

**LAND DIVISION AND SUBDIVISION ORDINANCE
TOWN OF EXCELSIOR, SAUK COUNTY, WISCONSIN**

1.01 INTRODUCTION.

(1) PURPOSE.

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

(2) INTENT.

It is the general intent of this ordinance to regulate the division of land so as to lessen congestion in the streets and highways; to further the orderly layout and appropriate use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision of transportation, water, sewerage, schools, parks, playgrounds and other public requirements; to facilitate the further division of larger tracts into smaller parcels of land; to ensure adequate legal description and proper survey monumentation of subdivided land; to provide for the administration and enforcement of this ordinance; to provide penalties for its violations; and in general to facilitate enforcement of community development standards as are or may be set forth in the land use plan, the Official Map of the Town of Excelsior, comprehensive plan (if adopted) and other Town of Excelsior Ordinances.

(3) EXISTING EASEMENTS.

It is not intended by this ordinance to interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions on future development than other ordinances, the provisions of this ordinance shall govern.

(4) INTERPRETATION.

In their interpretations and applications, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the Town, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

(5) REPEAL.

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Town of Excelsior inconsistent or conflicting with this ordinance, to the extent of the inconsistency only, are hereby repealed.

(6) TITLE.

This ordinance shall be known as the "Land Division and Subdivision Ordinance, Town of Excelsior, Sauk County, Wisconsin".

(7) AUTHORITY.

These regulations are adopted under the authority granted by Chpt. 236.45 of WI Stats.

(8) SEVERABILITY.

If any section, provision, or portion of this ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

1.02 DEFINITIONS.

For the purpose of this ordinance, the following definitions shall be used. Words used in the present tense include the future, the singular number includes the plural number, and the plural number includes the singular number. The word "shall" is mandatory.

(1) CERTIFIED SURVEY MAP.

A map of a land division prepared in accordance with Chpt. 236.34, WI Stats. and Sec. 1.07 of this ordinance.

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(2) DRAINAGE WAY.

A man made improvement intended to convey water within or through a subdivision during periods of high runoff.

(3) DWELLING.

A structure or that part of a structure which is used or intended as a home, residence or sleeping place by one person or by two or more persons maintaining a common household to the exclusion of all others. All such structures shall comply with the uniform building code.

(4) EXTRATERRITORIAL PLAT.

Any subdivision, or portion thereof, falling within an extraterritorial area, shall abide by and be in accordance with the working agreements between the governmental units involved.

(5) FINAL PLAT.

A map prepared in accordance with the requirements of WI Stats. Chpt. 236 and this ordinance for the purpose of dividing larger parcels into lots and conveying those lots. The lines showing where the lots and other improvements are located are precise.

(6) LOT.

A buildable lot occupied by or designed to provide space necessary for one main building and its accessory buildings or uses that abuts a publicly dedicated street. A lot shall be created by a subdivision plat, or a certified survey map, or a parcel described in a conveyance recorded with the Sauk County Register of Deeds, which complies with the minimum size requirements pursuant to the applicable zoning designation in effect at the time of the land division or recording of the conveyance. No land included in any street, or railroad right-of-way shall be included when computing the area for minimum lot sizes. No street, highway, easement, railroad

right-of-way, river, and stream or water body shall constitute a break in contiguity.

(7) MASTER PLAN.

An extensively developed plan, map or other document, including a comprehensive plan, pertaining to planning if adopted by the Town Board which may pertain to the division of lands, including the Official Map, comprehensive development plan (if adopted), and other planning documents including proposals for future land use, transportation, urban development, parks and public facilities. Devices for the implementation of these plans, such as ordinances pertaining to zoning, Official Map, subdivision and land development, building development and capital improvement plans shall be considered as planning documents within this definition.

(8) LAND DIVISION.

The division of a lot or parcel of land by the owner or sub divider or their agent for the purpose of sale or building development.

(9) MULTIPLE FAMILY DWELLING.

An apartment building, row house, townhouse, condominium, or manufactured building as defined in Chpt. 101.71(6), WI Stats. that consists of three (3) or more attached dwelling units. Condominiums are an individual ownership of a structure or unit in a multiunit structure located on a commonly held parcel of land organized under Chpts. 22.23, 22.24, 22.32 and 22.33 of the Sauk County code of ordinances.

(10) NAVIGABLE WATERS.

Such inland lakes and waters as defined by Wisconsin Statutes and Administrative Rules.

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(11) OBJECTING AGENCY.

An agency empowered to object to a subdivision plat pursuant to Chpt. 236, WI Stats. The Town may not approve any plat upon which an objection has been certified until the objection has been satisfied. On any plat the objecting agencies may include the Dept. of Development, the WI Dept. of Transportation, the WI Dept. of Natural Resources, and the WI Dept. of Commerce.

(12) OFFICIAL MAP.

A map indicating the locations, width, and extent of existing and proposed streets, highways, drainage ways, parks, playgrounds and other facilities, as adopted by the Town Board pursuant to Chpt. 62, WI Stats.

(13) OWNER.

Includes the plural as well as the singular and may mean a natural person, firm, association, partnership, private corporation, limited liability company, public, or quasi-public corporation, or combination of these, having any pecuniary interest in lands regulated by this chapter.

(14) PARCEL.

A contiguous quantity of land in the possession of an owner, single or common interest. No street, highway, easement, railroad right-of-way, river, and stream or water body shall constitute a break in contiguity.

(15) PLAT.

This term includes a map of a subdivision or land division.

(16) PRELIMINARY PLAT.

A map showing the salient features of a proposed subdivision submitted to an approving authority for purposing authority for purposes of preliminary consideration. A preliminary plat precisely describes the

location of the exterior boundary of the parcel proposed to be divided and shows the approximate location of lots and other improvements.

(17) PUBLIC WAY.

Any public road, street, highway, walkway, drainage way or part thereof.

(18) REPLAT.

