

**LAND DIVISION
ORDINANCE
TOWN OF OMRO, WISCONSIN**

Chapter 7

Adopted on June 20, 2016

Resolution #2016-01

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DEFINITIONS

7.00 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.

(1) ALLEY - A public or private right-of-way which provides secondary access to abutting properties.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) COMPREHENSIVE PLAN - Means the "Town of Omro Comprehensive Land Use Plan" for the development of the Town of Omro, adopted according to statute and including any amendment to such plan.

(7) COUNTY - Reference to County shall mean Winnebago County and shall include any Agency, department or committee thereof.

(8) COUNTY PLANNING AND ZONING COMMITTEE - The County Planning and Zoning Committee, as authorized by Sec. 59.97, Wisconsin Statutes, or any other committee created by the County Board and authorized to plan land use.

(9) COUNTY PRIVATE SEWAGE SYSTEM ORDINANCE - The County Private Sewage System Ordinance which is included as Chapter 16 of the Winnebago County Code.

(10) COUNTY ZONING ORDINANCE - The Winnebago County Town/County Zoning Ordinance which is included as Chapter 23 of the Winnebago County Code.

(11) CUL-DE-SAC STREET - A minor street with only one outlet and having a turnaround for the safe and convenient reversal of traffic movement.

(12) DOUBLE FRONTAGE LOTS – Means an interior lot having road frontage on the front and on the rear of the lot.

(13) EXTRATERRITORIAL PLAT APPROVAL JURISDICTION -The unincorporated area within 1 1/2 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 Sec. 236.10, Wisconsin Statutes.

(14) FINAL PLAT - The map of plan of a subdivision and any accompanying material as described in Sec. 7.29 of this chapter.

(15) FLOODPLAIN – The land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood fringe.

(16) 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.

(17) 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.

(18) GRADE - The slope of a road, street or other public way, specified in percent.

(19) IMPROVEMENT, PUBLIC - Any sanitary sewer, storm sewer, drainage ditch, water main, roadway, park, parkway, public access, sidewalk, pedestrian way, planting strip, off-street parking area or other facility for which the County or Town may ultimately assume the responsibility for maintenance and operation.

(20) LAND DIVISION - The act or process of dividing land into two or more parcels.

(21) 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.

(22) 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.

(23) 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.

(24) 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 Ordinance, which is provided with the minimum frontage upon a public road, and which complies with all applicable Subdivision and Laws and Ordinances.

(25) LOT LINES - The peripheral boundaries of a parcel of land.

(26) LOT OF RECORD - A legal lot of record shall mean a lot legally created and recorded in the Winnebago County Register of Deeds Office prior to or according to the Winnebago County Subdivision Ordinance of May 1, 1969, meeting applicable State County Zoning and Subdivision Laws and Ordinances.

(27) 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.

(28) 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 ILHR 85, Wisconsin Administrative Code. 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.

(29) 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 Ordinance if five (5) or more parcels or building sites are created within any five (5) year period from a lot parcel or tract which existed on the effective date of this chapter.

(30) MAJOR LAND DIVISIONS - The creation of five (5) or more parcels or building sites by successive divisions within a period of five (5) years.

(31) MAJOR STREET - Arterial and collector roads primarily intended for through traffic with a secondary function for direct access.

(32) 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 Ordinance if one (1) but not more than four (4) parcels or building sites are created within any five (5) year period from a lot parcel or tract which existed on the effective date of this chapter.

(33) 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. 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.

(34) MINOR STREET - A street used or intended to be used primarily for access to abutting properties.

(35) OBSTRUCTION, DRAINAGEWAY - This Ordinance 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 drainage way 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 drainage way by a non-human cause.

(36) OFFICIAL MAP - Refers to any future Official Map adopted by the Town of Omro, consistent with the Town's Comprehensive Land Use Plan, which includes and sets forth the identification, location, alignment, dimensions and classification of existing and proposed public streets, highways, drainage ways, parkways, and park and recreation sites.

(37) OUTLOT - A remnant parcel of land not to be used for building purposes, so designated on the plat.

(38) 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.

(39) PUBLIC PARK—Any real property owned by the Town and open to the public for recreation purposes including non-motorized recreational paths.

(40) PLANNING AGENCY - Town of Omro Planning Commission

(41) PRELIMINARY PLAT - A map showing the salient features of a proposed subdivision submitted to the County Planning and Zoning Committee for purposes of preliminary consideration as described in Section 7.24 of this chapter.

(42) PUBLIC WAY - All or any part of a public road, street, highway, drainage way, walkway, other than recreational paths.

(43) SHORELAND JURISDICTION - The area within 1,000' of the ordinary high water mark of a navigable lake, pond or flowage; or within 300' of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.

(44) STREET (Public) - The right-of-way of any street, road, highway, lane, etc., dedicated to the public which generally provides access to abutting properties.

(45) STREET (Private) - The right-of-way of any private road, highway, lane, street, access easement, easement, etc., where the defined street or easement provides access to more

than one parcel or principal structure.

(46) SUBDIVISION - means a division of land into two (2) or more lots, parcels, tracts or building areas for the purpose of sale or development. For the purpose of this ordinance, a subdivision shall include the division of land by means of a Minor Plat (Certified Survey Map), Major Plat, Condominium Plat, or Cluster Subdivision.

(47) TOWN - Refers to the Town of Omro

(48) TOWN CLERK - Refers to the Town of Omro Town Clerk

(49) TRACT - A contiguous area of land which exists or has existed in single ownership.

INTRODUCTION

7.01 AUTHORITY.

The provisions of this chapter are adopted by the Town of Omro Town Board who has adopted Village Powers pursuant to the authority granted by Chapters 61 & 236, Wisconsin Statutes. This ordinance requires either a Certified Survey Map or a Subdivision Plat to create new land parcels or lots in the Town of Omro.

7.02 TITLE.

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

7.03 PURPOSE AND INTENT.

The purpose of this chapter is to regulate and control the division of land within the unincorporated areas of the Town of Omro 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) Provide for adequate light and air.
- (6) Facilitate adequate provisions for water, sewerage and other public requirements.
- (7) Provide for proper ingress and egress.
- (8) Promote proper monumenting of subdivided land and conveyancing by accurate legal description.

7.04 INTERPRETATION AND APPLICATION.

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

(2) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Town and County and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

(3) To the extent that that this Town of Omro Land Division Ordinance, Chapter 7, contains time limits, deadlines, notice requirements, or other provisions that are more restrictive than time limits, deadlines, notice requirements, or other provisions that provide protections for a subdivider contained on Chapter 236 of the Wisconsin Statutes, the time limits, deadlines, notice requirements or other provisions that provide protections for a subdivider contained in Chapter 236 shall apply.

7.05 SEVERABILITY AND NON-LIABILITY.

If any section, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby. The Town does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation and that those soils listed as being unsuited for specific uses are the only unsuited soils within the Town, and thereby asserts that there is no liability on the part of the Town Board of Supervisors, its agencies or employees for sanitation problems or structural damages that may occur as a result of reliance upon, and conformance with, this ordinance.

7.06 REPEAL.

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

7.07 EFFECTIVE DATE.

This ordinance shall be effective after a public hearing, adoption by the Town Board of Supervisors, and publication or posting as provided by law.

GENERAL PROVISIONS

7.08 JURISDICTION.

The jurisdiction of this chapter shall include all lands within the Town of Omro. 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) Cemetery plats (s.s. 157.07) and Assessor's Plats (s.s. 70.27), but such shall comply with 236.15 (1) (a) to (g) and 2.

7.09 COMBINING LOTS.

Lots shall be combined into one parcel according to s. 7.10 when one or more of the following occurs:

- (1) A use, structure, or structural addition that occupies more than one lot under the same ownership is being expanded.
- (2) Existing substandard lots on record platted according to Ch. 236 Wis. Stats. when, in the determination of the Town Chair, Town Planning Commission Chair or the County Zoning Administrator, the intent of the district will not be maintained at the time of construction.

7.10 COMBINING DESCRIPTION.

Land described in s. 7.09 shall be combined into one parcel by Certified Survey Map procedures and recorded in the County Register of Deeds Office.

7.11 COMPLIANCE.

Any division of land within the jurisdictional limits of these regulations which results in a land division, replat or condominium plat as defined herein shall not be entitled to recording and/or improvements to the land unless it is in compliance with all the requirements of this chapter and:

- (1) Duly approved County Zoning and Private Sewage System Ordinances.
- (2) County Access Control Ordinance.
- (3) Applicable local ordinances and regulations including but not limited to the following:
 - (a) Road Development Ordinance
 - (b) Post Construction Stormwater Management Ordinance.
 - (c) Construction Site Erosion Control Ordinance.
 - (d) Sanitary District regulations.

