

# **Subdividing and Developing in the Town of Middleton**

## **A Guide to Ordinances & Regulations**

May 6, 2019

This guide is provided for informational purposes only as a service to residents and developers and offers a broad description of the Town's subdivision and development regulations. It is not intended to be a substitute for review of the actual regulations nor is it intended to provide legal advice. The application of the regulations to a specific project often depends on the nature, location, and scope of the specific project and this guide should not be construed as guarantee or contract of any nature.

### **Standards for Land Divisions in the Town:**

In general, subdividing property can be accomplished in the Town given the proposal meets certain basic requirements (see also attached chart):

#### **Density Requirements**

The Town's Chapter 15 Land Division and Subdivisions Ordinance sets lot and density standards. "Traditional" subdivisions in the Town have an overall maximum density of one dwelling unit per 75,000 square feet. "Cluster" subdivisions in the Town have an overall maximum density of one dwelling unit per 60,000 square feet. This is approximately 0.6 to 0.7 dwelling units per gross acre, inclusive of roadways, parks, and open space. Subdivisions in the Town's "Transition Area" have a maximum density of one dwelling unit per 50,000 square feet, or approximately 0.87 units/acre.

#### **Traditional Subdivisions**

In Traditional Subdivisions the minimum lot size is 65,000 square feet. A variance process exists in the Town's Chapter 15 ordinance for reducing the minimum lot size. There is no open space requirement for Traditional Subdivisions, other than parkland dedication requirements (see below).

#### **Cluster Subdivisions**

The Town allows Cluster Subdivisions on parcels greater than 15 acres in size. Clustering allows the subdivider to create smaller individual lots than normally allowed under traditional subdivision standards, with a greater amount of space devoted in outlots. The minimum lot size in a Cluster Subdivision is 25,000 square feet.

The open space requirements vary based on the size of lots being created. For each lot between 25,000 and less than 40,000 square feet, the open space required is 60,000 square feet minus the lot size. Lots between 40,000 and 65,000 square feet require 20,000 square feet of open space.

If a plat contains a mix of Traditional and Cluster lots, 10,000 square feet of open space is required for each Traditional lot over 65,000 square feet in size. In these mixed subdivisions, the more restrictive density standards apply to the entire plat.

#### **Transition Area Cluster Subdivision**

A transition area is defined in Town ordinances adjacent to the future City of Madison growth area. It includes an area 1/2 mile west of Pioneer Road (and Pioneer Road extended) from the southern extent of the Town up to Old Sauk Road. It allows for slightly higher densities between the future

City and existing Town development. The maximum density for Cluster Subdivisions in this Transition Area is one dwelling unit per 50,000 square feet (0.87 units/acre). The minimum lot size is 25,000 square feet (like non-Transition Area Cluster Subdivisions) plus open space requirements, which are less than are required for a Cluster Subdivision outside of the Transition Area.

The open space required depends on lot size. For lots under 32,700 square feet, the open space required is 10,000 square feet plus 32,700 square feet minus the lot size. For lots between 32,700 and 65,000 square feet the open space required is 5,000 square feet.

### **Transition Area Traditional Subdivision.**

Traditional subdivisions in the Transition Area (described above) have a maximum overall density of one dwelling unit per 50,000 square feet. Roadways and required open space may be included in the density calculations. However, being a Traditional Subdivision, a variance is still required to remove the minimum lot size requirement of 65,000 square feet per lot. This variance process is outlined in Town Ordinances.

### **Certified Survey Maps (CSMs)**

Up to 4 lots can be created by use of a CSM. CSM lots have many of the same requirements as platted lots created as part of a Traditional or Cluster Subdivision, but there are some differences including:

1. CSM lots must have a minimum lot size of 65,000 square feet (1.5 acres), exclusive of right-of-way, regardless of location. Specific variance criteria are outlined in the ordinance if this standard cannot be met.

### **Parkland Dedication**

When land within the Town is subdivided, a dedication of 5,000 square feet of parkland is required per lot (or per dwelling unit created, whichever is greater). In areas where the Town does not desire land dedication, a fee of \$2,255 per lot in-lieu of parkland dedication is required. The Town's Comprehensive Plan, Recreational Trail Plan, Park and Outdoor Recreation Plan, or other plans indicate where the Town desires trails and parks. It is up to the discretion of the Town Board to require land dedication, fee in lieu of parkland dedication, or a combination of both.

### **Other Special Planning Areas**

In addition to the standard ordinances, there are 4 specific areas in the Town which have special controls on land use and subdivision. These areas are:

1. **Future City of Madison Area**

Lands east of a line roughly defined by the east edge of Pope Farm Park, Pioneer Road, and Meadow Road (see intergovernmental agreement for definition of Boundary Line) are subject to City of Madison development standards and possible annexation. Therefore, any request for subdivision, change in land use, or development needs to be requested from the City of Madison and Town of Middleton.

