

## **ARTICLE A: INTRODUCTION**

### **Sec. 10-1-1 Authority**

The provisions of this Chapter are adopted by the Town of Empire pursuant to the authority granted by Wisconsin Statutes, Sections 59.971 (3), 114, 135, 136, 114.26(2) 144.26(8), 236.45 and 703. The Board of Supervisors of the Town of Empire, Fond du Lac County, Wisconsin does Ordain as follows:

### **Sec. 10-1-2 Title**

This Chapter shall be known as, referred to or cited as the "Land Division Ordinance, Town of Empire".

### **Sec. 10-1-3 Purpose and Intent**

The purpose of this Chapter is to regulate and control the division of land within the limits of the Town of Empire, Fond du Lac County, Wisconsin in order to:

1. Promote the public health, safety and general welfare.
2. Further the orderly layout and use of land.
3. Prevent the overcrowding of land.
4. Lessen congestion in the streets and highways.
5. Facilitate adequate provisions for water, sewerage and other public requirements.
6. Provide for proper ingress and egress.
7. Promote proper monumenting of subdivided land and conveyancing by accurate legal description.
8. Preserve the rural character, scenic vistas, and natural beauty of the Town.
9. Encourage the most appropriate use of the land.
10. Implement the goals and policies of the Town of Empire Comprehensive Plan.
11. Maintain Rural character.
12. Avoid sprawl.
13. Conserve the value of prime agricultural lands.
14. Protect and preserve natural resources, wildlife habitat, and open space.
15. Encourage conservation design for future subdivisions in the Town.

### **Sec. 10-1-4 Abrogation and Greater Restrictions**

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.

### **Sec. 10-1-5 Interpretation**

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 of Empire and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

### **Sec. 10-1-6 Modification of Regulations**

When the Town Board finds that injustice or hardship will result from strict compliance with this chapter, it may allow divergence from the terms hereof to the extent deemed necessary and proper to grant relief, provided that the modification meets all the following standards:

1. The necessity for modification is due to the unique physical features of the site;
2. The modification is the minimum deviation from the terms of this chapter necessary to mitigate the injustice or hardship; and
3. The modification is not detrimental to the public interest and is in keeping with the general spirit and intent of this chapter.

Application for any modification shall be made in writing by the Subdivider at the time the Preliminary Plat is filed for consideration, stating specifically the circumstances upon which the Subdivider is relying, the modification requested and how the request meets the standards set forth in (1) above. The request shall be supplemented with maps, plans and other additional data that may aid the Town Board in the analysis of the request. The Commission will make recommendations, and the Town Board will address the request as part of the Preliminary Plat application process.

**Sec. 10-1-7 Severability**

If any provision of this Chapter is invalid or unconstitutional, or if the application of this Chapter to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Chapter which can be given effect without the invalid or unconstitutional provision or application.

**Sec. 10-1-8 Repeal**

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

**Sec. 10-1-9 Effective Date**

This ordinance shall take effect upon passage and adoption by the Town Board and the filing of proof of posting or publication in the Office of the Town Clerk.

## **ARTICLE B: GENERAL PROVISIONS**

### **Sec. 10-1-10 Jurisdiction**

The jurisdiction of this Chapter shall include all lands within the Town of Empire, Wisconsin. However, in no instance shall the provisions of this Chapter apply to:

1. Transfers of interest in land by will or pursuant to court order.
2. Leases for a term not to exceed 10 years, mortgages or easements.
3. Sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the resultant lots are not reduced below the minimum size required by these regulations, the Town of Empire Zoning Ordinance or other applicable laws or ordinances. For the purpose of this section, an additional lot is deemed to be created if the parcel being sold or created is not combined with the adjoining parcel by means of a new legal description in accordance with Wisconsin Statutes, Section 20.07.

### **Sec. 10-1-11 Compliance**

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

1. Duly approved Town of Empire Zoning, Town of Empire Sanitary Districts and Private Sewerage System Ordinances.
2. Fond du Lac County Highway Access Control Ordinance.
3. All applicable local ordinances.
4. Provisions of Wisconsin Statutes, Section 236.
5. Comprehensive plans adopted by state, regional, county or adjacent municipal agencies.
6. Other applicable federal and state laws and regulations including but not limited to:
  - a. Wisconsin Department of Workforce Development regulations monitoring lot size and lot elevation if the land to be subdivided is not served by a public sewer and provisions for such service have not been made.
  - b. Wisconsin Department of Transportation regulations, as contained in Wisconsin Administrative Code HY 33, relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the Subdivider abuts a state trunk highway or connecting street.
  - c. Wisconsin Department of Natural Resources regulations setting water quality standards for preventing and abating pollution and for monitoring development within floodland, wetland and shoreland areas.
  - d. Wisconsin Administrative Code regulations.
  - e. U.S. Army Corps of Engineers and U.S. Environmental Protection Agency regulations.
  - f. Americans with Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities as documented in the Federal Register, Volume 56, Number 144, July 26, 1991.

### **Sec. 10-1-12 Land Suitability**

No land shall be divided which is held unsuitable for any proposed use by the Town of Empire Planning Commission (hereafter referred to as Commission) for reason of flooding, inadequate drainage, soil and rock formations with severe limitations of redevelopment, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any

other feature likely to be harmful to the health, safety or welfare of current and future residents of the proposed subdivision or of the Town. In addition:

1. The Plan Commission recommends that all subdivisions in critical overlay areas be conservation subdivisions.
2. No lot served by public sanitary sewer facilities shall have less than fifty (50) percent of its required lot area below an elevation at least two (2) feet above the elevation of the 100-Year recurrence interval floodplain.
3. No lot one (1) acre or less in area served by an on-site sanitary sewage disposal (septic tank) system shall include floodlands.
4. All land divisions creating fifteen (15) or more parcels (or lots) and located in areas not served by municipal water systems shall be served by community wells supplying water to all homes within the subdivision.
5. All land divisions creating forty (40) or more parcels (or lots) and located in areas not served by municipal water systems shall be served by a minimum of two (2) community wells supplying water to all homes within the subdivision.
6. All lots more than one (1) acre in area served by an on-site sanitary sewage disposal (septic tank) system shall contain not less than forty thousand (40,000) square feet of land which is at least 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 maximum flood of record.
7. Lands made, altered or filled with non-earth materials within the preceding twenty (20) years shall not be divided into building sites which are to be served by on-site soil absorption sanitary sewage disposal systems.
8. Each lot shall have a continuous area of at least three thousand (3,000) square feet which has ground slopes not exceeding fifteen (15) percent.
9. Each lot or dwelling unit shall be capable of meeting the requirements of the Fond du Lac County Sanitary Code and the Wisconsin Administrative Code regarding the construction of on-site sewage disposal systems.
10. 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 finding of unsuitability if he/she so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

**Sec. 10-1-13 Private Recreation and Open Space Lands (please refer to Sec. 10-1-31(3)(f)(1-11) for Private Recreation and Open Space Lands within Conservation Subdivisions)**

1. Declaration of Covenants and Deed Restrictions Required for Lands Designated as Private Recreation and Open Space Lands. For lands designated by a Subdivision, Certified Survey Map or Condominium to be set aside for private recreation and/or open space use and owned and maintained by a homeowner or condominium association, the Subdivider and Condominium Developer (as applicable) shall file a declaration of covenants and deed restrictions, pursuant to the requirements of Sec. 10-1-21(9) of this Chapter, that will govern said homeowner or condominium association with the Preliminary Plat or Certified Survey Map.
2. Minimum Required Provisions of Declaration of Covenants and Deed Restrictions for Private Recreation and Open Space Lands. The provisions of said declaration of covenants and deed restrictions shall incorporate the requirement that a Wisconsin non-profit membership corporation be formed for the purpose of maintaining, improving,

- policing and preserving property(s) in which its members shall have common rights of usage and enjoyment by virtue of their ownership of lots in the Subdivision, Certified Survey Map, or Condominium and shall further include the requirements:
- a. That the corporation be established before any lots, building sites or units are sold.
    - b. That membership in the corporation be mandatory and automatic upon the purchase of a lot, building site or unit.
    - c. The recreation and/or open space restrictions must be perpetual and not just for a period of years.
    - d. That title to the private recreational areas or facilities be transferred to the corporation.
    - e. That the corporation be responsible for liability insurance, property taxes and all maintenance and improvements of recreational and/or open space areas.
    - f. That the corporation have the powers granted by Wisconsin Statutes, Sections 779.70(1) or 703.15(3), as applicable and in particular to levy assessments upon all properties in the Subdivision, Certified Survey Map, or Condominium for the purposes specified therein.

**Sec. 10-1-14 through Sec. 10-1-19 Reserved for Future Use.**

## ARTICLE C: PLAT REVIEW AND APPROVAL

### Sec. 10-1-20 Preliminary Consultation

Prior to filing an application for the approval of a land division, the Subdivider shall consult with all affected utilities, Town of Empire Board and Town of Empire Planning Commission in order to assist the Subdivider in planning the development. This consultation is mandatory and is intended to inform the Subdivider of the purpose and objectives of these regulations; the Town of Empire Comprehensive Plan, Comprehensive Plan components; and the availability of sanitary sewer, stormwater management facilities and site grading requirements. The consultation shall take place prior to all land division reviews and approval, based upon the procedure stated below.

1. The Subdivider shall prepare a "concept" plan of the proposed land division. The plan should show the basic layout of the streets, lots, open space and any other proposed developments.
2. The Subdivider shall then contact the Town of Empire Clerk to make an appointment to review the plan with the Town Planning Commission. The Subdivider shall send ten (10) copies of the plan to the Town Clerk as soon as possible after the meeting date has been established to give the Town Planning Commission time to prepare for the meeting.
3. As soon after the preliminary consultation meeting as is practical, the Town Planning Commission will prepare a written report outlining any of its comments, concerns and/or suggestions. This report will be sent to the Subdivider with copies to go to the Town Board, the adjoining city or village (if in its extraterritorial plat approval jurisdiction) and the regional planning commission.

### Sec. 10-1-21 Submission of Preliminary Plat for Conventional Subdivision (please refer to Sec. 10-1-31 for Conservation Subdivision Plat Review and Approval Process)

1. **When Required.** When it is proposed to divide land into five (5) or more parcels or building sites, any of which is ten (10) acres each or less in size, the Subdivider shall subdivide by use of a Subdivision Plat. The Subdivision Plat shall include all parcels of land ten (10) acres or less in size and may, at the owner's discretion, include any other parcels containing more than ten (10) acres. **All conventional subdivision submittals shall include a yield calculation as shown in Sec. 10-1-33(1)(c) and shall also include an evaluation of private v. community wells and individual v. clustered wastewater treatment systems.**
2. **Preliminary Plat Submittal.** Prior to submittal of a Final Plat for approval, the Applicant shall prepare a Preliminary Plat in accordance with Section 10-1-21 of this Chapter, and the Applicant shall provide the Town of Empire Planning Commission with ten (10) copies of the preliminary plat together with all necessary fees at least thirty (30) days prior to the meeting of the Planning Commission. The Applicant shall also send two (2) copies to the adjoining city or village, if in its extraterritorial plat approval jurisdiction. It shall be the responsibility of the Applicant to submit the original drawing of preliminary plats to the head of the State Planning Function in accordance with Wisconsin Statutes, Section 236.12(6).
3. **Drafting Standards.** The Subdivider shall submit to the Town Clerk and to those agencies having the authority to object to plats under provisions in Wisconsin Statutes, Section 236, copies of a Preliminary Plat or Certified Survey Map based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale of not more than one (1) inch per one hundred (100) feet having two (2) foot contour intervals, shall identify the improvements (grading, tree

planting, paving, installation of facilities and dedications of land), easements which the Subdivider proposes to make and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted.

