of construction details by the Town Engineer. If it is determined by the Town Board that the Land Divider or Owner is in default under the Developer Agreement during installation of the improvements, the Town may issue a cease and desist order stopping all activities until the issue(s) has been satisfactorily addressed in the opinion of the Town Board.

(2) The Land Divider and Owner shall be required to enter into a Developer Agreement for each phase of construction of a Land Division at the time the Final Plat is approved, whether it is Final Platted all at once or with multiple Final Plats. The Town Board finds it reasonable and necessary to require the following:

(a) For a Land Division that is Final Platted with multiple Final Plats by construction phase, the requirements for open space and parkland dedication, or fees in lieu of, and all other requirements of this chapter must be met within each construction phase and Final Plat for the Land Division.

(b) For a Land Division that is Final Platted with one Final Plat, the requirements for open space and parkland dedication, or fees in lieu of, and all other requirements of this chapter must be met within each construction phase of the Final Plat.

(3) Alternatively, if a construction phase or Final Plat of a Land Division does not meet the requirements for open space and parkland dedication, and all other requirements of this chapter, the Land Divider and Owner may voluntarily Final Plat the entire Land Division and enter into a Developer Agreement for the entire Land Division.

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(4) If the Town Board approves a Land Division that will be Final Platted all at once, but built in multiple construction phases, or is Final Platted with multiple Final Plats and built in multiple corresponding construction phases, the Town Board finds it reasonable and necessary to require the Land Divider and Owner to:

(a) Enter into a Developer Agreement for construction of the first phase of improvements, and

(b) Record a Deed Restriction that prevents the sale of any Lots outside of the first phase of construction until the Land Divider and Owner have entered into a Developer Agreement and have posted surety for improvement of the lots in the particular construction phase and Final Plat of the development.

(5) Financial guarantees.

(a) The Developer Agreement shall require the Land Divider and Owner to make a cash escrow deposit or furnish a letter of credit or bond, the amount of such surety to be equal to one hundred and twenty (120) percent of the estimate of the total cost of the improvements. The amount of the deposit shall be determined as provided under §236.13(2)(am)1d., Wis. Stats. For purposes of this section, at a minimum, Improvements shall include street and stormwater infrastructure, Public Recreational Trails, Invasive Species Management, and Lot corner monumentation. Improvements do not include any fees charged by the Town for land disturbing activities that are necessary to achieve the desired subgrade for public improvements. Letters of credit are to be provided in the form available from and approved by the Town. Bonds shall be provided in a form that meets the requirements of §236.13(2)(am)1m.c., Wis. Stats. The Town Board finds it reasonable and necessary to require that the Land Divider and Owner shall provide financial guarantees for the first phase of construction of a Land Division, at the time the Final Plat is approved, whether it is Final Platted all at once or with multiple Final Plats, and prior to each subsequent construction phase.

(b) The Town Board also finds it reasonable and necessary to require that a Land Division shall meet the requirements for open space and parkland dedication, or fees in lieu of, and all other requirements of this chapter within each construction phase or Final Plat of the Land Division whether it is Final Platted all at once or with multiple Final Plats. If a construction phase or Final Plat of a Land Division under consideration does not meet the requirements for open space and parkland dedication, and all other requirements of this chapter, the Land Divider and Owner may voluntarily Final Plat the entire Land Division and enter into a Developer Agreement for the entire Land Division and provide financial guarantees for the entire Land Division.

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(c) On request of the Land Divider, the Developer Agreement may provide for completion of all or part of the improvements covered thereby prior to the approval of the Land Division, and in such event the amount of the deposit or letter of credit or bond shall be reduced in a sum equal to the estimated costs of the improvements so completed prior to approval of the Final Plat or Certified Survey map.

(d) On request of the Land Divider and upon recommendation by the Town Engineer, the Board may accept improvements and allow a reduction in the letter of credit or bond upon completion of all or a portion of required improvements. A one-year warranty period is required for all improvements except stormwater. Stormwater improvements shall be under warranty until: 80% of the Lots in the subdivision have been sold and the Developer's engineer has certified that the facilities are functioning properly; required plantings are adequate and well established; and all necessary maintenance has been properly performed. At its discretion, the Town Board could waive the 80% requirement but still require the certification on other requirements. If any defects appear during the warranty period, the Land Divider shall make the required replacement or acceptable repair as directed by the Town Board at the Land Divider's expense. During the warranty period for such completed portions of the required improvements, the Town may lower the letter of credit or bond to 15% of the cost of the improvements completed. In addition, the letter of credit or bond should also include 120% of the estimated cost of unfinished required improvements until that work is complete.

(e) If the required improvements are not completed within the period specified within the Developer Agreement, all amounts held under deposit or letters of credit or bonds shall be turned over to the Town and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the Land Divider.

(f) The Town Board, at its option, may require extension of the deposit or letter of credit or bond period for additional periods not to exceed two years for each additional period.

(g) The time for completion of the required improvements, and the several parts thereof, shall be determined by the Town Board upon recommendation of the Town Engineer. The Town Engineer shall consult with the Land Divider regarding the establishment of the time for completion of the required improvements. The completion date shall be a component of the Developer Agreement. The Town Board may, in its sole discretion, provide such penalties as it deems appropriate to ensure the timely completion of the required improvements.

(h) The Land Divider shall pay the Town for all costs incurred by the Town for review, approval and inspection of the Subdivision and Development thereof. Such costs shall include, but not be limited to, the review, and preparation at the Town Board's sole discretion, of plans and specifications by the Town Engineer, special studies or projects undertaken by the Town Engineer or other Persons at the direction of the Town Board; the review, and preparation at the Town Board's sole discretion, of legal documents, plans and specifications by the Town Attorney; as well as all other costs of a similar nature which are related to the review, approval and inspection of the Subdivision and Development thereof. The Land Divider shall also be responsible for all engineering costs associated with the design, review, and construction observation of Recreational Trails, and all other required improvements.

15.25 Required construction plans; Town Review; inspections.

(1) Engineering reports, construction plans, and specifications.

(a) At the Final Plat stage, or when necessary for a Minor Subdivision, upon the filing of a Certified Survey map, construction plans, and specifications for the required improvements conforming in all respects with the standards established by the Town Engineer and the Ordinances of the Town shall be prepared at the Land Divider's expense by a professional engineer who is registered in the State of Wisconsin, and such plans shall contain the professional engineer's seal. Such plans, together with the quantities of construction items, shall be submitted to the Town Engineer for his approval and for his estimate of the total costs of the required improvements. Approval of such plans shall be as required by the Developer Agreement; the approved plans shall become a part of the Developer Agreement.

(b) Simultaneously with the filing of the Final Plat with the Town Office, or when necessary, upon the filing of a Certified Survey map, copies of the construction plans and specifications, where applicable, shall be furnished for the following Public Improvements, with a copy sent to the appropriate sanitary district:

(i) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.

(ii) Sanitary sewer plans and profiles showing the locations, grades,

sizes, elevations and materials of required facilities.

(iii) Storm sewer and open channel plans and profiles showing the locations, grades, sizes, cross-sections, elevations and materials of

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required
facilities.

(iv) Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities.

