

**TOWN OF NEW HAVEN, ADAMS COUNTY, WI**  
**LAND DIVISION ORDINANCE #2010-01**  
**Effective March 25, 2010**  
**Amended: \_\_\_\_\_**

**1. AUTHORITY**

These regulations are adopted under the statutory authority granted pursuant to secs. 60.10(2)(c), 60.22(3), 61.34(1), 236.03 and 236.45 of the Wisconsin Statutes.

**2. PURPOSE AND INTENT**

The purpose and intent of this Ordinance are to regulate and control the division of land within the limits of the Town New Haven, Adams County, Wisconsin, in order to:

- (A) Promote the public health, safety, general welfare, aesthetics and environmental quality of the community.
- (B) Enforce the goals and policies set forth in the Town's Comprehensive Plan.
- (C) Promote the safe, planned and orderly layout and use of the land in the Town.
- (D) Avoid inefficient and uneconomical extensions of the Town's governmental services in order to keep taxes lower.
- (E) Minimize public impact resulting from the division of large tracts into smaller parcels of land.
- (F) Lessen congestion in the streets and highways, prevent the overcrowding of land and avoid undue concentration of population.
- (G) Establish an adequate area for Private On-Site Waste Treatment Systems (POWTS) to minimize adverse effects on the Town's water resources.
- (H) Preserve the value of prime agricultural soils in the Town.
- (I) Preserve the agriculturally important lands in the Town by minimizing conflicting land uses.
- (J) Preserve the rural character, natural beauty and open spaces of the Town.
- (K) Regulate the development of condominium projects in the Town.
- (L) Provide for the administration and enforcement of this Ordinance by the Town Board.
- (M) Provide the goals set forth in sec. 236.45(1) Wisconsin Statutes.
- (N) Provide penalties for violation of this ordinance.

**3. DISCLAIMER**

(A) Multiple Jurisdictions. All persons reviewing the provisions of this Ordinance should be aware that the Town of New Haven is only one of a number of governmental bodies that may have jurisdiction over proposed land divisions. The Town of New Haven cannot make any representations on behalf of any other governmental body. No land division may be made unless all required approvals have been given.

(B) Binding Acts. No statement or actions by any official, employee, agent, or committee of the Town of New Haven should be construed or taken as a binding act of the Town of New Haven except as a resolution, motion, or ordinance that has been adopted by the Town Board or Plan Commission of New Haven at a lawfully conducted Town Board or Plan Commission meeting. This includes, but is not limited to, interpretation of this Ordinance.

(C) Compliance Assurance. The Town of New Haven assumes no responsibility for the suitability of any property resulting from a land division which has been approved by the Town Board or Plan Commission. The Town of New Haven expressly states that it has no responsibility whatsoever for assuring that land and/or buildings sold in the Town are in compliance with any ordinances, regulations, or rules.

#### **4. ABROGATION AND GREATER RESTRICTIONS**

It is not the intent of this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations, permits, or approvals previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, and such restrictions do not contravene rights vested under law, the provisions of this Ordinance shall govern.

#### **5. INTERPRETATION**

The provisions of this Ordinance shall be interpreted to be minimum requirements and 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. Provided, however, that if any provision of this Ordinance is contrary to a subdivider protection, as that term is used in 2009 Wis. Act 376, set forth in Chapter 236 Wis. Stats., the protection afforded in Chapter 236 shall govern. It is further provided that the review of a proposed land division shall be based on regulations in effect at the time the proposed land division was submitted.

#### **6. OVERLAPPING STANDARDS**

Where there are multiple standards, the more specific or stringent shall take precedence.

#### **7. AMENDMENTS**

The Town Board may, upon recommendations of the Town Plan Commission, amend, supplement, or repeal any of these regulations after public notice and hearing and as may be required by Chapter 236 of the Wisconsin Statutes.

#### **8. SEVERABILITY**

The provisions of this Ordinance shall be deemed severable. If any section, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

#### **9. JURISDICTION**

This Ordinance shall apply to all lands within the Town of New Haven.

#### **10. APPLICABILITY**

This ordinance shall apply to any division of land within the Town of New Haven that results in a "Minor Land

Division", "Major Land Division" or "Town Subdivision" as defined in Section 11 of this Ordinance, and also shall apply to any condominium plat, condominium plat amendment or condominium declaration.

## 11. DEFINITIONS

For the purposes of this Ordinance, the following definitions shall apply. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular. Any words not defined in this Section shall be presumed to have their customary definitions as given in standard reference dictionaries.

(A) Certified Survey Map. A map of a land division prepared in accordance with sec. 236.34 of the Wisconsin Statutes and in full compliance with the applicable provisions of this Ordinance.

(B) Comprehensive Plan. The Comprehensive Plan, as defined by section 66.1001 of the Wisconsin Statutes, adopted by the Town of New Haven, including any subsequent amendments.

(C) Condominium Development. A real estate development in which a condominium form of ownership pursuant to Chapter 703, Wis Stats, is utilized.

(D) Deed Restriction. A restriction on the use of a property set forth in the deed, including, but not limited to, a restriction placed on undeveloped land as a condition for the approval to divide or develop that land, or adjacent land.