4. **Referral to Other Agencies.** The Subdivider shall, within two (2) days after filing, transmit four (4) copies to the County Planning Agency, two (2) copies to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street, two (2) copies to the Wisconsin Department of Commerce if the subdivision is not served by public sewer and the provision of such service has not been made, two (2) copies to the Wisconsin Department of Natural Resources if shorelands are contained within the proposed subdivision, and an adequate number of copies to the Town Board. The County Planning Agency, Wisconsin Department of Transportation, Department of Commerce and Wisconsin Department of Natural Resources shall hereafter be referred to as Objecting Agencies.
5. **Preliminary Plat Requirements.** A preliminary plat shall be based upon a survey by a registered land surveyor and the plat prepared on reproducible material at a scale of not more than 100 feet to the inch and shall show correctly on its face the following information:
  - a. Title under which the proposed subdivision is to be recorded.
  - b. Legal description and general location of proposed subdivision and relative location to a nearby municipality.
  - c. Date, scale and north arrow.
  - d. Names and addresses of the owner, subdivider and land surveyor preparing the plat.
  - e. Entire area contiguous to the proposed plat owned or controlled by the applicant shall be included on the preliminary plat even though only a portion of such area is proposed for immediate development. The Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this Chapter and undue hardship would result from strict application thereof.
  - f. Approximate length and bearing of the exterior boundaries of the proposed subdivision referenced to a corner established in the U.S. Public Land Survey and the total acreage encompassed thereby.
  - g. Contours at vertical interval of not more than two (2) feet where the slope of the ground surface is less than twelve (12) percent or more. Elevations shall be marked on such contours based on mean sea level datum or, where in the judgment of the Commission, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.
  - h. Water elevations of adjoining lakes and streams at the date of survey, ordinary high water elevation, and designated floodplains, wetlands, and surface water drainageways regulated under the authority of the Fond du Lac County Shoreland/Wetland Zoning Ordinance and Floodplain Zoning Ordinance and the Town of Empire Zoning Ordinance.
  - i. Location right-of-way width and names of all existing and proposed streets, alleys or other public ways, easements, railroads and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
  - j. Location and names of any adjacent subdivisions, parks, schools, and cemeteries and owners of record of abutting unplatted lands.

- k. Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations, all to the datum used for the contours.
  - l. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drainpipes, 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 sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by their directions and distance from the tract, size and invert elevations.
  - m. Locations of all existing property boundary lines, structures, drives, streams and water courses, marshes, rock outcrops, wooded areas, railroad tracks and other similar significant features within the tract being subdivided or immediately adjacent thereto.
  - n. Dimensions of all lots, together with proposed lot and block numbers.
  - o. Location and dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainageways or other public use, or which are to be used for group housing, shopping centers, church sites or other nonpublic uses not requiring lotting.
  - p. Approximate radii of all curves.
  - q. Existing zoning and proposed use on land adjacent to the proposed subdivision.
  - r. Corporate limit lines.
  - s. Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to the access.
  - t. Any proposed lake and stream improvement or relocation and proposed filling, grading, lagooning and dredging and the notice of application for the State Department of Natural Resources approval, when applicable.
  - u. Seasonally wet areas.
6. **Supplementary Data to be Filed with Preliminary Plat.** The following shall also be filed with the preliminary plat:
- . A statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population; and
    - a. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions;
    - b. If the Town of Empire Zoning Ordinance requires the installation of landscaping (or the preservation of existing vegetation in lieu of landscaping) a Landscape Plan, as described in Section 10-1-50 of this Ordinance;
    - c. When "Critical Areas," as defined in the Town of Empire Zoning Ordinance, are found on the property, a Critical Areas Protection Plan as described in Section 10-1-40 of this Ordinance;
    - d. Where the Subdivider owns property adjacent to that which is being proposed for the subdivision, the Town Board may require that the Subdivider submit a preliminary plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions.
7. **Street Plans and Profiles.** The applicant shall provide street plans and profiles showing existing ground surface, proposed and established street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision, when requested by

- the Town of Empire Planning Commission, and all elevations, plans and profiles shall meet the approval of the Commission.
8. **Testing.** The Town of Empire Planning Commission may require that borings and soundings to be made in designated areas to ascertain subsurface soil, rock and water conditions including the depth to bedrock and the depth to groundwater table. All subdivisions not served by public sanitary sewer service, shall comply with the provisions of Wisconsin Administrative Code, Chapter COMM 85. All appropriate data shall be submitted with the preliminary plat.
  9. **Deed Restrictions, Protective Covenants, Conservation Easements, and Homeowners' Association.** The following documents shall be submitted with the Preliminary Plat as required:
    - . Declaration of Deed Restrictions and Protective Covenants. The Plan Commission shall require submission of a draft of declaration of deed restrictions and protection covenants whereby the Subdivider or Condominium Developer (as applicable) intends to regulate land use in the proposed Subdivision and otherwise protect the proposed development.
      - a. Conservation Easements. The Plan Commission shall, where natural resources are present, require submission of a draft of conservation easements whereby the Subdivider or Condominium Developer (as applicable) intends to regulate the protection of natural resource features in the proposed Subdivision in conjunction with the "Natural Resource Protection Plan."
      - b. Wisconsin Non-Profit Membership Corporation (Homeowners' Association). The Plan Commission shall require submission of a draft of the legal instruments and rules for any proposed Wisconsin non-profit membership corporation (homeowners' association), when the Subdivider or Condominium Developer (as applicable) proposes that property within a Subdivision would be either owned or maintained by such an organization of property owners or subunit of the Town pursuant to Wisconsin Statutes, Section 236.293, whereby the Subdivider or Condominium Developer (as applicable) intends to regulate land use in the proposed Subdivision and otherwise protect the proposed development.
      - c. Town Attorney Review. The Town Attorney shall review all draft declaration of deed restrictions and protective covenants, conservation easements, and homeowners' associations and shall approve said instruments as to form.
  10. **Affidavit.** The surveyor preparing the Preliminary Plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he/she has fully complied with the provisions of this Chapter.

#### **Sec. 10-1-22 Preliminary Plat Review and Approval for Conventional Subdivision**

1. In order to facilitate public comment, the Subdivider shall provide a list of the names of all property owners within one thousand (1,000) feet of the subject site to the Town Clerk. The Town Clerk shall send said property owners a notice and agenda of the Commission meeting at which the subject site will be addressed. The notice shall be provided no later than ten (10) days prior to the date of such meeting by first class mail with an affidavit of mailing.
2. The Commission shall conduct such meeting to review the Plat for conformance with this Chapter, the adopted Town of Empire Land Use Plan and all other ordinances, rules, and regulations that affect the Plat. At this meeting the Commission shall permit the public to comment on the proposed plat. Within fifteen (15) days of the public meeting the Commission shall issue a written recommendation to the Town Board recommending approval, conditional approval, or rejection of the Preliminary Plat. If the Commission's recommendation is to conditionally approve or reject the Preliminary Plat the written

- recommendation shall specifically state the conditions of approval or the reasons for rejection. The Commission shall transmit the Preliminary Plat and application, along with its written recommendation, to the Town Board.
3. At the next scheduled meeting of the Town Board after receiving the written recommendation from the Commission, the Town Board shall take action to approve, approve conditionally or reject the Preliminary Plat. In making its decision the Town Board may adopt, modify or reject the recommendation of the Commission in whole or in part. The Town Board, at its discretion, may hear further public comment on the plat. In all cases, the Town Board's decision shall be issued within ninety (90) days of the date the Preliminary Plat was filed with the Town Clerk, unless the time is extended by agreement with the Subdivider. If the Town Board's decision is to conditionally approve or reject the Preliminary Plat the decision shall be in writing and shall specifically state the conditions of approval or the reasons for rejection. The Town Clerk shall provide the written decision to the Subdivider along with one copy of the Preliminary Plat with the date and action endorsed thereon.
  4. Approval or conditional approval of a Preliminary Plat by the Town Board does not constitute automatic approval of the Final Plat. Except that if the Final Plat is submitted within six (6) months of Preliminary Plat approval and conforms substantially to the Preliminary Plat layout as indicated in Wisconsin Statutes, Section 236.11(1)(b), the Final Plat shall be entitled to approval with respect to such layout.
  5. Should the Subdivider desire to amend the Preliminary Plat as approved, he/she may resubmit the amended plat which shall follow the same procedure, except for the hearing and the fee, unless the amendment is, in the opinion of the Town Board, of such scope as to constitute a new plat, in which such case it shall be refiled.

#### **Sec. 10-1-23 Final Plat Submittal for Conventional Subdivision**

The Subdivider/Applicant shall prepare a final plat in accordance with this Chapter.

1. The Subdivider or Condominium Developer (as applicable) shall prepare a Final Plat and an application in accordance with this Chapter and shall file an adequate number of copies of the Final Plat and the application as set forth below:
  - a. Submittal of Final Plat to Department of Agriculture, Trade and Consumer Protection. Before any approvals of the Final Plat are made, the Subdivider or Condominium Developer or Subdivider's or Condominium Developer's agent shall submit the original Final Plat to the Department of Agriculture, Trade and Consumer Protection which shall forward, at the Subdivider's or Condominium Developer's expense, the following:
    1. Two (2) copies to the Wisconsin Department of Transportation if the subdivision abuts or adjoins a state trunk highway or a connecting street.
    2. Two (2) copies to the Wisconsin Department of Commerce if the subdivision is not served by public sewer and provision for such service has not been made.
    3. Two (2) copies to the Wisconsin Department of Natural Resources if shorelands are contained within the proposed subdivision.
  - b. Submittal of Final Plat to Town Clerk. After approval by the Department of Agriculture, Trade and Consumer Protection and other state departments, the Subdivider or Condominium Developer shall file at least ten (10) copies of the Final Plat and an application with the Town Clerk along with the proper fees in accordance with Section 10-1-25 of this Chapter, and the receipt of the proper filing fees of each of the other objecting agencies at least fifteen (15) days prior to the meeting of the Town Board at which consideration is desired.

- c. Submittal of Final Plat to Approving Authorities. If the plat is located within the extraterritorial plat approval jurisdiction of the adjoining city or village and it exercises its extraterritorial plat approval authority, the Subdivider or Condominium Developer shall file at least two (2) copies of the Final Plat to this jurisdiction.

#### **Sec. 10-1-24 Final Plat General Requirements for Conventional Subdivision**

A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply in all respects with the requirements of Wisconsin Statutes, Section 236.20. The final plat shall show correctly on its face, in addition to the information required by Wisconsin Statutes, Section 236.20, all lands reserved for future public acquisition or reserved for the common use of property owners within the plat.

1. **Surveying and Monumenting.** All final plats shall meet all the surveying and monumenting requirements of Wisconsin Statutes, Section 236.15.
2. **Certificates.** All final plats shall provide all the certificates required by Wisconsin Statutes, Section 236.21, and in addition, the surveyor shall certify that he has fully complied with all the provisions of this Chapter and shall provide a certificate for Town Board final approval.