- (4) Consistent with the provisions of Chapter 236, Wisconsin Statutes.
- (5) Provisions of the Winnebago County Land Records Ordinance as enumerated in Section 8.05 of the Winnebago County Code.
- (6) Town of Omro Comprehensive Plan

7.12 LAND SUITABILITY.

No land shall be divided which is held unsuitable for any proposed use by the Town Board for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, 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 future residents of the proposed subdivision or of the community. The Town Board in applying the provisions of this chapter shall in writing, cite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the applicant an opportunity to present evidence regarding such suitability at a public hearing. Thereafter, the Town Board may affirm, modify or withdraw its determination of unsuitability.

7.13 VARIANCES.

(1) In any particular case where it can be shown that with reason of exceptional topographic or other physical conditions, strict compliance with any requirement of this chapter would cause practical difficulty by exceptional and undue hardship, the Town Board may relax such requirement to the extent deemed just and proper so as to relieve such difficulty or hardship, provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of this chapter or the desirable general development of the Town and County.

(2) The Town Board at its discretion, if it determines it necessary for the public good, may conduct a public hearing to permit parties in interest to comment on the variance request.

(3) If a hearing is determined necessary, the applicant shall be responsible for payment of a hearing fee as established by the Town of Omro. The Town Board shall then fix a reasonable time and place for the hearing. Notice of the time and place of such hearing shall be given by publication as a Class 2 notice in a local newspaper according to Ch. 985, Wisconsin Statutes. All property owners within 300 feet of the subject site as listed on official tax property rolls as of the date of application shall be notified by first class mail with an Affidavit of Mailing at least 10 days prior to the date of such hearing.

(4) A majority vote of the entire membership of the Town Board shall be required to grant any modification to these regulations and any modification thus granted shall be entered in the minutes of the Town Board setting forth the reasons which, in the opinion of the Town Board, justified the modification.

(5) Shoreland Notice and Decision

The town is under County jurisdiction for all shoreland development and any variance related to shoreland regulations will need to follow the requirements of ch.18 of the Winnebago County General code.

7.14 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 lot of record until the provisions and requirements of this chapter have been fully met. The Town may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.

7.15 PENALTIES.

(1) Recordation improperly made shall be subject to the provisions of Sec. 236.30, Wisconsin Statutes.

(2) Conveyance of lots in unrecorded plats shall be subject to the provisions of Sec. 236.31, Wisconsin Statutes.

(3) Monuments disturbed or not placed shall be subject to the provisions of Sec. 236.32, Wisconsin Statutes.

(4) Assessor's plat may be ordered by the Town when a subdivision is created by successive divisions as provided in Sec. 236.31(2), Wisconsin Statutes.

(5) Any person failing to comply with the provision of this land division ordinance shall be subject to penalties provided in Sec 25.04 of the Winnebago County General Code, as amended from time to time, for similar violations.

7.16 APPEALS.

Any person aggrieved by an objection to a plat or failure to approve a plat may appeal therefrom as provided in Sections 236.13(5) and s. 62.23 (7) Wisconsin Statutes within 30 days of notification of the rejection of the plat. For the purpose of such appeal the term "board of appeals" means an "approving authority". Where the failure to approve is based on an unsatisfied objection, the Agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving authority or objecting Agency is arbitrary, unreasonable or discriminatory.

MINOR LAND DIVISIONS (Certified Survey Map)

7.17 SUBMITTAL.

When it is proposed to create up to four (4) lots or building sites, or when it is proposed to divide a block, lot or outlot into four (4) lots or building sites within a recorded subdivision plat without changing the boundaries of said block, lot or outlot, the Land divider shall file a Certified Survey Map (CSM). Any lot or lots being applied for by CSM having five (5) acres or less, and intended for residential purposes, must first apply for and receive approval for residential zoning from Winnebago County. Proof of rezoning will be required upon application for a residential CSM intended for residential purposes.

Previous to filing a certified survey map of any parcel of land, the Land divider shall consult with the Town Plan Commission Chair or Town Clerk for advice and assistance to review the division in an attempt to avoid conflict with local, county, or regional plans.

The Land divider shall provide the Town with a reasonably accurate preliminary map of the land being considered for division. It may be a free hand drawing but of a sufficient scale so that conditions can be determined to be reviewed for proximity to adjacent streets and schools for analysis of soil types, topography, drainage, and generally for the effect the land division would have on the development of surrounding property. Such map shall describe the entire ownership involved in the process of division, provided however, that where the division results in a residual parcel, not intended for immediate sale or other conveyance, the Town Planning Commission may recommend and the Town Board may waive the requirement for inclusion of the residual parcel. In this case, a supplementary map of reasonable accuracy shall be attached showing the relationship to the original ownership of the parcel or parcels being severed. In the event the division involves the dedication and development of a Town road, the Land divider shall submit an itemized estimate of the costs of required public improvements.

The Town Clerk or other designated Town Official may waive the requirements for a separate preliminary CSM submittal and allow simultaneous filing of the preliminary and final maps in uncomplicated cases where preliminary approval serves no useful purposes.

If the Town determines that the review of the proposed Certified Survey Map will require review by the Town Engineer, Attorney, or other consultant the Town may require a "Pre-Development Agreement" be filed before review of the CSM is completed.

After tentative Town approval as to a general land division, the Land divider shall proceed to have a certified survey map prepared. The Certified Survey Map shall be drawn in accordance with this ordinance and shall meet all of the requirements of Sections 236.34 and 236.21 of the State Statutes that relate to subdividing. In addition, when the map is located within a quarter section where the corners have been relocated, monumented or placed on the state plane coordinate system, the CSM shall be tied directly to such section quarter corners. The Land divider shall file thirteen (13) copies of the CSM, six (6) of which may be map page only, along with an application form (available from the Town Clerk),

accompanied by a filing fee (on record in the Town Clerk's office). Said filing must occur with the Town Clerk at least ten (10) days prior to the Town Planning Commission meeting.

In the event the division involves the dedication and development of a Town road, the Land divider shall also file a Town of Omro Development Agreement.

7.18 REVIEW AND APPROVAL.

Within ten (10) workdays after filing, the Town Clerk shall transmit a copy of the map to all affected Boards, Commissions or agencies for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted back to the Town Planning Commission within ten (10) days from the date the Map was received by them. The Map shall be reviewed by the Town Planning Commission for conformance with this Ordinance and all ordinances, rules, regulations, and Town Comprehensive Plan. The certified survey map shall be prepared by a registered land surveyor in accordance with the provisions contained in Chapter 236.34, Wisconsin Statutes, and shall show clearly on its face the following:

- (1) All existing buildings, setbacks, water courses, drainage ditches, names of adjacent owners, setbacks to structures on adjacent property and other features pertinent to division of property.
- (2) Location of access to public road.
- (3) Date of the map with a graphic scale.
- (4) Name and address of the person for whom the survey was made.
- (5) An owner's certificate and approval signature of the Town Chairperson, Town Clerk, and Town Treasurer's certificate in accordance with Chapter 236.21(3) Wisconsin Statutes, shall be the only approvals required for recording unless additional approvals are necessary for dedication purposes.
- (6) All corners shall be monumented, as required by the State Statutes.
- (7) Prepared on durable white paper, on tracing cloth, or paper (that can be copied), 8 ½ inches wide by 14 inches long. The scale shall not be more than 500 feet to the inch.

The map shall include the certificate of the surveyor, giving a clear and concise description of the land surveyed by bearings and distances, commencing with some corner marked and established in the United States public land survey. The surveyor's certificate shall state that he has complied with the requirements of Chapter 236 of the Wisconsin Statutes.

The Planning Commission shall, within thirty (30) days from the date of filing of the Map, recommend approval, conditional approval or rejection of the Map and shall transmit the Map along with its recommendations to the Town Board.

The Town Board shall approve, approve conditionally, or reject such Map within sixty (60) days from the date of filing of the Map unless the time is extended by agreement with the

land divider. If the Map is rejected, the reason shall be stated in the minutes of the meeting and a written statement is forwarded to the land divider. If the Map is approved, the Town Board shall cause the Town Clerk to so certify on the original Map and return the Map to the land divider.

An executed Development Agreement shall be required for any proposed improvements as prescribed in Section 7.20 of this Ordinance. Prior to the Town certifying the map any required developers agreement is required to be signed. The petitioner will be obligated to pay all legal and professional fees associated with the Town's review and approval of the Road Agreement.