(E) Land Division. The division of a lot, outlot, parcel, or tract of land by the owner of the land, or the owner's agent, for any purpose, when the act of division creates two or more parcels or building sites, inclusive of the original remnant parcel, any of which is 40 acres or less in area, by a division or by successive divisions of any part of the original property within a period of 5 years, including any land division by or for a Minor Land division, a Major Land Division, a Town Subdivision, a Statutory Subdivision, a Condominium, a Plat, a Replat, a Condominium Plat, and a Certified Survey Map, and any other land division. Any residual parcel resulting from any division of land shall be included in the land division if said parcel is less than 40 acres in size.

(F) Lot. Designated parcel or tract of land legally recorded in the Adams County Register of Deeds office, established by Certified Survey Map, Plat, Metes and Bounds, land division, or as otherwise permitted by law to be conveyed, used, developed, or built upon as a unit. Same as "Parcel".

(G) Major Land Divider. Any person, partnership, corporation, agent or other legal entity, dividing or proposing to divide land which results in a "Major Land Division" as defined by this Ordinance.

(H) Minor Land Divider. Any person, partnership, corporation, agent or other legal entity, dividing or proposing to divide land which results in a "Minor Land Division" as defined by this Ordinance.

(I) Major Land Division. Any Land Division or proposed Land Division of a lot, parcel or tract of land where the act of division would create a total of three to four (3-4) lots, parcels or building sites, each with an area of forty (40) acres or less, within five (5) successive years.

(J) Minor Land Division. Any Land Division or proposed Land Division of a lot, parcel or tract of land where the act of division would create a total of two (2) lots, parcels or building sites, each with an area of forty (40) acres or less, within five (5) successive years.

(K) Parcel. Designated lot or tract of land legally recorded in the Adams County Register of Deeds office, established by Certified Survey Map, Plat, Metes and Bounds, land division, or as otherwise permitted by law to be conveyed, used, developed, or built upon as a unit. Same as "Lot".

(L) Plan Commission. The Town of New Haven Plan Commission

(M) Restrictive Covenant. A restriction on the use of a property set forth in the deed, the certified survey map or the plat, including, but not limited to, a restriction placed on undeveloped land as a condition for the approval to divide or develop that land, or adjacent land.

(N) Town Subdivider Any person, partnership, corporation, agent or other legal entity, dividing or proposing to divide land which results in a "Town Subdivision" as defined by this Ordinance.

(O) Town Subdivision Any Land Division or proposed Land Division of a lot, parcel or tract of land where the act of division would create 5 or more lots, parcels or building sites, each with an area of forty (40) acres or less, within five (5) successive years.

(P) Town. The Town of New Haven, Adams County, Wisconsin.

(Q) Town Board. The Board of Supervisors for the Town of New Haven.

(R) Town Clerk. The Clerk of the Town of New Haven.

## **12. COMPLIANCE**

(A) No person, partnership, corporation, or legal entity of any sort shall divide or create a land division of any land in the Town of New Haven subject to the requirements of this Ordinance and no such land division, including a Minor Land Division, Major Land Division, Town Subdivision, Certified Survey Map, Plat, Replat or Condominium Plat, shall be entitled to be recorded in the Office of the Register of Deeds for Adams County unless the land division, plat or map, as approved by the Town Board or its designee is in full compliance and consistent with the following:

(1) All requirements of this Ordinance; when provisions of this Ordinance create greater restrictions than paragraphs two (2) through nine (9) below, it is intended that the provisions of this Ordinance shall apply.

(2) Chapter 236 of the Wisconsin Statutes;

(3) The Town of New Haven Comprehensive Plan or any component thereof;

(4) Adams County Zoning Ordinance/Shoreland Protection Ordinance/Land Division Ordinance and Sanitary Ordinance;

(5) State of Wisconsin Department of Natural Resources rules on wetlands, shorelands, sewers and septic systems:

- (6) All applicable state and local sanitary codes;
- (7) All applicable Town of New Haven ordinances, including the New Haven Driveway Ordinance;
- (8) State of Wisconsin Department of Transportation and/or Adams County Highway Department rules relating to safety of access and the preservation of the public interest and investment in the highway system, if the land owned and controlled by the land divider abuts on a state or county trunk highway or connecting road or street; and
- (9) All applicable comprehensive plans, master plans, ordinances, or official maps adopted pursuant to sec. 62.23 of the Wisconsin Statutes, and any other pertinent town or county ordinances and regulations.

(B) No person shall construct upon, convey, record or place survey monuments, conduct surveys, layout parcels, lots or outlots, or create plats or maps on any land in the Town of New Haven in violation of this ordinance or Wisconsin Statutes.

(C) No person shall request, nor be issued a driveway permit, building permit, or any other permit or license authorizing any construction, installation or improvement on any land within the Town of New Haven that was divided in violation of this ordinance. The Town Board may institute the appropriate action or proceedings to enjoin violations of this Ordinance.