The process of changing the map or plat which changes the boundaries of a recorded subdivision plat, certified survey map, or part thereof. The division of a large block, lot or outlot within a recorded subdivision plat or certified survey map without changing the exterior boundaries of said block, a lot or outlot is not a replat.

(19) RESERVATION.

A means of setting aside a parcel of land for a specific use in the future. Counter to the principle of dedication, the land is not owned by the public and must be purchased or released from reservation at some future date. The date by which the land must be purchased may be specified in the reservation.

(20) SHORELAND AREA.

Lands lying within one thousand (1,000) feet of the normal high water elevation on navigable lakes, ponds, or flowage, or within one thousand (1,000) feet of the normal high water mark of glacial pothole; all lands lying within three hundred (300) feet of the normal high water mark of navigable streams, or within the flood plain thereof, whichever distance is greater.

(21) STREET.

A public way or right-of-way for vehicular or pedestrian and vehicular traffic.

(a) Interstate Highways.

A national multiple lane highway intended for high-speed interstate travel.

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(b) Arterial Streets and Highways.

Streets which provide for rapid movement of concentrated volumes of traffic over relatively long distances between activity areas. Includes all federal highways other than the interstate highway, all state and county highways, and designed township roads.

(c) Collector Streets.

Streets which provide for moderate speed movements within large areas. They are basically local streets which usually, because of more directness of routing and higher capacity than other local streets, receive higher volumes of traffic to be distributed from or collected toward nearby arterial streets.

(d) Local Streets.

Streets designed for low speeds and volumes which provide access from low traffic generating areas to collector and arterial streets.

(e) Marginal Access Streets/ Service Road.

Streets which are parallel and adjacent to arterial streets and which provide access to abutting properties.

(f) Alleys.

Streets which provide secondary means of access to the back or side of property otherwise abutting a street.

(g) Cul-de-sac.

A local street with only one (1) outlet and having an appropriate turnaround for the safe and convenient reversal of traffic movement.

(h) Dead End Streets.

Streets closed at one (1) end without turnarounds.

(i) Driveway.

Any area where travel occurs from a public road to private; and, whether by easement or ownership, not considered to be a part of the public road, for the purpose of gaining access to private land or improvements.

(j) Agriculture Driveway.

A private access road or other avenue of travel that runs through any part of a private parcel of land that, connects with the public roadway that is used for the sole purpose of providing roadway access to agricultural buildings, fields, or other agricultural areas.

(k) Recreational Driveway.

An access road or other avenue of travel that runs through any part of a parcel of land, that connects with any public roadway, and is used for the sole purpose of providing access to recreational areas.

(l) Field Road.

An access road that does not connect with a public roadway and lies outside the right-of-way of any public roadway.

(22) SUBDIVIDER.

A person, firm, corporation, and/or their designated agent initiating the creation of a land division.

(23) SUBDIVISION.

The division of land by the owner thereof or their agent, for the purpose of transfer of ownership or building development, where the act of division creates four (4) or more lots or creates four (4) more lots by successive division within a five year period.

(a) Class I Subdivision.

A subdivision which consists of fewer than ten (10) lots and includes all contiguous lands under one ownership.

(b) Class II Subdivision.

A subdivision which consists of at least ten (10) lots but fewer than twenty-five (25) lots.

(c) Class III Subdivision.

A subdivision which consists of twenty-five (25) or more lots.

1.03 GENERAL PROVISIONS.

(1) JURISDICTION.

Jurisdiction of these regulations shall

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include all lands within the limits of the Town of Excelsior.

(2) EXCEPTIONS.

The provisions of this ordinance, as they apply to divisions of tracts of land into less than four (4) parcels, shall not apply to:

- (a) Transfers of interest in land by will or pursuant to court order.
- (b) Leases for a term not to exceed ten (10) years, mortgages, or easements.
- (c) Sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and lots resulting are not reduced below the minimum size required by these regulations, the Zoning Code or other applicable laws or ordinances.

(3) COMPLIANCE.

No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivision, land division, or a replat as defined herein; no such subdivision, land division or replat shall be entitled to record; no street shall be laid out or improvements made to land, without compliance with all requirements of this ordinance and the following:

- (a) The provisions of Chpt. 236, WI Stats.
- (b) The rules of the Dept. of Commerce contained in WI Admin. Code for Subdivisions not served by public sewer.
- (c) The rules of the WI Dept. of Transportation, for subdivisions which abut the state trunk highways or connecting street.
- (d) The rules of the WI Dept. of Natural Resources for Flood Plain Management.
- (e) Duly approved land use plan, comprehensive plan (if adopted), Official Map and all other applicable ordinances of the Town of Excelsior.
- (f) No lot or parcel shall be created or sold unless it has existing access to a Town, County, or State right-of-way.

(g) Applicable Sauk County ordinances, including storm water and erosion control ordinances.

(4) DEDICATION OF LANDS.

(a) Public Ways.

Whenever a parcel of land to be subdivided embraces all or any part of an arterial street, drainage way or other public way which has been designated as such in the land use plan, comprehensive plan (if adopted) or on the Official Map said public way shall be made a part of the plat and dedicated by the sub divider in the locations and dimensions indicated on said plat or map, and as set forth in sec. 1.08 of this ordinance.

(b) Public Lands.

Whenever a proposed playground, park or other public land other than streets or drainage ways designed in the master plan component or on the Official Map, is embraced, all or in part, in a tract of land to be subdivided, these proposed lands shall be dedicated to the public by the sub divider. The Town of Excelsior may require public dedicated lands for park and green space for public use.

(5) REQUIRED IMPROVEMENTS.

(a) Monuments.

The subdivision shall be monumented as required by Chpt. 236.15, WI Stats., which is hereby adopted by reference.

(b) Streets.