The certified survey map shall be recorded with the County Register of Deeds. When a certified survey map has been so recorded, the parcels of land in the map may be described by reference to the number of the survey, the volume and page where recorded, and the name of the county. Any land or improvements offered for dedication and approved by the governing agency accepting the dedication shall be deeded at the time of recording, unless otherwise arranged.

The Land divider shall file ten (10) copies of the recorded Certified Survey Map with the Town Clerk for distribution to the Town Designated Engineer, the East Central Regional Planning Commission, Building Inspector, Utilities, Assessor and other affected departments for their files.

An Assessor's Plat may be ordered by the Town Board at the expense of the Land divider when a subdivision is defined herein as created by successive division as provided in Section 236.31(2) of the Wisconsin Statutes.

MAJOR LAND DIVISION PROCEDURE

7.19 PRELIMINARY CONSULTATION.

When it is proposed to divide land into more than four (4) lots or building sites by successive division, the Land divider shall subdivide in accordance with the following procedures:

(1) The Land divider shall have an initial consultation with Town representatives and any other people deemed necessary, including a Sanitary District representative, Town Planner/Engineer, County staff, or Regional Planning Agency staff, before proceeding with platting procedures (although the Town Board has the right to waive this pre-plat review). The purpose of these consultations is to inform the Land divider of the parameters, regulations, and policies in regard to the following issues:

- (a) The suitability of the site for development,
- (b) The accessibility of the site,
- (c) The availability of public facilities (sewer, school, parks, water, etc.) and public services (police, fire, etc.),
- (d) Soil conditions and drainage patterns,

- (e) The effect of the proposed development on any contemplated improvements,
- (f) Zoning of the site and regulations that apply,
- (g) Required public improvements.
- (h) Consistency with the Town's Comprehensive Plan

The Land divider shall submit a concept plan on a topographic survey map indicating the nature of the above conditions. The initial concept plan should take into account the intent of this ordinance as well as any other reviewing agencies' comments obtained in contacts with the appropriate agencies. Additional meetings may be required if the concept plan needs to be significantly altered to meet the criteria identified in this ordinance.

(3) The concept plan will be reviewed as it relates to:

- (a) Topography, based on a U.S.G.S. Quadrangle map,
- (b) The improvements, design, dedications, or reservations required by these regulations,
- (c) Continuity to existing development within 300 feet of all boundaries,
- (d) Regulations as set down by Chapter 236 of the Wisconsin Statutes,
- (e) Applicable County Codes,
- (f) Consistency with the Town's Comprehensive Plan and any other Town ordinances and policies,
- (g) For property within a Town Sanitary District, the proposed plat will be consistent with the plans for providing sanitary sewer service and water.
- (h) Compliance with Com. 83 (declaration of the type of on-site sanitary sewer to be used in areas not served by a public sanitary sewer system) and Trans 33 (building setback from State Highway).

7.20 DEVELOPMENT AGREEMENT.

As part of the plat submission, the Town requires the Land divider to provide a "Pre-Development Agreement," available from the Town Attorney, which must be approved by the Town Board during the final plat review process. The petitioner will be obligated to pay all legal and professional fees associated with the Town's review and approval of the Road Agreement.

7.21 PRELIMINARY PLAT REVIEW.

At least thirty (30) days prior to the Town Planning Commission meeting, the Land divider shall file with the Town Clerk, the following items for Preliminary Plat Review:

- Seven (7) full size copies of a 24" x 36" scaled Preliminary Plat, plus one (1) additional full size copy for the City of Oshkosh or City of Omro, if the plat lies within one of the City's extraterritorial plat review jurisdiction (within 3 miles of Oshkosh and 1½ miles from Omro)
- A 11" by 17" or 8 1/2" by 11" copy of the map for copying purposes
- Application form (available from the Town Clerk)

- A filing fee (on record in the Town Clerk's office)

Said filing must occur with the Town Clerk at least thirty (30) days prior to the Town Planning Commission meeting. The Land divider shall also file a copy with the utility companies, (Town Sanitary District, gas and electric companies, Telephone Company, and Cable Company), having jurisdiction over the subject area so that required easements can be determined. A Subdivision within a Sewer Service Area planning boundary shall include District sanitary sewer service and municipal water. A subdivision in a Sanitary District shall include a statement on the face of the plat that homeowners must connect to sanitary sewer, at their own expense, within 6 months of being installed and available for connection in an abutting street right-of-way.

Response from the utilities will need to be submitted to the Town Clerk prior to the approval of the Preliminary Plat.

Within ten (10) working days after filing, the Town Clerk shall transmit the following copies:

- Seven (7) 11 inch by 17 inch copies to the Town Planning Commission
- One full size copy to the City of Oshkosh or City of Omro (if within the City Extraterritorial plat review area).
- Three (3) full size copies to the Town Board,
- One (1) full size copy to the Town Attorney,
- One (1) full size copy for Meeting display and Clerk's Copy
- One (1) full size copy to the East Central Regional Planning Commission, and
- One (1) full size copy to the Town Designated Engineer

The Land divider (developer) will be responsible for submitting the required copies to the State Agency review according to 236.12 (6) of the Wisconsin Statutes. A copy of the transmittal letter shall be forwarded to the Town Clerk. State review comments returned to the Land divider shall be forwarded to the Town Clerk for inclusion in the Town's review. If no objections were made by State Reviewing agencies, the Land divider is supplied with a State certified copy. The Land divider must provide the Town with a copy of the State certification indicating no objections were found. If an objecting Agency fails to act within thirty (30) days, it shall be deemed to have no objection to the plat.

The Preliminary Plat shall be reviewed by the Planning Commission for conformance with this ordinance and all other ordinances, rules, regulations, and Town Comprehensive Plan.

The Preliminary Plat shall then be forwarded to the Town Board with a recommendation for approval or rejection. The Town Board is hereby designated as approving authority for all Preliminary Plats.

Within ninety (90) days of the date of filing the Preliminary Plat with the Town Clerk, the Town Board shall approve, approve conditionally, or reject such Plat, in accordance with Section 236.11(l) of the Wisconsin Statutes. Failure of the Town Board to act within ninety (90) days shall constitute an approval. One (1) copy of the Plat shall be returned to the Land divider with the date and action endorsed thereon. If approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. A copy of the plat and letter shall be filed in the Town Clerk's office.

Approval or conditional approval of the Preliminary Plat by the Town Board shall be deemed an expression of approval or conditional approval of the proposed Subdivision. If the Final Plat conforms substantially to the Preliminary Plat as approved, including any conditions of that approval and to Town plans and ordinances, the Town shall approve the Final Plat if submitted within 36 months of the last required approval of the Preliminary Plat.

Because Winnebago County has the authority to review any subdivision within the Town, the subdivider shall comply with the most restrictive requirements of either the Town or County. If either the County or Town deem conditions to be unclear, then a joint meeting could be requested by either entity to clarify the most restrictive conditions.

Approval or conditional approval of a preliminary plat does not constitute or bind the Town of Omro to automatic approval of the final plat.

7.22 FINAL PLAT REVIEW.

At least thirty (30) days prior to the Town Planning Commission meeting, the Land divider shall file with the Town Clerk, the following items for the Final Plat Review:

- One (1) original copy and seven (7) copies of a 24" x 36" scaled Final Plat, plus one (1) additional full size copy for the City of Oshkosh or City of Omro, if the plat lies within one of the City's extraterritorial plat review jurisdiction (within 3 miles of Oshkosh and 1½ miles from Omro)
- A 11" by 17" or 8 1/2" by 11" copy of the map for copying purposes
- Application form (available from the Town Clerk)
- A filing fee (on record in the Town Clerk's office)
- A Development Agreement

Within ten (10) working days after filing, the Town Clerk shall transmit the following copies:

- Seven (7) 11 inch by 17 inch copies to the Town Planning Agency
- One (1) full size copy to the City of Oshkosh or City of Omro (if within the City Extraterritorial plat review area).
- Three (3) full size copies to the Town Board,
- One (1) full size copy to the Town Attorney,
- One (1) full size copy for Meeting display and Clerk's Copy
- One (1) full size copy to the East Central Regional Planning Commission, and
- One (1) full size copy to the Town Designated Engineer

The Land divider shall be responsible for submitting the required copies for State Agency review according to 236.12 (6) of the Wisconsin Statutes. State review comments returned to the Land divider shall be forwarded to the Town Clerk for inclusion in the Town's review.

