

TOWN OF BUFFALO

CHAPTER 10

SUBDIVISION ORDINANCE

TOWN BOARD APPROVAL

AUGUST 13, 2018

ARTICLE I INTRODUCTION

10.01 Authority.

(1) This Ordinance was adopted under the statutory authority granted pursuant to the Village Powers of the Town of Buffalo, to §§. 60.10 (2) (c), 60.22 (3), 61.34 (1), 236.03, and 236.45, Wis. Stats. This Ordinance was originally adopted by the Town Board after its receipt of a formal recommendation of this Ordinance on October 21, 2004 from the Town Plan Commission under §§. 61.40, 62.23 and 236.45 (2), Wis. Stats, which for the Town of Buffalo is the Town of Buffalo Plan Commission.

(2) This ordinance shall be interpreted and enforced by the Buffalo Town Board and Town Zoning Administrator.

10.02 Adoption. The Town Board, by this Ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town Board to regulate and approve certain land divisions and certified surveys in the Town of Buffalo. Pursuant to §. 236.45 (4), Wis. stats., a public hearing was held before the adoption of this Ordinance and notice of the hearing was given by publication of a class 2 notice, under ch. 985, Wis. Stats.

10.03 Title. This ordinance shall be known and cited as the “Land Division and Subdivision Regulations, Town of Buffalo, Marquette County, Wisconsin.”

10.04 Purpose and Intent. The purpose of this ordinance is to promote the public health, safety and general welfare of the Town of Buffalo, and to:

- (1) Preserve the rural character, scenic vistas, and natural beauty of the Town;
- (2) Supplement County, State, and Federal land division controls;
- (3) Encourage the most appropriate use of the land throughout the Town;
- (4) Minimize the public impact resulting from the division of large tracts into smaller parcels of land in the Town;
- (5) Provide the best possible environment for living in the Town;
- (6) Shall enforce the goals and policies set forth in any Town Comprehensive Plan;

(7) Avoid congestion and provide adequate ingress and egress on the streets and highways to ensure that the design of the street system will not have a negative long-term effect on neighborhood quality, traffic flow, and safety in the Town;

(8) Realize goals, objectives, policies, and development standards set forth in plans, codes, and ordinances adopted by the Town;

(9) Further the orderly layout and use of land;

(10) Secure safety from fire, panic and other dangers;

(11) Provide adequate light and air; to prevent the over-crowding of land;

(12) Conserve the value of prime agricultural soils;

(13) Protect and preserve natural resources, wildlife habitat, and open space to the greatest degree possible;

(14) Manage the division of larger parcels into smaller parcels of land;

(15) Provide for administration and enforcement of this Ordinance by the Town Board and Town Zoning Administrator.

(16) Insure that residential development in the Town occurs in an orderly manner and is consistent with the Town of Buffalo Smart Growth Comprehensive Plan.

10.05 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.

10.06 Abrogation and Greater Restriction. (1) It is not intended by this Chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, whenever this Chapter imposes greater restrictions, the provisions of this Chapter shall govern.

(2) In their interpretation and application, the provisions of this chapter shall be held 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.

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

10.08 Effective Date. This ordinance shall be effective after a public hearing, adoption by the Town Board of Buffalo, and publication. The effective date for this ordinance is August 14, 2018.

ARTICLE II
GENERAL PROVISIONS

10.09 Coverage and Compliance.

(1) This Ordinance applies to all lands in the Town of Buffalo. The Town Zoning Administrator and Town Board shall be responsible to administer this Ordinance.

(2) No person, unless exempt under this Ordinance, shall divide or create a division of any land in the Town of Buffalo subject to the requirements of this Ordinance and no land division shall be entitled to be recorded in the Office of the Register of Deeds for Marquette County unless the final land division, plat, or map as approved by the Town Board or its designee is in full compliance and consistent with all of the following:

(A) All requirements of this Ordinance; when provisions of this Ordinance impose greater restrictions than paragraphs 3 through 9. below, it is intended that the provisions of this Ordinance shall apply;

(B) Chapter 236, Wis. Stats;

(C) The Town of Buffalo Smart Growth Comprehensive Plan adopted under §. 66.1001, Wis. stats., or other Town Land Use Plan or any component thereof;

(D) The applicable Town of Buffalo and County of Marquette zoning regulations, building code, sanitary code, erosion control regulations, and other land division regulations;

(E) State Department of Natural Resources administrative rules on wetlands, shorelands, sewers, septic systems, and pollution abatement;

(F) All applicable State and local sanitary codes;

(G) All applicable Town of Buffalo Ordinances;

(H) All State Department of Transportation and County of Marquette Highway Department Administrative 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;

(I) All applicable extraterritorial, comprehensive, and master plans, extraterritorial zoning or plat review ordinances, or official maps adopted pursuant to §. 62.23, stats., and any other applicable Town, County, or extraterritorial authority ordinances and regulations.

(3) No land shall be divided or any land division occur if any parcel created by the land division is smaller than 2.0 acres.

(4) A creation of a parcel less than 40 acres in the Town of Buffalo requires a Certified Survey Map to be recorded in the Marquette County Register of Deeds Office with approval by the Town Zoning Administrator under this Ordinance prior to recording.

(5) All visible structures, encroachments, fences, navigable waters, and public streets and public roads shall be shown to scale on any Certified Survey Map from any land division to be recorded.

(6) Any outlots created on a Certified Survey Map shall be accompanied with a statement of purpose or use of the outlot.