(D) All land division approvals required by the State of Wisconsin for specific land divisions shall be obtained prior to final approval by the New Haven Town Board or its designees.

(E) All land divisions, plats or certified survey maps, upon receipt of final approval by the Town Board or its designees, shall be recorded in the office of the Register of Deeds at the cost of the land divider. Final plat approval shall comply for recording with 236.21 and 236.25 Wisc. Stats.

### **13. EXEMPTIONS**

(A) The provisions of this Ordinance, as it applies to land divisions of tracts of land into less than 5 parcels in the Town, shall not apply to any of the following:

- (1) Transfers in interest in land by will or pursuant to court order.
- (2) Leases for a term not to exceed 10 years, mortgages or easement.
- (3) The sale or exchange of parcels between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this ordinance or other applicable laws or ordinances.
- (4) The public acquisition of land for the widening of existing streets or for constructing other public works.

(B) All the following specific uses and activities are exempt from this Ordinance:

- (1) Cemetery plats made under 157.07 Wisc. Stats.
- (2) Assessors plats made under 70.27 Wisc. Stats.

#### **14. RESTRICTIONS ON MAJOR LAND DIVISIONS AND TOWN SUBDIVISIONS**

(A) The Town of New Haven finds that, in certain areas of the Town, "Major Land Divisions" and "Town Subdivisions" as defined in this Ordinance, do not promote the public health, safety and general welfare of the community, lessen congestion in the streets and highways, help to secure safety from fire, panic and other dangers, provide adequate light and air, prevent the overcrowding of land or avoid undue concentration of population.

(B) This finding was made with reasonable consideration, among other things, of the character of the Town of New Haven with a view of conserving the value of the buildings placed upon land, providing the best possible environment for human habitation, encouraging the most appropriate use of land throughout the town, preventing the fragmentation of productive agricultural and forestry lands, and of the Town's goal to keep taxes as low as possible.

(C) The Town of New Haven also finds that:

The Town's "**Agricultural Areas**", as mapped on the New Haven Comprehensive Plan "**Future Land Use Plan**" map, contain primarily Class I and Class II prime agricultural soils as defined by the NRCS Soil Capability Classification System, and The Town's "**Forestry Areas**", as mapped on the New Haven Comprehensive Plan "**Future Land Use Plan**" map, contain primarily contiguous woodlands that provide timber, recreational activities, scenic beauty, wildlife habitat and protection of sensitive environmental areas where tree cover is essential, especially for erosion control and to reduce effluent and nutrient flows into surface waters, and

The Town's "**Preservation and Open Space Areas**", as mapped on the New Haven Comprehensive Plan "**Future Land Use Plan**" map, contain primarily sensitive environmental areas, including FEMA 100 year flood plains, DNR wetlands and shoreland protection areas,

And that preservation of these lands by limiting the fragmentation of parcels will benefit the general welfare of the community,

(F) Therefore all Land Divisions in the "Agricultural Areas", "Forestry Areas", and "Preservation and Open Space Areas" designated on the New Haven Comprehensive Plan "**Future Land Use Plan**" map shall be limited to "Minor Land Divisions" and both "Major Land Divisions" and "Town Subdivisions" shall be prohibited in these areas of the Town.

(G) Tracking of land divisions for purposes of determining whether the land division is considered a "Major Land Division", a "Minor Land Division" or a "Town Subdivision" shall be coordinated between the New Haven Plan Commission and Town Clerk, beginning on the effective date of this ordinance. The base from which the tracking will occur will be all parcels in the Town of New Haven that are legally recorded in Adams County as of the effective date of this ordinance, based on a list provided from the Adams County Real Property Lister. The Land Divider may be required to include language on the instruments of conveyance noting the number of future divisions allowable within the next 5 years.

#### **15. CONDOMINIUMS**

(A) Pursuant to sec. 703.27, Wis. Stats., this Ordinance shall be applicable to condominiums. It is hereby declared and determined that each provision of this Ordinance reasonably relates to the nature of all forms of ownership, including condominium ownership. For purposes of this Ordinance, 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.

(B) Adequate open space shall be provided so that the average density and intensity of land use shall be no greater than that permitted by this ordinance and/or the Adams County Zoning Ordinance, whichever is more restrictive.

## **16. LAND SUITABILITY**

(A) Natural and Preexisting Divisions. No land will be divided solely because the parcel is bisected or divided by a road, railroad, right of way, stream or other natural feature on the land, all other conditions of approval under this Ordinance must also be met. It is recommended that such bisected or naturally divided parcels that will be proposed for land division under this Ordinance shall be divided along these natural or constructed features.

(B) Material Interference with Goals of Land Use Plan. No land shall be divided if it is determined that the land division will materially interfere with existing land uses or will conflict with other goals, objectives and policies as set forth in the Town of New Haven Comprehensive Plan.

(C) Threat to Groundwater. No land shall be divided for a purpose that poses a substantial threat to the quality or quantity of Town groundwater.