If no objections were made by State Reviewing agencies, the Land divider is supplied with a State certified copy. The Land divider must provide the Town with a copy of the State certification indicating no objections were found. If an objecting Agency fails to act within thirty (30) days, it shall be deemed to have no objection to the plat.

The Final Plat, may, if permitted by the Town Board, constitute only that portion of the approved Preliminary Plat that the Land divider proposes to record at that time.

If the Final Plat is not submitted within thirty six (36) months of the last required approval of the Preliminary Plat, the Town Board may refuse to approve the Final Plat and may require the Land divider to resubmit a Preliminary Plat subject to Section 7.21, unless the Town and Land developer can reach an agreement as to extending the approval time.

Following a recommendation from the Town Planning Agency, the Town Board shall, within sixty (60) days of the date of filing the original Final Plat with the Clerk, approve or reject such Plat in accordance with Section 236.11(2) of the Wisconsin Statutes, unless the time is extended by agreement with the land divider. If the Plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the Land divider with a copy to the Town Planning Agency. The Town Board may not approve the Final Plat unless the Clerk certifies on the face of the Plat that the copies were forwarded to objecting agencies as required herein, the date thereof, and that no objections have been filed within twenty (20) days, or, if filed, have been met.

Failure of the Town Board to act within sixty (60) days, with no time extensions, and no unsatisfied objections having been filed, shall cause the plat to be approved (SS 236.11 (2)).

7.23 RECORDATION.

Following Final Plat approval by the Town Board and a Development Agreement and sureties ensuring completion of installation of required improvements being executed and filed, the Town Clerk shall cause the certificate inscribed upon the Plat. Within thirty (30) days of the last approving Agency, the owner or his agent must have the plat and developers agreement recorded in the Winnebago County Register of Deeds office.

GENERAL PLAT REQUIREMENTS

7.24 PRELIMINARY PLAT REQUIREMENTS.

A preliminary plat shall be required for all major subdivisions and 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:

- (1) Title under which the proposed subdivision is to be recorded.
- (2) Legal description and general location of proposed subdivision and relative location to a nearby municipality.
- (3) Date, scale and north arrow.
- (4) Names & addresses of the owner, Land divider and land surveyor preparing the plat
- (5) Parcel numbers.
- (5) 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 Town Board 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.
- (6) 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.
- (7) Contours at vertical intervals of not more than two feet where the slope of the ground surface is less than 10% and of not more than five feet where the slope of the surface is 10% or more. Elevations shall be marked on such contours based on mean sea level datum or, where in the judgement of the Town Board, undue hardship would result because of the remoteness of the parcel from a mean sea level reference elevation, another datum may be used.
- (8) Water elevations of adjoining lakes and streams at the date of survey, ordinary high water elevation, and designated floodplains, wetlands, shoreland boundaries, and surface water drainageways regulated under the authority of the Winnebago County Town/County Zoning Ordinance and Sections 7.50 and 7.51 of this ordinance.
- (9) 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.
- (10) Location and names of any adjacent subdivisions, parks, schools, and cemeteries and owners of record of abutting unplatted lands.

(11) 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.

(12) 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.

(13) The soil types and their boundaries, and the location and results of borings and percolation tests on plats served by on-site systems.

(14) 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.

(15) Dimensions of all lots, together with proposed lot and block numbers.

(16) In the preliminary plat stage, show the location & dimensions of sites to be reserved or dedicated for parks, playgrounds, pedestrian walkways, drainageways or other public use, or which are to be used for group housing, shopping centers, church sites or other non-public uses not requiring platting. In Cluster Subdivisions, conservation areas or open space (both primary and secondary) must be identified.

(17) Approximate radii of all curves.

(18) Existing zoning and proposed use on and adjacent to the proposed subdivision.

(19) Corporate limit lines.

(20) Any proposed lake and stream access with a small drawing clearly indicating the location of the proposed subdivision in relation to the access.

(21) 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, and Corps of Engineers, approval, when applicable.

(22) Seasonally wet areas.

(23) Any additional information required by the Town Engineer, Town Board, Town Clerk, or Land Division Administrator, to complete the review.

(24) Front yard set-back meeting Town requirements.

(25) Any drive way access restriction on corner lots or other special circumstance.

7.25 STREET PLANS AND PROFILES.

The Land divider 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, and all elevations, plans and profiles shall meet the approval of the Town designated Engineer.

7.26 TESTING.

The Town designated Engineer may require that borings and soundings 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 Chapter SPS 385, Wisconsin Administrative Code. All appropriate data shall be submitted with the preliminary plat.

7.27 COVENANTS.

The Town Board may require submission of a draft of protective covenants whereby the applicant intends to regulate land use in the proposed subdivision and otherwise protect the proposed development. The Town Board does not take responsibility for approving or enforcing said covenants.

7.28 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 has fully complied with the provisions of this chapter.

7.29 FINAL PLAT REQUIREMENTS.

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 Sec. 236.20, Wisconsin Statutes. The final plat shall comply in all respects with the requirements of Sec. 236.20, Wisconsin Statutes, and the following:

(1) All building setback lines based on County Zoning requirements (front, rear, and side), and the Town's 50 foot building setback from a public right of way except where lesser setbacks have been adopted by the Town Board.

(2) All lands reserved for future public acquisition or reserved for the common use of property owners within the plat. If common property is located within the plat, then provisions for its use and maintenance must also be provided with the plat.

- (3) Exact street width along the line of any obliquely intersecting street.
- (4) Railroad rights-of-way within and abutting the plat.
- (5) Additional setback lines or yards required by the land divider which are more restrictive than the zoning district in which the plat is located are to be included in recorded covenants.
- (6) Location of soil percolation and soil boring tests shall be shown on all plats to be served by on-site sanitary systems.
- (7) Floodplain and shoreland boundaries and the contour line lying a vertical distance of two (2) feet above the elevation of the 100 year recurrence interval flood or, where such data is not available, five (5) feet above the elevation of the maximum flood of recorded within the exterior boundaries of the plat or located within 100 feet therefrom.
- (8) Special restrictions required by the Town Board and any other approving or objecting agency relating to access control along public ways, the provision of planting strips or the treatment of shoreland and floodplains.
- (9) Consistency with the State Plane Coordinate System.
- (10) Any covenants that will be filed with or separate from the final plat.

7.30 SURVEYING AND MONUMENTING.

All final plats shall meet all the surveying and monumenting requirements of Sec. 236.15, Wisconsin Statutes.

7.31 CERTIFICATES.

All final plats shall provide all the certificates required by Sec. 236.21, Wisconsin Statutes, 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 approval.

CONDOMINIUM PLATS

7.32 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.

7.33 PRELIMINARY CONSULTATION.

Prior to submitting an application for approval of a condominium plat the Land divider shall

consult with the Town to become informed of the purpose and objectives of these regulations.

In order to facilitate the consultation the Land divider shall provide a plat plan drawn to reasonable scale depicting the general lot layout, exterior property boundary, roadways, known easements and unique natural features.

MINOR CONDOMINIUM PLATS

7.34 SUBMITTAL.

Creation of a minor condominium plat shall be by certified survey map. The certified survey map shall be submitted to the Town following procedures as set forth under Minor Land Divisions, 7.17 of this ordinance and shall be prepared according to 236.34 and 703.11, Wis. Stats.

MAJOR CONDOMINIUM PLATS

7.35 PRELIMINARY PLAT SUBMITTAL.

(1) The Land divider shall prepare a preliminary plat in accordance with this chapter. The applicant shall provide the Town thirteen (13) copies of the preliminary plat, and the required number of copies for the County Zoning Department and any adjoining city or village, if in the extraterritorial plat approval jurisdiction.

(2) In addition, condominium plats which are located within the jurisdictional authority of the Winnebago County Town/County Zoning Ordinance and developed according to Sec. 23.762 for planned development district, shall submit application in accordance with Sec 23.7-67 of the Town/County Zoning simultaneously with the preliminary plat to the County Zoning Department.

7.36 FEE.

(1) An application fee as set forth by the Town of Omro fee schedule shall be paid in full at the time of submittal of the preliminary plat.

(2) Plats must be submitted simultaneous to all approving agencies and fees paid accordingly.

7.37 PRELIMINARY PLAT REQUIREMENTS.

Refer to the provisions of the typical Preliminary Plat requirements as found in Sections 7.24 through 7.28 of this chapter.

7.38 PRELIMINARY PLAT and FINAL PLAT REVIEW AND APPROVAL.

Preliminary Major Condominium Plats will be reviewed and approved in the same manner as prescribed for Major Land Division in sections 7.20 and 7.21 of this chapter. Finals Plats will follow section 7.22 and 7.23 of this chapter.