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

(8) No person shall request, nor be issued by the Town Zoning Administrator, a driveway permit, building permit, or any other permit or license authorizing any construction, installation, or improvement on any land within the Town of Buffalo, except land subject to a land division that was of record as of the effective date of this Ordinance, until the provisions and requirements of this Ordinance have been fully met by the land divider. The Town Board may institute the appropriate action or proceedings to enjoin violations of this Ordinance.

(9) All land division approvals required by the State Department of Administration, or its successor Department, for specific land divisions, including any Statutory Subdivisions, shall be obtained as a condition of approval by the Town Board or its designees.

(10) All land division, 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 Wis Stats.

(11) No persons shall make, record, or replat any land division, except as provided under §70.27(1) Wis Stats if it alters acres dedicated to the public without proper Court action to vacate such plat, map, or part thereof.

(12) No person shall be issued any land division approval by the Town Zoning Administrator until the appropriate application fees have been paid to the Town Zoning Administrator. Reference Town of Buffalo Code of Ordinances, Chapter 3 – Fee Schedule.

(13) No person shall be issued a final land division plat approval by the Town Board unless all public improvements to be constructed or installed as required by the Town Board within the land division plat area meet the requirements established in writing by the Town Board.

(14) The Town of Buffalo shall not be responsible, with respect to any final land division for any public improvements and shall not be responsible to accept any dedicated streets, roads, or other public areas and other public improvements until the Town Board, by resolution, accepts or approves such dedicated public improvements with or without conditions.

(15) Unless specifically waived in writing by the Town Board, no person shall be issued a final plat approval by the Town Board unless formal dedication of parks, open spaces, or sites for other public uses have been made, as required by the Town Board at no cost to the Town of Buffalo.

(16) This ordinance shall not apply to:

A. Transfers of interests in land by will or pursuant to court order;

B. Leases for a term not to exceed 10 years, mortgages or easements;

C. The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this chapter or other applicable laws or ordinances;

D. Such other divisions exempted by such ordinances.

This section and any ordinance adopted pursuant thereto shall be liberally construed in favor of the municipality, town or county and shall not be deemed a limitation or repeal of any requirement or power granted or appearing in this chapter or elsewhere, relating to the subdivision of lands.

10.10 Land Suitability.

(1) No land division shall be allowed where such division shall increase the non-conformity of a structure, use, or parcel, or where a non-conforming structure, use, or parcel would be created as a result of the division.

(2) The Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for residential use and afford the Subdivider an opportunity to present evidence in rebuttal to such findings of unsuitability if he/she so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

10.11 Violations. No person shall build upon, divide, convey, record or monument any land in violation of this chapter or the Wisconsin Statutes. No permit shall be issued authorizing the building on or improvement of any subdivision, replat or Certified Survey Map within the jurisdiction of this chapter and not of record as of December 13, 2004 until the provisions and requirements of this chapter have been fully met. The Town may

institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.

10.12 Penalties. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, forfeit not less than \$100, 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 shall be subject to the provisions of Sec. 236.30, Wisconsin Statutes.
- (2) Conveyance of parcels in unrecorded plats shall be subject to the provisions of Sec. 236.31, Wisconsin Statutes.
- (3) Monuments disturbed or not placed shall be subject to the provisions of Sec. 236.32, Wisconsin Statutes.
- (4) An assessor's plat may be ordered by the Town when a subdivision is created by successive divisions as provided in Sec. 236.31(2), Wisconsin Statutes.

10.13 Fees. Fees shall be established annually in January or thereafter by resolution of the Town Board prior to any new land division plat approvals and Certified Survey Map approvals and prior to any person commencing any form of construction or installation of any building in the Town of Buffalo. A general application fee, in addition to specific fees to cover Town costs for applications, professional services (e.g. engineer, planning professional review, legal review), necessary inspections, and impacts (e.g. road improvements, parks, open space).

10.14 Appeals. Any person aggrieved by an objection to a plat or failure to approve a plat may appeal therefrom as provided in Sections 236.13(5) and 62.23(7), Wisconsin Statutes.

10.15 Replat. When it is proposed to replat a recorded land division, or part thereof, so as to change the exterior boundaries of a recorded land division, or part thereof, the Subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in Wis. Stats. ch. 236. The Subdivider, or person wishing to replat, shall then proceed as specified in this ordinance.

**ARTICLE III
MINOR LAND DIVISIONS BY CERTIFIED SURVEY MAP**

10.16 When Required. When it is proposed to divide land into at least one (1) but not more than four (4) parcels or building sites, any of which is less than forty (40) acres in size, or when it is proposed to create by land division not more than four (4) parcels or building sites within a recorded Subdivision Plat without changing the exterior boundaries of the block or parcel, the Sub divider shall subdivide by use of a Certified Survey Map. If land division is within a Conservation Subdivision parcel size must be consistent with Article V.

10.17 Submittal of a Certified Survey Map. Creation of a minor land division shall be by Certified Survey Map and shall be submitted to the Town Zoning Administrator. The Certified Survey Map shall be prepared according to Wisconsin Statutes, Section 236.34 and shall show clearly on its face those items listed in this section.

10.18 Required Information. The Certified Survey Map shall show clearly on its face the following:

- (1) All existing buildings, existing setbacks for all buildings, setbacks to structures on adjacent property, water courses, drainage ditches, navigable water bodies, and other features deemed pertinent to the division of property.
- (2) Location of access to public road.
- (3) Date of the map with a graphic scale.
- (4) Name and address of the person for whom the survey was made.
- (5) An owner's certificate and approval signature of the Town Zoning Administrator.
- (6) The most recent deed and document number shall be shown
- (7) Compliance with applicable design standards outlined in this Subdivision and Land Division Ordinance.

