

TITLE 14

Land Division Regulations

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
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Chapter 2	Drainage, Development and Construction	2004-03 (recod)	6/15/04
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CHAPTER 1

Land Splits

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
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SEC. 14-1-1 PURPOSE.

- (a) The purpose of this chapter is to promote the public health, safety and general welfare of the community. The regulations authorized to be made are desired to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other danger; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; to facilitate the further resubdivision of larger tracts into smaller parcels of land.
- (b) The regulations provided in this chapter have been made with reasonable consideration, among other things, of the character of the Town with a view to conserve the value of the buildings, providing the best possible environment for human habitation, and encouraging the most appropriate use of land throughout the Town.
- (c) The purposes set forth in Sec. 14-3-1(b) of the Town's Conservation Subdivision Ordinance are incorporated herein and made applicable to Land Splits.

SEC. 14-1-2 DEFINITIONS.

- (a) **“Certified Survey Map”** shall mean a survey map, showing a Land Split, conforming to the provisions of s. 236.34, Wis. Stats., the Town’s Code of Ordinances, and prepared by a Land Surveyor registered in the State of Wisconsin.
- (b) **“Flag Lot”** shall mean a lot with access to the public street only by a narrow strip of land, easement, or private right-of-way and with otherwise insufficient frontage to be considered a buildable lot. Flag lots generally are not considered to conform to sound planning principles.
- (c) **“Land Split”** shall mean a division of land by the owner resulting in the creation of not more than 4 parcels or building sites, any one of which is 35 acres in size or less, or the division of a block, lot or outlot within a recorded subdivision plat into not more than 4 parcels or building sites without changing the exterior boundaries of said block, lot or outlot. The remnant parcel, if any, shall count as one of the parcels or building sites created by said division.
- (d) **“Land Splitter”** shall mean a person or entity making a Land Split.
- (e) **“Lot Averaging”** shall mean a design technique for Land Splits whereby the area of a lot may be reduced below the Town’s minimum area requirement, provided that the area by which it is reduced is added to another lot being created by the Land Split, and where the lots subject to the lot averaging plan are restricted from further Land Splits or Subdivisions.
- (f) **“Preliminary Certified Survey Map”** shall mean a concept plan for the proposed Land Split including the future development plan for the abutting properties, if the properties are also owned or controlled by the Land Splitter, including approximate street, driveway and building locations. If the properties are not owned by the Land Splitter, the concept plan shall show the existing street, driveway and building locations on the abutting properties.
- (g) **“Racine County Development Plan”** shall mean the plan identifying goals and objectives for the physical development of the county adopted by the Racine County Board pursuant to s. 59.69, Wis. Stats.
- (h) **“Road, Street or Highway”** shall mean a public way for pedestrian and vehicular traffic whether designated as a street, highway, thoroughfare, road, avenue, boulevard, lane, place or other designation.
- (i) Other terms shall be as defined in s. 236.02, Wis. Stats and Sec. 14-3-2 of the Code of Ordinances for the Town of Caledonia.

SEC. 14-1-3 JURISDICTION AND APPLICATION OF CHAPTER.

- (a) No Land Split within the Town shall be recorded, or any street laid out, or any improvements made to the land; or any building permits issued without complying with
 - (1) The provisions of this chapter.
 - (2) Section 236.34, Wis. Stats.
 - (3) The rules and procedures of the Town of Caledonia, including Sections 14-2-1 through 14-2-7 of the Code of Ordinances.
 - (4) The rules and regulations of county, state and federal agencies with jurisdiction over such matters.

- (b) This chapter shall apply to Land Splits which create condominiums as defined in and subject to, Ch. 703, Wis. Stats.
- (c) The Town Board shall not approve any Land Split which is unsuitable for development due to flooding or bad drainage, adverse earth or rock formation or topography, inadequate or unsafe water supply, or other feature likely to be harmful to the health, safety or welfare of the residents and occupants of the proposed Land Split or of the community or any portion thereof.
- (d) The provisions of this chapter shall not apply to:
 - (1) Leases for a term not to exceed 10 years, mortgages or easements.
 - (2) The sale or exchange of parcels of land between owners of adjoining property if additional lots are not created and the resulting lots are not reduced below the minimum sizes required by s. 236, Wis. Stats., or other applicable laws or ordinances.
 - (3) Cemetery plats as provided in s. 157.07, Wis. Stats.
 - (4) Assessor's plats as provided in s. 70.27 and 236.03(2), Wis. Stats.
- (e) No Land Split shall be approved that is subject to any temporary moratorium on land divisions set forth in Section 14-3-6, which section is incorporated herein by reference.