(v) Stormwater management, erosion and sedimentation control plans showing those structures required to retard the rate of runoff water and those grading and excavating practices that will prevent erosion and sedimentation. Such plans shall comply with the requirements of Chapter 17 of this Code. Such plans shall be accompanied by a stormwater management report that provides the technical support to the proposed design, and that details the ongoing maintenance required to maintain stormwater management improvements. Evidence that Dane County has approved the stormwater management plan shall be submitted to the Town. The plan approval letter from Dane County, and a copy of the plans approved by Dane County, shall be provided to the Town, in both hard copy and electronic formats, prior to the Town approving the stormwater management plan and final construction plans.

(vi) Planting plans showing the location, age, caliper, species and time of planting of any required grasses, vines, shrubs and trees.

(vii) Additional special plans or information required by the Town Board, own Engineer or other parties designated by the Town Board.

(2) Action by the Town Engineer. The Town Engineer shall review or cause to be reviewed the plans and specifications for conformance with the requirements of this chapter and other pertinent Town ordinances and design standards recommended by the Town Engineer and approved by the Town Board. If the Town Engineer rejects the plans and specifications,

the Town Engineer shall notify the Land Divider, who shall modify the plans or specifications, or both, accordingly. When the plans and specifications are corrected, the Town Engineer shall approve the plans and specifications. If construction of any development or phase of a development does not commence within six months of construction plan approval, plans for the development or phase of development shall be resubmitted for review and approval by the Town Engineer. The development or phase of development subject to a new review shall be subject to any new ordinances approved by the Town Board.

(3) Construction and inspection.

(a) Prior to starting any work covered by the plans approved above, written authorization to start the work shall be obtained from the Town Engineer

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upon receipt of all necessary permits and in accordance with Town Ordinances. Building permits shall not be issued until all improvements required by this chapter are satisfactorily completed. No land surface disturbance or construction shall commence within a development prior to the Land Divider providing surety for the improvements.

(b) Construction of all improvements required by this Title shall be substantially completed within two (2) years from the date of the Developer Agreement and fully completed within thirty (30) months from the date of the Developer Agreement, unless good cause can be provided to and approved by the Town Board to grant an extension or a different schedule is negotiated with the Town in the Developer Agreement. These timeframes shall not apply to the placement of the final surface layer of asphalt and associated final shouldering, which shall be completed within three (3) years from the date of the Developer Agreement unless good cause can be provided to and approved by the Town Board to grant an extension or a different schedule is negotiated with the Town in the Developer Agreement. Any request for an extension of the construction completion date shall be made in writing to the Town Office and shall state the reasons for the requested extension. The Town Board may, in its sole discretion, grant such an extension.

(c) During the course of construction, the Town Engineer shall make such inspections as the Town Board or the Town Engineer deems necessary to ensure

compliance with the plans and specifications as approved. The Land Divider shall pay the actual costs incurred by the Town for such inspections. This fee shall be the actual costs to the Town of inspectors, engineers and other parties necessary to insure satisfactory work.

(4) Record plans. After completion of all Public Improvements and prior to final acceptance of such improvements, the Land Divider shall make or cause to be made, one hard copy and one electronic copy of record plans showing the actual location of all valves, manholes, stubs, sewers and water mains, stormwater culverts and other stormwater improvements, and such other facilities as the Town Engineer may require. These plans shall be prepared on durable white media, with permanent nonfading black image and shall bear the signature and seal of a professional engineer registered in the State of Wisconsin. The presentation of the record plans shall be a condition of final acceptance of the improvements and the release of the surety assuring their completion. The hard copy shall be retained by the Town Office.

15.26 Street improvements.

The Land Divider shall construct streets, roads, and alleys as outlined on the approved plans based on the requirements of this chapter:

(1) Street construction standards.

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(a) The design and construction of all roads, streets and alleys in the Town shall fully comply with the requirements and specifications of § 8.02. After applicable sanitary sewer, storm sewer, water, and other necessary utilities have been installed, where required by the Town, the Land Divider shall construct and dedicate streets as part of the Subdivision.

(b) In the event that private roads, streets, and/or alleys (which are all Private Improvements) are proposed by the Land Divider, the Town shall determine which standards the road, street, and/or alley shall meet. If the Town allows said private road, street, and/or alley to be constructed to other standards, an agreement shall be recorded between the Town and Landowner that covers maintenance provisions.

(2) Completion of street construction.

(a) Prior to any building permits being issued on lands adjacent to streets, required street construction in conformance with the Developer Agreement shall be completed by the Land Divider and inspected and approved by the Town Engineer.

(b) The Town Board may issue a waiver of these requirements in unusual or special circumstances such as excessively severe weather conditions, heavy construction temporarily in the area, or construction material shortages (i.e., cement, asphalt). The issuance of a waiver shall be at the sole discretion of the Town Board.

(c) The Land Divider requesting a waiver shall do so in writing, presenting such information and documentation as required by the Town Board. The waiver shall be in written form and shall detail which improvement requirements are temporarily waived and for what period of time.

15.27 Curb and gutter.

After the installation of all required utility and stormwater drainage improvements, the Land Divider, when required by the Town Board and where determined to be necessary by the Town Engineer, shall construct concrete curbs and gutters in accordance with plans and specifications approved by the Town Engineer. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts.

15.28 Sidewalks.

Sidewalks may be required by the Town Board in high traffic areas and areas in the vicinity of schools, commercial areas and other areas of public assemblage. The Town Board may require the construction of sidewalks if such walks are necessary, in its sole discretion and opinion, for safe and adequate pedestrian circulation.

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15.29 Park and trail improvements.

The Land Divider shall construct parks and trails as outlined on the approved plans based on the requirements of this chapter.

(1) Mini-parks.

(a) The Land Divider may be required by the Town Board to construct, and dedicate to the Town, mini-park(s) or pay the equivalent fee in lieu of dedication specified in § 15.45(4).

(b) Mini-parks shall be developed at locations identified by the Town Board consistent with the Town's Comprehensive Plan and Comprehensive Outdoor Recreation Plan ("CORP"). Mini-parks shall be approximately one acre in area and shall have facilities appropriate for a mini-park as specified by the CORP. The Town may require development of mini-parks in developments whose location meets the needs and goals identified by the CORP. Other developments shall be assessed a fee in lieu of dedication pursuant to § 15.45(4).

(c) If the Town Board requires a Land Divider to construct a mini-park rather than pay the fees in lieu of dedication, the fees otherwise owed by the Land Divider for the development shall be reduced by the cost of playground equipment specified by the Town Board, plus the value of the land dedicated as determined by the Town's dedication calculation pursuant to § 15.45(3). If the cost of the mini-park exceeds the fees owed by the Land Divider for the development, the Town shall pay the remaining cost.

(2) Secondary Recreational Trails. The Land Divider may be required by the Town Board to provide Easements or dedication for and to construct, at the Land Divider's cost, Secondary Recreational Trails at a ratio of up to 20 feet per Lot. The Land Divider may be required to clear, grade, establish base course, and install final surface appropriate for the type of trail and use based on the design standards set out in § 15.49(1)(b). The Land Divider may be required to provide a surface up to and including a five-foot wide, 3/4 inch crushed stone base eight inches thick or an eleven-foot-wide grass trail. If the Town desires higher standards and/or an asphalt path, the improvements over and above these standards shall be paid for according to §§ 15.45 through 15.50 of this chapter.