(D) Unsuitable Conditions. No land shall be divided which is held unsuitable for its proposed use for reason of flooding, inadequate drainage, dangerous or hazardous land conditions, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal or maintenance capabilities, adverse impairment of wildlife habitat and scenic vistas, improper utilization of productive farm soils, undue costs and inefficiencies in the provision of governmental services, or any other feature likely to be harmful to the health, safety or welfare of future residents of the Town. The Plan Commission may require the land divider to furnish maps, data and other information as may be necessary to determine land suitability.

(E) Design and Evaluation Criteria. Diversity in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. Accordingly, the Town shall evaluate proposals to determine whether the proposed development:

- (1) Protects and preserves all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the town for active or passive recreation amenities).
- (2) Preserves and maintains mature woodlands, existing fields, meadows, and significant wildlife habitat, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses to the fullest extent that is practicable.
- (3) Maintains or creates an upland buffer of native species vegetation of at least 100 feet adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.
- (4) Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by U.S. Fish & Wildlife Service and/or by the Wisconsin Dep't of Natural Resources.
- (5) Preserves sites of historic, archaeological, or cultural value, and their environs, insofar as needed to safeguard the character of the feature. This includes, among other sites, all known or marked graves, Native American or other, and all Native American mounds.

## **17. LOT DESIGN STANDARDS**

(A) Minimum Lot Size. Upon the effective date of this Ordinance, for all lands in the Town not served by public sewer in which the minimum lot size is less than two (2) acres under County Zoning, the minimum lot size shall thereafter be two (2) acres. An exception may be granted for strictly nonresidential uses such as utilities or other infrastructure, where a Private On-site Waste Treatment System (POWTS) would never be required.

(B) Depth/Width Ratio. The depth of a lot shall not exceed four (4) times its width at its widest point.

(C) Minimum Lot Width. Providing a lot's width is sufficient to meet the 4 to 1 Depth/Width Ratio requirement in this ordinance, a lot created by land division shall have a minimum lot width as required by the Adams County Zoning Ordinance. When the Adams County Zoning minimum lot width requirement is not sufficient to meet the Depth/Width Ratio requirement in this ordinance, a lot created by land division shall have a minimum lot width which will meet the Depth/Width Ratio requirement.

(D) Access. Each parcel of land created must abut a public road or street by at least one hundred (100) feet. Easements are prohibited as a means of providing access to public roads or streets for new parcels.

## **18. ROAD DESIGN STANDARDS**

(A) The land divider shall dedicate land for and improve streets and roads at land divider's expense, to provide access to any proposed new lots in the Town of New Haven, if a new public road has been approved by the Town Board. Public roads shall conform to Town road widths and standards in 82.50 Wis. Stats, or to Adams County road standards if applicable, and shall intersect at right angles where practicable to afford maximum visibility and safety.

(B) The number of intersections of minor public streets or public roads shall be reduced to the practical minimum consistent with circulation needs and safety requirements. Where a land division abuts or contains an existing or proposed arterial highway, the Town Board may require a frontage road, non-access reservation contiguous to such highway, or such other treatment as may be necessary to insure safe, efficient, traffic flow and adequate protection of residential properties.

(C) The Town Board may require a performance bond or letter of credit to insure the construction of roads to the appropriate standards. The Town may also require a Developer's Agreement, to ensure the proper development of any dedicated areas.

(D) The subdivider may construct the project in such phases as the town board approves, which approval may not be unreasonably withheld, If the subdivider's project will be constructed in phases, the amount of any surety bond or other security required by the town board shall be limited to the phase of the project that is currently being constructed. The town board may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.

## **19. EASEMENTS**

(A) The Town Board for any land division may require rear or side outlot, parcel, or lot line utility easements at locations and of widths deemed adequate by the Town Board.

(B) The Town Board may require that easements or drainageways of widths sufficient to accommodate storm water run-off be provided where a land division area includes a segment or segments of water courses, drainageways, channels, or streams.

## **20. PRELIMINARY CONSULTATION**

It is recommended that, prior to filing an application and fee for land division approval, the land divider shall schedule an informal preliminary consultation with the Town Plan Commission Chair. This consultation is not mandatory, but is intended to inform the land divider of the purpose and objectives of this Ordinance, the Comprehensive Plan, and other duly adopted plan implementation devices of the Town. In so doing, both the land divider and the Plan Commission may reach mutual conclusions regarding the general objectives of the proposed land division and its possible effects on the neighborhood and community, before the expense of a certified survey map or plat is incurred. Any conclusions reached are not to be considered official preliminary approvals or disapprovals of the proposed land division.

Recommended information to be provided includes: The name, address and phone number of the land divider, the location of the property, the number and size of projected parcels and an estimated timetable for any development. Also recommended is a sketch map that includes parcel numbers, a reference to a section corner, the approximate dimensions and areas of the parcels, the location and type of existing and proposed buildings and structures, the location of drainage ditches, water wells, sewerage systems, drain fields, drain tiles and other features pertinent to the land division, the location of existing and proposed roads and driveways, distances to the nearest adjoining highways, roads, or driveways on all sides of the proposed site, location of general land cover types, such as woods, wetlands, agricultural, etc., location of any slopes of 12% or greater and location of any required building setback lines.