The dedication of street, road or highway right-of-way shall not create a commitment on the part of Town of Excelsior to construct, improve, or maintain any roadbed placed upon said right-of-way. Acceptance of any street, road, or highway for maintenance purposes shall require compliance with the design and construction standards of the Town of Excelsior and those of the applicable highway maintenance authority. The width

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of any dedicated street or right-of-way shall be sixty-six (66) feet unless a wider right-of-way is requested by the proper highway authority, in which case, the wider right-of-way shall be required. Right-of-ways less than sixty-six (66) feet are prohibited, except as approved in writing by the Town of Excelsior upon their findings that a wider right-of-way is unnecessary or impractical to achieve. The adequacy of facilities in a subdivision (such as, but not limited to, streets, roads, highways, stormwater or drainage improvements, final grade and materials, final surface, pavement markers, regulator signs, and emergency service signs), shall be subject to approval of the Town. The sub divider/developer shall, prior to the commencement of work on any improvements in a newly approved subdivision, enter into a subdivision agreement with the Town of Excelsior. Said agreement shall be in a form approved by the Town of Excelsior and shall bind the sub divider to comply with the requirements of this Code and any specifications, plans or conditions imposed or approved pursuant thereof.

(6) WAIVERS AND MODIFICATIONS.

Where, in the judgment of the Town Board, it would be inappropriate to apply literally the provisions of secs. 1.08 and 1.10 of this ordinance, the Town Board may waive or modify any requirement to the extent deemed just and proper upon approval of the sub divider. Such relief shall be granted without detriment to the public good without impairing the intent and purpose of this ordinance or the desirable general development of the community in accordance with the master plan component of the Town. A simple majority vote of the voting membership of the Town Board shall be required to grant

any modification of this ordinance.

(7) LAND SUITABILITY.

No land shall be divided for residential use which is held unsuitable for such use by the Town Board for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community. The Town Board, in applying the provisions of this subsection, shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for residential use and afford the sub divider an opportunity present evidence regarding such unsuitability if he so desires. Thereafter the Town Board may affirm, modify, or withdraw its determination of unsuitability. The Town Board shall make its determination of land suitability at the time the preliminary plat is considered by the Town Board for approval. The sub divider shall furnish such maps, data, and information as may be necessary, as determined by the Town Board, to make a determination of land suitability.

The sub divider may, as a part of the pre-application procedure, request a determination of land suitability, providing the sub divider provide all necessary maps, data, and information for such determination to be made.

(8) MAPS.

Except as provided herein, the Town of Excelsior shall determine land suitability at the time of the preliminary plat, or first required submission, is considered for approval. The sub divider shall furnish such maps, data, and information as may be necessary to make a determination of land suitability. In addition to the data required to be submitted with the preliminary plat or

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first required submission, the sub divider shall be required to submit some or all additional information for development located in an area where flooding or potential flooding may be a hazard, or in a flood plain.

(9) FLOOD PLAIN/AREAS OF POTENTIAL FLOODING OR FLOOD HAZARDS.

When a proposed subdivision is located in an area where flooding or potential flooding may be a hazard the developer shall submit:

- (a) Two (2) copies of an aerial photograph, or two (2) maps prepared by a registered land surveyor or engineer, which accurately locates the proposed development with respect to flood plain zoning district limits and elevation, and flood proofing measures taken or proposed to be taken.
- (b) Two (2) copies of a typical valley cross-section showing the channel of the stream, the flood plain adjoining each side of the channel, cross-sectional area to be occupied by the proposed development, and the high water information.
- (c) Two (2) copies of a profile showing the slope of the bottom of the channel or flow line of the stream.
- (d) Such other data as may be required.

When a proposed subdivision is located in an area where flooding or potential flooding may be a hazard, the Town shall transmit to the Division of Water Regulation and Zoning and WI Dept. of Natural Resources, one (1) set of the information required and shall request that agency to provide technical assistance in determining whether the land is suitable or unsuitable for the use and development proposed, or whether certain modifications, limitations, improvements, or other conditions of the development can overcome the land unsuitability.

Where a proposed subdivision is located

wholly in an area where flooding or potential flooding may be a hazard, the Town of Excelsior shall apply the following standards in addition to all the other requirements in the approval of plats and certified survey maps:

- (a) The development shall be in accordance with flood plain management standards of the Division of Water Regulation and Zoning and WI Dept. of Natural Resources.
- (b) Building sites must be filled to a height and area sufficient to provide protection from the regional flood as defined by and according to the standard of the said Division of Water Regulation and Zoning.
- (c) Development shall be carried out or assured so as to not have an adverse effect on flood flows or storage capacity standards of said Division of Water Regulation and Zoning.

(10) PRIVATE SEWAGE, DISPOSAL/WATER WELLS.

Unless specifically exempted from this requirement elsewhere in this ordinance, all subdivision proposals where private water and sewage disposal systems are to be used shall be accompanied by certifications and/or reports:

- (a) Describing the probable depth, cost, and yield of private wells. This report shall be based on competent scientific investigation and shall include the sources of all data used in the preparation of the report.
- (b) Describing the soil conditions existing on the site as applicable to on-site waste disposal. A soils report shall accompany all subdivision proposals.

(11) FENCE CONSTRUCTION.

A sub divider shall construct a fence pursuant to section 90.02 of the Wisconsin Statutes on the boundary of a subdivision, as defined under section 236.02 of the

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Wisconsin Statutes, as a condition of plat approval by the Town. The fence shall be maintained pursuant to section 90.05(2), and repaired pursuant to sections 90.10 and 90.11 of the Wisconsin Statutes.

(12) APPEALS.

Any person aggrieved by an objection to a plat or a failure to approve may appeal as provided in Chpt. 236.1(5) and 62.23(7)(e)10 to 15, WI Stats., within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable, or discriminatory.

1.04 PROCEDURE.

(1) CONCEPTUAL PLAN.

It is recommended that, prior to the filing of an application for the approval of a preliminary plat, the sub divider consult with the Plan Commission in order to obtain the Town's advice and assistance. This consultation is neither formal nor mandatory, but is intended to inform the sub divider of the purpose and objectives of this regulation, the land use plan, (if adopted), and other applicable Town and County ordinances and environmental assessments and to otherwise assist the sub divider in planning the development.