10.19 Review and Approval. The Town Zoning Administrator shall, within thirty (30) days of the date of submission of the CSM application, unless mutually extended by both parties, review the application and map against the applicable standards of this ordinance and the Town of Buffalo Zoning Ordinance Chapter 16, and approve, approve conditionally, or reject the application and map based upon a determination of conformity or non-conformity with the standards.

10.20 Development Agreement. When deemed necessary by the Town Board, the Sub divider shall enter into a Development agreement with the Town of Buffalo, as approved by the Town Attorney, that sets forth the mutual obligations of the Town and the Sub divider with respect to the actions requested to be taken in connection with the Certified Survey Map.

ARTICLE IV MAJOR SUBDIVISIONS

10.21 Preliminary Plat. Within six (6) months after the sketch plan approval has been granted the Sub divider shall furnish the Zoning Administrator six (6) copies of the preliminary plat prepared in accordance with Chapter 236, Wis. Stats., along with a review fee in accordance with Chapter #3 fees schedule. The Zoning administrator shall then furnish a copy to the Township for their review and consideration. The Zoning Administrator and the County Surveyor shall review said preliminary plat for compliance with Wisconsin Statutes and Administrative Codes and requirements of this Chapter and submit their findings along with those to the township, and to the County Planning and Zoning Committee. The County Planning and Zoning Committee shall approve, approve conditionally, or reject said preliminary plat within sixty (60) days of submission to the Zoning Administrator. Failure of the County Planning and Zoning Committee to act within the specified time period shall constitute approval.

10.22 Final Plat. Within six (6) months after the preliminary plat approval or conditional approval has been granted by the County Planning and Zoning Committee, the sub divider shall furnish to the County Planning and Zoning Committee a final plat prepared in accordance with statute 236.20, Wis Stats., together with a number of copies as required by the County Zoning Administrator. The final plat shall be submitted for certification to those agencies having authority by the Planning Agency within forth (40) days of its submission. Failure of the Planning agency to act within forty (40) days shall constitute approval. After final plat approval has been granted, the County Planning and Zoning Committee shall place a certificate upon said Final Plat attesting to such approval. A final plat review fee according to Fees Chapter #3 shall accompany the final plat submission.

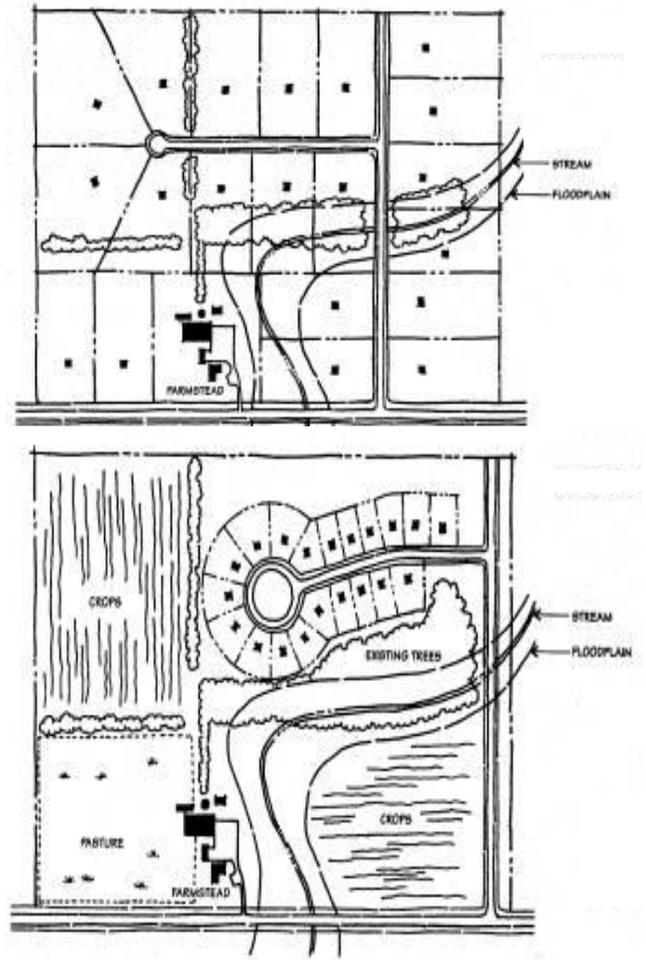
DEFINITION-

Major Subdivision. Means the division of land in an unplatted area creating five (5) or more parcels that are five (5) acres or less, within a five (5) year period.

ARTICLE V CONSERVATION DESIGN SUBDIVISION

10.23 General. This article is designed to preserve rural character, natural resource areas, farmland, and other large areas of open land, while permitting residential development. The Conservation Design Subdivision standards, in addition to the land standards outlined in Article II, apply to all divisions of a parent parcel when requested by a Subdivider where the division creates more than four new parcels. A minimum of 40 acres is required to create a conservation design subdivision in the Town of Buffalo. Further, this article is intended to:

- (1) Guide the future growth and development of the Town in conjunction with the Town of Buffalo Smart Growth Comprehensive Plan.
- (2) To guide the detailed analysis of parcels so as to locate and coordinate appropriate areas for development and conservation.
- (3) To preserve the rural character through the permanent preservation of meaningful open space and sensitive natural resources.
- (4) To preserve scenic views by minimizing views of new development from existing roads.
- (5) To preserve prime agricultural land by concentrating housing on lands that have low agricultural potential.
- (6) To provide commonly-owned open space areas for passive and /or active recreational use by residents of the development and, where specified, the larger community.
- (7) To provide for a diversity of parcel sizes, housing choices and to accommodate a variety of age and income groups.
- (8) To provide for buffering between residential development and non-residential uses.
- (9) To protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors.
- (10) To preserve significant archeological sites, historic buildings and their settings.
- (11) To meet the demand within the Town for housing in rural settings.