7.39 SURVEYING.

All final plats shall meet all the surveying requirements of Sec. 703.11 Wisconsin Statutes.

7.40 CERTIFICATES.

All final plats shall provide the surveyor's certificate required by Sec. 703.11(4) Wisconsin Statutes, 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 approval.

7.41 FEE.

- (1) An application fee as set forth by the Town shall be paid in full at the time of submittal of the final plat.
- (2) Conditional Use Permit. Condominium plats which are located within the jurisdictional authority of the Winnebago County Town/County Zoning Ordinance requiring conditional use permit according to Sec. 23.7-111 and Sec. 23.7-61 for planned development districts will be required to pay a separate fee to the County as well as to the Town.

7.42 RECORDATION.

After the final plat has been approved by the Town, Winnebago County and any other approving agencies, the Land divider shall record the plat according to section 7.23 of this chapter and Sec. 703.11 Wisconsin Statutes.

7.43 MODIFICATIONS.

Modifications to either a condominium plat or declaration shall require review and approval by the Town. If the Town 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.

REPLAT

7.44 REPLAT.

In accordance with Section 236.36, Wisconsin Statutes, a replat of all or any part of a recorded subdivision which does not alter areas previously dedicated to the public may be made by complying with Section 7.19 through 7.23 of this Ordinance. When a proposed replat involves alteration or vacation of areas previously dedicated to the public, the Land divider shall vacate or alter the recorded plat in accordance to Chapter 80 of the Wisconsin Statutes.

DESIGN STANDARDS

7.45 STREET ARRANGEMENT.

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

(1) All streets shall meet the Design Standards required by The Town of Omro Road Development Ordinance. Where elements of this section differ from the Road Ordinance, the Road Ordinance shall prevail.

(2) Streets shall show a dedicated right-of-way width based on an Official Mapped street (City of Omro or City of Oshkosh, and any future Town 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) All land divisions shall be designed so as to provide each lot with satisfactory access to a public street as provided herein.

(4) The following conditions shall apply for street arrangement in all proposed land divisions:

(a) Arterial Streets. 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 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 to 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) 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 Town Board.

2. The number of intersections along major streets and highways shall be held to a minimum. In addition, intersections shall meet Winnebago County's Access Control Ordinance (as administered and enforced by Winnebago County). The State of Wisconsin Department of Transportation determines Road Access to State Highway's 21, 91 & 116. Otherwise, wherever practicable, the distance between such intersections should not be less than 1,200 feet.

3. Street jogs with centerline offsets of less than 150 feet shall not be approved.

(e) 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 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.

(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 or County.

(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 possible.

7.46 STREET DESIGN STANDARDS.

(1) The minimum right-of-way of all proposed streets shall be as specified on any adopted Official Map of Town or City of Omro or, if no width is specified, the minimum right-of-way width shall be as required by the Town Board and Town of Omro Road Development or other Development Ordinance.

(2) Minimum roadway width and surface width of all new land division roads shall comply with the Town of Omro Road Development Ordinance or Section 86.26, Wisconsin Statutes.

(3) Cul-de-sac streets designed to have one end permanently closed should not normally exceed 600 feet in length, but can be up to 1,000 feet in length provided density is not more than 15 housing units being served by said street. The Town may require an Official Mapped Street Stub or future connection to an existing road to decrease the permanent length of a cul-de-sac street. Such streets shall terminate in a circular turnaround having a minimum right-of-way diameter of 120 feet and a minimum roadway pavement diameter of 90 feet.

(4) Street grades shall comply with the Town of Omro Road Development Ordinance as supplemented by Sec. 86.26, Wisconsin Statutes. 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. In general, arterial streets should have a flatter horizontal and vertical curve than minor streets.

(6) Half streets shall be prohibited except where:

(a) The other half has already been dedicated.

(b) Its alignment is shown on an officially adopted street plan.

(7) Vision corner easements shall be required along State Highways. The plat shall show the access control permit.

(8) Any new or rebuilt bridges, culverts or roadways, built within a Floodplain District, shall meet all of the requirements established under the County's Floodplain Ordinance, and other Town/County Ordinances.

7.47 INGRESS AND EGRESS ON LIMITED ACCESS HIGHWAYS.

Where a tract, lot or parcel of land abuts a County controlled limited access highway, defined in Chapter 7 of the Winnebago County General Code, access shall be provided by one of the following:

- (1) Access control permit issued by the County Highway Department. The Road access permit shall be issued and the number shall be shown on the face of the CSM or Plat before said documents are recorded.
- (2) Easement to use an existing access.
- (3) Frontage road dedicated to the public having an approved access.
- (4) Variance approved by the Winnebago County Board of Adjustment.

If access is provided by an easement to use an existing access, 7.47 above, then the following provisions shall apply:

- (a) The parent parcel having an existing access shall allow access to each subsequent parcel; and
- (b) Each subsequent parcel shall allow access to each additional subdivided parcel, not to exceed the maximum spacing requirements of Chapter 7, Winnebago County General Code.
- (c) There shall be a 50 foot building setback from the right-of-way, or the zoning classification of the parcel as defined in Chapter 23 of the Winnebago County Town/County Zoning Ordinance, whichever is greater. Setback provisions shall be measured from the edge of easement.
On these six roads the setback shall be 30 feet or the County setback, whichever is greater: 1—Clark Street, 2—Cleve Street, 3—East Reighmoor Road, 4—West Reighmoor Road, 5—Springbrook Lane and 6—Vande St.
- (d) Easement right-of-way shall be a minimum of 60 feet in width, and shall not include public right-of-way (overlap) within the easement width.

7.48 LIMITED ACCESS HIGHWAY.

Whenever the proposed land division contains or is adjacent to a limited access highway 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, 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, streets approximately parallel to and at a suitable distance from such highway or railroad for the appropriate use of the land between such street and highway, but not less than 150 feet.

(3) Streets parallel to a limited access highway, when intersecting a major street, highway or collector street which crosses such highway, shall be located at a minimum distance of 250 feet from such highway. 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) Setback from a State Highway shall either be the Town of Omro's 50 foot setback requirements, or the County Zoning District setback requirements, or the setback requirements of Trans. 233, whichever is greater.

7.49 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 500 feet nor more than 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.

7.50 UTILITY EASEMENTS.

All utility lines for cable, electric power and telephone service shall be buried and 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 engineeringly unfeasible by the utility company involved. When burial is not feasible the developer may negotiate relief from the Town on this requirement.

7.51 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) 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 Town boundary lines rather than cross them.

(2) 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.

(a) Unless otherwise noted in Table 1, 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.

(b) A CSM or Plat creating a new parcel without frontage on a public street shall contain the following statement:

1. Areas under County Zoning Jurisdiction: Applications for County zoning permits for residential structures (principal or accessory) and all other principal structures, except agricultural, shall not be considered for approval until the parcel meets the public street frontage and lot width requirements of the applicable non-agricultural zoning district (as noted in Table 1).

(4) Area and dimensions of lots shall conform to the requirements of Table 1 of Winnebago County Code, Chapter 18 and with the Land Use Goals, Objectives and Policies contained within the Town of Omro Comprehensive Plan:

(a) In Rural Preservation Area minimum lot size is five (5) acres.

(b) In a Rural Residential area minimum lot size is two (2) acres.

(c) In all residential areas maximum lot size is one (1) acre and minimum lot size is one-half (1/2) acre (21,780 sq. ft.).

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. The Town of Omro Comprehensive Plan requires the use of shadow lines in some Rural and all Rural Residential cases.

(5) Lots should be designed and a suitable proportion between width and depth. Neither long narrow nor wide shallow lots are normally desirable. Normal depth should not exceed 2 1/2 times the width nor be less than 150 feet.

(6) Width of lots shall conform to the requirements of Table 1 of Winnebago County Code, Chapter 18.

(7) Corner lots shall be designed with extra width to permit adequate building setback from both streets.

(8) Garage lots shall be established only in accordance with the intent of Section 23.8-61 of the Town/County Zoning Ordinance. Area and width requirements of Table 1 of this ordinance shall be followed provided that administrative authorization to modify lot area is

allowed in circumstances where unique conditions exist. In addition, the following standards shall be required of all garage lots:

- (a) The garage lot shall be located directly across from the "house lot"; and,
- (b) The garage lot must be deed restricted by separate instrument to the house lot, said restriction to be submitted for recording at the time of submittal of the Certified Survey Map. The restriction shall specify that it is a perpetual restriction that may only be removed by written authorization of the Winnebago County Zoning Office at such time as the garage lot is being enlarged so as to meet other buildable lot standards.