(2) PRELIMINARY PLAT.

The sub divider shall prepare a preliminary plat and submit a preliminary plat application in accordance with sec. 1.05 of this ordinance. The sub divider shall file 16 copies of the preliminary plat with the Town.

The Plan Commission, within 30 days of

the date of the filing of a preliminary plat with the Town, shall recommend approval, conditional approval, or rejection of such plat to the Town Board unless both the time for the Plan Commission to review the plat and the 90 day preliminary plat review period is extended by mutual agreement with the sub divider. If the Plan Commission does not provide its recommendation to the Town Board within 30 days (or any mutually agreed date of extension), the Town Board may act without the recommendation of the Plan Commission.

The Town Board shall, within 90 days of the filing of the preliminary plat with the Town Clerk, approve, conditionally approve, or reject the preliminary plat, unless such time is extended by mutual agreement with the sub divider. The Town Board shall not act until it receives the recommendation of the Plan Commission, or the expiration of 30 days from the date the preliminary plat was filed with the Town Clerk, whichever is sooner, except that if the sub divider and the Plan Commission agree to extend the time for the Plan Commission to review the preliminary plat, the Town Board shall wait until the expiration of that period before acting with regard to the preliminary plat. Failure of the Town Board to act within 90 days shall constitute an approval unless the time is extended by mutual agreement with the sub divider.

After the Town Board makes its decision, one copy of the plat shall thereupon be returned to the sub divider with the date and action endorsed thereon and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. One copy each of the plat and letter shall be placed in the Town Board and Plan

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Commission's permanent files.

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 of preliminary plat approval and conforms substantially with the preliminary plat layout as indicated in Chat. 236.11(l) (b), WI Stats., the final plat shall be entitled to approval with respect to such layout. The 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 Plan Commission and the Town Board at the time of its submission.

Each submission by the sub divider of a preliminary plat that has been revised in any manner shall constitute a filing of a new preliminary plat and all of the provisions of this section shall be followed, including the timelines for review. This means that if the sub divider submits a revised preliminary plat, the Town will have an additional 90 days to review the revised preliminary plat.

(3) FINAL PLAT REVIEW.

The sub divider shall prepare a final plat and submit a final plat application in accordance with this ordinance. The sub divider shall file 16 copies of the final plat with the Town.

(4) FINAL PLAT APPROVAL.

The Plan Commission, within 30 days of the date of the filing of a final plat with the Town, shall recommend approval, conditional approval, or rejection of such plat to the Town Board unless both the time for the Plan Commission to review the plat and the 60 day final plat review period is

extended by mutual agreement with the sub divider. If the Plan Commission does not provide its recommendation to the Town Board within 30 days (or any mutually agreed date of extension), the Town Board may act without the recommendation.

The Town Board shall, within sixty (60) days of the filing of the final plat with the Town Clerk, approve, conditionally approve, or reject the final plat, unless such time is extended by mutual agreement with the sub divider. The Town Board shall not act until it receives the recommendation of the Plan Commission, or the expiration of 30 days from the date the final plat was filed with the Town Clerk, whichever is sooner, except that if the sub divider and the Plan Commission agree to extend the time for the Plan Commission to review the final plat, the Town Board shall wait until the expiration of that period before acting with regard to the final plat. If the final plat is not submitted within thirty-six (36) months after the last required approval of the preliminary plat, the Town Board may refuse to approve of the final plat.

If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the sub divider. The Plan Commission may not inscribe its approval on the final plat unless the Town certifies on the face of the plat that the copies were forwarded to objecting agencies as required herein, the date thereof, and the objections have been filed within 20 days or, if filed, have been met. Upon failure of the Plan Commission to act within 60 days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.

Each submission by the sub divider of a final plat that has been revised in any manner shall constitute a filing of a new

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final plat and all of the provisions of this section shall be followed, including the timelines for review. This means that if the sub divider submits a revised final plat, the Town will have an additional 60 days to review the revised final plat.

(5) RECORDING.

After the final plat has been approved by the Town Board and required improvements are either installed or a contract and sureties insuring attesting to such approval to be duly executed and the plat returned to the sub divider for recording with the County Register of Deeds.

(6) REPLAT.

When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the sub divider or person, wishing to replat shall vacate or alter the recorded plat as provided in Chpts. 236.40 through 236.44, WI Stats. The sub divider, or person wishing to replat, shall then proceed as specified in secs. 1.03(1) through (6) of this ordinance.

(7) CERTIFIED SURVEY MAP.

(a) No person, firm or corporation shall divide any land within the Excelsior Township, which shall result in a land division, as defined in the definitions of this ordinance without first filing for approval by the Town of Excelsior and subsequently recording with the Sauk County Register of Deeds a certified survey map which complies fully with Chpt. 236.34, WI Stats., and with all applicable requirements contained within this ordinance.

(b) A certified survey map shall include all lots, parcels, or building sites created by the land division as specified under the definitions of this ordinance and all the remnants of the original parcel that meet

the applicable zoning requirements and that are ten (10) acres or less in size.

(c) The Town of Excelsior shall, within forty-five (45) days, approve, approve conditionally, or reject the certified survey map, based on a determination of conformance with the provisions of this ordinance. Authority to approve certified survey maps is hereby assumed by the Town of Excelsior. The decision of the Plan Commission may be appealed to the Town of Excelsior Board of Supervisors, in which the forty-five (45) day approval period shall be extended.

1.05 PRELIMINARY PLAT.

(1) GENERAL PROVISIONS.

A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on tracing cloth or paper of good quality at a scale of not more than 100 feet to the inch and shall show correctly on its face the following information:

(a) The title under which the proposed subdivision is to be recorded.

(b) The location of the proposed subdivision by government lot, quarter section, township, range, county and state.

(c) Date, scale, and north point.