#### **Sec. 10-1-25 Final Plat Review and Approval for Conventional Subdivision**

1. **The Town Board** shall examine the final plat as to its conformance with the approved preliminary plat, any condition of approval of the preliminary plat, this Chapter and all ordinances, rules, regulations and the adopted Town of Empire Land Use Plan or adopted regional plans which may affect the plat. The Town Board shall thereafter issue its final written decision to approve, approve with conditions, or reject the Final Plat. If the plat is approved conditionally or rejected the Town Board shall issue a written decision stating the conditions of approval or the reasons for rejection. If the plat is approved, the Town Board shall not inscribe its approval on the face of the original final plat until the head of the State Planning Function has certified no objections to the plat.
2. **The Town Board's** written decision shall be issued within sixty (60) days of Final Plat submittal, unless the time is extended by agreement with the Subdivider. The Town Clerk shall provide the written decision to the Subdivider along with one copy of the Preliminary Plat with the date and action endorsed thereon.
3. **Engineering Fee.** The Subdivider shall pay a fee equal to the actual cost to the Town for all engineering work incurred by the Town in connection with the Subdivision Plat or Certified Survey Map.
4. **Administrative Fee.** The Subdivider shall pay a fee equal to the actual cost of all legal, administrative, or fiscal work that may be undertaken by the Town in connection with the Subdivision Plat or Certified Survey Map.
5. **Financial Sureties.** Financial sureties furnished to the Town of Empire by Subdividers or Condominium Developers to ensure performance of obligations and guarantees under the terms of this Chapter shall only be in a form which the Town Board deems secure and may include certified checks, corporate bonds, escrow accounts, irrevocable letters of credit in a form approved by the Town Board, or performance bonds.
  - a. Determination of Financial Surety Amount. The amount of financial surety shall be one hundred twenty-five (125) percent of the estimated full amount of the obligation being ensured (including the costs of inspection) as estimated by an Engineer or Other Agent appointed by the Town of Empire, nor for less than a period than the work is scheduled to

- be completed, however, the Town Board shall allow reductions in the amount of the financial surety in proportion to the amounts of the obligations as they are fulfilled.
- b. Disputes Over the Amount of Financial Sureties. In any disputes over the amount of a surety, the estimate prepared by an engineer or other agent appointed by the Town of Empire shall be conclusive.
  - c. Criteria for Determining Subdivider's or Condominium Developer's Delinquency in Meeting Requirements. The Town Board shall give notice by registered mail to the Subdivider or Condominium Developer and the Subdivider's or Condominium Developer's surety, of such delinquency, said notice to specify the corrective measures required if the Subdivider or Condominium Developer:
    1. Fails to perform the work with sufficient workmen and equipment or with sufficient materials to ensure the completion of said work within the specified time; or
    2. Performs the work unsuitably, as determined by the Town Board; or
    3. Neglects or refuses to supply materials or to perform anew such work as shall be rejected as defective and unsuitable; or
    4. Discontinues the execution of work; or
    5. For any other cause whatsoever does not carry on the work in an approved manner.
  - d. Guarantee of Improvements. The Subdivider or Condominium Developer shall guarantee all improvements for a period of one (1) year from the date of the acceptance of improvements by the Town Board. To assure such improvement guarantee, the Subdivider or Condominium Developer shall provide any amount of financial surety (performance bond or letter of credit) not to exceed fifteen (15) percent of the construction value of said improvements.
  - e. Town Board Action. After said notice, the Town Board shall call upon the performance guarantee to have the work completed in accordance with the terms of the performance guarantee.
6. **Development Agreement.** The Subdivider shall enter into a Development Agreement with the Town Board, as approved by the Town Attorney, that sets forth the mutual obligations of the Town and the Subdivider with respect to the actions required to be taken in connection with the Final Plat.
7. **Partial Platting.**
- . Plat Phasing. The Final Plat may, if permitted by the Plan Commission, be platted as a Final Plat in phases with each phase constituting only that portion of the approved Preliminary Plat which the Subdivider or Condominium Developer proposes to record at that time. It is required that each such phase be platted as a Final Plat and be designated as a "phase" of the approved Preliminary Plat.
  - a. Time Extension for Approval of a Final Plat for Portion of Preliminary Plat. Final Plats for only a portion of the Preliminary Plat shall extend approval for the remaining portion of the Preliminary Plat for six (6) months from the date of such Final Plat approval.
8. **Recording of Plats or Certified Surveys.** Subdivision Plats and Certified Survey Maps, approved by the Empire Town Board, must be recorded together with the adopting resolution, with the Fond du Lac County Register of Deeds within thirty (30) days of the date of the last resolution of preliminary approval and not later than six (6) months following the date of the first resolution of approval. Land divisions shall not be recognized by the Town until recorded with the Register of Deeds. The volume, page and document numbers of the recording shall be filed with the Town Clerk prior to issuance of any permits. The Subdivider shall file one (1) full-size and one (1) reduced size eight

and one-half by eleven (8\_ X 11) inch certified copies of the approved land division with the Town Clerk.

### **Sec. 10-1-26 Replat**

1. When it is proposed to replat a proposed Subdivision, or part thereof, so as to change the boundaries of a recorded Subdivision, or part thereof, the Subdivider or person wishing to replat shall vacate or alter the recorded Plat as provided in Wisconsin Statutes, Section 236.40 through 236.44. The Subdivider, or person wishing to replat, shall then proceed as specified in Section 10-1-21.
2. The Town Clerk shall schedule a public hearing before the Plan Commission when a Preliminary Plat of a replat of lands within the Town is filed and shall cause notices of the proposed Replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the Replat and to the owners of all properties within two hundred (200) feet of the exterior boundaries of the proposed Replat.

### **Sec. 10-1-27 Minor Land Division by Certified Survey Map**

1. **When Required.** When it is proposed to divide land into at least two (2) but not more than four (4) parcels or building sites, any of which is thirty-five (35) acres or less 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 a block, lot or outlot (thus not constituting a subdivision as defined in Section 10-1-21 of this Chapter), the Subdivider shall subdivide by use of a Certified Survey Map. The Certified Survey Map shall include all parcels of land thirty-five (35) acres or less in size and may, at the owner's discretion, include any other parcels containing more than thirty-five (35) acres.
2. **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 of Empire Planning Commission. The certified survey map shall be prepared according to Wisconsin Statutes, Section 236.34, and shall show clearly on its face those items listed under (3) below. In addition, the names of all adjacent landowners shall be listed on a separate sheet submitted with the certified survey map.
3. **A certified survey map shall show clearly on its face the following information:**
  - a. All existing buildings, setbacks, water courses, drainage ditches, setbacks to structures on adjacent property and other features pertinent to division of property shall be shown.
  - b. Location of access to public road.
  - c. Date of the map with a graphic scale.
  - d. Name and address of the person for whom the survey was made.
  - e. An owner's certificate and approval signature of the Town of Empire Chairperson and Clerk after approval by the Town of Empire Town Board, and Treasurer's certificate in accordance with Wisconsin Statutes, Section 236.21(3), shall be the only approvals required for recording unless additional approvals are necessary for dedication purposes.
4. **Testing.** The Town of Empire Board may require that borings and soundings to be made in designated areas to ascertain subsurface soil, rock and water conditions including the depth to bedrock and the depth to groundwater table. All subdivisions not served by public sanitary sewer service, shall comply with the provisions of Wisconsin

Administrative Code, Chapter COMM 85. All appropriate data shall be submitted with the certified survey map.

5. **Review and Approval.** The Town of Empire Board shall, within sixty (60) days of the date of submission unless mutually extended by both parties, review the application and map against the applicable standards of this Chapter, and approve, approve conditionally, or reject the application and map based upon a determination of conformity or non-conformity with the standards.
6. **Development Agreement.** When deemed necessary by the Town Board, the Subdivider shall enter into a Development Agreement with the Town Board, as approved by the Town Attorney, that sets forth the mutual obligations of the Town and the Subdivider with respect to the actions required to be taken in connection with the certified survey map.

#### **Sec. 10-1-28 Condominium Plats**

1. **General.** It is the intent of this section to regulate condominiums as it is related to zoning and for the division of land for the purpose of establishing a condominium plat.
2. **Preliminary Consultation.** Prior to submitting an application for approval of a preliminary plat the applicant shall consult with the Town of Empire Planning Commission to become informed of the purpose and objectives of these regulations. In order to facilitate the consultation the applicant shall provide a plat plan drawn to reasonable scale depicting the general lot layout, exterior property boundary, roadways, known easements and unique natural features.

#### **Sec. 10-1-29 Minor Condominium Plats**

1. **Submittal.** Creation of a minor condominium plat shall be by certified survey map. The certified survey map shall be submitted to the Town of Empire Planning Commission. Such map shall be prepared according to Wisconsin Statutes, Sections 236.34 and 703.11, and the map shall show clearly on its face the following:
  - a. All existing buildings, water courses, drainage ditches and other features pertinent to division of property.
  - b. Location of access to public road.
  - c. Date of the map with a graphic scale.
  - d. Name and address of the person for whom the survey was made.
  - e. An owner's certificate and approval signature of the Town of Empire Board and Treasurer's certificate in accordance with Wisconsin Statutes, Section 236.21(3), shall be the only approvals required for recording unless additional approvals are necessary for dedication purposes.
2. **Review and Approval.** The Commission Shall, within sixty (60) days of the date of submission unless mutually extended by both parties, review the application and map against the applicable standards of this Chapter, and approve, approve conditionally or reject the application and map based upon a determination of conformity or non-conformity with the standards.

The Town of Empire Board shall not approve a certified survey map without the review of the Commission. Such approval shall be within 60 days of date of submission unless mutually extended by both parties.

## Sec. 10-1-30 Major Condominium Plat

1. **Preliminary Plat Submittal.** The Applicant shall prepare a preliminary plat in accordance with this Chapter. The Applicant shall provide the Town of Empire Planning Commission ten (10) copies of the preliminary plat, and two copies to the adjoining city or village, if in the extraterritorial plat approval jurisdiction.
2. **Preliminary Plat Requirements.** Refer to the provisions of Sections 10-1-20 and 10-1-21 of this Chapter.
3. **Preliminary Plat Review and Approval.** In order to facilitate public comment, the Subdivider shall provide a list of the names of all property owners within one thousand (1,000) feet and all property owners of adjacent and opposite frontage of the subject site to the Town of Empire Clerk, who shall send them the meeting agenda concerning the subject site utilizing first class mail with an affidavit of mailing at least ten (10) business days prior to the date of such meeting. The Commission shall conduct a meeting to review the Plat for conformance with this Chapter and all other ordinances, rules, regulations which affect the Plat. At this meeting the Commission shall permit the public to comment on the proposed plat. The Commission shall either approve, approve conditionally, or reject the Preliminary Plat within ninety (90) days of submittal.
4. **Surveying.** All final plats shall meet all the surveying requirements of Wisconsin Statutes, Section 11.
5. **Certificates.** All final plats shall provide the surveyor's certificate required by Wisconsin Statutes, Section 703.11(4), and in addition, the surveyor shall certify that he has fully complied with all the provisions of this Chapter and shall provide a certificate for the Town of Empire Board approval.
6. **Final Plat Review and Approval.** The Commission shall examine the final plat as to its conformance with the approved preliminary plat, any condition of approval of the preliminary plat, this Chapter and all ordinances, rules, regulations which may affect the plat.  
The Commission shall within 60 days of the date of filing of the final plat with the Town of Empire Planning Commission approval, approve conditionally or reject the plat, unless the time is extended by agreement with the applicant.
7. **Recordation.** After the final plat has been approved by the Commission, the Town of Empire Board and any other approving agencies, the Applicant shall record the plat with the County Register of Deeds in accordance with Wisconsin Statutes, Section 703.11.
8. **Modifications.** Modifications to either a condominium plat or declaration shall require review and approval by the Commission and Town of Empire Board. If the Commission and Town of Empire Board determines the modification to substantially modify the original approval, it may require resubmittal for review and approval as if it were a new submittal according to the provisions of this section.