10.24 Open Space Standards. A Conservation Design Subdivision shall meet the following open space standards:

- (1) Minimum open space. Minimum open space shall include 45% of the adjusted tract area plus the primary conservation area.
- (2) Location. The required open space should be situated to take advantage of the site's natural, historic, and cultural features, to create buffer areas between residential and agricultural uses, and to preserve scenic views. Environmentally sensitive areas must be included within the preserved open space. The open space should if at all possible be located so as to connect with existing or potential open space.
- (3) The size and shape of the areas established as open space shall be sufficient and suitable for agricultural, natural resource protection, recreation, or other intended use and should remain as large and contiguous as the property will allow.
- (4) Not more than 30% of the required open space shall consist of active recreation area.
- (5) The Plan Commission may require easements or walkways to access open space that does not abut public right-of-way.
- (6) Ownership and Maintenance of Common Open Space. To ensure adequate planning for ownership, operation, and maintenance of common open space, recreation facilities, storm water management facilities, common parking areas and driveways, private streets and other common community facilities, the following methods may be used, either alone or in combination, in ownership of common open space. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this subsection, and then only when there is no change in the common open space.
 - (A) Homeowners Association. Common facilities shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein. The applicant shall provide to the Town a description of the association, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities. The association shall be established by the owner or applicant and shall be operating, with financial subsidy by the applicant, if necessary, prior to the sale of any dwelling units in the development. Membership in the association shall be mandatory for all purchasers of dwelling units therein and their successors and assigns. The association shall be responsible for maintenance and insurance of common facilities. The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities. The organization shall have adequate means of maintaining common open space. The applicant for any conservation design subdivision proposed to contain common open space shall arrange with the Town Assessor a method of assessment of the common facilities that will allocate to each tax parcel in the development a share of the total assessment for such common facilities. Written notice of any proposed transfer of common facilities by the homeowners association or the assumption of

maintenance of common facilities which will allocate to each tax parcel in the development a share of the total assessment for such common facilities must be given to all members of the organization and to the Town at least 30 days prior to such event.

- (B) Condominium Agreements. Common open space shall be controlled through the use of a condominium agreement. Such agreements shall be approved by the Town and shall comply with the requirements of Chapter 703 of the Wisconsin Statutes. All common open space and other common facilities shall be held as “common elements” by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. A condominium association shall be formed to govern the affairs of the condominium and membership shall be mandatory.
- (C) Dedication of Conservation Easements to a Public Agency. The Town, or other public agency acceptable to the Town may, but shall not be required to, accept easements for public use of any portion of the common open space, title of which is to remain in private ownership, provided that:
 - 1. There is no cost of easement acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
 - 2. A satisfactory maintenance agreement shall be reached between the owner and the Town.
 - 3. Lands under a Town easement may or may not be accessible to residents of the Town.
- (D) Dedication to a Nonprofit Conservation Organization. With the approval of the Town Board, an owner may dedicate any portion of the common facilities to a nonprofit conservation organization, provided that:
 - 1. The organization is acceptable to the Town.
 - 2. The conveyance contains appropriate provisions for proper reverting or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its responsibilities.
 - 3. A maintenance agreement acceptable to the Town is established between the owner and the organization.
- (E) Ownership retained by the original landowner. Ownership of common open space and facilities may be retained by the original landowner provided that:
 - 1. The Town and residents of the development shall hold conservation easements on the land protecting it from further development.
 - 2. Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.

- (F) Other methods acceptable to the Town Board for Maintenance and Operation of Common Facilities. A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the Town Board prior to preliminary plat approval. Such plans shall:
1. Define Ownership.
 2. Establish necessary regular and periodic operation and maintenance responsibilities.
 3. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
 4. Include a Land Stewardship Plan specifically focusing on the long term management of open space lands. A draft land stewardship plan shall be submitted with a preliminary plat, and a final plan shall be submitted with the final plat.
- (G) Leasing of Common Open Space Lands. Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:
1. The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
 2. The common open space lands to be leased shall be maintained for the purposes set forth in this section.
 3. The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.
 4. The lease, and any transfer or assignment thereof, shall be subject to the approval of the Town Board.
 5. Lease agreements shall be recorded in the office of the County Register of Deeds within 30 days of their execution, and a copy of the recorded lease shall be filed with the Town.
- (H) Conservation. Common Open Space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Town Board and duly recorded in the office of the County Register of Deeds. The legal instruments detailing the ownership of the open space shall be submitted with the preliminary plat and shall be recorded with the Register of Deeds upon final plat approval.

(7) In the event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the Town may serve written notice

upon such association setting forth the manner in which the association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time specified, the association, or any successor organization, shall be considered in violation of this ordinance, in which case the Town shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the Town shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.

(8) Sewerage and Water Supply Facilities. Sewerage facilities for Conservation Design Subdivision development may consist of any system meeting the requirements of the Town of Buffalo, Marquette County, the Wisconsin Department of Commerce, and the Wisconsin Department of Natural Resources.

(9) Water Supply Facilities. Water facilities for Conservation Design Subdivisions may consist of any system meeting the requirements of the Town of Buffalo, Marquette County, the Wisconsin Department of Commerce, and the Wisconsin Department of Natural Resources, and may include private, individual wells and/or private, community wells.

10.25 Development Yield Standards. Conservation Design Subdivisions shall utilize the following steps in determining the maximum permitted parcel density. This calculation information must be submitted with any application to the Town.

(1) Calculate the Gross Tract Area. This shall be the total acreage of the property.
Gross Tract Area: _____ acres.