(d) Names and addresses of the owner, sub divider and land surveyor preparing the plat.

(e) The entire area contiguous to the proposed plat owned or controlled by the sub divider shall be on the preliminary plat even though only a portion of this area is proposed for immediate development. The Plan Commission may waive this requirement where it is necessary to fulfill the purposes and intent of this ordinance and undue hardship would result from strict application thereof.

(2) PLAT DATA.

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All preliminary plats shall show the following:

- (a) Total area of the land included in the plat expressed in acres and any portion of an acre in square feet.
- (b) Proposed use.
- (c) Exact length, and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in a U.S. Public Land Survey and the total acreage encompassed thereby.
- (d) Contours at vertical intervals of not more than 2 feet where the slope of the ground surface is 10% and of not more than 5 feet where the slope of the ground surface is 10% or more. Elevations shall be marked on such contours based on USCS datum.
- (e) Water elevations of adjoining lakes and streams at the date of the survey and approximate high and low water elevations, all referred to USCS datum.
- (f) Location, right-of-way, width and names of all existing streets, pedestrian paths, 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 plat or immediately adjacent thereto.
- (g) Location and names of any adjacent subdivisions, parks, and cemeteries, and owners of record of abutting lands.
- (h) Locations of all existing property lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks and other similar significant features within the parcel being subdivided or immediately adjacent thereto.
- (i) Location, width and names of all proposed streets and public rights-of-way such as alleys, pedestrian paths, and easements.
- (j) Approximate dimensions of all lots together with proposed lot and block numbers.
- (k) Location, size and approximate

dimensions of any sites to be reserved or dedicated for parks, green space for public use, playgrounds, drainage ways or other public use or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting.

(3) STREET PLANS AND PROFILES.

Street plans and profiles showing existing ground surface and proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision, unless waived by the Plan Commission.

(4) TESTING.

The Plan Commission may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock, and water conditions, including depth to bedrock and depth to ground water table.

(5) COVENANTS.

Submission of a draft of protective or restrictive covenants whereby the sub divider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development. The covenants shall include provisions providing for the regulations and maintenance of any easements (including storm water easements.)

(6) PROPERTY OWNERS ASSOCIATION.

Submission of a draft of the legal instruments and rules for proposed property owners association when the sub divider proposes that common property within the subdivision would be either owned or maintained by such an organization of property owners.

(7) AFFIDAVIT.

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The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he or she has fully complied with the provisions of this ordinance.

(8) ADJOINING GOVERNMENTAL UNITS.

The Town of Excelsior shall forward copies of each preliminary plat submitted to any unit of general-purpose local government within one thousand (1,000) feet of the area shown in the preliminary plat.

1.06 FINAL PLAT.

(1) GENERAL PROVISIONS.

A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Chpt. 236.20, WI Stats. The final plat may, if permitted by the Town of Excelsior, constitute only that portion of the approved preliminary plat which the sub divider proposes to record at that time.

(2) PLAT DATA.

- (a) Exact length and bearing of right-of-way lines of all streets.
- (b) Exact street width along the line of any obliquely intersecting street.
- (c) Exact location and description of street lighting and lighting utility easements.
- (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 of Excelsior relating to access control along public ways or provisions for planting strips.

(3) DEED RESTRICTIONS.

The Town of Excelsior shall require that all deed restrictions and covenants be recorded with the final plat.

(4) PROPERTY OWNERS ASSOCIATION.

The Town of Excelsior shall require the legal instruments creating a property owners association for the ownership and/or maintenance of common lands be recorded with the final plat.

(5) SURVEYING AND MONUMENTING.

All final plats shall meet all surveying and monumenting requirements of Chpt. 236.15, WI Stats.

(6) CERTIFICATES.

All final plats shall provide all the certificates required by Chpt. 236.21, WI Stats; and, in addition, the surveyor shall certify that he/she has fully complied with all the provisions of this ordinance.

(7) IMPROVEMENTS.

Before final approval of any plat, the sub divider shall enter into an agreement with the Town to install the required improvements and shall file with the sub divider's agreement an irrevocable letter of credit or other appropriate sureties meeting the approval of the Town Attorney equal to the estimated cost of the improvements. Improvement cost estimates shall be made by the developer, reviewed by the Town Engineer, and approved by the Board. The improvements may be installed after approval of a preliminary plat or certified survey map, but not later than as specified in the sub divider's agreement. If the completion date of the improvements is not set forth in the sub divider's agreement, the improvements shall be completed within one year of the date of the recording of the

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final plat, except that the surface course of asphalt shall be completed after one freeze-thaw cycle but no later than July 1 after the freeze-thaw cycle.

In addition:

(a) Plans and specifications for all improvements shall be reviewed and approved by the Town Engineer, in writing, prior to commencement of construction and the submission of the final plat for review. The sub divider may submit an interim final plat with the improvement plans; however, review and approval of a final plat shall not be initiated until the improvement plans have been reviewed and approved and until the sub divider's agreement has been fully executed.

(b) Contracts and contract specifications for the construction of street and utility improvements on dedicated street rights of way, as well as the contractors and subcontractors, providing such work shall be subject to the prior written approval of the Town Engineer in accordance with Town standards and specifications.

(c) Governmental units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.

(d) Prior to the acceptance of a final plat, the sub divider shall furnish, when required by the Town, a consent and waiver of the statutory provisions for special assessments for the installation of sanitary sewer, storm sewer, sewer laterals, water main, water laterals, curb and gutter, sidewalks, street surfacing, underground street lighting services and all other utilities, which shall be in a form approved by the Town Attorney, pursuant to sec. 66.60(18), Wis. Stats., and shall be recorded in the office of the Register of Deeds in the same manner as a lis pendens. Such consent and waiver

shall provide that the installation of such services shall be made at the discretion of the Board.

1.07 CERTIFIED SURVEY MAP.

(1) REQUIREMENTS.