7.52 BUILDING SETBACK LINES.

Building setback lines shall conform to the requirements established in the Town/County Zoning Ordinance. Even though the Town of Omro has adopted Winnebago Town/County Zoning, the required setback lines (including the Town of Omro's 50-foot front line setback) shall be shown on the face of the plat.

On these six roads the setback shall be 30 feet or the County setback, whichever is greater: 1—Clark Street, 2—Cleve Street, 3—East Reighmoor Road, 4—West Reighmoor Road, 5—Springbrook Lane and 6—Vande St.

7.53 SURFACE WATER

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 in the Town of Omro.

(1) Increased Surface Water Runoff. Surface water runoff after development shall not be increased in either peak rate or flow at increased velocities which cause property and structure damage. All storm water design shall meet the Town of Omro Post-Construction Stormwater Management Ordinance Requirements.

(2) A storm water detention plan must be approved by the Town of Omro Town Board prior to a Plat (or CSM, if deemed necessary) being recorded in the Winnebago County Recorder of Deeds office.

7.54 SURFACE WATER DRAINAGE RESTRICTIONS.

To the extent practical, no drainageway contained within a drainage easement shall be disturbed, except as provided in Section 7.54 (3), in accordance with the following:

- (1) All drainage ways, whether natural or manmade, shall be maintained to ensure that the flow of water is unobstructed, except as maintained in an approved erosion control plan.
- (2) No fence or other man-made structure may restrict the flow of storm water.

(3) Lot boundaries shall be made to coincide with new and/or preexisting man-made and natural drainageways to avoid 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 stage, 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.

(d) The retention or diversion has been allowed or required by the Town of Omro or County Planning and Zoning Department and noted on the approved drainage plan and final plat.

7.55 THIS SECTION HAS BEEN DELETED

DEDICATIONS AND IMPROVEMENTS

7.56 DEDICATION AND RESERVATION OF LAND.

(1) Reservation and Dedication of Public Land.

(a) Whenever a tract of land to be divided by certified survey or subdivision includes all or any part of land designated in an adopted regional, county, or town plan or plan component, as a proposed street, drainage way, public park, playground, public access, open space site, trail, public way or other public land, (Collectively, the "Public Land"), the location and dimensions of such public land shall be identified on the certified survey map or plat and either be dedicated to the public or be reserved for acquisition by the county, the town, or the other public entity for a period not to exceed two years from the date the certified survey map or plat is recorded with the Winnebago County Register of Deeds, unless the time period is extended by the agreement of the land divider, subsequent owner of the property, or other authorized party, with the county, town, or other public entity. If required by the Town of Omro Comprehensive Land Use Plan, the town will release the reservation on any land it has not acquired within the time period.

(b) If the Town of Omro Comprehensive Land Use Plan requires a dedication of less town owned park land than is required by Section 7.56 (2), then the land

divider shall pay the in-lieu-of amount for the difference. If the Town of Omro Comprehensive Land Use Plan requires a dedication of more town owned park land than is required by Section 7.56 (2), the land divider will be reimbursed for the undeveloped land value of the additional parkland.

(2) Dedication of Parkland and Open Space.

(a) Each divider of land, whether by subdivision or by certified survey map, shall provide public land as required by this section.

(b) Each divider of land shall dedicate 1,350 square feet of land to the town for each housing unit, provided land in the subdivision is shown on the Town's Comprehensive Plan as parkland. This dedication shall be at no cost to the town.

(c) The number, size, and location of all dedications shall be determined by the town board after considering the recommendation of the Town Plan Commission. The town board has the right to refuse any dedication of land it determines is unsuitable for park or open space.

(3) Payment in Lieu of Dedication

(a) If the town, in its sole discretion, determines that the land proposed to be dedicated is not suitable, because said land is not shown as a potential park, or has unexpected contamination, or upon the mutual agreement of the land divider and the town, the land divider shall pay in lieu of said dedication, the fees set forth in sections 4, 5 and 6 following. These fees shall be paid prior to recording the CSM or Plat in the Winnebago County Recorder of deeds office.

(b) Park fees (based upon the market value of undeveloped land just prior to development, and upon projected development costs) shall be updated periodically by the town board and become effective upon approval by Resolution of the Town Board.

(c) In-lieu-of payments received by the town shall be deposited in a segregated, nonlapsing fund to be used for new public park development, including site acquisition and initial improvement including grading, landscaping, installation of utilities, construction of sidewalks, installation of playground equipment, and construction or installation of restroom facilities as authorized by Wis. Stat. §236.45(6)(ac). Disbursements from such funds shall be made only upon specific approval of the town board upon considering the recommendation of the Town Plan Commission.

(d) The development of public land facilities shall be located in the vicinity of the land from which the funds are based. Such facilities shall be owned, operated and maintained by the town.

(4) Unimproved Land

(a) The average value hereby established for the amount of undeveloped land, at the time of division (whether by platting or CSM) upon which planned parks are to be located as set forth in (2)(b) above, shall be \$200 per lot or dwelling unit potential, whichever is greater, or as updated by resolution per (3) above. This lot/unit value is based upon \$15,000.00 per acre average for developable lands, and \$1,000.00 per acre for wetlands.

(b) Whenever the divider or the Town feels said average value unfairly represents the value of the specific tract being considered for dedication or for public purchase in lieu of dedication, the Town Assessor shall determine a fair value for the tract at the expense of the Town. If the Assessor's determination is not satisfactory to one of the parties, the Town shall contract an appraiser acceptable to both parties. The cost of this appraiser's services shall be divided equally between the parties. If the parties still cannot reach agreement on value, either party may appeal the matter to the Circuit Court of Winnebago County for resolution by the Court.

(5) DELETED

(6) Public Land Development Fees.

The average cost for improvements of land set forth in (2)(b) above, for a park shall be \$200 per lot or dwelling unit potential in the development.

7) Appraisal Requirements.

If such lands or facilities have been acquired in whole or in part with Town funds, not totally from the nonlapsing fund established in subparagraph (c) of this section, then an appraisal of the land or facilities shall be prepared and the Town Board may acquire said land for an amount not to exceed the appraised value less the amount of funds applied from the nonlapsing fund established in this section.

7.57 IMPROVEMENTS.

No construction or installation of improvements shall commence in a proposed subdivision until the Final Plat and a Town Development Agreement (as specified in 7.20) has been approved and executed by the Town of Omro. The Land divider shall file, along with the Town Development Agreement, a surety bond or other satisfactory security meeting the approval of the Town Board as a guarantee that such improvements will be completed by the Land divider or his subcontractors within the time limit established by the Town Board. The Land divider must have a Town approved Road or other Development Agreement at the time of Final Plat Approval.

Building permits for any type of structure will not be issued in an approved subdivision until the roads have met the requirements for issuance of building permits as set forth in the

Town of Omro Roads and Highways Ordinance.

7.58 PLANS.

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

- (1) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- (2) Installation of Town approved street signs and lights at all street intersections that are within a proposed subdivision, or on adjacent roadways of any subdivision, installed at the land dividers' expense.
- (3) Sanitary sewer plans and profiles showing the locations, grade, sizes, elevations and materials or required facilities.
- (4) Plans and profiles showing the locations, grade, sizes, elevations and materials or required facilities for municipal water.
- (5) 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. Open ditch grades and culvert depth shall be reviewed and approved by the designated Town certified Engineer, before installation. Subdivisions that need on-site storm water detention facilities will be required to grant the Town maintenance easements. Refer to regulations in the Town of Omro Post-Construction Stormwater Management Ordinance.
- (6) Utility services shown as underground installations. Any utility markers placed during plat construction, including adjoining road right-of-ways, shall be removed within 20 days of utility installation by the land divider.

7.59 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 shall inspect and approve all completed work prior to release of the sureties, 6 months after completion of work and at the request of the land divider.

7.60 PUBLIC SANITARY & PRIVATE SEWAGE DISPOSAL AND MUNICIPAL WATER SYSTEMS.

Any Sanitary District within the Town shall determine the feasibility of sewer and municipal water service and the procedures to be followed by the owner of a proposed subdivision within said District. Also the following shall apply:

(1) MAJOR LAND DIVISIONS and MAJOR CONDOMINIUM PLATS shall be served by municipal water and a public sanitary sewage system, major holding tank on a sanitary district as part of a public sewer system, or an on-site soil absorption system, or private sewer system. Private holding tanks are expressly prohibited.