(2) Calculate Primary Conservation Areas. This acreage shall be determined using the following criteria. The data supplied within this calculation shall be substantiated with sufficient plans and data.

(A) All lands located within existing street Right-of-Ways: _____ acres

(B) All lands located within existing Utility and Railway Right-of-Ways: _____ acres

(C) All lands located within floodplain: _____ acres

(D) All lands located within wetlands: _____ acres

(E) All of the land area having slopes 12% or greater: _____ acres

(F) **Primary Conservation Area (= sum of (a, b, c, d, e))** _____ acres

(3) Calculation of Adjusted Tract Area. The adjusted tract area (ATA) shall equal the Gross Tract Area (GTA) minus the Primary Conservation area.

Adjusted Tract Area = Gross Tract Area (GTA) – Primary Conservation Area

(4) Calculation of Minimum Open Space. The minimum open space requirement shall be (45%) of the adjusted tract area, plus the Primary Conservation Area.

Open Space = 45% of the Adjusted Tract Area (ATA) + Primary Conservation Area

(5) Calculation of Net Development Area (NDA). The NDA area shall be the result of subtracting the calculated open space from the Gross Tract Area.

GTA – Open Space = Net Development Area

(6) Calculation of Permitted Dwelling Units. The maximum number of permitted dwelling units shall equal the Net Development Area divided by 2.0 (minimum parcel size). If the value is .5 or greater the value shall be rounded up and if .49 or less rounded down.

Permitted Dwelling Units = NDA / 2.0.

10.26 PRE-preliminary Conservation Design Plat. Prior to the filing of an application for the approval of a preliminary plat, the Subdivider shall consult with the Town Plan Commission, in order to obtain their review, advice and assistance in the preparation of a preliminary plat. Such consultation shall be termed the "prepreliminary plat" stage of the land division procedure and includes the following steps and information:

(1) The Subdivider shall prepare a conceptual development plan at a scale of one inch equals 200 feet of all the contiguous lands in which the subdivider has legal or equitable interest and present three copies and the fee required to the Town Clerk.

(2) Such sketch plan shall include enough information to set forth the proposed development potential of the parcel to the satisfaction of the town plan commission, and include at least the following:

- (A) Topographic mapping at not less than two-foot contour interval;
- (B) Soil characteristics or interpretations secured from detailed soil maps prepared by the USDA, Soil Conservation Service (SCS) and/or monitoring borings data;
- (C) The limits of woodland cover and wetlands on the entire parcel;
- (D) Location of lakes, ponds, streams, or kettles, standing water and designated floodplains on the parcel;
- (E) Areas of steep or severe slope conditions, high water table conditions, potential drainage and erosion problems;
- (F) Existing and proposed access from the parcel to adjacent streets, roads, or properties;
- (G) Proposed street location and width;
- (H) Proposed parcels including size to the nearest one-tenth acre;
- (I) Existing land use of property within 1 mile of the property proposed to be divided;
- (J) Any other pertinent information useful to the Subdivider and plan commission in their determination of developability of the parcel; and

(K) Environmental corridors which shall be delineated on the sketch plan.

(3) The Plan Commission shall either reject the concept plan giving reasons for such rejections or approve the concept plan and make recommendations. Such review and approval of the concept plan shall constitute approval of the concept plan only and shall not be deemed an approval of the layout and design of the proposed subdivision plat.

(4) Through the prepreliminary plat procedure it is expected that the Subdivider and Plan Commission will reach mutual conclusions regarding the general design and objectives of the proposed development and its possible effects on the Town and County. The Subdivider will also gain a better understanding of the subsequent required procedures so the entire process may be expedited.

10.27 Preliminary Conservation Design Subdivision Plat Submittal.

Before submitting a final plat for approval, the Subdivider shall prepare and submit a preliminary plat that conforms to the requirements of §236 Wisconsin State Statutes and all applicable sections of this ordinance. The Plat shall be prepared by a registered land surveyor. The Subdivider or their designated agent, shall file the application and fifteen (15) copies of the preliminary Plat on paper no smaller than 22" x 30" and one (1) copy of the preliminary plat on either 8.5" x 11", 8.5" x 14" or 11" x 17" paper with the Town Clerk.

10.28 Requirements for Preliminary Conservation Design Plat. In addition to the requirements of §236 Wisconsin Statutes the preliminary Plat submitted shall include the following:

(1) A map of sufficient scale showing the boundaries of the property being considered for division.

(2) General parcel layout as proposed.

(3) The proposed subdivision name. This name shall not duplicate the name of any Plat previously recorded in Marquette County. A subtitle of "County Plat" shall be required for all County Plats.

(4) Owners name, along with Volume and Page of the instrument that shows title to the Platted area. The Volume and Page of the affected property may be shown on the map, in the Surveyor's Certificate or in the Owner's Certificate.

(5) Volume and Page or platted status (i.e. State or County Plat by name and parcel number, CSM by volume, page and parcel number) of adjoining lands.

(6) Radius of all curves.

- (7) Proposed and existing road(s) showing road name and right angle width. Proposed and existing roads shall be dedicated as required in Article VIII.
- (8) Public areas to be dedicated, identified as “dedicated to the public.”
- (9) Floodplain, wetland and shoreland boundaries. Source of the data shall be identified.
- (10) Locations of existing buildings, watercourses, drainage ditches, fences and any other pertinent features.
- (11) Locations and names of adjoining parks, cemeteries, subdivisions, ponds, streams, lakes and flowages.
- (12) Any proposed lake or stream access or any proposed lake or stream improvement or relocation.
- (13) The name and address of the surveyor and Subdivider placed on the face of the Plat.
- (14) Report on Soil Borings and Percolation Tests. Locations of borings may be required to be shown on the face of the map.
- (15) A general description of all property owned and controlled by the Subdivider contiguous to the proposed land division.
- (16) An area development plan for future use may be required if proposed development in some way affects adjoining lands.
- (17) Road name application must be submitted to the Plan Commission for approval for any road names (i.e. new, extension, private etc...).
- (18) Dimensions of all parcels, together with proposed parcel and block numbers.