The certified survey map shall be prepared by a professional land surveyor at a scale of not more than five hundred (500) feet to one (1) inch. The certified survey map shall include:

(a) The name and address of the individual dividing the lands.

(b) The date of the survey.

(c) A metes and bounds description referenced to a line and a corner of the U.S. Public Land Survey, or referenced to an adjoining recorded plat.

(d) The locations, right-of-way widths and names of existing or proposed streets, alleys or other public ways, easements, and railroad and utility right-of-way included within or adjacent to the proposed land division.

(e) The area(s) of the parcel(s) being created in square feet and acres.

(f) The locations of existing property lines, buildings, drives, streams, and watercourses, lakes, marshes and other significant features within the parcel(s) being created shall be shown.

(g) Utility easements and access restrictions, where applicable.

(h) The location of an existing on-site sewage disposal system.

(i) The statement on the face of the certified survey map that the parcel(s) created are considered unbuildable until a soil evaluation report, as required by the WI Dept. of Commerce, is filed in the Sauk County Planning and Zoning Office. If the parcel has access to a public sanitary sewage system, the surveyor shall note on the face of the certified survey map that the parcel(s) are unbuildable unless a hookup

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is made to the public sanitary sewer.

(j) Proof of compliance with Trans 233 WI Admin. Code where applicable.

(k) Separate certificates of approval for recording the Town of Excelsior's action.

(l) The map shall show correctly on its face, the information required by Chpt. 236.34, WI Stats.

(m) Certificates. The surveyor shall certify on the face of the map that he/she has fully complied with all the provisions of this ordinance. The Plan Commission, after a recommendation by the reviewing agencies, shall certify its approval on the face of the map.

(2) OWNERS CERTIFICATION.

When dedication of lands is required, and owner's certification of dedication prepared in accordance with Chpt. 236.34, WI Stats., and a governmental jurisdiction certificate of the dedication, approved by the full governing body on the accepting jurisdiction.

1.08 DESIGN STANDARDS.

(1) STREET ARRANGEMENTS.

General Provisions. In any new subdivision or land division, the street layout shall conform to the arrangement, width, and location indicated on the official map, master plan, or component neighborhood development plan of the Town. In areas for which such plans have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. The subdivision shall be designed so as to

provide each lot with satisfactory access to a public street. The dedication of street right-of-way shall not create a commitment on the part of the Town of Excelsior to construct, improve, or maintain any roadbed placed upon said right-of-way. Acceptance of any street, road, or highway for maintenance purposes shall require compliance with the design and construction standards of the Town of Excelsior and those of the applicable highway maintenance authority. The width of any dedicated street or right-of-way shall be sixty-six (66) feet unless a wider right-of-way is requested by the proper highway authority, in which case, the wider right-of-way shall be dedicated. Right-of-ways less than sixty-six (66) feet are prohibited except as approved in writing by the Town of Excelsior upon their finding that a wider right-of-way is unnecessary or impractical to achieve.

(2) STREETS.

(a) The arrangement, character, extent, width, grade, location, and construction of all streets shall conform to the standards of the unit of government having jurisdiction over said street, and the provisions of this ordinance.

(b) The arrangement of streets in a subdivision shall provide, where possible, for the continuation on appropriate collector and arterial streets.

(c) Local streets shall be laid out so as to discourage their use by through traffic.

(d) Where a subdivision abuts or contains an existing or proposed arterial street, the Town of Excelsior may require marginal access streets, reverse frontage lots with screen plantings contained in a nonaccess reservation along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

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(3) INTERSECTIONS.

The number of intersections along arterial streets shall be held to a minimum. The distance between such intersections shall be not less than twelve hundred (1,200) feet except with demonstrated need and Town of Excelsior approval. Where a subdivision borders on or contains a railroad right-of-way, the Town of Excelsior may require a street approximately parallel to and on each side of such right-of-way, at a distance for the appropriate use of intervening land.

(4) CENTERLINE OFFSETS.

Street jogs with centerline offsets of less than one hundred fifty (150) feet are prohibited.

(5) CUL-DE-SACS.

Cul-de-sacs shall provide a turnaround with a minimum right-of-way radius of eighty (80) feet. The traveled way within the cul-de-sac shall provide a minimum radius of sixty (60) feet.

(6) DEAD END STREETS.

Dead end streets shall not be permitted without Town Board approval.

(7) COMMERCIAL AND INDUSTRIAL DISTRICTS.

In commercial and industrial districts or alleys, other definite and assured provisions shall be made for off street parking and service access consistent with and adequate for the uses proposed.

(8) HALF STREETS.

Half streets shall be prohibited, except where necessary for continuity of the street system.

(9) STREET NAMES.

(a) The Town of Excelsior may disapprove of the name of any street on the plat which has already been used elsewhere in the

county, or which because of similarity, may cause confusion.

(b) Where a street maintains the same general direction, except for curvilinear changes for short distances, the same name shall continue for the entire length of the street.

(c) A name which is assigned to a street which is not presently a through street due to intervening land over which the street extension is planned, shall be continued for separate portions of the planned through street.

(d) Access roads and highways served by them shall have the same street names and designation.

(e) Approval of street names on a preliminary plat will not reserve the street names nor shall it be mandatory for the Town of Excelsior to accept the proposed name.

1.09 EASEMENTS.

(1) UTILITY.

Easements across lots or along rear or side lot lines shall be provided for utilities where necessary and shall be at least six (6) feet wide on each side of lot lines, and shall be designated as "Utility Easement" on the plat or certified survey map. Prior to approval of any final plat, the sub divider shall provide the Town of Excelsior with written statements from the utility companies which serve the proposed subdivision. The statements shall address the adequacy and location of all utility easements.

(2) DRAINAGE WAYS.

Where a subdivision is traversed by a watercourse, drainage way or stream channel there shall be provided an adequate drainage way easement as required by the appropriate agency and the Town of Excelsior. The location, width, alignment

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and grading of such a width and design to accommodate the anticipated discharge from the property being subdivided and also the anticipated runoff that will occur when property at a higher elevation in the drainage basin is developed.