(a) Secondary Recreational Trails may be located within utility Easements or along drainage ways if they will not interfere with their intended function, and if approved by the Town Board. Secondary Recreational Trails may be located within road rights-of-way only when necessary and with the approval of the Town Board.

(b) Secondary Recreational Trails shall also be located and constructed in keeping with any goals and locations established by the official Town trails map and Comprehensive Outdoor Recreation Plan.

(3) Other Park and Recreational Trail improvements. Any additional park or Primary and Secondary Recreational Trail improvements required by this chapter shall be planned, improved and paid for according to §§ 15.45 through 15.50 of this chapter.

15.30 Sanitary sewerage system.

(1) The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with plans and specifications approved by the appropriate sanitary district. Service laterals shall be provided to all Lots served by public sewer systems.

(2) The Land Divider shall pay all the costs of all public sanitary sewer work including the bringing of sanitary sewer from where it exists to the proposed subdivision as well as providing all sanitary sewer work within the subdivision. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with the plans and specifications approved by the appropriate sanitary district serving the area.

(3) Private sewage disposal systems shall comply with the appropriate provisions of Chapter 17 of the Town Ordinances.

(4) Holding tanks shall not be considered an acceptable system for septic systems, unless an exception is made at the sole discretion of the Town Board.

15.31 Stormwater drainage facilities.

Pursuant to § 15.43, the Land Divider shall provide stormwater drainage facilities which may include curb and gutter, catch basins and inlets, storm sewers, roadway culverts, road ditches, and open channels. All stormwater drainage facilities shall be designed per the Town of Middleton's "Design Requirements for Public Improvements" and those specified in Chapter 17 of these Ordinances. Stormwater drainage facilities shall be so designed as to minimize hazards to life or property, and the size, type and installation of all stormwater drainage facilities proposed to be constructed shall be in accordance with the plans and specifications approved by

the Town Board, upon the recommendation of the Town Engineer. All Land Divisions shall follow current federal, state and county stormwater requirements and shall follow the recommendations of the Stormwater Master Plan – Town of Middleton (2017) and adhere to on-going WPDES permit requirements as described in the Stormwater Master Plan.

15.32 Other utilities.

(1) The Land Divider of a Major Subdivision shall cause gas, electrical power,

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telephone, and cable television facilities to be installed in such a manner as to make adequate service available to each Lot in the subdivision.

(2) All new electrical distribution lines, television cables and telephone lines from which Lots are individually served shall be underground unless the Town Board specifically allows overhead poles for the following reasons:

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

(b) The Lots to be served by said facilities can be served directly from existing overhead facilities.

(3) Plans indicating the proposed location of all gas, electrical power, television cables, and telephone distribution and transmission lines required to service the Land Division shall be approved by the Town Engineer and such plans shall be filed with the Town Office.

15.33 Street signs and lighting.

(1) The Land Divider shall furnish and install street signs in the subdivision in such locations as the Town Board may determine. Such signs include traffic control signs. The Town Board or its designee shall determine the design and construction standards for all such street signs.

(2) The Town Board, in its sole discretion, may require the Land Divider to furnish and install streetlights in such locations as the Town Board may determine. The Town Board or its designee shall determine the design and construction standards for all such streetlights.

(3) If a Land Divider is allowed to install street signs or posts that vary from the Town standard, the Town will, if necessary, replace signs or posts with signs meeting Town standards, unless other arrangements have been made and approved by the Town Board.

(4) In no case, however, shall the signs that vary from Town standards compromise safety standards as determined by the Town Board or its designee.

15.34 Erosion control.

Pursuant to Wisconsin Statutes, Dane County Ordinances and the Town's Erosion and Stormwater Runoff Control Ordinance (Chapter 17 of this Code), the Land Divider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded or otherwise protected so that erosion, siltation, sedimentation, and washing are prevented. The Land Divider shall submit an erosion control plan that specifies

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measures that will be taken to assure compliance and the minimization of erosion problems within the Land Division.

15.35 Partition fences.

When the land included in a Subdivision Plat or Certified Survey map abuts upon or is adjacent to land used for agriculture, farming or grazing purposes, the Land Divider and Lot Owner shall erect, keep, and maintain partition fences, satisfying the requirements of the Wisconsin Statutes for a legal and sufficient fence, between such land and the adjacent land. A covenant binding the Land Divider and/or Owner, its grantees, heirs, successors, and assigns to erect and maintain such fences, without cost to the adjoining property Owners, so long as the land is used for agriculture, farming or grazing purposes, shall be included upon the Final Plat or Certified Survey map.

15.36 Easements.

(1) Utility easements. The Town Board, on the recommendation of the appropriate agencies serving the Town, shall require utility Easements for poles, wires, conduits, stormwater management facilities, storm and sanitary sewers, gas, water and head mains, or other utility lines. It is the intent of this chapter to protect all established Easements so as to assure proper grade, assure maintenance of the established grade, prohibit

construction of permanent fences or retaining walls over underground installation and prevent the planting of trees and shrubbery in the Easement area.

(2) Stormwater/drainage easements.

(a) Where a subdivision is traversed by a watercourse, drainage way, channel, stream or any other condition requiring a stormwater/drainage Easement:

(i) There shall be provided a stormwater Easement or drainage right-of-way conforming substantially to the lines of such watercourse, and the Easement shall have a width that contains stormwater runoff within its limits as required by the Design Requirements for Public Improvements document, as well as allows for maintenance; or

(ii) The watercourse, drainage way, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a stormwater Easement or drainage right-of-way conforming to the lines of the relocated watercourse, and the same width requirements are adhered to.

(iii) Easement widths for Major and Minor Drainage Ways. The Easement width for a Minor Drainage Way shall be large enough

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to contain the runoff from a 25-year, 24-hour rainfall event. The easement width for a Major Drainage Way shall be large enough to continue the runoff from a 100-year, 24-hour rainfall event.

(b) Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume flow. In all cases, such watercourse shall be of a minimum width established at the high-water mark or, in the absence of such specification, not less than 20 feet. If, in the opinion of the Town Engineer, the Easement will be for a major drainage swale, the Easement shall be of sufficient width to contain a one-hundred-year frequency storm. If the drainage Easement is located in an established floodway or flood fringe district, the entire floodplain area shall be included within the drainage

Easement.

(c) Construction of permanent or temporary fences or retaining walls or the planting of trees and shrubbery or changing the grade in the Easement area is prohibited. Construction of structures including septic drain fields, patios, swimming pools, etc. in the easement area is also prohibited.

(d) Additional requirements, if any, are included in the Town of Middleton's "Design Requirements for Public Improvements".

(3) Easement locations. Telephone, electric, gas, and cable television Easements shall be at least 12 feet wide and sewer Easements shall be at least 20 feet wide. Combined use Easements shall be at least 30 feet wide. The Town Board may require Easements to be wider where recommended by the Town Engineer. Easements may run across Lots or along rear Lot Lines. Such Easements should preferably be located along rear Lot Lines. Evidence shall be furnished to the Town Board that Easements and any Easement provisions to be incorporated in the Plat or in deeds have been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

15.37 Buffer strips.

When required by the Town Board as a condition of Final Plat or Certified Survey map approval, a buffer strip shall be located along the Plat line or Certified Survey line or property line of Parcels that have incompatible uses, differing zoning, or differing development. The preferable plantings are spruce or fir trees. The trees shall be a minimum of five feet in height when planted and staggered with spacing as determined by the Landscape Designer and approved by the Town. In whatever case, the minimum number of plantings required will be equal to the length of the lot line(s) separating the incompatible uses, different zoning or different development, divided by 15 feet. Alternatively, large shrubs, fences, and berms may be required in addition to, or in lieu of, trees, on a case by case basis as determined by the Town. The buffer strip shall be located in an Outlot or on Easements, each with a minimum width of 20 feet or greater as determined by the Town. Maintenance of the buffer strip shall be the responsibility of the Land

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Divider, homeowners' association, or Lot Owner.