## **21. CERTIFIED SURVEY MAP PROCEDURE**

(A) Any proposed Land Division, other than a Town Subdivision as that term is defined herein, shall be surveyed and a Certified Survey Map (CSM) prepared by a land surveyor registered in the State of Wisconsin is required. The CSM shall comply in all respects with 236.10 Wis Stats, 236.34, Wis. stats., where applicable, and State survey standards. Ten (10) duplicate copies of the proposed CSM shall be submitted to the Town Clerk, along with an application review fee in an amount set by the Town Board. The Town of New Haven shall comply with the ninety (90) day requirement in 236.34 Wis Stats for final approval, final approval on condition, or rejection by the Town Board or its designee, as the approving authority for the final Certified Survey Map.

(B) The Certified Survey Map shall, at minimum, show correctly on its face, in addition to the information required by s. 236.24, Wis. Stats., all of the following:

(1) All existing buildings, fences, water courses, wetlands, lakes, navigable waters, ponds, drainage ditches, waste disposal systems, and other features pertinent to the property division, including the location of water wells, dry wells, drain fields, pipes, culverts, and existing easements, public streets, and any adjoining parks, cemeteries, public roads, streets, subdivisions, ponds, streams, lakes, flowages, wetlands, railroad rights of way, and easements, and public roads.

(2) Any building envelope and its distance to the two closest property lines.

(3) The area of parcels, outlots, and lots in acres.

(4) The date of the map.

(5) The graphic scale of the map and north arrow.

(6) The entire area contiguous to the plat owned or controlled by the owner or land divider.

(7) Any floodplain limits.

(C) The Certified Survey Map shall include in its certification, in addition to the information required by s. 236.34, Wis. stats., all of the following:

(1) A legal description of the parcel; the surveyor's name, address, and signature; a statement from the surveyor that the surveyor has fully complied with all the provisions of this ordinance.

(2) The owner's name, address, and signature.

(3) Signature lines and dates for approval by the Town Chairperson and Town Clerk.

(D) The CSM is entitled to final approval by the Town Board or the Town Plan Commission, if so designated, only if it substantially conforms and is consistent with all of the following:

(1) Any conditions of approval established by the Town Board or Plan Commission, pursuant to this Ordinance.

(2) The adopted Town Comprehensive Plans or other applicable Town, County, or municipal land use plans and Ordinances, including any Town, County, or other applicable municipal zoning or plat review Ordinances.

(3) All appropriate requirements for Certified Survey Maps and Land Divisions as noted in this Ordinance.

(E) The Town Clerk or Town Plan Commission Chair shall review the proposed CSM for completeness, including payment of any application fees, within ten (10) working days of receipt. The Town Clerk shall thereafter notify the land divider whether the CSM is determined to be complete or incomplete. The Town Clerk shall provide written reasons for any alleged incompleteness of the CSM. The Town Clerk shall, within five (5) working days after notifying the land divider, transmit the copies of any complete or incomplete CSM to the Town Board or the Town Plan Commission if so designated by the Town Board, unless the CSM is withdrawn by the land divider. If the land divider wishes to modify or complete an incomplete CSM, it must be received by the Town Clerk within thirty (30) days of the notice given that it was incomplete.

(F) The Town Clerk shall notify the land divider of the scheduled date and time of the Town Board or Town Plan Commission meeting to review and consider the complete or incomplete CSM no later than ten (10) days prior to the date of the meeting.

(G) The land divider or the land divider's designee shall attend the meeting and present the proposed CSM to the Town Board or Town Plan Commission, if so designated by the Town Board, for its consideration. Failure of the land divider or designee to attend the meeting or provide a complete CSM may be used as grounds for the Town Board or Town Plan Commission to recommend denial of any requested approvals for the CSM.

(H) The Town Board or the Town Plan Commission shall accept, reject or require modification of a proposed CSM within ninety (90) days of its final submission, per 236.34 Wis. Stats, based on its compliance with this

Ordinance, and other relevant Town, County, State and Federal regulations. The land divider or land divider's agent must be present at the meeting, if not the CSM may be tabled or denied.

(I) If the Town Board or Plan Commission requires modification of the proposed CSM after its review, the land divider shall have thirty (30) days to make the required modifications. The Town Board or Plan Commission shall then review the modified CSM and either approve or reject it within thirty (30) days, by a majority vote of the body.

(J) If the proposed CSM is rejected by the Plan Commission, the Land Divider shall have thirty (30) days to appeal the decision to the Town Board, which may confirm, reverse or modify the Plan Commission decision.

## **22. PRELIMINARY PLAT PROCEDURE**

(A) The Town Subdivision Preliminary Plat shall conform with all requirements for Statutory Subdivisions as set out in Chap 236 Wis Stats. The Town Subdivision Preliminary Plat shall be reviewed by the Town Plan Commission for conformance and consistency with 236.11 Wis Stats, 236.12 Wis Stats, and this Ordinance, any Town Comprehensive Plan, any land use plan, or master plan and all other applicable Town of New Haven ordinances, rules, regulations, and plans. The Town Plan Commission may also review applicable County, State, and Federal laws, ordinances, rules, regulations, and plans for consistency and conformity that may affect the proposed Town Subdivision.