1.10 REQUIRED IMPROVEMENTS.

(1) SURVEY MONUMENTS.

The sub divider shall install survey monuments in accordance with the requirements of Chpt. 236.15, WI Stats. and the standards of the Sauk County Surveyor.

(2) PUBLIC WATER AND SEWAGE DISPOSAL FACILITIES.

(a) Public water supplies and sewage disposal systems shall be utilized whenever possible.

(b) Water and sewage disposal facilities shall be installed and financed according to the requirements of the utility and applicable state regulations.

(3) PRIVATE WATER AND SEWAGE DISPOSAL FACILITIES.

(a) The sub divider shall assure the suitability and availability of private water and sewage disposal facilities on all lots at the time of subdivision.

(b) Private water and sewage disposal facilities shall comply with all applicable State Statutes and Sauk County Ordinances.

(4) GRADING AND SURFACING.

All streets shall be graded and surfaced in accordance with the plans, specifications, and requirements of the Sauk County Highway Department and the Town of Excelsior.

(5) STORM WATER DRAINAGE FACILITIES.

Subdivision plats and condominium shall

submit to the Town of Excelsior a storm water drainage/retention plan which incorporates facilities of a size and design that will assure, appropriate to circumstances, that the anticipated discharge of storm water following development is less than or equal to the discharge preceding the development and further that design volumes for flow will present no hazard to life or property and shall be installed in accordance with the plans and specifications approved by the Town. The guidelines and specifications contained within "The Wisconsin Stormwater Manual" or successor publications issued by the WI Dept. of Natural Resources will provide a framework for the development, review, and implementation of the storm water plan. Approved storm water facilities shall be installed prior to the commencement of any grading not directly associated with the installation of such facilities.

(6) EROSION CONTROL.

The sub divider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances, sedimentation and washing shall be prevented. The Town of Excelsior may request the sub divider to submit an erosion control plan that specifies measures that will be taken to assure the minimization of erosion problems. The erosion control plan shall be reviewed by the Town of Excelsior and other appropriate agencies to determine the adequacy of the proposed measures. The guidelines, standards, and specifications contained within the "Wisconsin Construction Site Best Management Practice Handbook" by the WI Dept. of Natural Resources will provide a framework for the development, review, and implementation of the erosion control plan. All erosion control structures shall be in place prior to the commencement of any

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grading not associated with the installation of such structures.

1.11 PARK AND PUBLIC LAND DEDICATIONS.

(1) GENERAL PROVISIONS.

The requirements of this subsection are established to ensure that adequate parks, open spaces, and sites for other public uses are properly located and preserved as the Town of Excelsior grows. Whenever a subdivision is to be created, a dedication of lands for park, playground or natural area purposes shall be made, or at the Town of Excelsior's option a payment in lieu of dedication shall be made according to the following procedure:

(2) DEDICATIONS.

The sub divider shall dedicate an area equal to five percent (5%) of the area shown on any new preliminary plat, final plat or certified survey map for natural area purposes, provided that said dedication is acceptable to the Town of Excelsior.

(3) PAYMENT IN LIEU OF DEDICATION.

Where the Town of Excelsior determines that a dedication of land is inappropriate, a payment in lieu of land dedication shall be made at the time of approval, of all final plats and certified survey maps. The dedication fee shall be established by resolutions of the Town Board and shall be based on the fair market value of the land, as it will be after the improvements are installed. Said payments are in addition to any other fees collected, and shall be deposited into a non-lapsing account to be used only for the purposes of land requisition or improvements to natural areas in the Town of Excelsior.

(4) WAIVER OF DEDICATION.

The Town of Excelsior may waive the

aforementioned dedication and payment requirements for lots created solely for purposes of transfer of ownership where a residence or farmstead exists at the time the lot is created, and the lot is certified as unbuildable on the plat or certified survey map, and is to be used only for agricultural or other open space purposes. Dedication may be waived for transportation or utility purposes.

(5) RESERVATIONS.

Reservations of lands for parks, playgrounds, school sites, or public sites. Whenever a lot is to be created which contains all or in part a site for a park, playground, school or other public use designated in an adopted public plan, and the plan designated is in excess of the amount of land required for to be dedicated in this ordinance, the excess amount of land shall be reserved for public acquisition for a period of three (3) years from the date of approval of the final plat, unless extended by mutual agreement between the Town of Excelsior and the sub divider.

1.12 CONSTRUCTION.

(1) COMMENCEMENT.

No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat or certified survey map has been approved and the Town Engineer has given written authorization in accordance with sec. 1.06(7) of this ordinance and the Town Engineer is satisfied that all other permits and approvals have been obtained from other authorities. Inspection fees shall be required as specified in this chapter.

(2) BUILDING PERMITS.

(a) No building permit shall be issued until the following improvements are installed, to

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the written approval of the Town Engineer:

- i.** all adequate stormwater improvements,
- ii.** a hard surface roadway allowing sufficient access for emergency service vehicles, and
- iii.** final plat or certified survey map is approved and recorded.

(b) No occupancy permit shall be issued until all improvements within the subdivision are completed, with the exception of the surface coat of asphalt, which shall be completed after a freeze-thaw cycle.

(3) PLANS.

The following plans and accompanying construction specifications may be required by the Town Engineer before authorization of construction or installation of improvements:

(a) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.

(b) Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.

(c) Storm sewer plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.

(d) Planting plans showing the locations, age, and species of any required trees.

(e) Additional special plans, permits, or information as required; where required by State agencies, such plans shall be approved by such agencies prior to the commencement of construction.

(4) INSPECTION.

The sub divider, prior to commencing any work within the subdivision, shall make arrangements with the Town Engineer to provide for adequate inspection. The Engineer shall inspect and approve all

completed work prior to approval of the final plat or release of the sureties. All street subgrades must be proof-rolled in the presence of the Town Engineer before gravel base is spread and before asphalt paving is completed.