15.38 Greenways. Greenways included within a Land Division shall be evaluated according to the following standards:

(1) The Land Divider shall be responsible for an acceptable continuous drainage way through the proposed Land Division as determined by the Town Engineer. The Land Divider shall furnish the Town Board or its designee a plan outlining the Greenway boundaries and the location of existing drainage ways. In addition, the Land Divider shall furnish to the Town Board or its designee a set of cross-sections, based on fifty-foot stations, of the Greenway, based on Town datum oriented upon a base line as prescribed by the Town Board or its designee.

(a) Where a natural drainage way exists which has acceptable hydraulic capacities, including alignment and grade, as determined by the Town Board or its designee, construction will not be required and the existing natural growth shall be preserved. Where such natural growth is destroyed or damaged by action of the Land Divider or his agents, the Land Divider shall be responsible for repairing the disturbed area by sodding.

(b) Where the Town Board or its designee determines that the hydraulic capacities, including alignment and grade, are not acceptable, then such alignment, grade and slopes shall be improved by the Land Divider to the cross-section specified by the Town Board or its designee.

(2) The Land Divider shall install permanent pipes or culverts at a grade designated by the Town Board or its designee under all streets crossing a Greenway or drainage way. Such installation shall be in accordance with the State of Wisconsin Standard Specifications for Highway and Structure Construction (latest version). Culverts required across intersections for temporary street drainage shall be furnished and installed by the Land Divider. All temporary culverts installed by the Land Divider shall be completely removed when the streets are constructed to Town standards, and the area restored to as nearly original condition as possible, as determined by the Town Board or its designee.

(3) In order to assure proper drainage, the ground elevation along any Lot Line common with the boundary of a Greenway shall be to an elevation established by the Town Board or its designee. All Lot grading and building elevations shall provide for positive drainage. Grading or filling within the Greenway limits is prohibited except as authorized by the Town Board or its designee.

(4) Greenways shall be limited to public uses.

15.39 Vegetation in right-of-way. The Land Divider shall be responsible for the removal of all obstructions on streets adjacent to

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the development following review by the Town Board or its designee as per Chapter 8. For those existing trees and vegetation that are allowed to remain in the public street right-of-way with the initial construction of the development, explicit rights shall be given to the Town as to the possible removal of this vegetation at a future date. Specifically, all Lots adjacent to public street rights-of-ways shall include language in their property deeds that shall explicitly allow the Town to remove existing vegetation in the public street right-of-way in the future as deemed necessary by the Town without compensation to the Owner or Owners of said adjacent Lot.

15.40 General street design standards.

Street design standards to be followed shall be those prescribed in Chapter 8.

15.41 Pedestrian pathways.

Pedestrian Pathways, not less than 12 feet wide, may be required by the Town Board, through the center of a Block more than 900 feet long, where deemed essential to provide circulation or access to schools, playgrounds, public recreation areas, shopping centers, transportation, and other community facilities.

15.42 Lot design standards.

(1) General requirements.

(a) Size. Lot sizes shall be appropriate for the location, zoning, type of sewerage or septic system to be utilized, and for the type of Land Division contemplated.

(b) Maximum development density. There shall be a ratio of one Dwelling Unit per 75,000 square feet of land for Traditional Subdivisions and one Dwelling Unit per 60,000 square feet of land for Cluster Subdivisions inclusive of public streets (including up to the center line of abutting roads but counting only one lane of divided highways), dedicated parkland, and open space if included within the

limits of the proposed subdivision. These ratios shall not be exceeded.

(c) Minimum lot sizes; open space.

(i) Sewered subdivisions.

1. In areas to be served by public sewers, the minimum Lot sizes shall be 12,000 square feet, with an additional 2,000 square feet required for each additional Dwelling Unit.

2. In areas to be served by public sewers, which are also Cluster Subdivisions, as detailed below, the open space required per Lot shall be 60,000 square feet, minus the Lot

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size.

3. Regardless of Lot size, any Lot containing multiple Dwelling Units shall be considered a Cluster Lot. The open space required per Dwelling Unit for Lots with more than one Dwelling Unit shall be 60,000 square feet minus (Lot size divided by the number of Dwelling Units on the Lot) outside of the Transition Area.

4. In areas to be served by public sewers, which are also Cluster Subdivisions within the boundaries of the Transition Area, the open space required per Lot is listed under § 15.06(2)(a)(i) -§ 15.06(2)(a)(v).

(ii) Unsewered traditional subdivisions.

In unsewered Traditional Subdivisions, minimum Lot sizes shall be 65,000 square feet. In its discretion if the Town Board finds a variance to be in the best interest of the Town, it may allow a variance to this minimum Lot size if, in addition to meeting the criteria in § 315-52 all the following conditions are met:

1. The Owners of a minimum of 51% of the abutting Lots, built on or buildable, agree to permit the Land Division if the average size of the proposed Lots is less than 85% of the average size of the

abutting Lots. Each abutting Lot shall receive one vote.

2. In the event a rezoning is necessary, the land shall be rezoned to R-1 or A-1.

3. There shall be a maximum density of one Dwelling Unit per 75,000 square feet (60,000 square feet in the Transition Area defined in § 15.06) of land inclusive of public streets (including up to the center line of abutting roads but counting only one lane of divided highways), dedicated parkland, and open space if included within the limits of the proposed subdivision.

4. There shall not be any privately owned Outlots unless required by the Town.

5. The proposed Land Division includes all of the abutting property of the Land Divider, or Owner of the property within the proposed Land Division, and related parties. 6. The proposed Land Division receiving a variance shall be

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restricted so that no Lot is smaller than 40,000 square feet with no more than a 2:1 ratio between the largest and smallest Lots.

(iii) Unsewered cluster subdivisions.

1. In unsewered Cluster Subdivisions, minimum Lot sizes shall be 25,000 square feet. Cluster Subdivisions may only be permitted on Parcels 15 acres or more in size and the maximum development density over the entire Parcel may not exceed one Dwelling Unit per 60,000 square feet of area, inclusive of dedicated parkland, outlots, and public streets (including internal road right-of-ways and right-of- ways up to the center line of abutting roads but only counting one lane of divided highways, provided the area has not been previously used to meet open space requirements, and the

area is located within the proposed boundary of the Land Division, and the Land Divider pays to bring the roads up to all relevant current Town standards including but not limited to road pavement width, shoulder width and slope and ditch slope and depth, as determined by the Town Engineer and Town Board).