SEC. 14-1-4 COMPLIANCE.

Failure to comply with the requirements of this section, may, at the option of the Town Board or purchaser, invalidate purported transfers of titles of land, in accordance with provisions of Ch. 236, Wis. Stats.

SEC. 14-1-5 APPLICATION PROCEDURE AND APPROVAL PROCESS.

- (a) **Pre-application Conference.** Prior to the filing of an application for the approval of a Certified Survey Map, the Land Splitter shall consult to obtain assistance in planning with the Village Utility District, the Village's Engineering Department and the Village's Zoning Administrator to obtain information concerning this Ordinance, applicable Village zoning and other ordinances, the Village's adopted Comprehensive Plan, as amended from time-to-time, and the Official Map.
- (b) **Fees.**
 - (1) The Land Splitter shall be liable for reimbursing the Town for all administrative, planning, engineering and legal costs incurred in processing, reviewing, revising and approving any proposed certified survey map as provided in sec. 14-3-3(c). At the time of submission of the proposed certified survey map, the Land Splitter shall deposit with the Town the sum required in said section. In addition, a land division fee in the amount of \$100.00 per parcel created shall be paid by the Land Splitter to the Town upon approval of the certified survey map.
 - (2) At the time the certified survey map is approved, the Land Splitter shall pay a storm water drainage fee, as provided in Title 9 of the Town ordinances.
 - (3) The Land Splitter shall construct public improvements as required under Sections 14-2-1 through 14-2-7 of the Town Ordinances. If public improvements are

required, the following securities or payments must be paid by the Land Splitter to the Town, prior to execution of the Development Agreement pursuant to Section 14-1-5(f)(5) by the Town:

- a. Four and one-half inch asphalt binder course pavement and shouldering deposit as provided in Subsection 14-2-4(q)(3) of the Town Ordinances.
 - b. One and one-half inch asphalt pavement surface course payment as provided in Subsection 14-2-4(q)(3) of the Town Ordinances.
 - c. Performance bond security as provided in Subsection 14-2-4(q)(6) of the Town Ordinances.
- (4) In the case of Land Splits involving public improvements, the applicant shall be responsible for all legal, administrative and engineering costs associated with the review of improvement plans and for drafting any necessary agreements and for the construction inspection and field layout work necessary during the construction of such improvements as provided in Subsection 14-2-4(q)(1) of the Town Ordinances.

(c) **Initial Application.**

- (1) After the pre-application conference, the Land Splitter shall submit an executed pre-development agreement pursuant to Subsection 14-3-3(c), the fees required above, the checklist for Certified Survey Maps and the Preliminary Certified Survey Map to the Engineering Department for review. As a condition of further review of the Preliminary Certified Survey Map, the Land Splitter shall and hereby does grant permission for Town officials, employees and agents to enter upon the subject property in furtherance of their official duties. The Engineering Department may require the Land Splitter to submit at the time of the Initial Application a complete inventory of items listed under Section 14-1-5(e)(1)(d) through (i) as an attachment to the Preliminary Certified Survey Map or delineated directing on the map if within One Hundred (100) feet of the proposed building envelopes. The site inventory shall be completed by a professional ecologist, as qualified by the Town Board from time to time.
- (2) The Engineering Department shall make the determination of whether the initial application is complete. Within 15 days following the filing of a complete initial application, the Engineering Department shall schedule a meeting with the Land Splitter to review the initial application.
- (3) Staff from appropriate county and state agencies may also be requested by the Town to review the application and Land Splitter shall be liable for costs for any reviews.
- (4) The Engineering Department may also schedule a visit to the site with the Land Splitter to review the existing features of the site and the proposed certified survey map. The visit shall occur prior to or as part of the meeting.
- (5) Within 15 days following the meeting, the Engineering Department shall provide a written report informing the Land Splitter of any additions, changes, or corrections to the Preliminary Certified Survey Map submitted as part of the initial application.
- (6) Before submission of the final certified survey map, the Plan Commission shall review and discuss the Preliminary Certified Survey Map along with the written report from the Engineering Department. The public shall have an opportunity to speak as to the preliminary map. Notice of the meeting must be sent by regular

U.S. mail to adjacent land owners at least seven days in advance of the meeting. The Land Splitter shall prepare the list and mailings complete with postage and deliver the same to the Town Engineer at least 15 days prior to the meeting. The Town Engineer shall verify completeness and shall mail the notices prior to the meeting. The cost of such notice shall be borne by Land Splitter.