(B) The Town Plan Commission shall make a recommendation to the Town Board to grant preliminary approval of, grant conditional approval of, or reject the Town Subdivision plat as proposed.

(C) Ten (10) copies of a Town Subdivision Preliminary Plat shall be required for all proposed Town Subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on paper of good quality at a map scale of not more than one hundred (100) feet to the inch and shall show correctly and completely on its face the following information:

(1) Title or name under which the proposed Town Subdivision is to be recorded. Such title shall not be the same or similar to a previously approved and recorded plat, unless it is an addition to a previously recorded plat and is so stated on the plat;

(2) Property location of the proposed Town Subdivision by: government lot, quarter-section, township, range, County, and State;

(3) A sketch showing the general location of the Town Subdivision within the U.S. Public Land Survey section;

(4) Date, Graphic Scale, and North Arrow;

(5) Names, addresses, and telephone numbers of the owner, land divider, and land surveyor preparing the plat;

(6) The entire area contiguous to the proposed plat owned or controlled by the land divider shall be included on the preliminary plat even though only a portion of said area is proposed for immediate development. The Town Board may waive this requirement where it is deemed unnecessary to fulfill the purposes and intent of the Ordinance and severe hardship would result from the strict application;

- (7) Exact length and bearing of the exterior boundaries of the proposed Town Subdivision referenced to a corner established in U.S. Public Land Survey and the total acreage encompassed thereby;
- (8) Existing and proposed contours at vertical intervals of not more than two (2) feet where the slope of the found surface is less than 10%, and of not more than five (5) feet where the slope of the ground surface is 10% or more. Elevations shall be marked on such contours based on National Geodetic Vertical Datum of 1929 (mean sea level) Draining patterns and watershed boundaries shall be shown to determine peak runoff for specified storm events;
- (9) Water elevations of adjoining lakes and streams at the date of the survey and approximate high and low water elevations, all referred to mean sea level (1929) datum;
- (10) Floodplain limits and the contour line lying a vertical distance of two (2) feet above the elevation of the 100 year recurrence interval flood, or where such data is not available, five (5) feet above the elevation of the maximum flood of records;
- (11) Location, right-of-way, width, and names of all existing roads, highways, alleys, trails, or other public ways, easements, railroad and utility right-of-way and all section and quarter-section lines within the exterior boundaries of the plat or immediately adjacent thereto;
- (12) Type, width, and elevation of any existing street pavements within the exterior boundaries of the plat or adjacent thereto together with any legally established centerline elevations, all to mean sea level (1929 datum);
- (13) Location and names of any adjacent Statutory Subdivisions, Town Subdivisions, Minor Land Divisions, Certified Survey lots, unplatted and unsurveyed parcels, outlots, lots, parks, and cemeteries, and owners of record of abutting unplatted and unsurveyed lands;
- (14) Location, size, and invert elevation of any existing sanitary or storm sewers, culverts, and drain pipes, the location of manholes, catch basins, hydrants, power and telephone poles, and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sanitary or storm sewers or water mains are located on or immediately adjacent to the lands being platted, the nearest such sewers or water mains which might be extended to serve lands shall be indicated by their direction and distance from the nearest exterior boundary or the plat and their size, and invert elevations;
- (15) Locations of all existing property boundary lines, structures, drives, lakes, streams, navigable waters, and watercourses, wetlands, rock outcrops, wooded area, railroad tracks, and other similar significant natural or man-made features within the tract being subdivided or immediately adjacent thereto;
- (16) Location, width, and names of all proposed streets, roads, highways, and public rights-of-way such as alleys and easements;
- (17) Dimensions of all lots, outlots, and parcels and all proposed lot, outlots, parcels, and block numbers;
- (18) Location and approximate dimensions and size of any sites to be reserved or dedicated for parks, neighborhood park, drainageways, trails, or other public uses or which are to be used for group housing, shopping centers, church sites, or other private uses not requiring lotting; if these parcels are outlots on the development proposal, the ownership and purpose shall be stated on the face of the plat;
- (19) Approximate radii of all curves;