2. Open space for Cluster Subdivision Lots shall be determined according to the following (except in Transition Area as defined and detailed in § 15.06 of this chapter):

a. For Lots containing a minimum of 25,000 square feet, but less than 40,000 square feet, an associated minimum open space of 60,000 square feet, minus the Lot size, shall be provided.

b. For Lots containing between 40,000 square feet and 65,000 square feet, an associated open space of 20,000 square feet shall be provided. This Lot size is preferred when private septic systems require larger Lot sizes to accommodate the drain fields.

c. Regardless of Lot size, any Lot containing multiple Dwelling Units shall be considered a Cluster Lot. For Lots of any size that contain multiple Dwelling Units, the open space required per Dwelling Unit shall be 60,000 square feet minus (Lot size divided by the number of Dwelling Units on the Lot).

3. At least 50% of the required open space must be area that is

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not existing or proposed street right-of-way. At least 50% of all Lots must be adjacent to non-street right-of-way open space that is a minimum of 50 feet wide. Such non-street right-of-way open space shall be fully contained within the subject land division. Private sanitary systems are allowed in non right-of-way open spaces if:

- a. Proper Easements for such are recorded;
- b. The system exists prior to the Land Division;
- c. Systems do not interfere with proposed uses of open space;
and
- d. Such locations are approved by the Town Board.

4. The Land Divider shall make every reasonable effort to develop an interconnected network of open space both within the development and with neighboring properties.

5. Cluster development allows for natural drainage, reduced pavement, and less need for underground construction (i.e., water, sanitary, storm sewer) if required in the future.

6. It is intended that the open space be permanent and for the protection and preservation of sensitive sites, vistas and incorporating any Town-wide trails or bikeways available to all Town residents. Open space includes public roads as detailed above, with the balance in the form of farms, golf courses, prairies, and other large expanses. Parks are not counted as open space. The permanent open space shall be provided through deed restrictions and Protective Covenants.

7. Sewered Lots, unsewered traditional Lots and unsewered cluster Lots may be mixed within a plan. It is further intended that a Cluster Subdivision is an alternative to a Traditional Subdivision and does not preclude the use of Traditional Subdivisions. When Lots are mixed within a plan, the more restrictive rules for each type of development will be used to determine if proper open space requirements and/or densities are met. In addition, when traditional and cluster Lots are mixed within a development, 10,000 square feet of open space shall be provided for each traditional Lot (Lots in excess of 65,000 square feet).

(iv) Minor subdivisions. In Minor Subdivisions created by Certified Survey maps, minimum Lot sizes shall be not less than 65,000 square feet. In its discretion, if the Board finds a variance to be in the best interest of the Town, it may allow a variance to this minimum Lot size if, in addition to the criteria under § 15-51, all the following conditions are met;

1. Conditions in Subsection (1)(c)(ii)1. through 6.

2. For all new Certified Survey maps having one or more Lots smaller than five acres and one or more Lots five acres or larger, the Lots five acres or larger in size shall at a minimum be subject to the restrictions of RH-1 zoning in the restriction of animal units.

(v) Depth. Residential Lots within each Block shall have a minimum average depth of 100 feet. Excessive depth in relation to width shall be avoided and a proportion of two to one (2:1) shall be considered a desirable ratio under normal conditions. Flag lots shall not be allowed, unless approved by the Town Board. A flag lot typically has a narrow width near the street right-of way and widens to meet minimum lot width standards some distance from the street right-of way. A lot is not a flag lot if the pole portion of the lot is less than 100 feet in length.

(vi) Frontage. Every Lot shall front or abut for a distance of at least 66 feet on a public street, or 30 feet if on a Cul-de-sac.

(vii) Width. Width of Lots shall conform to the requirements of the Dane County Zoning Code, but in no case shall a Lot be less than 90 feet in width at the building setback line. Each Lot shall be located only within one zoning district.

(viii) Setbacks. Building envelopes for all lots shall be restricted as follows:

1. Front set back a minimum of 50 feet from all public road rights-of-way.

2. Set back a minimum of 20 feet from all Recreational Trail

Easements and dedicated Recreation Trails.

(2) Outlots. Every outlot shall front or abut a public street. The frontage shall be of a width that is adequate to provide proper access for maintenance as determined at the sole discretion of the Town Board.

(3) Commercial lots. Depth and width of properties reserved or laid out for

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commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as required by the Dane County Zoning Code.

(4) Lots which abut major thoroughfare/railroad right-of-way.

(a) Major thoroughfare. Residential Lots fronting on a Major Thoroughfare shall be platted with extra depth or design to alleviate the effect of Major Thoroughfare on residential occupancy.

(b) Treatment of railroad rights-of-way and limited access highways. Whenever the proposed Land Division contains or is adjacent to a railroad right-of-way or limited access highway, the Land Divider shall proceed as follows:

(i) In residential districts, a buffer strip at least 30 feet in depth, in addition to the normal Lot depth required, shall be provided adjacent to the right-of-way or limited access highway. This strip shall be a part of the Lots, but the following restriction shall be written on the Plat: "This strip reserved for the planting of trees or shrubs by the Lot 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."

(ii) Location of Local Streets immediately adjacent and parallel to railroad rights-of-way shall be avoided.

(5) Corner lots. Corner Lots for residential use shall have extra width of 10 feet to permit building setback from both streets, or more if required by the Dane County Zoning Code.

(6) Side lots. Side Lot Lines shall be substantially at right angles to or radial to abutting street lines. Lot Lines shall follow Town boundary lines.

(7) Through lots and reversed frontage lots. Through Lots and reversed frontage Lots shall be avoided for residential Lots, except where necessary to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

(8) Natural features. In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, watercourses, historic sites or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

(9) Land remnants. All remnants of land below minimum Lot and/or dimension size left over after Land Division of a larger tract must be added to adjacent Lots, or a

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plan shown as to future use rather than allowed to remain as unusable Parcels.

(10) Building envelope placement. The Land Divider shall meet the following standards with respect to location of the Building Envelopes:

(a) All Building Envelopes shall be located within a Lot such that all minimum setback, side yard, or rear yard requirements of the Dane County Zoning Code and any applicable restrictions or requirements of the Land Use Plan or Ordinances adopted by the Town Board are met.

(b) No Building Envelope may be located on steep slopes as outlined in § 15.11, Hillside protection.

15.43 Drainage system.

(1) Drainage system required. As required by this Code of Ordinances, and/or where recommended by the Town Engineer, a drainage system shall be designed and constructed by the Land Divider to provide for the proper drainage of the surface water of the Subdivision and the drainage area of which it is a part. A Final Plat or Certified

Survey map shall not be approved until the Land Divider shall submit plans, profiles and specifications as specified in this section, which have been prepared by a registered professional engineer and approved by the Town Engineer. At the discretion of the Town Board or its designee, preparation and approval of plans for future phases in multi-phase developments may be deferred until a later date.

(2) Drainage system plans.

(a) The Land Divider shall submit to the Town at the time of filing a Preliminary Plat or Certified Survey map a preliminary drainage plan or engineering report on the ability of existing watercourse channels, storm sewers, culverts and other improvements pertaining to drainage or flood control within the Land Division to handle the additional runoff which would be generated by the Development of the land within the Land Division. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed Land Division. The report shall also include items required per the "Town of Middleton Design Requirements for Public Improvements" checklist.

(b) A grading plan for the streets, Blocks and Lots shall be submitted by the Land Divider for the area within the Land Division.

(c) The design criteria for storm drainage systems shall be based upon the requirements of the "Town of Middleton Design Requirements for Public

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Improvements" checklist, as well as information provided by the Town Engineer.