## Sec. 10-1-31 Conservation Design Standards

1. **General.** This section 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 division standards outlined in Sec. 10-1-20 through Sec. 10-1-25, apply to all divisions of a parent parcel when requested by a Subdivider where the division creates more than four (4) new parcels. Further, this article is intended:
  - a. To guide the future growth and development of the Town in conjunction with the Town of Empire Comprehensive Plan.

- b. To guide the detailed analysis of parcels so as to locate and coordinate appropriate areas for development and conservation
  - c. To preserve the rural character through the permanent preservation of meaningful open space and sensitive natural resources.
  - d. To preserve scenic views by minimizing views of new development from existing roads.
  - e. To preserve prime agricultural land by concentrating housing on lands with low agricultural potential.
  - f. 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.
  - g. To provide for a diversity of parcel sizes, housing choices and to accommodate a variety of age and income groups.
  - h. To provide for buffering between residential development and non-residential uses.
  - i. To protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors.
  - j. To preserve significant archeological sites, historic buildings, and their settings.
  - k. To meet the demand within the Town for housing in rural settings.
2. **Secondary Conservation Areas.** Secondary conservation areas are defined as those natural, agricultural, cultural, and historical resources within the Town that are not otherwise protected by federal, state, or county laws, regulations, or ordinances. Secondary conservation areas are resources that should be preserved when warranted by the circumstances. The final determination of secondary conservation areas within a given development will be made by the Town Board. Secondary conservation areas in the Town of Empire may include, but are not limited to:
- a. Stream corridors within one-hundred (100) feet of the ordinary high-water mark.
  - b. Environmental corridors
  - c. Critical wildlife habitat.
  - d. Mature woodlands, wherein twenty-five (25) percent or more of the trees have a diameter-at-breast-height (DBH) of eighteen (18) inches or more.
  - e. Large trees, identified as those having a DBH of thirty-six (36) inches or greater, unless otherwise deemed a safety hazard.
  - f. Unique natural features, which may include hills, knolls, depressions, rock outcroppings, and others.
  - g. Drumlins, moraines, kames, kettles, or other significant glacial features.
  - h. Prime agricultural lands.
  - i. Historic sites and structures.
  - j. Scenic views.
  - k. Other unique features as may be identified by the Plan Commission.
3. **Open Space Standards.** A Conservation Design Subdivision shall meet the following open space standards:
- a. Minimum open space. Minimum open space shall include forty (40) percent of the adjusted tract area (ATA) and include all primary and secondary conservation areas.
  - b. Location. The required open space should be situated, when practicable, to take advantage of the site's natural, historic, and cultural features, to create buffer areas between residential and agricultural uses, to preserve scenic views, and to be contiguous with existing or proposed open spaces outside of the proposed subdivision. Environmentally sensitive areas must be included within the

preserved open space. 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.

- c. Not more than 30% of the required open space shall consist of active recreation area.
- d. The Town of Empire Plan Commission encourages, where appropriate, that each conservation subdivision include an internal trail system providing access to homeowners with a section of the trail system identified for potential future public use as part of an integrated trail network. The section identified for potential public use may vary by development and circumstance.
- e. The Town Board may require easements or walkways for new developments so that residents may access open space that does not abut public right-of-way.
- f. 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, wastewater treatment facilities, shared or community wells, 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. Unless otherwise specified by the Town Board, a Homeowners Association will be deemed the preferred method of ownership of common facilities.

1. 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.

2. Condominium Developments and 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.
3. 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:
  - There is no cost of easement acquisition, other than costs incidental to the transfer of ownership, such as title insurance.
  - A satisfactory maintenance agreement shall be reached between the owner and the Town.
  - Lands under a Town easement may or may not be accessible to residents of the Town.
4. 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:
  - The organization is acceptable to the Town.
  - 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.
  - A maintenance agreement acceptable to the Town is established between the owner and the organization.
5. Ownership retained by the original landowner. Ownership of common open space and facilities may be retained by the original landowner provided that:
  - The Town and residents of the development shall hold conservation easements on the land protecting it from further development.
  - 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.
6. 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:
  - Define Ownership.
  - Establish necessary regular and periodic operation and maintenance responsibilities.

- Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
  - 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.
7. 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:
- 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.
  - The common open space lands to be leased shall be maintained for the purposes set forth in this section.
  - 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.
  - The lease, and any transfer or assignment thereof, shall be subject to the approval of the Town Board.
  - 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.
8. 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.
9. 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 incurred by the Town shall be levied against the relevant properties as a special charge pursuant to the provisions of Wis. Stat. §66.0627, as amended, with the amount being added to the real estate property tax bill.
10. Sewerage Facilities. Sewerage facilities for Conservation Design Subdivision development may consist of any system meeting the

requirements of the Town of Empire, Fond du Lac County, the Wisconsin Department of Commerce, and the Wisconsin Department of Natural Resources. Sewerage facilities for conservation subdivisions with ten (10) or more parcels shall require clustered wastewater treatment systems.

11. **Water Supply Facilities.** Water facilities for Conservation Design Subdivisions may consist of any system meeting the requirements of the Town of Empire, Fond du Lac County, the Wisconsin Department of Commerce, and the Wisconsin Department of Natural Resources. Water supply facilities for conservation subdivisions with fifteen (15) or more parcels shall require community wells and a community water system.

### **Sec. 10-1-32 Conservation Design Concept Plat.**

1. **General.** 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 'concept plat' stage of the conservation design land division procedure and shall include the following steps and information in addition to the requirements identified in Sec.10-1-20:
  - a. The Subdivider shall prepare a conceptual development plan at a scale of one inch equals 100 feet of all the contiguous lands in which the subdivider has legal or equitable interest and present fourteen copies and the fee required to the Town Clerk.
  - b. Such sketch plan shall include enough information to set forth the proposed development potential of the parcel to the satisfaction of the Plan Commission, and include at least the following:
    1. Topographic mapping at not less than two-foot contour interval;
    2. Soil characteristics or interpretations secured from detailed soil maps prepared by the USDA, Soil Conservation Service (SCS) and/or monitoring borings data;
    3. The limits of woodland cover and wetlands on the entire parcel;
    4. The location of primary and secondary conservation areas
    5. Existing and proposed access from the parcel to adjacent streets, roads, or properties;
    6. Proposed street location and width;
    7. Proposed parcels including size to the nearest one-tenth acre;
    8. Existing land use of properties within one (1) mile of the property proposed to be divided;
    9. Any other pertinent information useful to the Subdivider and plan commission in their determination of developability of the parcel; and
    10. Environmental corridors which shall be delineated on the sketch plan.

- c. 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.
- d. Through the concept 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 that the entire process may be expedited.

**Sec. 10-1-33 Conservation Design Preliminary Plat.**

1. **General.** Prior to submitting a Final Plat for approval, the Subdivider shall prepare and submit a preliminary plat that conforms to the requirements of Chapter 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 consistent with all requirements identified in Sec. 10-1-21 of this Ordinance, and shall calculate the development Yield Standards by completing the following:

- a. Calculate the Gross Tract Area (GTA). This shall be the total acreage of the property. **GTA: \_\_\_\_\_ acres**
- b. Calculate Primary Conservation Areas (PCA). This acreage shall be determined using the following criteria. The data supplied within this calculation shall be substantiated with sufficient plans and data.

- 1. All lands located within existing street Right-of-Ways: \_\_\_\_\_ acres
- 2. All lands located within existing Utility and Railway Right-of-Ways: \_\_\_\_\_ acres
- 3. All lands located within floodplain: \_\_\_\_\_ acres
- 4. All lands within environmentally sensitive areas \_\_\_\_\_ acres
- 5. All lands located within wetlands: \_\_\_\_\_ acres
- 6. All of the land area having slopes 12% or greater: \_\_\_\_\_ acres

**PCA (sum of a through f) \_\_\_\_\_ acres**

**c. Conventional (Yield) Subdivision Maximum Permitted Dwelling Units.**

**Yield PDU: \_\_\_\_\_**

- d. Calculation of Adjusted Tract Area (ATA). The ATA shall equal the GTA minus the PCA. **ATA: \_\_\_\_\_ acres**
- e. Calculation of Secondary Conservation Areas (SCA). The SCA shall include, but is not necessarily limited to:

1. Stream corridors within one hundred (100) feet of the ordinary high-water mark: \_\_\_\_\_ acres
2. Environmental corridors: \_\_\_\_\_ acres
3. Critical wildlife habitat: \_\_\_\_\_ acres
4. Mature woodlands, wherein twenty-five percent (25%) or more of the trees have a DBH of twenty-four (24) inches or more: \_\_\_\_\_ acres
5. Unique natural features, which may include hills, knolls, depressions, rock outcroppings, and others: \_\_\_\_\_ acres
6. Prime agricultural lands: \_\_\_\_\_ acres
7. Historic structures: \_\_\_\_\_ acres
8. Drumlins, moraines, kames, kettles, or other significant glacial features: \_\_\_\_\_ acres
9. Other unique features as may be identified by the Plan Commission. \_\_\_\_\_ acres
10. Large trees, identified as trees with DBH of forty-eight (48) inches or greater, unless otherwise deemed a safety hazard.
11. Scenic views.
12. All other land and resources as identified in Sec. 10-1-63(2)(a) of this Ordinance \_\_\_\_\_ acres

**SCA:** \_\_\_\_\_ acres

- f. Calculation of Net Development Area (NDA). The NDA shall be a maximum of sixty percent (60%) of the ATA. If the NDA is less than sixty percent (60%) of the site, the Plan Commission may allow the NDA to be increased to sixty percent (60%).

**NDA:** \_\_\_\_\_ acres

- g. Calculation of Permitted Dwelling Units (PDU). The maximum number of permitted dwelling units in a conservation subdivision shall equal the Yield PDU multiplied by 1.1 (or 110%) with a minimum lot size of 22,000 sq ft (1/2-acre). If the calculation of PDU results in a figure ending in .5 or greater, it shall be rounded up to the next whole number. If the calculation of PDU results in a figure ending in .4 or lower, it shall be rounded down to the next whole number.

**PDU:** \_\_\_\_\_

**Sec. 10-1-34 Conservation Design Preliminary Plat Review and Approval.**

1. The review and approval procedures for the Conservation Design Preliminary Plat shall be consistent with Sec. 10-1-22 of this Ordinance.

**Sec. 10-1-35 Relationship between Conservation Design Preliminary Plat and Conservation Design Final Plat.**

1. 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.
2. 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.
3. Any substantial change between the Preliminary and Final Plat, as determined by the Plan Commission, shall cause the Preliminary 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.

**Sec. 10-1-36 Conservation Design Final Plat.**

1. 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 meet all the requirements identified in Sec. 10-1-23 of this Ordinance and shall include the completed information found in Sec. 10-1-33(1) of this Ordinance.

**Sec. 10-1-37 Conservation Design Final Plat Review and Approval.**

1. The review and approval procedures for the Conservation Design Final Plat shall be consistent with Sec. 10-1-25 of this Ordinance.