2. **Madison Intergovernmental Agreement Area**

The 2003 City of Madison and Town of Middleton Cooperative Plan specifies standards and land uses for development within ¼ mile of the future City border described above.

### **3. City of Middleton Extraterritorial Jurisdiction (ETJ) Review Area**

Certain areas of the Town are within an Extraterritorial Review area and land divisions are subject to review by the City of Middleton as described by a 1994 Intergovernmental Agreement. See Agreement or attached map for area and specifications.

### **4. Tumbledown Neighborhood**

In 2005 the Town undertook a neighborhood planning process for the area between Pioneer, Mineral Point, and Valley View Roads. A future land use and roadway network plan was developed with recommendations for the future development of the area. See attached map for Tumbledown Neighborhood location.

## **Other Issues to Be Aware Of:**

### **Major Roadway Buffer Zones**

Development along roadways defined as “collectors” or “arterials” in Town Ordinances is required to include a landscape buffer of 80’ adjacent to the roadway. Requirements for grading and vegetation within this buffer can also be found in the Town’s Chapter 15 Ordinance.

### **Airport Road Impact Fee**

The Town has adopted an ordinance to recoup costs associated with the reconstruction of Airport Road. Each new lot created through subdivision in the designated area (contact Town Engineer for maps) will be charged \$1,155.00.

### **Application Review Fees**

The Town requires a deposit for the review of applications for land divisions and zoning-related applications. This fee is used to reimburse the Town for its costs in reviewing the proposal, including costs for the Town Engineer, Planner, and Attorney. This fee must be received by the Town before any review will take place.

If the applicant is unsure of the project’s feasibility and wishes to have it evaluated as a concept by the Plan Commission before a formal submittal, the Applicant shall submit a deposit for this initial review, with the potential of being required to submit an additional deposit upon submitting a formal proposal. The review fees incurred depend solely on the time required by the Town Engineer, Planner and Attorney to review the concept or to resolve plat, CSM, zoning, and/or legal issues.

### **Rezoning for Land Divisions**

When the new County Zoning Ordinance was adopted in early 2019, new zoning districts were mapped for the Town. The Town policy is that residential parcels under 5 acres that are created by plat or CSM should be rezoned from AT-5 (Ag Transition zoning, which is intended for unplatted lands and larger parcels) to SFR-08 (Single-Family Residential zoning intended for residential developed lots). The Town intends to handle these rezonings through an annual “blanket rezone” request to Dane County, at no cost to land owners. Rezoning is not required if the current land use is permitted in the AT-5 district, but not in SFR-08, in which case rezoning to SFR-08 would make the use “nonconforming” with zoning.

## Review & Approval Process

The Chapter 15 Land Division and Subdivision ordinance includes complete details on submittal requirements and the approval process. Land divisions generally follow the same process:

1. **A Preliminary Consultation** with the Plan Commission and Town Engineer to discuss the general idea and overall conformance with ordinances.
2. **Formal submittal of a CSM or Preliminary Plat** is made to the Town Clerk at least 21 days before the Plan Commission meeting where it is to be considered. Copies of the submittal go to the Commissioners and Town Engineer before the meeting. The Town Engineer prepares a written review of the land division.
3. At the **Plan Commission Meeting**, the submittal is reviewed and the Commission makes a *recommendation* to approve or deny the land division to the Town Board.
4. At the **Town Park Commission meeting**, the submittal is reviewed and the Commission makes a recommendation to the Board regarding parks and trails.
5. At the **Town Board meeting, a Public Hearing** is held by the Town Board to consider the land division and invite public input. The Town Board makes a decision to approve, approve conditionally, or reject the CSM or Plat within 90 days of a complete application.
6. If the Preliminary Plat is approved and a **Final Plat** is submitted within 36 months of that approval, the Final Plat is entitled to approval with respect to layout. The Final Plat still has specific submittal requirements, is reviewed by the Plan Commission, Park Commission and Town Board.
7. The Town Board makes a decision to approve, approve conditionally, or reject the Final Plat within 60 days of formal submittal by the applicant. However, the Town Board requires two meetings on the Final Plat – one to complete the initial review of the plat, and a final meeting to approve a Developer Agreement and finalize the plat approval, including any conditions of approval that remain.

### NOTES:

1. Applicants are strongly encouraged to meet with the Town Administrator and Town Engineer before preparing a land division. The meeting is very useful to confirm what is required of the applicant, the timeline for review and approval, and the anticipated costs to be borne by the applicant.
2. Certified Survey Maps are not required to gain preliminary and final approval. Therefore, the approval process generally follows steps 1-5 above.

Please refer to the latest Town Ordinances, Town Fee Schedule, and Dane County Zoning Code for more information on the following:

- Approval Process
- Submittal Requirements
- Landscape Requirements
- Application and Review Fees