(d) Material and construction specifications for all drainage projects (i.e., pipe, culverts, seed, sod, etc.) shall be in compliance with the requirements of the "Town of Middleton Design Requirements for Public Improvements" checklist, and with specifications provided by the Town Board, upon the recommendation of the Town Engineer.

(3) Grading. The Land Divider shall grade each Subdivision in order to establish street,

Block, and Lot grades in proper relation to each other and to topography. The Land Divider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans.

(4) Drainage system requirements. The Land Divider shall install all the storm drainage facilities indicated on the plans required in Subsection (2) of this section.

(a) Street drainage. All streets shall be provided with an adequate storm drainage system. The street storm system shall serve as the primary drainage system and shall be designed to carry street, adjacent land and building stormwater drainage. No stormwater shall be permitted to run into a sanitary sewer system within the proposed subdivision.

(b) Off-street drainage. The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the Land Divider shall make provisions for dedicating an Easement to the Town to provide for the future maintenance of said system if the Owner and/or homeowners' association fails to maintain said system. Easements shall be a minimum of 20 feet wide, but the Town may require larger Easements if more area is needed due to topography, size of watercourse, etc.

(5) Protection of drainage systems. The Land Divider shall adequately protect all ditches to the satisfaction of the Town Board and Town Engineer. Ditches and open channels shall be seeded, sodded, paved or otherwise protected depending upon grades and soil types as determined by the Town Engineer.

15.44 Nonresidential land divisions.

(1) General.

(a) If a proposed Land Division includes land that is zoned for commercial or industrial purposes, the layout of the Land Division with respect to such land shall make such provisions as the Town may require. (b) A nonresidential Land Division shall also be subject to all the

nonresidential Land Division shall be subject to all the requirements of this chapter, as well as such additional standards required by the Town and shall conform to the proposed land use standards established by any Town Master or Land Use Plan or the Dane County Zoning Code.

(2) Standards. In addition to the principles and standards in this chapter, which are appropriate to the planning of all Land Divisions, the Land Divider shall demonstrate to the satisfaction of the Town Board that the street, Parcel and Block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

(a) Proposed industrial Parcels shall be suitable in area and dimensions to the types of industrial development anticipated.

(b) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.

(c) Special requirements may be imposed by the Town Board with respect to street, curb, gutter and sidewalk design and construction.

(d) Special requirements may be imposed by the Town Board with respect to the installation of public utilities, including water, sewer, and stormwater drainage.

(e) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial Land Division, including the provision of extra depth in Parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strips when necessary.

(f) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

15.45 General park, conservancy area, recreational trail, and public land dedication requirements.

(1) Dedication requirement. In order that adequate open spaces and sites for public uses may be properly located and reserved and in order that the cost of providing public

facilities, such as but not limited to, parks, playgrounds, land for athletic fields, and recreation areas may be equitably apportioned on the basis of additional need created by the Land Division, each Land Divider shall be required to dedicate land or pay fees in lieu of land for park or other public uses. (2) Findings.

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(a) The Town finds that additional residential development directly produces a need for more open space, recreational facilities, athletic fields, parks, and playgrounds. Further, commercial development also generates a need for open space and recreation because open space enhances the desirability of an area; additional business generates additional employment, and the employees use recreational facilities during off hours; and because recreational facilities contribute to an overall quality of life which enhances the economic climate of the Town.

(b) The Town has been advised that there exist nationally recognized standards for community parkland, recreational space and facilities, and capital investment in athletic fields and parkland. Pursuant to these standards, and with additional input from the public, the Town has created a plan for future park and recreational facilities, and has projected the cost of realizing those facilities. The Town finds that a substantial portion of the capital costs and land acquisition expenses will be incurred by the Town in order to meet the needs created by new Development in the Town.

(c) The Town finds that there is a direct causal relationship between additional Development and the need for additional public parks, recreational land, playgrounds, and athletic fields. The extent of the demand for such additional facilities has been reasonably estimated in the Town's plans, and the dedications or fees imposed under this ordinance are proportional to the impact of the developments.

(3) Dedication calculation. When land within the Town of Middleton is divided, a parkland and/or conservancy area dedication of 5,000 square feet of land per Lot or Dwelling Unit created, whichever is greater, shall be required.

(4) Fee in lieu of dedication. In areas where land dedication is not desired by the Town, a fee pursuant to the Town fee schedule times the number of Lots or number of approved

Dwelling Units, whichever is greater, shall be required. Where the land dedication desired by the Town is less than 5,000 square feet of land per Lot or Dwelling Unit, a pro rata fee will be required. Where the Land Division does not specify the number of Dwelling Units to be constructed, the land dedication shall be based upon the maximum number of units permitted by the Dane County Zoning Chapter and this chapter.

(5) Collection of fee; security. The fee imposed in Subsection D above shall be the responsibility of the Developer.

(a) Except as provided in (b) below, fees in Lieu of dedication shall be paid according to the following:

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(i) For Certified Survey maps, all fees shall be paid prior to the Town executing the Certified Survey map.

(ii) For plats containing 50 Lots or fewer, all fees shall be paid prior to the Town executing a Developer Agreement.

(iii) For plats containing more than 50 Lots, the Developer shall, at his/her option, either:

1. Pay all fees prior to the Town executing the Developer Agreement,
or

2. Pay the fees for 50 new Lots prior to the Town executing the Developer Agreement, and pay for the next 50 Lots (or remaining balance of fee if the Plat contains fewer than 100 Lots, or the Plat contains some parkland dedication) within 12 months of the date the Final Plat is signed by the Town, and pay for all remaining fees, if any, within 24 months of the date the Final Plat is signed by the Town. Any payments in default shall accrue interest at the rate of 18% per annum.

(b) In the event the fee imposed in Subsection (4) above exceeds \$75,000, the Developer may defer payment of the impact fees for a period of 4 years from the date of the issuance of the building permit or until 6 months before the Town incurs the costs to construct, expand, or improve the public facilities related to the Development, whichever is earlier. If the Developer elects to defer payment under this paragraph, the Developer shall maintain in force a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the Town.

(c) As surety, the letter of surety required by the Developer Agreement shall be increased as necessary to cover the balance of outstanding park fees at the time the Developer Agreement and Final Plat are signed by the Town. The Town may make a demand on the surety, including interest, if payment is more than 15 days late. On an annual basis, the surety can be reduced as additional park fees are paid.

(d) In addition, prior to the time the Developer Agreement and Final Plat are executed by the Town, the Owner(s) of the divided land shall execute and deliver a mortgage of such land and in such amount for which park fees are unpaid to the Town of Middleton as additional collateral. The Town shall execute and deliver to the Owner, or Owner's designated agent, an individual Lot release upon receipt of the park fee payment for each such Lot.

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(6) Land dedication or fee in lieu of dedication determination. The determination of whether land dedication, fees in lieu of land dedication or a combination thereof will be required shall be at the sole discretion of the Town Board, with the advice of the Park Commission.

(7) Fund maintenance/disbursement. The Town Office shall collect any fees assessed pursuant to this section and shall maintain and disburse the fees collected for the purposes contained herein and in § 15.46(6). The fees received shall be held in the "Park Development Fund" account. The fees in this account must be expended for the purposes for which they were imposed.