**Sec. 10-1-38 through Sec. 10-1-39 Reserved for Future Use.**

## **ARTICLE D: CRITICAL AREAS PROTECTION PLAN**

### **Sec. 10-1-40 Critical Areas Protection Plan**

If “Critical Areas” as defined in the Town of Empire Zoning Ordinance are present on the property for which a Certified Survey Map, Subdivision Plat or Condominium is requested, ten (10) full size copies of a "Critical Areas Protection Plan" drawn to the same scale as the Certified Survey Map, Preliminary Plat, or Condominium shall be submitted with the Certified Survey Map, Subdivision Plat or Condominium. The "Critical Areas Protection Plan" shall be prepared on tracing cloth, reproducible drafting film, or paper of good quality at a map scale as appropriate and shall show correctly the following information:

1. The proposed name of the Certified Survey Map, Subdivision Plat or Condominium.
2. The location of the proposed Certified Survey Map, Subdivision Plat, or Condominium.
3. The names, addresses and telephone numbers of the owners, Subdividers, lessee and/or developer(s) of the property and of the designer of the plan.
4. The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.
5. The location of all proposed lot lines, right-of-way lines and easements.
6. The location, ownership, widths and names (if available) of all existing and previously platted streets, right-of-ways, parks and other public or open spaces located within or adjacent to the subject property.
7. The location and dimensions of all permanent easements on the subject property and boundary lines adjacent to the site.
8. The location and extent of any existing critical areas features defined and described in the Town of Empire Zoning Ordinance. Each individual resource area on the site shall be graphically and numerically shown on the Critical Areas Protection Plan.
9. Graphic and numeric illustration shown on the Critical Areas Protection Plan of those existing critical areas features (in square feet or acres) that will be disturbed and those that will be preserved. Numeric data may be shown in tabular form with labeled reference to specific areas designated on the Critical Areas Protection Plan.
10. Graphic illustration and notes relating to how the protection/mitigation measures described in the Town of Empire Zoning Ordinance will be achieved.
11. A drawing legend containing the scale appropriate to the size of the Certified Survey Map, Subdivision Plat, or Condominium, the date of preparation, north arrow, and designation of existing and proposed contours at a minimum two (2) foot contour interval.

**Sec. 10-1-41 through Sec. 10-1-49 Reserved for Future Use.**

## **ARTICLE E: LANDSCAPE PLAN**

### **Sec. 10-1-50 Landscape Plan**

If the Town of Empire Zoning Ordinance requires the installation of landscaping, or landscaping is otherwise required by the Plan Commission or the Town Board, a landscape plan for those areas shall be prepared. Ten (10) full-size copies of a "Landscape Plan" drawn to the same scale as the Certified Survey Map, Preliminary Plat or Condominium submission shall be submitted with the Preliminary Plat or Condominium. The "Landscape Plan" shall be prepared on tracing cloth, reproducible drafting film, or paper of good quality at a map scale as appropriate and shall show correctly the following information:

1. The proposed name of the Certified Survey Map, Subdivision Plat, or Condominium.
2. The location of the proposed Certified Survey Map, Subdivision Plat, or Condominium.
3. The names, addresses, and telephone numbers of the owners, Subdividers, lessee and/or Developer(s) of the property and of the designer of the plan.
4. The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.
5. The boundary lines of all proposed lot lines and open space areas.
6. Location, extent, type (common name and scientific name in the case of plant materials), and sizes of all existing trees and natural resource features in all areas of the Subdivision, Certified Survey Map, or Condominium which are to be maintained and credited toward the landscaping requirements of the Town of Empire Zoning Ordinance. If any existing vegetation or other natural resource features are to be demolished or mitigated, the extent of such demolition or area to be mitigated shall also be clearly delineated and so noted on the "Landscape Plan."
7. Location, extent, type (common name and scientific name in the case of plant materials), and sizes of proposed landscaping and landscape plantings in all areas of the Subdivision, Certified Survey Map, or Condominium, or for areas which are to serve as landscaped entrances or other special landscaped features of the Subdivision, Certified Survey Map, or Condominium shall be indicated on the "Landscape Plan."
8. All new landscape plant material shall be grown in the nursery located in Plant Hardiness Zone 4 and shall conform to the applicable requirements as specified in the current edition of American Standard for Nursery Stock as approved by the American National Standards Institute, Inc. and sponsored by the American Association of Nurserymen, Inc. Botanical plant names shall be in accordance with the current edition of Standardized Plant Names prepared by the American Joint Committee on Horticultural Nomenclature.
9. Areas of a Subdivision, Certified Survey Map, or Condominium designated as landscape easement areas shall be maintained and kept free of all debris, rubbish, and noxious weeds by the property owner or, in the case of landscaping in common open space areas, the homeowners' association (whichever is applicable).

**Sec. 10-1-51 through Sec. 10-1-59 Reserved for Future Use.**

## ARTICLE F: DESIGN STANDARDS

### Sec. 10-1-60 Street Arrangement

The applicant shall dedicate land for and improve streets as provided herein.

1. **Street Arrangement in Areas with Official Map.** Streets shall conform to the town's official map, adopted town plans, or county jurisdictional highway plan.
2. **Street Arrangement in Areas with No Official Map.** In areas for which an official map has not been completed, the street layout shall recognize the functional classification of various street types and shall be developed and located in proper relation to existing and proposed streets, with due regard to topographical conditions, natural features, utilities, land uses and public convenience and safety.
3. **Acceptance of a Public Road.** The Town of Empire shall not accept a road unless it is providing sole access to four (4) or more building sites and, thus, will not be responsible for maintenance of said street.
4. **All land divisions shall be designed so as to provide each lot with satisfactory access to a public street as provided herein.**
5. **The following conditions shall apply for street arrangement in all proposed land divisions:**
  - a. *Arterial Street.* Arterial streets shall be arranged so as to provide ready access to centers of employment, high density residential areas, centers of government activity, community shopping areas, community recreation and points beyond the boundaries of the community. They shall also be properly integrated with and related to the existing and proposed system of major streets and highways and shall be, insofar as practicable, continuous and in alignment with existing or planned streets with which they are to connect.
  - b. *Collector Streets.* Collector streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic or the major street and highway system and shall be properly related to special traffic generators such as schools, churches and shopping centers and other concentrations of population; and to the major streets into which they feed.
  - c. *Minor Streets.* Minor streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems and to require the minimum street area necessary to provide safe and convenient access to abutting property.
  - d. *Proposed Streets.* Proposed streets shall extend to the boundary lines of the tract being divided, unless prevented by topography or other physical conditions or unless, in the opinion of the Planning Commission and Town of Empire Town Board, such extension is not necessary or desirable for the coordination of the layout of the subdivision or for the advantageous development of adjacent land tracts. Such streets shall terminate with a temporary turnaround of 120 feet right-of-way diameter and a roadway of not less than 90 feet in diameter.
  - e. *Street Intersections.*
    1. Streets shall intersect each other as nearly as possible at right angles and not more than two streets shall intersect at one point unless approved by the Planning Commission.
    2. The number of intersections along major streets and highways shall be held to a minimum. Wherever practicable the distance between such intersections should not be less than 1,200 feet.

3. Street jogs with centerline offsets of less than 125 feet shall not be approved.
- f. *Arterial Street and Highway Protection.* Whenever the proposed land division contains or is adjacent to a major street or highway, adequate protection of residential properties is required. Adequate protection is met by limiting access and separating through and local traffic and shall be provided by reversed frontage, with screen planting contained in a non-access reservation along the rear property line or by the use of frontage streets.
- g. *Reserve Strips.* Reserve strips controlling access to streets or alleys shall be prohibited except where their control is definitely placed with the Town of Empire.
- h. *Alleys.* Alleys may be required in commercial and industrial districts to provide for off-street loading and service access, but shall not be approved in residential districts unless required by unusual topography or other exceptional conditions. Dead-end alleys shall not be approved and alleys shall not connect to a Federal, State or County Trunk Highway.
- i. *Street Names.* Street names shall not be duplicated or be similar to existing street names and existing street names shall be projected or continued wherever is possible. Street names, in general, should conform to the system set forth in Exhibit 1.

**EXHIBIT 1  
METHOD OF NAMING STREETS**

**Sec. 10-1-61 Street Design Standards.**

1. **Minimum Right-of-Way.** The minimum right-of-way of all proposed streets shall be as specified by the town land use plan, official map, or jurisdictional highway system plan of Fond du Lac County. If no width is specified therein, the minimum widths shall be as shown in Exhibit 2.
2. **Minimum Roadway/Surface Width.** Minimum roadway width and surface width of all new land division roads shall comply with the Town Road Standards contained in Wisconsin Statutes, Section 86.26, unless locally adopted town road standards require greater width.
3. **Cul-de-Sacs.** Cul-de-sac streets designed to have one end permanently closed should not normally exceed 600 feet in length. Such streets shall terminate in a circular turnaround having a minimum right-of-way radius of 60 feet and a minimum roadway radius of 45 feet.

**EXHIBIT 2  
DESIGN STANDARDS FOR STREETS**

Type of Street or Other Public Way	Width of Dedicated Right-of-Way	Dimensions of Section Components	
Arterial Streets (Four Lane)	130 Feet	Pavement	24 Feet (Two Lanes)
		Median Strip	18 Feet
		Shoulders	10 Feet Outside 6 Feet Inside

		Roadside Ditch	16 Feet Per Side
Arterial Streets (Two Lane)	130 Feet	Pavement	24 Feet
		Shoulder	10 Feet (Paved)
Collector Street	80 Feet	None	
Minor Streets (Typical)	66 Feet	Pavement	24 Feet
		Shoulders	5 Feet Per Side
		Roadside Ditch	13 Feet Per Side
Cul-de-Sac	60 Foot Radius	Pavement	45 Foot Radius (Outside <sup>1</sup> ) 24 Foot Radius (Inside <sup>2</sup> )
		Shoulders	6 Feet
		Roadside Ditches	15 Feet

**PROPOSED Design Standards for Roads and Streets within Proposed Subdivisions**

**All new roads designed as part of new subdivisions in the Town of Empire shall be constructed consistent with applicable State standards. In order to reduce the percentage of impervious surface within proposed subdivisions so as to reduce the negative impact of run-off to surface waters, minimum road width for new residential construction in the Town of Empire shall be based upon the Average Daily Traffic volume consistent with State standards. The State standard for trip generation is 9.57 per day from a single-family, detached home.**

ADT	Minimum Roadway Width	Minimum Surface Width	Minimum Shoulder Width
Under 100	24'	18'	3'
100-250	26'	20'	3'
251-400	32'	22'	5'
400-1,000	34'	22'	6'
1,001-2,400	44'	24'	10'

**The subdivision developer shall maintain responsibility for the development of all roads in new subdivisions until seventy-five percent (75%) of the homes are completed. The roads shall be in good condition when the Town assumes responsibility for maintenance and upkeep. In addition, the developer shall complete a density test, consistent with WisDOT standards, for all roads within the subdivision and submit such test to the Plan Commission for review prior to the Town assuming authority over such roads.**

<sup>1</sup> Outside face of curb radius.

<sup>2</sup> Inside pavement radius forming planting island in center of cul-de-sac.

4. **Street Grades.** Street grades shall comply with town road standards contained in Wisconsin Statutes, Section 86.26, however, the minimum grade shall be no less than 1/2 of one percent. Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth and general leveling of the topography.
5. **Radii of Curvature.** When a continuous street centerline deflects at any one point by more than 10 degrees, a circular curve shall be introduced having a radius of curvature on such centerline of not less than 100 feet on minor streets.

6. **Half Streets.** Where an existing dedicated or platted half-street is adjacent to the tract being subdivided by either a Subdivision Plat or Certified Survey Map, the other half of the street shall be dedicated by the Subdivider or Condominium Developer. The platting of new half-streets shall not be permitted.

