

Town of Oconto Falls

Oconto County, Wisconsin

Chapter 18: Land Division & Subdivision Regulations

**Adopted by Town of Oconto Falls Board of Supervisors
on May 12, 2008**

**Amended and Adopted by Town of Oconto Falls Board of Supervisors
on September 12, 2016**

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Chapter 18: Land Division & Subdivision Regulations

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ARTICLE I: INTRODUCTION

18.01 Authority. (1) This Chapter was adopted under the statutory authority granted pursuant to the Village Powers of the Town of Oconto Falls, to Chapters 60.10 (2) (c), 60.22 (3), 61.34 (1), 236.03, and 236.45, Wis. Stats. This Chapter was adopted by the Town Board after its receipt of a formal recommendation of this Chapter on May 12, 2008 from the Town Plan Commission under Chapters 61.35, 62.23 and 236.45 (2), Wis. Stats, which for the Town of Oconto Falls is the Town of Oconto Falls Plan Commission.

(2) This Chapter shall be interpreted and enforced by the Town Board, Town of Oconto Falls.

(3) This Chapter was amended and adopted by the Town Board on MONTH DAY, 2016.

18.02 Adoption. The Town Board, by this Chapter, adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town Board to regulate and approve certain land divisions and certified surveys in the Town of Oconto Falls. Pursuant to Chapter 236.45(4), Wis. Stats., a public hearing was held before the adoption of this Chapter and its subsequent amendments. Notice of the hearing was given by publication of a Class 2 notice, under Chapter 985, Wis. Stats.

18.03 Title. This Chapter shall be known and cited as the “Land Division and Subdivision Regulations, Town of Oconto Falls, Oconto County, Wisconsin.”

18.04 Purpose and Intent. (1) The purpose of this Chapter is to promote the public health, safety and general welfare of the Town of Oconto Falls, and to:

- (a) Preserve the rural character, scenic vistas, and natural beauty of the Town.
- (b) Supplement County, State, and Federal land division controls.
- (c) Encourage the most appropriate use of the land throughout the Town.
- (d) Minimize the impact to the public resulting from the division of large tracts into smaller parcels of land in the Town.
- (e) Provide the best possible environment for living in the Town.
- (f) Implement and enforce the goals, objectives, and policies set forth in any Town of Oconto Falls Comprehensive Plan.
- (g) Avoid congestion and provide adequate ingress and egress on the streets and highways to ensure that the design of the street system will not have a negative long-term effect on neighborhood quality, traffic flow, and safety in the Town.
- (h) Realize goals, objectives, policies, and development standards set forth in plans, codes, and ordinances adopted by the Town.
- (i) Further the orderly layout and use of land.
- (j) Secure safety from fire, panic and other dangers.
- (k) Provide adequate light and air; to prevent the over-crowding of land.
- (l) Require Conservation Design as the primary means for subdivision development.
- (m) Conserve the value of prime agricultural soils.
- (n) Protect and preserve natural resources, wildlife habitat, and open space to the greatest degree possible.
- (o) Facilitate the division of larger parcels into smaller parcels of land.
- (p) Provide for administration and enforcement of this Chapter by the Town Board.
- (q) Insure that residential development in the Town occurs in an orderly manner and is consistent with the adopted Town of Oconto Falls Comprehensive Plan.

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18.05 Severability. If any section, provision, or portion of this Chapter is adjudged invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

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

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

18.07 Modification of Regulations. (1) When the Town Board finds that injustice or hardship will result from strict compliance with this Chapter, it may allow divergence from the terms hereof to the extent deemed necessary and proper to grant relief, provided that the modification meets all the following standards:

(a) The modification is due to the unique physical features of the site.

(b) The modification is the minimum deviation from the terms of this chapter necessary to mitigate the injustice or hardship.

(c) The modification is not detrimental to the public interest and is in keeping with the general spirit and intent of this chapter.

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

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

(4) If a hearing is determined necessary, the applicant shall be responsible for payment of a hearing fee as established by the Town of Oconto Falls Fee Schedule. 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 in the Class 1 notice, under Ch. 985. A copy of such notice shall be mailed by first class mail with an Affidavit of Mailing at least 10 days prior to the date of such hearing to all property owners within one mile of the subject site as listed on official tax property rolls as of the date of application.

(5) 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.

18.08 Repeal. All other ordinances or parts of ordinances of the Town of Oconto Falls inconsistent or in conflict with this Chapter, to the extent of inconsistency or conflict only, are hereby repealed.

18.09 Effective Date. This Chapter shall be effective after a public hearing, adoption by the Town Board of Oconto Falls, and publication. The effective date for this Chapter is May 12, 2008, or as subsequently amended and adopted.

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ARTICLE II: GENERAL PROVISIONS

18.10 Coverage and Compliance. (1) This Chapter applies to all lands in the Town of Oconto Falls. The Town Board shall be responsible to administer this Chapter unless it designates by Resolution such other authority.

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

- (a) All requirements of this Chapter.
- (b) Chapter 236, Wis. Stats.
- (c) The Town of Oconto Falls Comprehensive Plan adopted under §. 66.1001, Wis. stats., or other Town Land Use Plan or any component thereof.
- (d) The applicable Town of Oconto Falls and Oconto County zoning regulations, building code, sanitary code, erosion control regulations, and other land division regulations.
- (e) State Department of Natural Resources and State Department of Commerce administrative rules on wetlands, shorelands, sewers, septic systems, and pollution abatement.
- (f) All applicable State and local sanitary codes.
- (g) All applicable Town of Oconto Falls Ordinances.
- (h) All State Department of Transportation and Oconto County Highway Department Administrative rules relating to safety of access and the preservation of the public interest and investment in the highway system, if the land owned and controlled by the land divider abuts on a state or county trunk highway or connecting road or street.
- (i) All applicable extraterritorial, comprehensive, and master plans, extraterritorial zoning or plat review ordinances, or official maps adopted pursuant to §. 62.23, stats., and any other applicable Town, County, or extraterritorial authority ordinances and regulations.