(8) General design. In the design of a Land Division, planned unit development, or development project, provision shall be made for suitable sites of adequate area for parks,

playgrounds, athletic fields, open spaces, drainage ways, Recreational Trails, conservancy areas, and other public facilities. Such sites are to be shown on the Preliminary Plat and Final Plat or Certified Survey map, and shall comply with the Town of Middleton Master Plan, Comprehensive Outdoor Recreation Plan, Recreational Trails Plan and any other plan affecting public areas adopted by the Town Board, or components of said plans. Consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds, ravines and woodlands, prairie and Wetlands, and plant and wildlife communities.

15.46 Parkland, conservancy areas, and recreational trail dedication.

(1) Identification of land for dedication.

(a) Whenever a proposed playground, park, athletic field, conservancy area, Recreational Trail, or other public area, other than streets or drainage ways, designated in the Land Use Plan, Recreational Trail Plan, or Comprehensive Outdoor Recreation Plan of the Town of Middleton is embraced, all or in part, in the tract of land to be divided, these lands shall be made part of the required dedication. The Town Board shall have authority to determine the suitability and adequacy of parkland, conservancy areas, and Recreational Trails or other public areas proposed for dedication. Drainage ways, Wetlands, or areas reserved for streets shall not be considered as satisfying land dedication requirements.

(b) The Land Divider shall meet with the Town Parks Commission and the Town Board during Preliminary Plat review and approval and during Certified Survey review and approval. Any resolution by the Parks Commission or Town Board regarding proposed playground, park, athletic field, conservancy area, Recreational Trail, or other public area plan shall be subject to staff review at this stage.

(c) After staff has reviewed the conditionally approved playground, park,

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athletic field, conservancy area, Recreational Trail, or other public area plan, the Land Divider shall seek confirmation of the plan as originally proposed or as modified by Parks Commission review, staff review, or review by the designee from the Parks Commission and Town Board during Final Plat review and approval or, in the case of a Certified Survey,

at a second set of meetings if determined by the Town Parks Commission Chair or Town Board Chair.

(2) Shoreland/lake and stream shore plats. All Land Divisions abutting on a navigable lake or stream shall comply with the requirements of § 236.16(3) and (4), Wis. Stats.

(3) Deeded to the Town. Land dedicated for public purposes shall be deeded to the Town at the time the Final Plat or Certified Survey map is approved.

(4) Access to dedicated land. All dedicated land shall have frontage on a public streets and shall have unrestricted public access, unless restrictions are required by the Town Board.

(5) Utility extensions. The Land Divider shall install or provide for installation of water and sanitary sewer lines to the property line of all dedicated land, where such services are to be provided to the adjacent properties.

(6) Use of fees in lieu of parkland. Fees in lieu of dedication may be used for additional land acquisition for parks, conservancy areas, and Recreational Trail areas and for the development of parks, playgrounds, athletic fields, conservancy areas and Recreational Trail areas. Such fees shall be based on the fees applicable at the date and time of Final Plat or Certified Survey map approval by the Town Board. Funds paid to the Town under any fees in lieu of land dedication provision or contributed from other sources for park, playground, athletic field, conservancy area and Recreational Trail development, acquisition and improvement are to be placed in a separate account designated for park, conservancy area, and Recreational Trail development and improvement projects. The Town Board shall have the final right to approve or reject such projects. Fees in lieu of land dedication shall be maintained and disbursed as provided in § 15.45. Said account may include funds contributed from other sources and shall be a continuing account and shall not lapse at the end of a budget period.

15.47 Reservation of additional land.

When public parks and sites for other public areas as shown on the Master Plan, or Master Plan component, lie within the proposed area for development and are greater in area than the land dedication required by § 15.45, the Land Divider and Owner shall reserve for acquisition by the Town, through agreement, purchase or condemnation, the remaining greater public area for a period of one year after the Final Plat or Certified Survey map approval unless extended by mutual agreement.

15.48 Development of park area.

(1) Parkland dedication. When parklands are dedicated, the Land Divider is required to:

(a) Properly grade and contour for proper drainage;

(b) Provide surface contour suitable for anticipated use of area; and

(c) Cover areas to be restored with topsoil, seed, fertilizer, and mulch per requirements of the Town Engineer.

(d) Remove all non-native and invasive species and develop a long-term master plan to maintain the parklands to remain free of non-native and invasive species. The master plan will require Town Board approval.

(2) Certificate of compliance. The Town Board may require certification of compliance by the Town Engineer. The cost of such inspection and report shall be paid by the Land Divider.

(3) Noncompliance. If the Land Divider fails to satisfy the requirements of this section, the Town Board may contract said completion and bill such costs to the Land Divider, following a public hearing and written notice to the Land Divider of noncompliance. Failure to pay such costs may result in the immediate withholding of all building permits until such costs are paid.

(4) Mini-park Development. At the discretion of the Town Board, the Land Divider may be required either to pay the fees in lieu of dedication of park land or to develop mini-park(s) in accordance with Section 15.29(1) of this Chapter.

15.49 Development of trails.

(1) Design standards. When Recreational Trails, trails accessing dedicated parklands or conservancy areas, or other public trails, walkways, or pathways are dedicated, or where Easements are obtained, the Land Divider may be required to clear, grade, establish base

coarse, and final surface appropriate for the type of trail and use based on the following design standards:

(a) Primary Recreational Trails.

- (i) Width of right-of-way or easement: 30 feet (20 feet may be allowed if trail is adjacent to a Public street right-of-way).
- (ii) Width of trail: 10 feet if paved, 10 feet if crushed stone or crushed limestone screenings, or 11 feet if mowed grass.

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(iii) Vertical clearing: 10 feet.

(iv) Horizontal clearing: 14 feet.

(v) Minimum turning radius: To be determined by the Town Parks Commission after consideration of desired design standards.

(vi) Surfacing: six-inch thick crushed stone with two inches of crushed limestone screenings, or eight-inch thick crushed stone with two inches asphalt, compacted earth, mowed grass, or wood chips.

(b) Secondary Recreational Trails.

(i) Width of right-of-way or easement: 15 feet.

(ii) Width of trail: five feet.

(iii) Vertical clearing: eight feet.

(iv) Horizontal clearing: 11 feet.

(v) Surfacing: Typically compacted earth, mowed grass (11 feet wide), or wood chips (3/4 inch crushed stone, five feet wide, eight inches thick may also be used or combined with five-foot wide, two-inch thick asphalt.)

(2) ADA Compliance. All new Primary and Secondary Public Recreational Trails shall comply with the Americans with Disabilities Act (ADA). All existing Primary and Secondary Public Recreational Trails shall comply with the ADA when the centerline profile or horizontal alignment are modified.

(3) Invasive Species Management. The Land Divider shall remove all non-native and invasive species and develop a long-term master plan to maintain the Public Recreational Trail easements to remain free of non-native and invasive species. The master plan will require Town Board approval.

(4) Maintenance. The Land Divider shall be responsible for removing all non-native and invasive species within the Recreational Trail easements and develop a long-term master plan to maintain the trail easements to remain free of non-native and invasive species. In the event of trails being built within a wide easement, all non-native and invasive species shall be removed from an area 100-feet wide centered on the Recreational Trail. The master plan will require Town Board approval.