(2) MINOR LAND DIVISIONS and MINOR CONDOMINIUM PLATS may be served by holding tanks provided no alternative methods are available.

CLUSTER SUBDIVISIONS

7.61 PURPOSE.

Grouping of residences in clusters will permit individual minimum lot sizes as zoned to be reduced, provided that overall density within the subdivision is maintained. The remaining undeveloped area within the subdivision can be used to provide common open space and preserve the scenic qualities of an applicable environmentally sensitive area. Grouping of residences will facilitate common water and sewage disposal systems and encourage the improved use of the land respecting the preservation of natural resources.

7.62 REVIEW.

Cluster subdivisions shall be submitted for review according to 7.19 to 7.23 of this chapter.

Plans analyzing each site's special features are required for all proposed subdivisions, as they form the basis of the design process for open space, house locations, street alignments, and lot lines. The applicant or representative shall bring a copy of the Existing Features (Site Analysis) Map to the on-site walkabout with Town Planning Commission. Detailed requirements for an Existing Features Map shall include:

- (1) A topography map, based on a U.S.G.S Quadrangle map;
- (2) the location of environmentally sensitive elements such as steep slopes (over 25%), wetlands, watercourses, intermittent streams and 100-year floodplains, and all rights-of-way and easements;
- (3) soil boundaries as shown on the Winnebago County Soil Survey maps published by the Soil Conservation Service; and
- (4) the location of significant features such as woodlands, treelines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, roads, tracks and trails,

An Existing Features Map shall identify both Primary Conservation Areas (floodplains, wetlands, and steep slopes, as defined in the process for computing "Adjusted Tract Acreage") and Secondary Conservation Areas, as described in section 7.65 of this ordinance. Together, these Primary and Secondary Conservation Areas comprise the developments' proposed open space. Their location must be consistent with the Town's Comprehensive Plan Implementation section regarding Parks and Recreation and Multi-Purpose Trails. The Existing Features Map shall form the basis for the conceptual Preliminary Plan, which shall show the tentative location of houses, streets, lot lines, and greenway lands.

7.63 REQUIREMENTS.

Proposed cluster developments shall contain a minimum of ten (10) acres and shall be platted according to the requirements of this chapter. The maximum permitted number of lots in such development shall be determined by dividing the total adjusted tract acreage as described below by the minimum lot sizes required in the County Zoning Code.

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 100-year floodplain, slopes exceeding 25%, 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 (for both conventional and conservation subdivisions).

Secondary Conservation Areas. In addition to the Primary Conservation Areas, at least fifty percent (50%) of the remaining buildable land (minus deductions as specified in section 7.66) shall be designated and permanently protected

Land in the Primary & Secondary Conservation Areas (not used for lots and streets) shall be protected through a conservation easement or actual land dedication to the public. This may be accomplished by the following means:

(1) Conveyance to owners of lots in the development. If the land is to be reserved for use by owners of lots in the development, the land shall be conveyed for use to a homeowners association or similar legally constituted body which shall also maintain the open space conservation easement.

(2) Dedication to the Town of Omro or other governmental body or a recognized land trust or conservancy. Lands dedicated to the public must be accepted by appropriate action of the governing body of the accepting unit of government. Lands dedicated to

the Town of Omro shall be clearly noted on the face of the Final Plat as dedicated to the Town of Omro. Public street dedication shall meet the conditions of a Town of Omro road agreement.

(See section 7.67 of this section for specific requirements governing these two (2) forms of open space dedication).

Water supply and sewage disposal shall meet the minimum standards of all State, County, Sanitary District, or Town regulations.

The Design Standards, as outlined within this Ordinance, may, at the discretion of the Town Board, be relaxed as an incentive in developing Cluster Subdivisions. Standards that can be relaxed in order to permit more creative land division design include, but are not limited to, lot shape and depth, length of cul-de-sac roads, and road right-of-way width.

Pedestrian trails within a Cluster Subdivision are required to be connected to any regional pedestrian trails wherever established or proposed by the Town of Omro, Winnebago County, or the State of Wisconsin.

7.64 MINIMUM PERCENTAGE OF OPEN SPACE

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 a Homeowners Association, or dedicated to the Town of Omro or Winnebago County, shall be as specified below:

(1) A minimum of fifty percent (50%) of the total parcel area, including the following kinds of unbuildable land (which are also required to be deducted when calculating net permitted density for conventional subdivisions as well):

- (a) wetlands and land that is generally inundated, and under ponds, lakes, creeks, etc.),
- (b) all of the floodway and floodway fringe within the 100-year floodplain, as shown on official FEMA maps,
- (c) land with slopes exceeding 25%, or soils subject to slumping,
- (d) 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 or land dedication monitoring and enforcement, and to promote appropriate management by a single entity according to approved land management standards.

(2) The fifty (50) percent requirement may be decreased by five (5) percent for each of the following elements shown in the subdivision (maximum of fifteen (15) percent

reduction):

(a) Use of a cluster septic system

(b) Coordinated subdivision theme identification signage, street name signs and lighting

(c) Other aesthetics not necessarily required by this ordinance, such as "fitness trails", docks with seating areas in ponds, or other features considered unique and imaginative that will add a distinctive feature and benefit to future residents and the Town.

(3) 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 Omro and duly recorded with the Winnebago County Register of Deeds.

(4) The Land divider shall document the purposes for which open space areas are proposed on the face of the plat.

(5) The required open space may be used, without restriction, for underground drainage fields for individual or community septic systems.

(6) Stormwater management ponds or basins and land within the rights-of-way for underground pipelines may be included as part of the minimum required open space.

7.65 LOCATION OF OPEN SPACE.

The location of open space conserved through compact residential development shall be consistent with the policies contained in the Town's Comprehensive Plan Implementation section regarding Parks and Recreation and Multi-Purpose Trails, and with the recommendations contained in this section and the following section (7.66-Evaluation Criteria).

Although the locations of Primary Conservation Areas are predetermined by the 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 100-foot deep greenway buffer along all water bodies and watercourses, and a 50-foot greenway buffer alongside wetlands soils classified as "very poorly drained" in the medium-intensity county soil survey).

The location of Secondary Conservation Areas shall be guided by the maps and policies contained in the Environment sections of the Town's Comprehensive Plan, and shall typically include all or part of the following kinds of resources: mature woodlands, 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.

Although the resource lands listed as potential Secondary Conservation Areas may comprise more than half of the remaining land on a development parcel (after Primary Conservation Areas have been deducted), no applicant shall be required to designate more than 20% of that remaining land as a Secondary Conservation Area.

General Locational Standards. Cluster 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, the road alignments identified, and lot lines drawn in as the final step.

Undivided open space shall be directly accessible to the largest practical number of lots. To achieve this, the majority of lots should abut undivided open space in order to provide direct views and access. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space should be provided.

7.66 EVALUATION CRITERIA.

The Town Planning Commission and Town Board shall evaluate Cluster Subdivisions to determine whether the proposed conceptual preliminary plan:

(1) 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).

(2) Preserves and maintains mature woodlands, existing fields, pastures, meadows, and orchards, and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.

(3) 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 a planting screen consisting of a variety of trees, shrubs, and wildflowers.

(4) Maintains or creates an upland buffer of natural native species vegetation of at least 100 feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.

(5) Designs around existing hedgerows and treelines between fields or meadows, and minimizes impacts on large woodlands (greater than five acres), especially those containing many mature trees or a significant wildlife habitat. Also, woodlands of any size on highly erodible soils with slopes greater than 10% 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 practicable.

(6) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public thoroughfares. 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.

(7) Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the U.S. Environmental Protection Agency.

(8) Designs around and preserves sites of historic, archaeological, or cultural significance, and their environs, insofar as needed to safeguard the character of the feature, including stone walls, barn foundations, cellar holes, earthworks, and burial grounds.

(9) Protects rural roadside character and improves public safety and roadway carrying capacity by avoiding development fronting directly onto existing public roads.

(10) Provides mature Landscape plantings equal to at least five (five) trees (mixture of ornamental and shade tree) per each residential unit, interspersed throughout the subdivision in areas void of trees, cul-de-sac islands, and in visually strategic locations that will add aesthetic appeal to the overall development.

(11) Includes a pedestrian circulation system designed to assure pedestrian safety, and that provides a connection to adjoining properties or pedestrian trail systems. All roadside pedestrian trails (if any) should connect with off-road trails.