**Sec. 10-1-62 Limited Access Highway and Railroad Right-of-Way**

Whenever the proposed land division contains or is adjacent to a limited access highway or railroad right-of-way, the design shall provide the following treatment:

1. When residential lots within the proposed land division back upon the right-of-way of an existing or proposed limited access highway or railroad, the following restriction shall be lettered on the face of the plat: "Direct vehicular access to (Name of Road) from lots abutting such road is prohibited".
2. Commercial and industrial districts should provide, on each side of the limited access highway or railroad, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such streets and highway or railroad, but not less than 150 feet.
3. Streets parallel to a limited access highway or railroad right-of-way, when intersecting a major street, highway or collector street which crosses such railroad or highway, shall be located at a minimum distance of 250 feet from such highway or railroad right-of-way. Such distance, where desirable and practicable, shall be determined with due consideration of the minimum distance required for the future separation of grades by means of appropriate approach gradients.
4. Minor streets immediately adjacent and parallel to railroad right-of-way should be avoided.
5. When lots within the proposed land division back upon the right-of-way of an existing limited access highway or railroad right-of-way, a planting strip (landscape bufferyard easement) a minimum thirty-five (35) feet in depth (width) shall be provided adjacent to the highway or railroad in addition to the normal lot depth. This strip shall be a part of the platted lots but shall have the following restriction lettered on the face of the plat: "Landscape Bufferyard Easement: This strip is reserved for the planting of trees and shrubs. The building of structures is prohibited."

**Sec. 10-1-63 Open Space**

1. **Minimum Percentage of Open Space.** According to the Town of Empire Comprehensive Plan, all residential subdivisions and other clustered residential development should be required to incorporate open space into their proposed developments. Therefore, the minimum percentage of land that shall be designated as permanent open space, not to be further subdivided, and protected through a conservation easement held by the Town of Empire, a homeowner's association established by the subdivider, or by a recognized land trust or conservancy, shall be as specified below:
  - a. A minimum of twenty (20) percent of the total tract area, after deducting the following kinds of unbuildable land:
    1. Wetlands and land that is generally inundated (land under ponds, lakes, creeks, etc.)
    2. All of the floodway and floodway fringe within the one hundred (100) year floodplain, as shown on official Federal Emergency Management Agency (FEMA) maps,

3. Land with slopes exceeding twenty (20) percent or soils subject to slumping,
4. Land required for street rights-of-way,
5. Land under permanent easement prohibiting future development (including easements for drainage, access and utilities).

The above areas shall generally be designated as undivided open space, to facilitate easement monitoring and enforcement and to promote appropriate management by a single entity according to approved land management standards.

- b. All undivided open space and any lot capable of further subdivision shall be restricted from further subdivision through a permanent conservation easement, in a form acceptable to the Town of Empire and duly recorded in the Fond du Lac County Register of Deeds Office.
- c. The required open space may be used, without restriction, for underground drainage fields for individual or community septic systems. However, "mound" systems protruding above grade and aerated sewage treatment ponds shall be limited to no more than ten (10) percent of the required minimum open space.
- d. Stormwater management ponds or basins may be included as part of the minimum required open space, as may land within the rights-of-way for underground pipelines. However, land within the rights-of-way of high-tension power lines shall not be included as comprising part of the minimum required open space.

2. **Location of Open Space.** Open space shall be comprised of two types of land: "Primary Conservation Areas" and "Secondary Conservation Areas." All lands within both Primary and Secondary Conservation Areas are required to be protected by a permanent conservation easement, prohibiting further development, and setting other standards safeguarding the site's special resources from negative changes.

- . Primary Conservation Areas. This category consists of wetlands, lands that are generally inundated (under ponds, lakes, creeks, etc.), land within the one hundred (100) year floodplain, slopes exceeding twenty (20) percent, and soils subject to slumping. These sensitive lands are deducted from the total parcel acreage to produce the "Adjusted Tract Acreage," on which density shall be based.

- a. Secondary Conservation Areas. In addition to the Primary Conservation Areas, at least forty (40) percent of the remaining land shall be designated and permanently protected. Refer to Sec. 10-1-33 of this Ordinance for calculation of maximum permitted dwelling units for conservation subdivisions. Full density credit shall be allowed for land in this category that would otherwise be buildable under local, state and federal regulations, so that their development potential is not reduced by this designation. Such density credit may be applied to other unconstrained parts of the site.

Although the locations of Primary Conservation Areas are predetermined by locations of floodplains, wetlands, steep slopes, and soils subject to slumping, greater latitude exists in the designation of Secondary Conservation Areas (except that they shall include a one hundred (100) foot deep greenway buffer along all water bodies and watercourses, and a fifty (50) foot greenway buffer alongside wetlands soils classified as "very poorly drained" in the medium-intensity Fond du Lac County Soil Survey of the USDA Natural Resources Conservation Service.

The location of Secondary Conservation Areas shall typically include all or part of the following kinds of resources: areas designated as "Critical Areas" by the Town of Empire Zoning Ordinance, aquifer recharge areas, areas with highly

permeable (excessively drained) soil, significant wildlife habitat areas, prime farmland, historic, archaeological or cultural features listed (or eligible to be listed) on national, state or county registers or inventories and scenic views into the property from existing public roads. Secondary Conservation Areas therefore typically consist of upland forest, meadows, pastures, and farm fields, part of the ecologically connected matrix of natural areas significant for wildlife habitat, water quality protection and other reasons. Although the resource lands listed as potential Secondary Conservation Areas may comprise more than forty (40) percent of the remaining land on a development parcel (after Primary Conservation Areas have been deducted), no applicant shall be required to designate more than forty (40) percent of that remaining land as a Secondary Conservation Area.

- b. **General Locational Guidelines.** Subdivisions shall be designed around both the Primary and Secondary Conservation Areas, which together constitute the total required open space. The design process should therefore commence with the delineation of all potential open space, after which potential house sites are located. Following that, access road alignments are identified, with lot lines being drawn in as the final step.

Both Primary and Secondary Conservation Areas shall be placed in undivided preserves, which may adjoin housing areas that have been designed more compactly to create larger areas that may be enjoyed equally by all residents of the development.

Undivided open space shall be directly accessible to the largest practicable number of lots within a conservation subdivision. To achieve this, the majority of houselots should abut undivided open space in order to provide direct view and access. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space shall be provided (except in the case of farmland, or other resource areas vulnerable to trampling damage or human disturbance). Where the undivided open space is designated as separate, noncontiguous parcels, no parcel shall consist of less than three (3) acres in area nor have a length-to-width ratio in excess of 4:1, except in such areas that are specifically designed as village greens, ballfields, upland buffers to wetlands, water bodies or watercourses or trail links.

3. **Evaluation Criteria.** In evaluating the layout of lots and open space, the following criteria will be considered by the Planning Commission as indicating design appropriate to the site's natural, historic and cultural features and meeting the purposes of this Chapter. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. Accordingly, the Planning Commission shall evaluate proposals to determine whether the proposed conceptual preliminary plan:
  - . Protects and serves all floodplains, wetlands and steep slopes from clearing, grading, filling or construction (except as may be approved by the Town for essential infrastructure or active or passive recreation amenities).
    - a. Preserves and maintains mature woodlands, existing fields, pastures, meadows and orchards and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses. For example, locating houselots and driveways within wooded areas is generally recommended, with two exceptions. The first involves significant wildlife habitat or mature woodlands that raise an equal or greater preservation concern, as described in (e) and (i) below. The second involves predominantly agricultural areas, where remnant tree groups provide the only natural areas for wildlife habitat.

- b. If development must be located on open fields or pastures because of greater constraints in all other parts of the site, dwellings should be sited on the least prime agricultural soils, or in locations at the far edge of a field, as seen from existing public roads. Other considerations include whether the development will be visually buffered from existing public roads, such as by planting a screen consisting of a variety of indigenous native trees, shrubs and wildflowers (specifications for which should be based upon a close examination of the distribution and frequency of those species found in a typical nearby roadside verge or hedgerow).
- c. Maintains or creates an upland buffer of natural native species vegetation of at least one hundred (100) feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.
- d. Designs around existing hedgerows and treelines between fields or meadows and minimizes impacts on large woodlands (greater than five (5) acres), especially those containing many mature trees or a significant wildlife habitat, or those not degraded by invasive vines. Also, woodlands of any size of highly erodible soils with slopes greater than ten (10) percent should be avoided. However, woodlands in poor condition with limited management potential can provide suitable locations for residential development. When any woodland is developed, great care shall be taken to design all disturbed areas (for buildings, roads, yards, septic disposal fields, etc.) in locations where there are no large trees or obvious wildlife areas, to the fullest extent that is practicable.
- e. Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. For example, in open agrarian landscapes, a deep "no-build, no-plant" buffer is recommended along the public thoroughfare where those views or vistas are prominent or locally significant. The concept of "foreground meadows," with homes facing the public thoroughfare across a broad grassy expanse is strongly preferred to mere buffer strips, with or without berms or vegetative screening. In wooded areas where the sense of enclosure is a feature that should be maintained, a deep "no-build, no-cut" buffer should be respected, to preserve existing vegetation.
- f. Avoids siting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features.
- g. Protects wildlife habitat areas of species listed as endangered, threatened or of special concern by the U.S. Environmental Protection Agency.
- h. Designs around and preserves sites of historic, archaeological or cultural values and their environs, insofar as needed to safeguard the character of the feature(s) such as, stone walls, spring houses, barn foundations, earthworks and burial grounds.
- i. Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads. Establishes buffer zones along the scenic corridor of rural roads with historic buildings, stone walls, hedgerows and so on.
- j. Landscaped common areas (such as community greens), cul-de-sac islands, and both sides of new streets with native specie shade trees and flowering shrubs with high wildlife conservation value.
- k. Provides active recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby houselots.
- l. Includes a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space system. All roadside footpaths

should connect with off-road trails, which in turn should link with potential open space on adjoining undeveloped parcels (or with existing open space on adjoining developed parcels, where applicable).

- m. Provides open space that is reasonably contiguous. Fragmentation of open space should be minimized so that these resource areas are not divided into numerous small parcels located in various parts of the development. To the greatest extent practicable, this land shall be designed as a single block with logical, straightforward boundaries. Long thin strips of conservation land shall be avoided, unless the conservation feature is linear or unless such configuration is necessary to connect with other streams or trails. The open space shall generally abut existing or potential open space land on adjacent parcels (such as in other subdivisions, public parks or properties owned by or leased to private land conservation organizations). Such subdivision open space shall be designed as part of larger contiguous and integrated greenway systems.

### **Sec. 10-1-65 Blocks**

The widths, lengths and shapes of blocks shall be suited to the planned use of the land, zoning requirements, need for convenient access, control and safety of street traffic and the limitations and opportunities of the topography.

1. **Length.** Blocks in residential areas should not as a general rule be less than five hundred (500) feet nor more than one thousand five hundred (1,500) feet in length unless otherwise dictated.
2. **Width.** Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic or where lots abut a lake or stream. Width of lots or parcels reserved or laid out for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning provisions for such use.
3. **Pedestrian Pathways.** Pedestrian pathways, not less than twelve (12) feet wide, may be required by the Town Board through the center of a block more than nine hundred (900) feet long or in other areas where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.
4. **Trees.** The Town Board may require that certain species of trees be planted on both sides of all streets. Street trees when planted shall not be less than fifty (50) feet apart with a minimum of one (1) per lot. They should preferably be placed six (6) to twenty (20) feet inside the property line rather than in the boulevard. The minimum size and type to be planted shall conform to the provisions of applicable ordinances.

### **Sec. 10-1-66 Utility Easements**

All utility lines for electric power and telephone service shall be placed on mid-block easements along rear lot lines, except where lots abut a lake or stream or where such location is deemed unfeasible, from an engineering standpoint, by the utility company involved. All easements shall run with the land and be on individual deeds. All power, telephone, or cable service lines shall be buried in the same trench whenever possible.

### **Sec. 10-1-67 Lots**

The size, shape and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the building contemplated.