- (7) **Evidence of Ownership and Survey Required.** The Land Splitter shall submit a report of title from a title company acceptable to the Town showing current ownership of the property proposed to be divided and all encumbrances shall be detailed on the Certified Survey Map when submitted.
- (d) **General Requirements for Final Certified Survey Map.**
 - (1) The final certified survey map shall comply with the provisions of s. 236.34, Wis. Stats., and shall describe the entire lands involved in the process of division, as well as all lands owned or controlled by the Land Splitter that are contiguous to the land to be divided.
 - (2) If any lots in the certified survey map are not served by municipal sanitary sewer, soil and site evaluations shall be submitted for approval to the County Code Administration Office and/or the Department of Commerce according to the procedure and standards established under the applicable rules of Wis. Adm. Code, Comm. 83.
 - (3) Where the Land Splitter owns or controls land that is contiguous to the land being divided, a conceptual development plan shall be submitted along with the proposed final certified survey map. The plan shall be drawn to scale, and shall identify proposed future development of the parcels, including approximate street, driveway and building locations.
- (e) **Detailed Requirements for a Certified Survey Map.**
 - (1) The final map shall correctly show on its face, in addition to the information required by s. 236.34, Wis. Stats. the following:
 - a. Date of the map.
 - b. Graphic scale, location map and north point.
 - c. Name and address of the owner, Land Splitter and surveyor.
 - d. All existing buildings, drainage ditches, water courses and existing and required easements.
 - e. Names of adjoining streets, highways, parks, cemeteries, subdivisions, ponds, streams, lakes, flowages and wetlands.
 - f. Additional building setback lines or yards required by the Land Splitter which are more restrictive than the zoning district in which the plat is located and are to be included in recorded covenants.
 - g. Soil boring locations on sites to be served with an on-site waste disposal system.
 - h. All lands reserved for future public acquisition or dedication.
 - i. Significant natural resource features on the site, including: wetlands, floodplains, watercourses, shoreland boundaries, existing wooded areas, slopes of 12% or greater, drainage ways, rare, threatened and endangered species, all environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission (“SEWRPC”) and Racine

County, and other natural resource features, views and other prominent visual features.

- (f) **Final Certified Survey Map Review and Approval Procedures.** Following review and comment of the Engineering Department on the initial application, the Land Splitter or Land Splitter's agent shall file with the Engineering Department two 22"x30" and thirty five 11"x17" copies of the proposed final certified survey map, along with an application for review and approval of a certified survey map by the Town Plan Commission. One additional copy of the certified survey map shall be provided to the Town Attorney.
- (1) **Referral.** Administrative staff and utility commission reviews. The Engineering Department shall provide copies of the certified survey map to Town department heads and to the appropriate utilities for their review and comment. The Town staff and utility comments will be forwarded to the Town Plan Commission and Town Board for consideration during the review process.
 - (2) **Town Plan Commission Review and Informational Meeting.** The Town Clerk shall give notice of the Plan Commission's review of the certified survey map by listing it as an agenda item in the Plan Commission's meeting notice. The notice shall include the name of the applicant, the address of the property in question, and the requested action. The Town Clerk may schedule an informational meeting. Notice of the Plan Commission review and informational meeting must be sent by regular U.S. mail to all property owners within 300 feet of the proposed Land Split at least seven days in advance of the meeting. The Land Splitter shall prepare the list and mailings complete with postage and deliver the same to the Town Engineer at least 15 days prior to the meeting. The Town Engineer shall verify completeness and shall mail the notices prior to the meeting. The cost for such written notice shall be borne by the Land Splitter.
 - (3) **Plan Commission Recommendation.** After review of the certified survey map and discussions with the Land Splitter on changes and the type and extent of public improvements that will be required, if any, the Plan Commission shall recommend to the Town Board disapproval, approval, or conditional approval of the certified survey map within 45 days of the filing date of the proposed final certified survey map.
 - (4) **Board Action.** After receipt of the Town Plan Commission's recommendation, the Town Board shall, within 90 days of the date the proposed final certified survey map was filed with the Engineering Department, approve, approve conditionally, or reject such certified survey map and shall state, in writing, conditions of approval or reasons for rejection. Unless the time is extended by agreement with the Land Splitter, failure of the Town Board to act within 90 days or extension thereof shall constitute an approval of the proposed final certified survey map. The Plan Commission shall communicate to the Land Splitter the action of the Town Board. If the certified survey map is approved, the Engineering Department shall endorse it for the Town Board. The certified survey map shall be recorded with the Register of Deeds office for Racine County within six (6) months after final Town Board approval and within twenty-four (24) months after the first approval of the map.
 - (5) **Public Improvements.** In the event public improvements are required plans, computations and specifications which conform to the provisions of Subsection 14-2-4(r) shall be submitted to the Town Engineer at the time of submission of the