(a) Dedicated Lands – The Town shall be responsible for the maintenance of

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all Town trails on lands that have been dedicated to the Town. (b) Easements – The owner of the property on which the easements exist shall be responsible for the maintenance of trail and surrounding area. Construction of permanent or temporary fences or retaining walls or the planting of trees and shrubbery or changing the grade in the Easement area is prohibited. Construction of structures including septic drain fields, patios, swimming pools, etc. in the Easement area is also prohibited.

(5) Exceptions. The Town Board, with the advice of the Plan Commission and Parks Commission, may require Land Dividers to develop trails that differ in their design characteristics based on the type of trail and the level of projected use. In those instances where the Town requires a Land Divider to deviate from the design standards, the trail shall be constructed to the standards approved by the Town Parks Commission and Town Board as modified from time to time.

(6) Improvement expense reimbursement. Section 15.29 of this chapter outlines park and trail improvements that must be made at the Developer's expense. In instances where the

Town Board requires the Land Divider to provide additional trail improvements at the Land Divider's expense, such expenses shall be reimbursed after the improvements are accepted by the Town Board upon the recommendation of the Town Engineer, and all lien waivers are received. Note that Engineering, legal, and administrative design and review fees are to be paid for by the Land Divider and are not reimbursable as noted in § 15-24(2) of this chapter.

15.50 Preservation of conservancy areas.

(1) Dedicated conservancy areas. When conservancy areas are dedicated to the Town by Land Dividers, the Town shall be responsible for imposing and enforcing all use restrictions based on the general ordinances of the Town of Middleton.

(2) Privately owned conservancy areas. When a conservancy area or other open space is to be preserved as permanent open space through deed restrictions or Protective Covenants in order to meet the requirements of a Subdivision, the Land Divider shall provide the Town with a copy of such deed or Certified Survey map restrictions, or Protective Covenants at the time that application for a Preliminary Plat or Certified Survey map is submitted.

15.51 Variances and exceptions.

(1) Where, in the sole judgment of the Town Board, it would be inappropriate to apply literally the provisions of this chapter because exceptional or undue hardship would result, the Town Board may waive or modify any requirements to the extent deemed just and proper by the Town Board.

(2) Application for any such variance shall be made in writing by the Land Divider

Ordinance 080204

Ordinance Creating Title 3, Chapter 5 Illicit Discharge Ordinance

Title 3, Chapter 5 Illicit Discharges.

Section 3-5-1 Purpose.

The purpose of this Chapter is to provide for the health, safety, and general welfare of the citizens of the Town of Middleton and protect waters of the State through the regulation of illicit discharges to the municipal separate storm sewer system as required by federal and state law. This Chapter establishes methods for controlling the discharge of pollutants into the municipal separate storm sewer system owned or operated by the Town of Middleton in order to comply with the requirements of the Clean Water Act, Chapter 283.33, Wis. Stats., and the Wisconsin Pollutant discharge Elimination System municipal storm water discharge permit program under Chapter NR 216, Wis. Adm. Code. The objectives of this Chapter are:

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system associated with discharges from any user of the municipal storm sewer system.
- (b) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- (c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

Section 3-5-2 Definitions.

For the purposes of this Chapter, the following definitions are applicable:

- (a) "Authorized agency" means any person(s) designated by the Town Board of the Town of Middleton to administer, implement and/or enforce this Chapter, and any employees or designees of such person(s).
- (b) "Illicit connections" means any drain or conveyance, whether on the surface or subsurface, which allows the discharge of sanitary waste to the municipal separate storm sewer and any connections to the municipal separate storm sewer system from indoor drains and sinks.
- (c) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of storm water except discharges with a Wisconsin Pollutant Discharge Elimination System permit or other discharges allowed locally.
- (d) "Municipal separate storm sewer" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets the following criteria:
 - (1) Which is owned or operated by the Town of Middleton.
 - (2) Which is designed or used for collecting or conveying storm water.
 - (3) Which is not a combined sewer conveying both sanitary wastewater and stormwater.
 - (4) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
- (e) "Non-storm water discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of storm water.
- (f) "Storm water" means surface runoff and drainage of rainfall and snow or ice melt.
- (g) "Waters of the state" means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

Section 3-5-3 Applicability.

This Chapter shall apply to all discharges to the MS4 and to all activities that can reasonably be expected to result in a discharge to the MS4.

Section 3-5-4 Responsibility for Administration.

The Town Administrator shall be responsible for the general administration, implementation and enforcement of the provisions of this Chapter. The Town Engineer shall be responsible for all inspections, surveillance and monitoring procedures necessary to ensure compliance with this Chapter. Any powers granted or duties imposed upon the Town Administrator or Town Engineer may be delegated in writing by the Town Administrator or the Town Engineer to other persons or entities acting in the beneficial interest of or in the employ of the Town Administrator or Town Engineer.

Section 3-5-5 Severability.

The provisions of this Chapter are hereby declared to be severable. If any provisions, clause, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

Section 3-5-6 Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore, this Chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution or unauthorized discharges.

Section 3-5-7 Prohibitions.

(a) Prohibition of Illicit Discharges. No person shall discharge or cause to be discharged into the MS4 or waters of the State any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illicit discharge to the MS4 is prohibited. The following non-storm water discharges or flows are generally not considered illicit discharges if done in a nonpolluting manner: water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, de-chlorinated swimming pool water, street wash water and fire fighting.

(b) Prohibition of Illicit Connections. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this Section if the person connects a line conveying sanitary waste to the MS4 or allows such a connection to continue.

Section 3-5-8 Monitoring Of Discharges; Access to Facilities.

The authorized agency shall be permitted to enter and inspect facilities, subject to regulation under this Chapter, as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force which require proper identification and clearance before entry onto its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized agency.

Section 3-5-9 Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the MS4 or water of the State, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized agency within three business days of the phone notice.

Section 3-5-10 Enforcement.

- (a) This Chapter may be enforced by citation issued by the Town Engineer.
- (b) Any person found to have violated any provision of this Chapter may be required to forfeit not less than \$50 nor more than \$500. Each day or part of a day a violation occurs or continues shall be considered a separate offense.
- (c) Every violation of this Chapter is a public nuisance. Compliance with this Chapter may be enforced by injunction restraining the person or entity from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. It shall not be necessary to prosecute for forfeiture before resorting to injunctive relief.
- (d) The Town Engineer or designee may, upon discovery of any violation of this Chapter, take any abatement actions reasonably necessary to prevent damage to the waters of the State. The costs incurred by the Town, plus interest and legal costs, shall be billed to the record owner of the property, and if not paid, shall be entered on the tax rolls and collected as a special charge pursuant to Section 66.0627, Wis. Stats.
- (e) The remedies listed herein are not exclusive of any other remedies available under any applicable federal, state or local law, and the Town Engineer may seek cumulative remedies.
- (f) The Town Engineer is authorized to refer any violation of this Ordinance to the Town Attorney for the commencement of legal proceedings.

TOWN BOARD

Milo Breunig, Chair

Gary Whitney, Supervisor #1

Bob Irvine, Supervisor #2

Frank Acker, Supervisor #3

Richard Oberle, Supervisor #4

I certify that the above Ordinance was adopted by the Town Board of the Town of Middleton, Wisconsin, at a regular meeting held on February 4, 2008.

David Shaw, Town Clerk

Posted: ___/___/____

Published ___/___/____

Effective: ___/___/____