- (20) Existing zoning on and adjacent to the proposed Town Subdivision;
- (21) Any proposed lake and stream access with a small drawing clearly indicating the location for the proposed Town Subdivision in relation to the access;
- (22) Any proposed lake and stream improvements or relocation;
- (23) Soil type, slope and boundaries as shown on the detailed operational soil survey maps prepared by the U.S. Soil Conservation Service;
- (24) Location of soil boring tests, where required by Section COMM. I.LHR 85.06 of the Wisconsin Administrative Code, made to a depth of at least six (6) feet, unless bedrock is at a lesser depth. The number of such tests shall be adequate to portray the character of the soil and the depths of bedrock and groundwater from the natural undisturbed surface. To accomplish this purpose, a minimum of one (1) test per two (2) acres shall be made initially. The results of such tests shall be submitted along with the preliminary plat;
- (25) All environmental corridors and isolated natural areas as mapped by State, regional, or local agencies.
- (26) All Department of Natural Resources designated wetlands, and any field verified wetlands designated by a public agency.
- (27) The surveyor or engineer preparing the Town Subdivision Preliminary Plat shall certify on the face of the plat it is a correct representation of the proposed Town Subdivision and physical features and that he has fully complies with the provisions of this Ordinance;
- (28) The Town of New Haven, after determining from a review of the Preliminary Plat that the soil, slope, vegetation, and drainage characteristics of the site are such as to require substantial cutting, clearing, grading, and other earthmoving operations in the development of the Town Subdivision or otherwise entail an erosion and stormwater hazard, may require the land divider to provide erosion and sediment control and stormwater management plans;
- (29) The Town Board shall require submission of a draft of protective covenants, where a covenant is proposed whereby the land divider intends to regulate land use in the proposed Town Subdivision and otherwise protect the proposed development. The covenants shall be subject to the review and approval of the Town of New Haven attorney as to form;
- (30) Easements shall be shown and shall be limited to utility easements, drainage easements, conservation easements, access easements, and service easements. Easements shall not be used for conveyance of streets, pedestrian right-of-way, parks, or school lands, or other public lands requiring dedication. On all drainage easements it shall state on the face of the document that the Town Board shall own title and bear responsibility for maintenance of the easement. The Town Board shall have the authority to assess the costs of maintaining those easements to all benefiting landowners in the development;
- (31) Any wildlife habitat areas in addition to any readily known threatened or endangered species;
- (32) A detailed statement as to whether and how the proposed development is consistent with the Town of New Haven Comprehensive Plan.

- (33) A traffic impact study based upon Institute of Traffic Engineers standards if required by the Town of New Haven. The study shall be transmitted for review and comment by the Town Plan Commission prior to action on the Town Subdivision preliminary plat;
- (34) The school district in which the development is located should be noted on the face of the preliminary plat;
- (35) Characteristics of vegetation;
- (36) Historic and cultural features, including any marked or unmarked graves or any Native American mounds.

(C) Unless the timeline is extended by agreement with the land divider, the Town Board shall, within ninety (90) days of the date of receipt by the Town Clerk of a complete proposed Preliminary Plat, deem the Town Subdivision Preliminary Plat complete, grant preliminary approval of, grant conditional approval of, or reject the Town Subdivision plat as proposed. Failure of the Town Board to act within the ninety (90) days, or extension thereof, constitutes an approval of the preliminary plat, per 236.11 Wis Stats. One (1) copy of the Town Subdivision Preliminary Plat shall be returned to the land divider with the date and action endorsed thereon. If approved conditionally or rejected, the conditions for approval or reasons for rejection shall be stated in the minutes of the meeting and a letter setting forth the conditions of approval or the reasons for rejection shall be sent to the land divider. Reasons for conditional approval or rejection may include nonconformance or inconsistency with this Ordinance, the Town Comprehensive Plan, Master Plan, or other Land Use Plan, nonconformance or inconsistency with Town Ordinances, rules, regulations, or plans, and nonconformance with applicable County, municipal, State, or Federal laws, ordinances, rules, regulations, or plans. One copy of the Town Subdivision Preliminary Plat shall be filed with the Town Clerk for the Town of New Haven records.

(D) In the event of a rejection of the proposed Town Subdivision Preliminary Plat, the Town Board shall recite in writing the particular facts upon which it bases its conclusion for rejection. The Town Board shall afford the land divider an opportunity to review any decision of unsuitability and present evidence refuting the determination, if so desired.

(E) If authority to approve a Town Subdivision has been delegated by the Town Board to the Plan Commission, the land divider may appeal an adverse decision of the Plan Commission to the Town Board. The Town Board may affirm, modify or override the Plan Commission's decision. The Town Board shall recite in writing findings for any decision to modify or override the Plan Commission's decision.

(F) If either the Town Board or the Town Plan Commission denies two consecutive Town Subdivision Preliminary Plats for the same parcel, no subsequent re-application for a Town Subdivision approval of that parcel will be accepted, received, or considered by the Town Board or Town Plan Commission within twelve (12) months of the second denial.

(G) The Town Board may delegate by Resolution its proposed Town Subdivision preliminary plat approval to the Town Plan Commission for all or part of the approval.

### **23. FINAL PLAT PROCEDURE**

(A) Ten (10) copies of the Town Subdivision Final Plat shall be submitted to the Town Clerk. The Town Subdivision Final Plat shall conform with all requirements for Statutory Subdivision Final Plats as set out in Chap. 236 Wis Stats. The Town Subdivision Final Plat shall comply fully with ss. 236.11, 236.12, 236.20, 236.21, and 236.25 Wis. stats. If the final plat is not submitted within ~~36~~ **24** months after the last required approval of the preliminary plat, any approving authority may refuse to approve the final plat, per 236.11 Wis Stats.

(B) The Town of New Haven requires that an updated abstract of title certified to date of submission, or, at the option of the applicant, a policy of title insurance or a certificate of title from an abstract company for examination in order for the Town Board or its designees to ascertain that all parties in interest have signed the owner's certificate on any plat.