proposed certified survey map. Said plans must be approved by the Town Engineer before Town Board approval of the certified survey map. Prior to, or as a condition of, Town Board approval of the certified survey map, the Land Splitter shall enter into a Development Agreement pursuant to applicable provision of Section 14-3-3(g) and deposit required fees, as provided in section 14-1-5(b) of the Town Ordinances (the “Development Agreement”). In cases where public lands or rights-of-way are reserved or dedicated for future construction of public improvements, the Land Splitter shall enter into an agreement with the Town concerning future costs and liability prior to, or as a condition of, certified survey map approval.

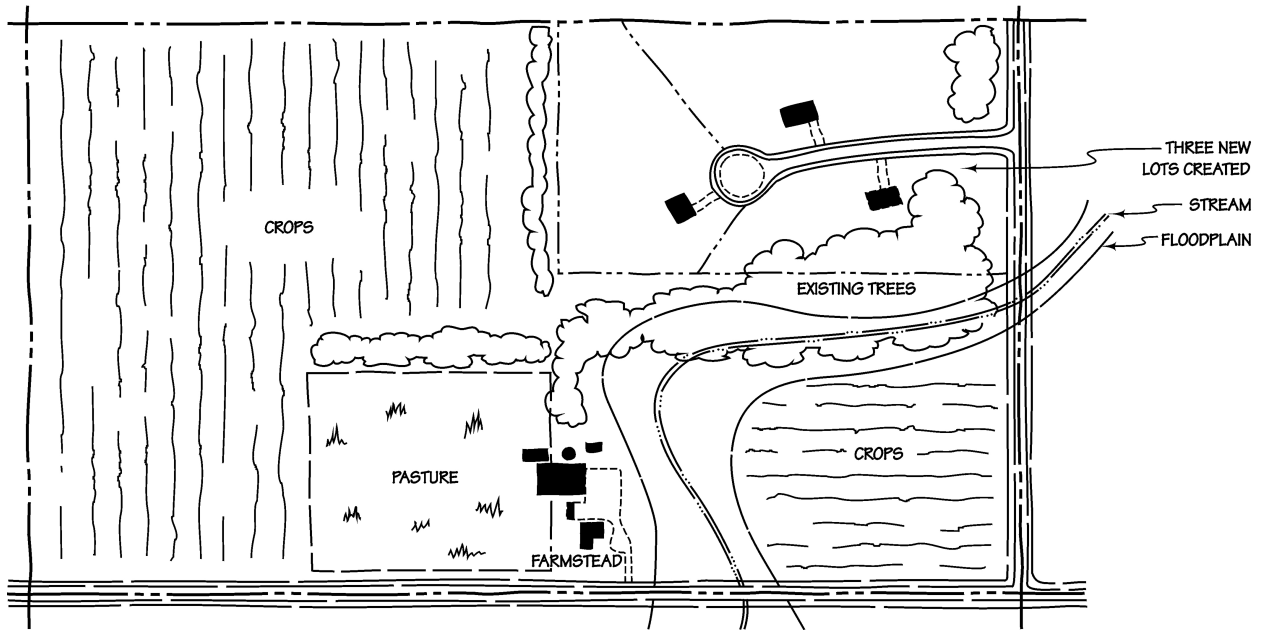
- (6) **Exception to Requirement of Plan Commission Review of Final Certified Survey Maps.** The Plan Commission, upon the recommendation of the Town Engineer, may permit the Land Splitter to file the final certified survey map for Town Board consideration, without first submitting the final certified survey map to the Plan Commission. In such a case, notice to surrounding property owners of the Town Board’s consideration of the final certified survey map must be given in accordance with the procedures set forth in section 14-1-5(f)(2). The Town Board shall, from time to time, establish written parameters for the exercise of this discretion.