10.29 Preliminary Conservation Design Subdivision Plat Review & Approval.

- (1) Upon receipt of an application for a Conservation Design Subdivision Plat, the Town Clerk shall transmit one (1) copy of the map to each of the following.
 - (A) Marquette County
 - (B) Any affected public or private utility
 - (C) Local school district
 - (D) Marquette County Land Conservation Department
 - (E) Department of Natural Resources (WDNR)
 - (F) Where applicable, Marquette County Highway Department
 - (G) Wisconsin Department of Transportation (WDOT)

(H) Every member of the Town Plan Commission and Town Board

(2) Recommendations from receiving parties, with the exception of the Plan Commission, must be received by the Town Clerk within thirty (30) days from the date the copy is transmitted. If a recommendation is not received within thirty (30) days it shall be deemed an approval.

(3) Recommendations from the Town Plan Commission must be received within sixty (60) days from the date of transmittal. If a recommendation is not received within sixty (60) days it shall be deemed an approval.

(4) Once the Town Plan Commission recommendation is received, the preliminary review for approval shall be scheduled for the next regularly scheduled Town Board Meeting.

(5) The Board, within ninety (90) days of the date of filing of a preliminary Conservation Plat with the Town Clerk shall approve, approve conditionally, or reject, unless the time is extended by mutual agreement with the Subdivider. One (1) copy of the plat shall there upon be returned to the Subdivider with the date and the action recorded 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 (1) copy each of the plat and letter shall be kept on record by the Town.

10.30 Relationship between Preliminary and Final Plat. Approval of a preliminary conservation plat shall be deemed an expression of approval or conditional approval of the layout submitted and a guide to the preparation of the final plat which will be subject to further consideration by the Plan Commission at the time of its submission.

If the final Plat conforms substantially to the preliminary Plat as approved, including any conditions of the approval, and to local plans and ordinances authorized by law, it is entitled to approval. If the final Plat is not submitted within one (1) year of the last approval of the preliminary plat, any approving authority may refuse to approve the final Plat. The Town reserves the right to add further restrictive covenants as provided in §236.293 Wisconsin Statutes.

Any substantial change between the preliminary and final plat, as determined by the Plan Commission shall cause the conservation plat to be re-submitted including all fees and review. In addition every re-submittal required to clarify matters regarding said maps shall constitute a new time frame for review purposes.

10.31 Final Plat Requirements. Upon approval of the preliminary Plat the Subdivider shall submit a final Plat based upon a survey by a Wisconsin Registered Land Surveyor for review. In addition to the requirements of the preliminary Plat and §236 Wisconsin Statutes the final Plat submitted shall include the following:

- (1) A clear and concise legal description that exactly matches the bearings and distances shown on the map. The error of closure for the legal may not exceed 1 in 3,000.
- (2) Area of each parcel shown in square feet (nearest square foot) and acres (nearest 100th acre).
- (3) All curve data.
- (4) Building setback lines shall be shown or noted on the face of the map.
- (5) Lands reserved for the common use of the property owners within the subdivision. The ownership of these common lands shall be shown and described. These lands shall be established as outlots.
- (6) Proposed deed and Plat restrictions.
- (7) It shall be required that on sheet one of the Plat that a pre designed recording block be available for the Register of Deeds to be placed on the Plat for recording information.
- (8) Show arc distances on the face of the map.
- (9) Certificates of approval in substantially the same form as required by §236.21(2)(a) and §236.21(3) Wisconsin Statutes, and as per this ordinance as follows:
 - (A) Owner(s) Certificate with Notary Seal
 - (B) Mortgagee's Certificate
 - (C) Town Certificate
 - (D) Other certificates as required by §236.21 Wisconsin Statutes
 - (E) Certification that the Plat is a true and correct representation of the features surveyed and mapped and that the Surveyor has fully met all local ordinances.
 - (F) Special restrictions required by the reviewing authorities.

10.32 Final Plat Review & Approval. The Town Board, within sixty (60) days of the date of filing of a final conservation plat with Town Clerk, shall approve, approve conditionally or reject such a plat unless the time is extended by mutual agreement with the Subdivider. If approved, the certifications on the plat shall be completed. If approved conditionally, the certificates shall not be completed until the conditions are met. If rejected, a letter setting for the reasons for rejection shall accompany the plat. Failure of the Town to act within the time as extended by agreement with the Subdivider shall constitute an approval. The sixty (60) day period shall commence with the filing of the final plat with the Town Clerk, and not the preliminary approval.

10.33 Recording. Upon approval of all corrections addressed in the preliminary and final plat reviews the Subdivider shall submit a final Plat for recording with the Marquette County Register of Deeds in accordance with Sec. 236.25, Wisconsin Statutes.