(12) Provides open space that is in a reasonably contiguous configuration. Fragmentation of open space should be minimized and not divided into numerous small parcels located in various parts of the development. To the greatest extent practicable, open space 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 should 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, as per the policies in the Town of Omro Comprehensive Outdoor Recreation (COR) Plan and in the Parks and Open Space and Multi-Purpose Trails Implementation section of the Town's Comprehensive Plan.

7.67 OWNERSHIP AND MAINTENANCE OF OPEN SPACE

Different ownership and management options apply to the permanently protected open

space created through the development process. The open space shall remain undivided and shall be owned and maintained by a homeowners' association, the Town, County, or a recognized land trust or conservancy.

However all trails within a Cluster Subdivision must be open to the public. A public land dedication, not exceeding 10% of the total parcel size, may be required by the Town, through designated open space, to facilitate public trail connections. A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common space and public improvements, utilities, and open spaces.

Common open space within a development shall be owned, administered, and maintained by any of the following methods, either individually or in combination, and subject to approval by the Town:

(1) Offer of Dedication. The Town or other governmental agencies shall have the first and last offer of dedication of undivided open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The Town may, but shall not be required, to accept undivided open space provided: (a) such land is accessible to the residents of the Town; (b) there is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance; and (c) the Town agrees to and has access to maintain such lands. Where the Town accepts dedication of common open space that contains improvements, the Town may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen percent (15%) of the actual cost of installation of said improvements.

(2) Homeowners' Association: The undivided open space and associated facilities may be held in common ownership through a homeowners association. The association shall be formed and operated under the following provisions:

(a) The Land divider shall provide a description of the association, including its bylaws and methods for maintaining the open space easement.

(b) The association shall be organized by the Land divider and shall be operated with a financial subsidy from the land divider, before the sale of any lots within the development.

(c) Membership in the association is mandatory for all lot owners and their successors. The conditions and timing of transferring control of the association from Land divider to lot owners shall be identified.

(d) The association shall be responsible for maintenance of insurance and payment of taxes on undivided open space, enforceable by liens placed by the Town on the association. The association may place liens on the lots of its members who fail to pay their association dues in a timely manner. Such liens may provide for the imposition of penalty interest charges.

(e) The members of the association shall share equitably the costs of maintaining and developing such undivided open space. Shares shall be defined within the association bylaws.

(f) In the event of a proposed transfer, within the methods here permitted of undivided open space land by the homeowners' association, or of the assumption of maintenance of undivided open space land by the Town, notice of such action shall be given to all property owners within the development.

(g) The association shall have or hire adequate personnel to administer common facilities and properly and continually maintain the undivided open space.

(h) The homeowners' association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of open space lands, but such a lease agreement shall provide:

1. that the lot owners of the development shall at all times have access to the open space lands contained therein (except croplands during the growing season);
2. that the undivided open space to be leased shall be maintained for the purposes set forth in this ordinance; and
3. that the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the Town, at the election of the Developer and/or homeowners' association, as the case may be.
4. The lease shall be subject to the approval of the Town of Omro and any transfer or assignment of the lease shall be further subject to the approval of the Town Board. Lease agreements so entered upon shall be recorded with the Winnebago County Register of Deeds within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the Town.

(i) Condominiums. The undivided open space and associated facilities may be controlled through the use of condominium agreements, approved by the Town. Such agreements shall be in conformance with the State's Condominium Ownership Act (S. S. Ch. 703). All undivided open space land shall be held as a "common element."

(j) Dedication of Easements. The Town may, but shall not be required to accept easements for public use of any portion or portions of undivided open space land, title of which is to remain in ownership by condominium or homeowners' association, provided: (1) such land is accessible to town residents; (2) there is no cost of acquisition other than any costs incidental to the transfer of ownership, such as title insurance; and (3) a satisfactory maintenance agreement is reached between the developer, condominium or homeowners' association, and the Town.

(k) Transfer of Easements to a Private Conservation Organization. With the permission of the Town, an easement may be transferred to a private, nonprofit organization, among whose purposes it is to conserve open space and/or natural resources, provided that:

- (1) The organization is acceptable to the Town, and is a bona fide conservation organization with perpetual existence;
- (2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and a maintenance agreement acceptable to the board is entered into by the Developer and the organization.

7.68 MAINTENANCE STANDARDS

The ultimate owner of the open space (typically a homeownership association) shall be responsible for raising all monies required for operations, maintenance, or physical improvements to the open space through annual dues, special assessments, etc. The homeowners' association shall be authorized under its bylaws to place liens on the property of residents who fall delinquent in payment of such dues, assessments, etc.

In the event that the association or any successor organization shall, at any time after establishment of a development containing undivided open space, fail to maintain the undivided open space in reasonable order and condition in accordance with the development plan, the Town may serve written notice upon the owner of record, setting forth the manner in which the owner of record has failed to maintain the undivided open space in reasonable condition.

Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of this ordinance. The Town is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within twenty (20) days.

Should any bill or bills for maintenance of undivided open space by the Town be unpaid by November 1 of each year, a late fee of fifteen percent (15%) shall be added to such bills and a lien shall be filed against the premises in the same manner as other municipal claims.

TABLE 1

Winnebago County's Sub Division Code has a Table 1 which shows the Lot Size/Area Requirements which also govern in the Town of Omro. At the time of adoption of the Town of Omro's current Land Division Ordinance the County was considering revising their Ordinance along with Table 1. Please refer to the most current Winnebago

County restrictions.

Note that Rural Residential is a Town of Omro Comprehensive Plan construct, not a zoning entity. In the indicated Rural Residential region of the Future Land Use Plan map of the Comprehensive Plan it calls for a 2 acre minimum, 75 foot frontage and shadow lines to protect further building availability in successive divisions. Otherwise the rest of the table applies as appropriate.

APPENDIX

Sections of the State Statutes that pertain to the Town of Omro Subdivision Ordinance are as follows:

- Recordation improperly made (7.12) (1) shall be subject to the provisions of Sec. 236.30, Wisconsin Statutes, which states that “any person causing his or her final plat to be recorded without submitting such plat for approval as herein required, or who shall fail to present the same for record within the time prescribed after approval, shall forfeit not less than \$100, nor more than \$1,000 to each municipality, town or county wherein such final plat should have been submitted. See State Statutes 236.30 for more detail”.
- Conveyance of lots in unrecorded plats (7.12) (1) shall be subject to the provisions of Sec. 236.31, Wisconsin Statutes which states that “any subdivider or the subdivider’s agent who offers or contracts to convey, or conveys, any subdivision as defined in s. 236.02 (12) or lot or parcel which lies in a subdivision as defined in s. 236.02 (12) knowing that the final plat thereof has not been recorded may be fined not more than \$500 or imprisoned not more than 6 months or both; except where the preliminary or final plat of the subdivision has been filed for approval with the town or municipality in which the subdivision lies, an offer or contract to convey may be made if that offer or contract states on its face that it is contingent upon approval of the final plat and shall be void if such plat is not approved. Any conveyance or contract to convey made by the subdivider or the subdivider’s agent contrary to this section or involving a plat which was not entitled to be recorded under s. 236.25 (2) shall be voidable at the option of the purchaser or person contracting to purchase, his or her heirs, personal representative or trustee in insolvency or bankruptcy within one year after the execution of the document or contract; but such document or contract shall be binding on the vendor, the land divider’s assignee, heir or devisee.”
- Monuments disturbed or not placed (7.12)(3) shall be subject to the provisions of Sec. 236.32, Wisconsin Statutes, which states that “the penalty for disturbing or not placing monuments “may be fined not more than \$250 or imprisoned not more than one year in county jail...”
- Assessor’s plat (7.12) (4) may be ordered by the Town when a subdivision is created by successive divisions as provided in Sec. 236.31(2), Wisconsin Statutes which states “any municipality, town, county or state Agency with subdivision review authority

may institute injunction or other appropriate action or proceeding to enjoin a violation of any provision of this chapter, ordinance or rule adopted pursuant to this chapter. Any such municipality, town or county may impose a forfeiture for violation of any such ordinance, and order an assessor's plat to be made under s. 70.27 at the expense of the subdivider or the subdivider's agent when a subdivision is created under s. 236.02 (12) (b) by successive divisions.”

- Any person failing to comply with the provision of this chapter (7.12) (5) shall be subject to a penalty which involves a first offense penalty (if convicted) of not less than \$5 or more than \$500, plus cost of prosecution. Failure to make payment shall result in imprisonment in the County Jail until money is paid, with a jail term not to exceed 90 days. Second Offense (if found guilty of ordinance violation within one year) shall pay not less than \$10 nor more than \$500 for each offense, plus other costs.