(g) **Lots.**

- (1) The size, shape and orientation of lots shall be appropriate for the location of the land division and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing building site, and a proper architectural setting for the buildings contemplated.
 - a) **Shape.** Lots shall be approximately rectangular, with the exception of lots located on a curved street or on a cul-de-sac turnabout.
 - b) **Flag Lots.** Flag Lots shall not be approved.
- (2) Every lot shall front or abut on a public street and obtain access by such public street or other officially approved means of access.
- (3) Except as otherwise provided in this section, lot dimensions shall conform to the minimum requirements of the Village’s zoning ordinance under Title 16, the Village’s Subdivision Code under this Title 14, and the Village’s adopted Comprehensive Plan, as amended from time-to-time, and any applicable statutes and regulations, provided that:
 - a. Unless a lot is created by lot averaging under Sec. 14-1-5(h), all lots not served by public sanitary sewer and located outside the approved sanitary sewer service area shall have an area of not less than five acres, exclusive of areas dedicated for public rights-of-way, and at least 150’ of frontage on a public street and at the setback line. A lot on a cul-de-sac must satisfy the front footage requirements on the right-of-way or at the setback line.
 - b. The ratio of the entire length of the side of a residential lot to the frontage on the public street or at the setback line, whichever is greater, of the lot shall not be greater than 2.5:1.
- (4) Side lots lines, where practical, shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.

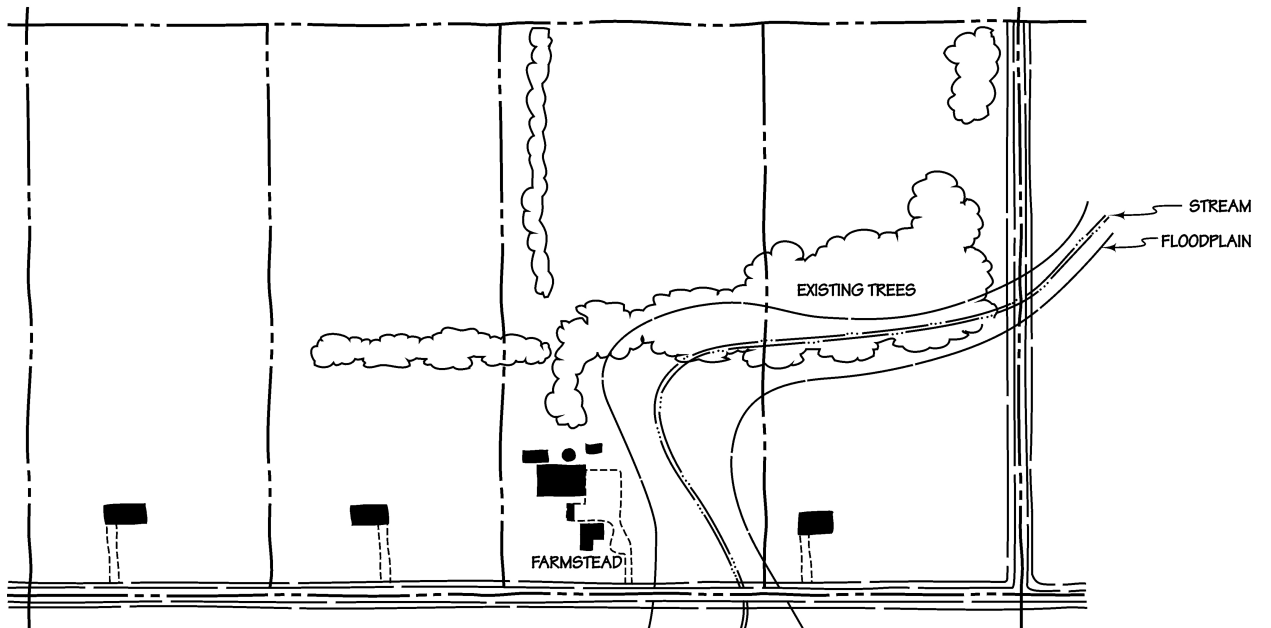
- (5) Shoreland lots shall be subject to the setback and vegetative buffer requirements set forth in section 14-3-4(c)(2)d.
 - (6) All lots shall comply with the sewer and water service requirements under subsection 14-3-4(c)(6).
- (h) **Lot Averaging.**
- (1) **Intent.** The intent of this subsection is to employ ecological planning principles in the design and construction in dividing land; to preserve the rural character of the Town through the permanent preservation of meaningful open space and sensitive natural resources, including those areas identified in the Town’s resource inventory maps; to protect environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and manage primary and secondary environmental corridors; to ensure that appropriate conservation lands will be identified, protected and restored during the development design process to meet future community needs for storm water management, floodwater storage, and ground water recharge; to provide for a diversity of lot sizes, housing choices and building densities; to allow housing to be concentrated on portions of a parcel in order to protect, preserve and restore environmentally-sensitive areas or agriculture-productive areas on other portions of the parcel; to preserve scenic views by minimizing visibility of new development from existing roads; to provide buffering between residential development and non-residential uses;
 - (2) **Purpose.** The purpose of this subsection is to provide an alternative design technique for Land Splits through the use of Lot Averaging where the purposes set forth in section 14-1-1 are furthered. The use of Lot Averaging shall be permitted at the discretion of the Town Board, subject to the provisions set forth below.
 - (3) **Lot Area.** When using Lot Averaging, the area of a lot may be reduced below the five (5) acre minimum, provided that the area by which it is reduced is added to another lot being created by the Land Split. The area of a lot shall not be reduced to less than forty thousand (40,000) square feet, excluding any public rights-of-way.
 - (4) **Restrictions.** Each lot or portion of a lot that is part of a lot averaging plan shall be permanently restricted from any further Land Split or Subdivision by restriction, conservation easement, or other agreement in a form acceptable to the Town Board and duly recorded in the Racine County Register of Deeds Office.
 - (5) **Examples.** Figures A and B below provide examples of application of lot averaging in a Certified Survey Map:

COMPARISON OF MINOR LAND DIVISIONS USING LOT AVERAGING AND CONVENTIONAL DESIGNS



A. Lot Averaging Design

Note: Farmland remains in private ownership but is deed-restricted to prevent further subdivision.



B. Conventional Design

Source: SEWRPC.

- (i) **Residential Dwelling Siting Standards.**
 - (1) Residential dwellings shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
 - (2) Residential dwellings shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the Department of Natural Resources.
 - (3) If any common space is planned, Common Open Space shall connect, whenever possible, with existing or potential Common Open Space lands on adjoining parcels and local or regional recreational trails.
 - (4) Residential dwellings should be sited to achieve the following goals, to the extent practicable.
 - a. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
 - b. Minimize disturbance to woodlands, wetlands, grasslands, primary or secondary environmental corridors, mature trees or other significant native vegetation.
 - c. Prevent downstream impacts due to runoff through adequate on-site storm water management practices.
 - d. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
 - e. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
 - (5) Landscaping around the proposed residential dwellings may be required to Buffer and reduce off site views of residences.
- (j) **Street Access.** The provisions of Sec. 14-3-4(c)(5)(f) are incorporated herein and made applicable to Land Splits.
- (k) **Modification of Waivers.** The provisions of Sec. 14-3-1(k) are incorporated herein and made applicable to Land Splits.
- (l) **Private Streets.** The provisions of Sec. 14-3-4(c)(5)(e), to the extent deemed applicable by the Village Board, are incorporated herein and made applicable to Land Splits when all of the following apply:
 - i. Each parcel to be created by the Land Split has sufficient frontage on a public street and has met all other lot requirements of Title 14;
 - ii. Each parcel to be created by the Land Split is restricted from further land divisions; and
 - iii. It is in the public's interest to limit access points on the public street as determined by the Village Board.

SEC. 14-1-6 PENALTIES.

- (a) Any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon conviction, forfeit not less than \$100 nor more than \$500 and the costs of prosecution for each violation and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail for not more than 6 months or until full payment is made. Each day a violation exists or continues to exist shall constitute a separate offense. The Town may institute appropriate action or proceedings to enjoin violations of this ordinance
- (b) The Caledonia Town Board, or its agent, shall have the power to institute appropriate action for injunctive relief to prevent a person, firm or corporation from acting in violation of the provisions of this ordinance.