(C) A copy of the approved Town Subdivision Final Plat as recorded in the Register of Deeds Office shall be filed with the Town Clerk within five (5) days of the recording.

(D) Prior to any request for any Town Subdivision Final Plat approval and recording of the plat or map, the land divider shall seek and obtain from the Town Board a Resolution from the Town of New Haven specifically stating that the Town of New Haven accepts from the land divider all lands shown on the plat as dedicated to the Town of New Haven for the public, including street or road dedications.

(E) Prior to any request for the final Town Subdivision approval and recording of the Town Subdivision plat, the land divider shall seek and obtain a Resolution from the New Haven Town Board specifically stating what, if any, public benefit restrictions or conditions have been placed on the platted land by the Town of New Haven under s. 236.293, Wis. Stats. and by any Developer's Agreement and developer's Schedule. The Town Board, by resolution, may later waive these restrictions or conditions.

(F) The Plan Commission shall provide the approving authority with its conclusions as to whether the final plat conforms substantially to the preliminary plat and with its recommendation on approval of the final plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the final plat is being considered and are not required to be submitted in writing.

(G) (F) The Town Board may delegate by Resolution its Final Town Subdivision plat approval to the Town Plan Commission. If the Town Board delegates by resolution approval of the final plat to the Plan Commission, the review required in par. (F) herein shall be performed by the Plan Commission Chair or his/her designee.

(H) (G) The Town Board or its designee shall approve or reject the Town Subdivision Final Plat within sixty (60) days of its submission to the Town Clerk unless extension of the time is mutually agreed in writing. If the Town Board or its designee fails to act within sixty (60) days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the plat shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the plat by the Town Clerk, per 236.11 Wis. Stats.

Appropriate notices shall be provided as noted in §236.11(2) Wis. Stats.

## **24. VARIANCES**

Where, in the judgment of the Plan Commission, it would be inappropriate to apply literally the provisions of this Ordinance because exceptional or undue hardship would result, the Plan Commission may recommend that the Town Board waive or modify any requirement to the extent deemed just and proper. 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 an adopted comprehensive plan or component thereof. No exception or modification shall be recommended unless the Plan Commission finds that all the following facts and conditions exist:

(A) Exceptional Circumstances: There are exceptional, extraordinary, or unusual circumstances or conditions where a literal enforcement of the requirements of this Ordinance would result in severe hardship. Such

hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that this Ordinance should be changed.

(B) Preservation of Property Rights: That such exception or modification is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.

(C) Absence of Detriment. That the exception or modification will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance, the comprehensive plan or the public interest.

(D) A Majority Vote of the full membership of the Plan Commission shall be required to recommend to the Town Board any variance to this Ordinance. A majority vote of the Town Board shall be required to approve, or approve with changes, any variance to this ordinance.

## **25. APPEAL**

Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom pursuant to Sec. 236.13 (5) Wis. Stats.

## **26. FEES**

(A) Application Review Fee. All land division applications shall be accompanied by an application review fee. The fee shall be established by the Town Board by resolution or as set forth in the Town of New Haven Fee Schedule.

(B) All reasonable costs incurred by the Town Board or its agents to properly review each land division application shall be the responsibility of the land divider who shall timely pay or reimburse the Town of New Haven for all reasonable or projected engineering, inspection, legal, and administrative costs incurred by the Town of New Haven in reviewing the proposed land division plats and maps. The Town Board may require that all or a portion of the known costs of application approval and variance review be paid in advance.

## **27. PENALTIES**

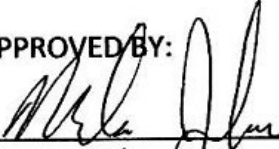
(A) Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$100 nor more than \$1,000, plus any additional applicable costs incurred by the Town for each offense. Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant penalties shall include the following:

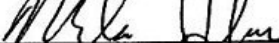
- (1) Recordation improperly made carries penalties as provided in Section 236.30 of the Wisconsin Statutes.
- (2) Conveyance of lots in unrecorded plats carries penalties as provided in Section 236.31 of the Wisconsin Statutes.
- (3) Monuments disturbed or not placed carries penalties as provided in Section 236.32 of the Wisconsin Statutes.

(B) Enjoinment. No person shall sell land lots unless the lots have been lawfully created pursuant to the terms of this Ordinance or any predecessor procedure. The unlawful sale of lots is deemed to be a public nuisance, which may be enjoined by a court of record.

The Town Plan Commission recommended adoption of this Land Division Ordinance at their meeting held on the 15<sup>th</sup> day of February, 2010.

28. TOWN BOARD APPROVAL


APPROVED BY:  This 18<sup>th</sup> day of March, 2010.

 Chairperson, Mike Julson

 Sup. I, Brad Seiler

 Sup. II, Leo Musiedlak

ATTESTED BY:

 Town Clerk, Berniece J. Tangney

29. EFFECTIVE DATE

This Land Division Ordinance shall take effect and be in force from and after the day after adoption and publication.

A Notice of Adoption of this Ordinance was published in the Times-Reporter, the publication of record for the Town of New Haven on March 24, 2010.