ARTICLE VI DEFINITIONS

10.34 Definitions. For the purpose of this ordinance, certain words used therein are defined as follows:

- **Adjusted Tract Area** - The area of the total parcel without any primary conservation areas.
- **Alley** – A public or private right-of-way which provides secondary access to abutting properties.
- **Applicant** – The Subdivider or Subdivider’s Developer’s agent
- **Arterial Street** – A street used, or intended to be used, primarily for fast or heavy through traffic. Arterial streets shall include freeways and expressways, as well as standard arterial streets, highways, and parkways.
- **Block** – A group of parcels existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name through which it may be identified.
- **Bufferyard** – An area of land within the boundaries of a parcel or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences and/or berms, designed to limit continuously the view and/or sound from the parcel or site to adjacent parcels or sites. Bufferyards are typically defined by a delineated easement graphically indicated on the fact of the Certified Survey Map or Subdivision Plat.
- **Building** – A structure having a roof supported by columns or wall. When separated by division walls from the ground up and without openings, each portion of each building shall be deemed a separate building.
- **Certified Survey or Certified Survey Map** - A map of a minor land division of less than 40 acres prepared in accordance with sec. 236.34, Wis. Stats., and in full compliance with the applicable provisions of this Ordinance.
- **Collector Street** – A street used, or intended to be used, to carry traffic from minor streets to the major system or arterial streets, including principal entrance streets to residential developments.
- **Common Element** - The common facilities in a condominium.
- **Common Facilities** - All the real property and improvements set aside for the common use and enjoyment of the residents of a cluster development, including, but not limited to, buildings, open space, private streets, parking areas, walkways, recreation area, drainage easements, and any utilities that service more than one unit, such as sewerage and well facilities.
- **Common Open Space** - Undeveloped land within a conservation design subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common Open Space shall not be part of individual residential parcels, and shall be substantially free of structures, but

may contain such recreational facilities for residents as are shown on the approved development plan.

- **Condominium** - A form of ownership combining individual unit ownership with shared use and ownership of common property or facilities, established in accordance with the requirement of Chapter 703 of the Wisconsin Statutes. Common areas and facilities are owned by all members of the condominium association on a proportional, undivided basis. A condominium is a legal form of ownership and not a specific building type or style.
- **Condominium Agreement** - A legal agreement outlining the management of the common open space.
- **Condominium Association** - An association, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.
- **Conservation Areas, primary** – The primary conservation areas are those areas that are automatically set aside when determining open space for conservation development subdivisions. The following are areas of primary conservation: all lands located within existing street Right-of-Ways, all lands located within existing Utility and Railway Right-of-Ways, all lands located within floodplain, all lands located within wetlands, all slopes of 12% or greater.
- **Conservation Easement** - The grant of a property right or interest from the property owner to another person, agency, unit of government, or organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.
- **Conservation Subdivision** – A subdivision where open space is the central organizing element of the subdivision design and that identifies and permanently protects all primary conservation areas and all or some of the secondary conservation areas within the boundaries of the subdivision and retains a minimum of forty-five (45%) of the potentially developable land, including secondary conservation areas, as protected open space.
- **County** – Reference to County shall mean Marquette County and shall include any agency, department or committee thereof.
- **Cul-de-sac Street** – A minor street with only one outlet and having a turn around for the safe and convenient reversal of traffic movement.
- **Deed restriction** - A restriction on the use of a property set forth in a deed or other instrument of conveyance, including, but not limited to, a restrictive covenant, conservation easement, transfer of development rights, or any restriction placed on undeveloped land as a condition for the division or development of the undeveloped land.
- **Detention Basin** – A man-made or natural depression below the surrounding grade level designed to collect surface and subsurface water so that it might impede its flow and to gradually release the same at a rate not greater than that

prior to the development of the property, into natural or man-made outlets (i.e. storm sewer, culvert or stream).

- **Development** – Any man-made changes to improved or unimproved real estate including, but not limited to, construction of or addition or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.
- **Developer's Agreement** - An agreement by which the Town and the sub-divider agree in reasonable detail to all of those matters which the provisions of these regulations permit to be covered by the developers agreement and which shall not take effect unless and until an irrevocable Letter of Credit or other appropriate surety has been issued to the Town.
- **Developmental Yield** -The amount of permitted structures in the development of a subdivision.
- **Drainageway** – The land on either side of and within fifty (50) feet of the centerline of any intermittent or perennial stream graphically shown on : a topographic survey prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet or the U.S. Geological Survey (USGS) 7.5-minute quadrangle topographic map of the area.
- **Easement** – Authorization by a property owner for another to use the owner's property for a specified purpose.
- **Final Plat** - A map prepared in accordance with requirements of Chapter 236 of the Wisconsin State Statutes and this Ordinance for the purpose of precisely dividing larger parcels into smaller parcels and used in conveying these new parcels.
- **Floodlands** – Those lands, including the channels, floodways and floodplain fringe of any given reach, which are subject to inundation by the flood within a given recurrence frequency. The 100-year recurrence interval flood (or that flood having a 1 percent probability of occurring in any given year) is generally used for regulation.
- **Frontage** – the length of the front property line of the parcel, or tract of land abutting the right-of-way of a public street road or highway.
- **Grade** – the slope of a road, street or other public way, specified in percent.
- **Highway, Limited Access** – a freeway or expressway providing a trafficway for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over the trafficway.