1. **Lot Lines.** Side lot lines should 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.
2. **Double Frontage/Reversed Frontage Lots.** Double frontage and reversed frontage lots shall be prohibited, except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.
3. **Lot Frontage.** Unless otherwise noted in an applicable Town ordinance, all newly created lots shall have a minimum frontage of 33 feet on a public street, and where applicable, a minimum frontage of 33 feet on navigable water.
4. **Area and Dimensional Requirements.** Area and dimensions of lots shall conform to the requirements of the Town of Empire Zoning Ordinance. Additionally, in areas not served by public sewer, lots shall be of sufficient size to allow conformance with the requirements of Wisconsin Administrative Code, Chapter COMM 85. Whenever a tract is subdivided into parcels with area in excess of the zoning requirements, such parcels should be arranged and dimensioned so as to allow re-division of any such parcels into normal lots in accordance with the provisions of this Chapter.
5. **Lot Depth and Width.** Width of lots shall conform to the requirements of The Town of Empire Zoning Ordinance or other applicable ordinances. Lots shall be designed to be a suitable proportion between width and depth.
6. **Corner Lots.** Corner lots shall be designed with extra width to permit adequate building setback from both streets.
7. **Remnants of Lots.** All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels.
8. **Natural Features.** In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.

#### **Sec. 10-1-68 Building Setback Lines**

Building setback lines shall conform to the requirements established in the Town of Empire Zoning Ordinance.

#### **Sec. 10-1-69 Surface Water Drainage**

1. **Purpose.** The intent of this section is to protect property and structures from damage caused by increased surface water runoff due to commercial, industrial, and residential development of the land. Surface water runoff after development shall not exceed the peak rate/volume of flow at predevelopment conditions. The twenty-five (25) year, twenty-four (24) hour storm frequency for Fond du Lac County shall be the basis to determine both preconstruction and post-construction surface water runoff.
2. **A stormwater management site plan shall include, but not be limited to, the following:**
  - a. Based upon the twenty-five (25) year, twenty-four (24) hour storm frequency for Fond du Lac County.
    - b. Include soil types, infiltration characteristics of the soil, amount of available detention area, type of vegetative cover, amount of impervious cover, and time response to runoff.
    - c. Compatible with County and Town natural drainageways and easements.

- d. Identify bridges, regional drainage patterns; water boundaries; pipes, culverts, catch basins, waterways, ditches, detention and retention basin; and indicate respective size, dimensions, and grades of each.
- e. All drainageways and associated structures shall lie within designated maintenance easements and be so indicated on final plats.
- f. Direction of the surface water flow by arrows.
- g. Designed in accordance with the United States Department of Agriculture Technical Release No. 55 Urban Hydrology for Small Watersheds and County or Town standards, or whichever is more restrictive.
- h. Indicate methods that will be used to protect downstream areas and adjacent property owners from damage caused by increased by surface water runoff and pollutant loadings.
  - 1. Methods employed to prevent damage resulting from stormwater run-off should include non-structural management practices where possible. These alternatives include, but are not limited to, incorporating natural vegetation into the design of existing and new development, buffering navigable and non-navigable streams, permitting unpaved street gutters to serve as grassed waterways in place of curb and gutter, and respecting contours and natural features of the landscape.
  - 2. Structural stormwater facilities must be identified within the stormwater management site plan. These include, but are not limited to, curb and gutters, catch basins and inlets, storm sewers, and water retention and detention structures.
- i. A covenant shall be recorded with the final plat in the Fond du Lac County Register of Deeds office. Covenant shall state:
  - 1. "Maintenance of all drainageways and associated structures within the subdivision are the sole responsibility of the property owners of the subdivision", unless otherwise noted on the plan or required by the Town.
  - 2. Upon failure of the property owner(s) to perform maintenance of the drainageways and associated structures, the Town of Empire retains the right to perform maintenance and/or repairs that shall be equally assessed among the property owner(s) of the subdivision with a drainage covenant.

**Sec. 10-1-70 through Sec. 10-1-89 Reserved for Future Use.**

## **ARTICLE G: DEDICATIONS AND IMPROVEMENTS**

### **Sec. 10-1-90 Surface Water Drainage Restrictions**

To the extent practical, no drainageway contained within a drainage easement shall be disturbed, except as provided in Sec. 20.59(3), in accordance with the following:

1. All buildings and structures shall be set back at least twenty-five (25) feet from the landward edge of nonnavigable streams, drainageways and wetlands. Roadways, recreational trails and pedestrian walkways shall be permitted to cross nonnavigable streams and drainageways provided such construction allows for the free passage of waters and that runoff is controlled so as to prevent erosion and transport of sediment and pollutants to nearby waters.
2. No artificial obstruction may be constructed, planted or maintained within any man-made or natural drainageway so that such obstructions impede the natural flow of water and/or diminishes the natural aesthetic quality of the drainageway.
3. Lot boundaries shall be made to coincide with new and/or preexisting man-made and natural drainageways to avoid the creation of lots that can be built upon by altering such drainageways.
4. Exceptions. Surface water shall not be regarded as unduly retained or diverted if:
  - a. The retention or diversion results from a technique, practice, or device deliberately installed as part of an approved sedimentation or storm water runoff control plan.
  - b. The retention or diversion is not substantially different in location or degree than that experienced by the development site in its predevelopment state, unless such retention presents a danger to health or safety.
  - c. The retention or diversion results from the actions of natural obstructions, whereby maintenance shall be performed by the property owner as described in Sec. 20.58(11).
  - d. The retention or diversion has been allowed or required by the Town of Empire Planning Commission, and noted on the approved drainage plan.

### **Sec. 10-1-91 Dedication and Reservations of Land**

Whenever a tract of land to be divided embraces all or any part of a street, the adopted regional, County, and Town of Empire land use plans, or adopted plan components, such public way shall be made a part of the plat and either dedicated or reserved by the applicant in the locations and dimensions indicated on such plan.

Whenever a proposed park, playground, public access, open space site or other public land, other than streets or drainageways, designated in the adopted regional, County and Town of Empire land use plan components is embraced, all or in part, in a tract of land to be divided, such proposed public lands shall be made a part of the plat and shall either be dedicated to the public or reserved for acquisition at undeveloped land costs for a period not to exceed three years between the applicant and the public agency having jurisdiction. If the reserved land is to be acquired by such public agency within the above time limit, the land shall be released to the owner.

### **Sec. 10-1-92 Improvements**

1. No construction or installation of improvements shall commence in a proposed subdivision until the final plat has been approved by the Town Planning Commission.
2. Before recording the final plat with the County Register of Deeds, the applicant shall enter into a contract or other arrangement agreeable with the Town of Empire agreeing to install all required public improvements and shall file with such contract a surety bond or other satisfactory security meeting the approval of the Town of Empire Board as a guarantee that such improvements will be completed by the Subdivider or his subcontractors within the time limit established by the Town of Empire Board.

**Sec. 10-1-93 Plans**

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

1. Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
2. Installation of street signs meeting the approval of the Town of Empire Board at all intersections.
3. Sanitary sewer plans and profiles showing the locations, grade, sizes, elevations and materials or required facilities.
4. Surface water drainage facilities, which may include curb and gutters, catch-basins and inlets, road ditches and open channels, as may be required to provide adequate surface drainage for the subdivision.
5. Erosion control plans.

**Sec. 10-1-94 Inspection**

The applicant prior to commencement of any work within the land division, shall make arrangements with the Town Board to provide for adequate inspection. The Town Board or its agent shall inspect and approve all completed work prior to approval of the final plat or release of the sureties.

**Sec. 10-1-95 Public Sanitary Sewerage and Private Sewage Disposal Systems**

When public sanitary sewer facilities are available to the subdivision plat, Certified Survey Map or Condominium, the applicant shall construct sanitary sewer facilities in such a manner as to make adequate public sanitary sewer service available to each lot within the subdivision, Certified Survey Map or dwelling unit within a condominium. Where public sanitary sewer facilities are not available, private systems shall be constructed pursuant to applicable regulations of Fond du Lac County and any applicable sanitary district. Private holding tanks are expressly prohibited.

**Sec. 10-1-96 Water Supply Facilities**

When public water supply facilities are available to the subdivision plat, Certified Survey Map or Condominium, or when it is proposed to establish a private water supply and distribution system to serve two (2) or more lots or dwelling units, the applicant shall construct water supply facilities in such a manner as to make adequate water service available to each lot within the subdivision, Certified Survey Map or dwelling unit within a condominium. Private water supply systems shall conform to all applicable regulations of the Wisconsin Department of Commerce.

**Sec. 10-1-97 through Sec. 10-1-99 Reserved for Future Use.**

## **ARTICLE H: VIOLATIONS, PENALTIES AND APPEALS**

### **Sec. 10-1-100 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 condominium plat within the jurisdiction of this Chapter and not or record as of April 15, 1969, until the provisions and requirements of this Chapter have been fully met. The Town of Empire may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin statutes.

### **Sec. 10-1-102 Penalties**

1. Recordation improperly made shall be subject to the provisions of Wisconsin Statutes, Section 236.30.
2. Conveyance of lots in unrecorded plats shall be subject to the provisions of Wisconsin Statutes, Section 236.31.
3. Monuments disturbed or not placed shall be subject to the provisions of Wisconsin Statutes, Section 236.32.
4. Assessor's plat may be ordered by the Town of Empire when a subdivision is created by successive divisions as provided in Wisconsin Statutes, Section 236.31(2).
5. Any person failing to comply with the provision of this Chapter shall be subject to a penalty as provided by the Town of Empire Zoning Ordinance.

### **Sec. 10-1-104 Appeals**

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

### **Sec. 10-1-105 through Sec. 10-1-109 Reserved for Future Use.**

## ARTICLE I: DEFINITIONS

### Sec. 10-1-110 Definitions

In the construction of this Chapter, the definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

**Adjusted Tract Area** - The area of the total parcel minus any primary conservation areas.

**Agricultural Use (as provided in s. 91.01 (1), Wis. Stats)** - Means beekeeping; commercial feed lots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming' placing land in federal programs in return for payments in kind' owning land, at least thirty five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk conservation reserve program under 7 USC 1446(d); and vegetable raising.

**Alley** - A public or private right-of-way which provides secondary access to abutting properties.

**Applicant** - The Subdivider or Condominium Developer or the Subdivider's or Condominium 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 lots 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 lot 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 lot or site to adjacent lots or sites. Bufferyards are typically defined by a delineated easement graphically indicated on the face of the Certified Survey Map, Subdivision Plat or Condominium 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 Map** - As defined in Wisconsin Statutes, Section 236.34.

**Channel** - A natural or artificial watercourse of perceptible extent which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a definite bed and banks which serve to confine the water.

**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 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.

**Comprehensive Plan** – The official guide for the physical, social, and economic growth of a municipality, properly enacted or adopted according to statute, which is now or may hereafter be in effect.

**Conditional Approval** – Approval of a land division, subject to the land division meeting certain requirements as determined by the Plan Commission.

**Condominium** - A structure having two (2) or more dwelling units, each assigned to individual ownership, but located on a lot having common ownership and use arrangement.

**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 Areas, secondary** – Those areas identified in, but not limited to, Sec. 10-1-33(1)(d) and Sec. 10-1-63(2)(a) of this ordinance.

**Conservation Easement** - A type of "protective covenant" the boundary lines of which are graphically depicted on the face of a Certified Survey Map, Preliminary Plat, Final Plat and/or Condominium Plat used to conserve and preserve a natural resource feature that is protected under the provisions of this Chapter.

**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 percent (40%) of the adjusted tract area as protected open space.

**County** - Reference to County shall mean Fond du Lac County and shall include any agency, department or committee thereof.