(5) SUBDIVIDER'S MAINTENANCE RESPONSIBILITY.

In addition to all other requirements of this ordinance and the development agreement, the sub divider shall be responsible for the maintenance of all improvements within the plat for a period of one year from the date of final acceptance of the final improvement. It shall be the responsibility of the sub divider to make any repairs necessary to such improvements upon complaint from the Town or from the owners of lots within the plat during this maintenance period. Failure of the sub divider to make the necessary repairs within ten (10) days shall cause the Town to make the repairs. To ensure compliance with this provision, the Board may require a money deposit or other assurance that repairs made by the Town shall be promptly paid and in no event shall be paid later than fifteen (15) days from the date on which an itemized statement of costs incurred is presented to sub divider.

(6) RESPONSIBILITY FOR IMPROVEMENTS.

The applicant for approval of every subdivision and every certified survey map shall be responsible for the design, construction, and installation of all required and agreed upon improvements which serve land division at their full cost and expense, except where the Town Board agrees to do any such work. However, with respect to any improvement serving land division constructed or installed by the Town, the cost thereof shall be charged to the benefited property through special

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assessments, payable over a term of years and at an interest rate established by the Town Board within its jurisdiction and as otherwise provided in the development agreement.

(7) ACCEPTANCE OF PUBLIC IMPROVEMENTS.

Public improvements which serve land division shall not be deemed dedicated for public purpose until respectively accepted by the Town as being fully functional and in conformance with the development agreement, applicable plans and specifications, Town ordinances, and compatibility with attached and adjacent systems, facilities, and improvements.

(8) CONSTRUCTION SITE EROSION CONTROL.

The sub divider shall cause all grading, excavating, open cuts, side slopes and other land surface disturbances to be so mulched, seeded, sodded or otherwise protected that erosion, siltation, sedimentation and washing are prevented in accordance with the plans and specifications approved by the Town Board. In addition:

(a) Sod shall be laid in strips at those intervals necessary to prevent erosion and at right angles to the direction of drainage.

(b) Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.

(c) Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.

(d) Sediment basins shall be installed and maintained at all drainage ways to trap, remove, and prevent sediment and debris from being washed outside the area being developed.

(9) PROTECTING EXISTING FLORA.

The sub divider shall make every effort to

protect and retain all existing 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 trees are to be protected and preserved during the construction in accordance with sound conservation practices, well islands, or retaining walls whenever abutting grades are altered.

1.13 FEES.

The sub divider shall pay such fees as shall be periodically established by the Town of Excelsior. In addition to other costs, the sub divider shall pay all fees established at the time of application and in the event that fees are not timely paid, the Town shall not be required to take any further action with respect to a plat or certified survey map, or the sub divider shall not be required to record the same.

(a) Professional Fees.

The sub divider shall pay a fee equal to the actual cost to the Town for review of all engineering, legal and other work incurred by the Town in connection with the plat or certified survey map, including any inspections required by the Town. The sub divider shall pay a fee equal to the actual cost of the Town for such review and inspection, as the Town Board deems necessary to assure that the plans, specifications, and ordinances of the Town or any other governmental authority. The sub divider shall pay the fee within fifteen (15) days of each billing by the Town Clerk.

(b) Impact Fees.

Fees for park facilities are intended to impose an impact fee upon residential dwelling units, in order to finance park facilities, the demand for which is generated by new residential development.

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1.14 VIOLATIONS.

It shall be unlawful to build upon, divide, convey, record, or monument any land in violation of this ordinance or the Wisconsin Statutes and no person shall be issued or improvement of any subdivision, land division or replat with the jurisdiction of this ordinance not of record as of the effective date of this Code until the provisions and requirements of this ordinance have been fully met. The Town may institute action or proceedings to enjoin violations of this ordinance or the applicable Wisconsin Statutes.

1.15 PENALTIES.

(a) Any person who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit not less than \$100 nor more than \$1,000 plus the cost of prosecution for each violation and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding six (6) months. Each day a violation exists or continues shall constitute a separate offense.

(b) Recordation improperly made has penalties provided in Chpt. 236.30, WI Stats.

(c) Conveyance of lots in unrecorded plats has penalties provided in Chpt. 236.31, WI Stats.

(d) Monuments disturbed or not placed have penalties as provided for in Chpt. 236.32, WI Stats.

1.16 INSTALLATION OF IMPROVEMENTS.

The improvements specified herein shall be installed and approval of the final plat shall be given only after the work has been completed, or one of the following has been filed with the appropriate governmental jurisdiction:

(1) SURETY BOND.

A duly completed and executed, continuing surety bond in an amount sufficient to complete the work with surety satisfaction to the Town of Excelsior.

(2) CERTIFIED CHECK.

A certified check, in the amount sufficient to complete the work, drawn on and approved and available to the Town of Excelsior. As the work progresses, the Town of Excelsior may permit the exchange of said check for another check of sufficient amount to complete the remaining improvements agreed within the specified time per the contract, to complete the remaining specified work.

(3) OTHER COLLATERAL.

Other collateral satisfactory to the Town of Excelsior in an amount sufficient to complete the work may be considered.

1.17 VARIANCES.

(1) HARDSHIPS.

Where the Town of Excelsior finds that unnecessary hardship may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done, provided that public interest is secured and that such variation will not have the effect of nullifying the intent and purpose of these regulations.

(2) VARIANCES.

Any modifications or variance thus granted shall be entered in the minutes of the Town of Excelsior setting forth the reasons which, in the judgment of the Town of Excelsior, justified the modification of variance.

1.18 CONTESTED ISSUES, SEVERABILITY.

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If any section, provision, or portion of this ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected thereby.

1.19 REPEAL.

All other ordinances or parts of ordinances of the Town of Excelsior inconsistent or in conflict with this ordinance, to the extent of inconsistency or conflict only, are hereby repealed.

Date Adopted: _____

Ordinance No: _____

Date Effective: _____