- **Homeowners' Association** – A Wisconsin non-profit membership corporation which serves as an association of homeowners within a Subdivision or Certified Survey Map having shared common interests, responsibilities with respect to costs and upkeep of common private property of a Subdivision or Certified Survey Map. Such common property includes private recreation and open space areas within the Subdivision or Certified Survey Map.
- **Improvement, Public** – Any sanitary sewer, storm sewer, drainage ditch, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip, off-street parking area or other facility for which the County or Town may ultimately assume the responsibility for maintenance and operation.
- **Land divider** - Any person, partnership, corporation, or other legal entity that has an ownership or other legal interest in the subject land that is being divided, or proposed to be divided, resulting in a land division.
- **Land division** - The division of a outlot, parcel, or tract of land by the owner of the land, or the owner's agent, for the purpose of sale or for development 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 Conservation Subdivision, a Cluster Development, a Statutory Subdivision, a Minor Land Division, Replat, and 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.
- **Landscaping** – Living material, such as grass, groundcover, flowers, shrubs, vines, hedges and trees and nonliving durable material, such as rocks, pebbles, sand, mulch, wood chips or bark, walls and fences, but not including paving.
- **Lot** - A parcel of land resulting in a division of a parcel pursuant to this ordinance.
- **Lot, Corner** – A parcel abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 140 degrees or less measured on the parcel line.
- **Lot Lines (or Parcel Lines)** – The peripheral boundaries of a parcel of land.
- **Lot, Through** – A parcel which has a pair of opposite parcel lines among two parallel streets and which is not a corner lot. On a through lot both street lines shall be deemed front parcel lines.
- **Lot, Width (or Parcel Width)**– The mean horizontal distance between the side lot lines of a parcel measured at right angles to the depth. On irregularly (non-perpendicular) shaped parcels, the width shall be the average width of the parcel (see below). Lot width shall be measured at the building line (e.g. location at

which the principal structure is located). Width shall also be measured at the shoreyard setback line. At least 50% of the parcel shall be greater than or equal to the required lot width.

- **Major Street** – Arterial and collector roads primarily intended for through traffic with a secondary function of direct access.
- **Minor Land Division** - Any division of land other than a statutory subdivision as defined herein of less than 40 acres in size including any residual parcel or parcels resulting from any division of land if said parcel is less than 40 acres in size.
- **Minor Street** – A street used or intended to be used primarily for access to abutting properties.
- **Navigable Waters** - Any body of water defined as navigable under the laws of the State.
- **Net Developable Area** - The area of the tract in a conservation design subdivision that can be divided into parcels.
- **Nonprofit Conservation Organization** - A nonprofit corporation, charitable trust, or other nonprofit organization described in Section 501 (c)(3) of the Internal Revenue Code, which includes the “acquisition of property or rights in property for conservation purposes” as part of its mission, as reflected in the bylaws, charter, or incorporation papers of the organization.
- **Open Space** - The area of lands within a conservation design subdivision that can not be developed. This area includes 45% of the adjusted tract and primary conservation areas that is held in common ownership. This area is for passive/active recreational use by the residents of the development and, where specified the larger community.
- **Outlot** - A parcel of land other than a residential lot or block so designated on a land division plat or Certified Survey Map.
- **Owner** - For purposes of this Ordinance the word "owner" if used herein shall be deemed to mean the person holding the fee title to the lands involved, except that where lands have been divided on a land contract the land contract vendee shall be deemed the owner.
- **Parcel** – A contiguous piece of land under single ownership lying within the Township.
- **Plan Commission** - The Town of Buffalo Plan Commission is the Plan Commission for the purposes of this ordinance.
- **Plat** - A map of a subdivision.
- **Preliminary Plat** - A map showing the salient features of a proposed subdivision as described in subsection 10.39, submitted to the Town Plan Commission for

the purposes of preliminary consideration by the Town Plan Commission prior to any land division.

- **Public Way** – any public road, street highway, walkway, drainageway or part thereof.
- **Recreation Land, Active** – Areas that are altered from their natural state to accommodate organized athletic activities (e.g. soccer, football, baseball, golf). Active recreation lands may also require the installation of equipment (e.g. playground apparatus, riding stables, shooting ranges, golf ranges, etc.).
- **Recreation Land, Passive** – Areas that are left in a natural state with minimal alteration for scenic enjoyment (e.g. walking/hiking trail) and outdoor activities with minimal impact on the landscape (e.g. birding, hunting).
- **Replat** - The process of changing the map or plat which changes the boundaries of a recorded Statutory Subdivision Plat, Minor Land Division, Certified Survey Map, or other land division or part thereof; the division of a large block, parcel, or outlot within a recorded subdivision plat or certified survey which changes the exterior boundaries of said parcel, block, or outlot is a replat.
- **Restrictive Covenant** - A deed restriction on the use of the land usually set forth in the deed that is binding upon subsequent owners of the property.
- **Retention Basin** – A man-made or natural body of water of a depth of not less than three (3) feet, designed to contain water at all times, the levels of which will be increased as a result of the flow into it from surface and subsurface water collected therein and released gradually into natural and man-made outlets.
- **Setback** – Those minimum street, front, rear and/or side yards required between a building and a parcel line.
- **Shoreland Jurisdiction** – The area within 1,000 feet of the ordinary high water mark of a navigable lake, pond or flowage; or within 300 feet of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.
- **Slope** – The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.
- **Stream** – A course of running water, either perennial or intermittent, flowing in a channel (e.g. water body that forms a link between two bodies of water)
- **Street** - A public way for vehicular and/or pedestrian traffic.
- **Subdivider** - Person or persons requesting review or action on a subdivision.
- **Subdivision** - The division of a parcel or parcels of land by the owner thereof or his agent where the act of division creates one or more parcels of land.

- **Town** – Reference to town shall mean the Town of Buffalo including the Town Board, Town Clerk or any other designated Town Commission.
- **Tract** – A contiguous area of land that exists or has existed in single ownership.
- **Utility Easement** - An easement to place, replace, maintain or move utility facilities.
- **Wetland** - An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and that has soils indicative of wet conditions.
- **Yield Plan** – A conventional subdivision plat in which all developable land is platted-off with house parcels and streets covering the entire parcel excluding wetlands, streams, floodplains, steep slopes, and/or other state and federally-protected areas.