**Critical Areas** - Areas of steep slopes, woodlands and forest (mature and young), lakes, ponds, streams, shore buffer, floodplains, floodlands, drainageways, wetlands and shoreland wetlands as defined in the Zoning Ordinance of the Town of Empire.

**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.

**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 system or stream).

**Development** - Any man-made change to improved or unimproved real estate including, but not limited to, construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.

**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.

**Extraterritorial Plat Approval Jurisdiction** - The unincorporated area within 1\_ miles of a fourth-class city or village and within 3 miles of all other cities over which cities and villages may exercise plat approval, provided they have enacted an official map ordinance or subdivision control ordinance in accordance with Wisconsin Statutes, Section 236.10.

**Final Plat** - The map of plan of a subdivision and any accompanying material as described in Section 10-1-24 of this Chapter.

**Flood of Record, Maximum** - The highest recorded elevation of a recorded flood event.

**Flood Protection Elevation** - An elevation 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 maximum flood of record.

**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 one (1) percent probability of occurring in any given year] is generally used for zoning regulation. Other flood events used in this Chapter are the 50-year recurrence interval flood [or that flood having a two (2) percent probability of occurring in any given year] and the 10-year recurrence interval flood [or that flood having a ten (10) percent probability of occurring in any given year]. Where detailed flood data is not available, the maximum flood of record is used.

**Frontage** - The length of the front property line of the lot, lots or tract of land abutting the right-of-way of a public street road or highway.

**Frontage Street** - A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

**Grade** - The slope of a road, street or other public way, specified in percent.

**Gross Tract Area** - The entirety of the parcel proposed for subdivision, including all primary and secondary conservation areas.

**High Groundwater Elevation** - The highest elevation to which subsurface water rises. This may be evidenced by the actual presence of water during wet periods of the year, or by soil mottling during drier periods. "Mottling" is a mixture or variation of soil colors. In soils with restricted internal drainage, gray, yellow, red and brown colors are intermingled given a multi-colored effect.

**High Water Elevation** - The average annual high water level of a pond, stream, lake, flowage, or wetland referred to an established datum plane or, where such elevation is not available, the elevation of the line up to which the presence of water is so frequent as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic or vegetative characteristic.

**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, Certified Survey Map, or Condominium having shared common interests, responsibilities with respect to costs and upkeep of common private property of a Subdivision, Certified Survey Map, or Condominium. Such common property includes private recreation and open space areas within the Subdivision, Certified Survey Map, or Condominium. For the purposes of this Chapter, homeowners' associations include condominium associations.

**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 of Empire may ultimately assume the responsibility for maintenance and operation.

**Land Division** - The act or process of dividing land into two or more parcels.

**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** - Designated parcel tract or area of land established by plat, subdivision or as otherwise permitted by law to be used, developed or built upon as a unit, and containing the minimum frontage, width, and area sufficient to meet building, parking, setback, open space, sanitary, or other requirements.

**Lot Area** - The total square footage lying within the peripheral boundaries of a parcel of land. In any zoning jurisdiction, the area of a lot specifically excludes:

- a. the right-of-way of a public or private street;
- b. areas of navigable water.

**Lot, Corner** - A lot abutting two or more streets at their intersection, provided that the corner of such intersection shall have an angle of 135 degrees or less measured on the lot side.

**Lot, Legal** - A unit of land existing under a single ownership which complies with the applicable

basic district standards for the Zoning District in which such lot is situated or meets the definition of a "lot of record" of this Chapter, which is provided with the minimum frontage upon a public road, and which complies with all applicable Subdivision and Laws and ordinances.

**Lot Lines** - The peripheral boundaries of a parcel of land.

**Lot of Record** - A legal lot of record shall mean a lot legally created and recorded in the Fond du Lac County Register of Deeds Office prior to or according to the Fond du Lac County Subdivision Ordinance of August 20, 1968, meeting applicable State County Zoning and Subdivision Laws and Ordinances.

**Lot, Through** - A lot which has a pair of opposite lot lines among two parallel streets and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

**Lot, Width** - The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth. On irregularly (non-perpendicular) shaped lots, the width shall be the average width of the lot computed according to Wisconsin Administrative Code, Chapter COMM 85. Lot width shall be measured at the street setback line applicable to the zoning district the parcel is located within. In the shoreland jurisdiction, the lot width shall also be measured at the shore yard setback line applicable to the zoning district the parcel is located within. At least 50% of the lot shall be greater than or equal to the required lot width.

**Major Condominium Plat** - Condominiums in which land is allocated into parcels or building sites, whether the individual portions of land are defined as "units" or "limited common elements", are subject to review and approval of this Chapter if five (5) or more parcels or building sites of five (5) acres or smaller in size and created within any five (5) year period from a lot parcel or tract which existed on the effective date of this Chapter.

**Major Land Divisions** - The creation of five (5) or more parcels or building sites of five (5) acres or smaller in size by successive divisions within a period of five (5) years.

**Major Street** - Arterial and collector roads primarily intended for through traffic with a secondary function for direct access.

**Minor Condominium Plat** - Condominiums in which land is allocated into parcels or building sites, whether the individual portions of land are defined as "units" or "limited common elements", are subject to review and approval of this Chapter if one (1) but not more than four (4) parcels or building sites of five (5) acres or smaller in size are created within any five (5) year period from a lot parcel or tract which existed on the effective date of this Chapter.

**Minor Land Divisions** - The creation of one (1) but not more than four (4) parcels or building sites which divide land into a parcel or parcels of five (5) acres or smaller in size. Minor land divisions shall be created by Certified Survey Maps. Not more than four (4) parcels may be created by means of minor land division procedures within any five (5) year period from a lot, parcel or tract which existed on the effective date of this Chapter.

**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.

**Obstruction, Drainageway** - This Chapter refers to two different types of obstructions:

- a. **Artificial Obstruction** - any obstruction other than a natural obstruction that is capable of reducing the carrying capacity of a stream or drainageway or may accumulate debris and thereby reduce the carrying capacity of a stream; such as fences, dams, planted trees and shrubs, and any other obstructions instituted as a result of human activity.
- b. **Natural Obstruction** - Includes any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within the stream or drainageway by a non-human cause.

**Open Space** - Any site, parcel, lot, area or outlot of land or water essentially unimproved and set aside, dedicated, designated or reserved for the public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space land shall not be occupied by non-recreational buildings, roads, drives, public right-of-way or off-street parking areas for non-recreational uses.

**Open Space, Deed Restricted** - Deed restricted open space on platted "lots" is not occupied by any principal or accessory buildings or structures, roads, road rights-of-way or parking areas. Deed restricted open space on platted "outlots" is not occupied by non-recreational principal or accessory buildings or structures, roads, road rights-of-way, or parking areas. The maintenance of deed restricted open space located on platted "outlots" is by a homeowners' association. The maintenance of deed restricted open space located on platted "lots" is by the individual lot owner.

**Open Space, Public** - An open space conveyed or otherwise dedicated to a municipality, municipal agency, public school district, state or county agency or other public body for recreational or conservation uses.

**Outlot** - A remnant parcel of land not to be used for building purposes, so designated on the plat.

**Owner** - Includes the plural as well as the singular and may mean either a natural person, individual, firm, association, syndicate, partnership, private corporation, public or quasi-public corporation or combination of these having legal title or sufficient proprietary interest to seek development of land. For purposes of successive division of a parcel of land by Certified Survey Maps, "owner" shall be taken to include any related person, firm, partnership or corporation to whom conveyance has been made within two (2) years of application for approval of a Certified Survey Map. "Related" shall mean any natural person related to a transferor by blood or marriage, any person acting in an agency or trust capacity, any partnership in which the transferor is a partner and any corporation in which the transferor is a stockholder, officer or director, or in which related persons are stockholders, officers or directors.

**Parcel** - Lot created by a division of land. A parcel (s) which is owned, controlled or managed as a single entity shall be treated as a single tract, unless separated by a public road and navigable

and non-navigable waters. A parcel is created as of the date the deed, land contract, lease, etc., is recorded with the Register of Deeds Office.

**Pedestrian Pathway** - A public way that is intended for the convenience of pedestrians only. It may also provide public right-of-way for utilities.

**Plat** - The map, drawing, or chart on which the Subdivider's land division or Condominium Developer's condominium is presented to the Town of Empire for approval.

**Preliminary Plat** - A map showing the salient features of a proposed subdivision submitted to the Town of Empire Planning Commission for purposes of preliminary consideration as described in Section 10-1-21 of this Chapter.

**Protective Covenants** - Contracts entered into between private parties or between private parties and public bodies pursuant to Section 236.923 of the Wisconsin Statutes, which constitute a restriction on the use of all private or platted property within a minor land division or subdivision for the benefit of the public or property owners and to provide mutual protection against undesirable aspects of development that would tend to impair stability of values.

**Public Way** - Any public road, street highway, walkway, drainageway or part thereof.

**Replat** - The process of changing, or the map or plat which changes, the boundaries of a recorded Subdivision Plat, Certified Survey Map or part thereof. The division of a large block, lot or outlot within a recorded Subdivision Plat or Certified Survey Map without changing the exterior boundaries of said block, lot or outlot is not a replat.

**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).

**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 level of which will be increased as a result of the flow into it of surface and subsurface water, collected therein and released gradually into natural and man-made outlets.

**Review Period** – The number of calendar days allotted to review a land division.

**Right-of-Way** – A strip of land occupied or intended to be occupied for a special use, dedicated to the public by the owner of the land division on which such right-of-way is established.

**Setback** - Those minimum street, front, rear and/or side yards required by the Town of Empire Zoning Ordinance.

**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.

**Shoreland Wetland** - A wetland, as defined by this Chapter, which is located within a shoreland area.

**Slope** - The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

**State Plat** – A map of a division of land prepared in accordance with Chapter 236 of the Wisconsin Statutes and the terms of this ordinance.

**Stream** - A course of running water, either perennial or intermittent, flowing in a channel.

**Street** - The right-of-way of any street, road, highway, lane, etc., dedicated to the public which generally provides access to abutting properties.

**Structure** – Anything constructed or erected on the ground including, but not limited to, all types of buildings and attachments to buildings.

**Subdivider** - Person or persons requesting review or action on a subdivision.

**Subdivision, Town of Empire** - (Subdivisions satisfying this classification, are subject to Town of Empire review, and do not require State review). The subdivision of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where:

- a. The act of division creates five (5) or more parcel or building sites, each of which is larger than one and one-half (1 1/2) acres and which is five (5) acres or smaller in size: or
- b. Five (5) or more parcels or building sites of which is larger than one and one-half acres and which is five (5) acres or smaller in size and created by successive divisions within a period of five (5) years.

**Subdivision, State** - (Subdivisions satisfying this classification are subject to mandatory State review under Wisconsin Statutes, Section 236 in addition to Town of Empire review under this Chapter). The division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where:

- a. The act of division creates five (5) or more parcels or building sites of one and one-half (1 1/2) acres each or less in area; or
- b. Five (5) or more parcels or building sites of one and one-half (1 1/2) acres each or less in area are created by successive divisions within a period of five (5) years.

**Surveyor** – A person who surveys land and is duly registered in the State of Wisconsin.

**Town** - Reference to town shall mean the Town of Empire including the Town Board, Town Clerk or any other designated Town Commission.

**Town of Empire Planning Commission** - The Town of Empire Planning Commission, as authorized by Wisconsin Statutes, Section 62.23.

**Tract** - A contiguous area of land which exists or has existed in single ownership.

**Utility Easement** - An easement to place, replace, maintain or move utility facilities.

**Watercourse** - A permanent or intermittent stream channel.

**Sec. 10-1-111 through Sec. 10-1-119 Reserved for Future Use.**