(3) No land shall be divided or any land division occur if any parcel created by the land division is smaller than ¼ (one quarter) acre within the Residential Single Family District (R-1) or smaller than one (1) acre in a conservation subdivision within the Rural Residential (RR) District.

(4) Any parcel in the Town of Oconto Falls, which shall be divided by a land division regardless of the parcel size or number of parcels created, which is located wholly or partially within a Shoreland Zoning District or a Floodplain District, shall require, at minimum, a Certified Survey Map to be recorded in the Oconto County Register of Deeds Office with approval by the Town Board or its designee under this Chapter prior to recording.

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

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

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

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

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

(10) All land division, plats, or Certified Survey Maps, upon receipt of final approval by the Town Board or its designees, shall be recorded in the Office of the Register of Deeds by the land divider at the cost of the land divider within twelve months after the last approval and 36 months from the first approval. Final plat approval shall comply for recording with §236.21 and §236.25 Wis. Stats.

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

(12) No land shall be issued a land division approval if the Town of Oconto Falls Plan Commission determines that any proposed land division plat or Certified Survey Map will materially interfere with neighboring agricultural uses or will conflict with other goals, objectives, and policies as set forth in the Town of Oconto Falls Comprehensive Plan.

(13) No land shall be issued a land division approval for a purpose that poses a significant threat to the quality or quantity of groundwater in the Town of Oconto Falls.

(14) No land shall be issued a land division approval if it is held unsuitable by the Town Board for its proposed use for reason of flooding, inadequate drainage, dangerous or hazardous land conditions, adverse soil or rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal or maintenance capabilities, impairment of wildlife habitat and scenic vistas, improper utilization of prime farm soils, undue costs and inefficiencies in the provision of Town of Oconto Falls governmental services, or any other feature likely to be harmful to the health, safety, or welfare of current or future residents of the Town of Oconto Falls, or likely to cause a public nuisance in the Town of Oconto Falls. The Town Plan Commission may require any proposed land divider to furnish maps, data, and other information as may be necessary to determine land suitability.

(15) No person shall be issued any land division approval by the Town Board until a complete application and the appropriate application fees have been paid to the Town Clerk.

(16) No person shall be issued any land division approval by the Town of Oconto Falls who has failed to properly and fully complete and submit to the Town Board the application form developed and provided by the Town of Oconto Falls.

(17) No person shall be issued a final land division approval by the Town Board until the land divider makes or installs all public improvements deemed necessary by the Town Board or until the land divider executes a surety bond or other security acceptable to the Town Board to insure that the land divider will make these public improvements within a time established by the Town Board.

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(18) No person shall be issued a final land division approval by the Town Board until the Subdivider submits and obtains approval of the proposed land division plat or proposed certified survey map to the following approving authorities (as applicable):

- (a) Town of Oconto Falls Plan Commission.
- (b) Oconto County.
- (c) Wisconsin Department of Natural Resources (if required).
- (d) Wisconsin Department of Transportation (if required).
- (e) U.S. Army Corps of Engineers (if required).

(19) No person shall be issued a final land division plat approval by the Town Board until the land divider agrees in writing that the land divider will be responsible for the cost of any necessary alteration of any existing utilities by virtue of a land division within the public right-of-way.

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

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

(22) No person shall be issued a final land division approval by the Town Board unless any roads proposed to be dedicated to the Town of Oconto Falls have been specifically approved for dedication by the Town Board. The applicant shall finish all shoulders and road ditches, if any, install all necessary culverts at intersections and, if required by the Town Board, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the Town of Oconto Falls Plan Commission, and as recommended by the Town of Oconto Falls Engineering Consultant.

(23) No person shall be issued a final land division approval by the Town Board unless any natural gas, electrical power, cable and telephone facilities are installed in such manner as to make adequate service available to each parcel or outlot in the proposed land division.

(24) No person shall be issued a final land division approval by the Town Board unless formal dedication of parks, open space, or sites for other public use have been made if required by the Town Board at no cost to the Town of Oconto Falls.

18.11 Combining Parcels. Parcels shall be combined into one parcel when a use, structure, or structural addition occupies more than one parcel under the same ownership.

18.12 Combining Description. Land described in s. 18.11 shall be combined into one parcel by Certified Survey Map procedures and recorded in the County Register of Deeds Office.

18.13 Land Suitability. (1) No land shall be developed which is held to be unsuitable for any proposed use if identified as being environmentally sensitive. Areas identified as being environmentally sensitive include, but are not limited to:

- (a) All areas mapped as Floodway by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural resources (WDNR), Wisconsin Department of Safety and Professional Services (WSPS) or other public or private entity and incorporated into the County Floodplain Ordinance.

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- (b) All areas mapped Wetland by the WDNR and depicted on the Wisconsin Wetlands Inventory Maps.
 - (c) All areas within seventy-five (75) feet of the ordinary high-water mark of navigable streams, as identified on, but not necessarily limited to, the United States Geological Survey 7.5 minute quadrangle maps.
 - (d) All areas having slopes steeper than twelve (12%) percent.
- (2) Areas determined to be environmentally sensitive may be included in a land division if identified as an outlot or other designation that would indicate that the land is not available for development.
- (3) No land division shall be allowed where such division shall increase the non-conformity of a structure, use, or parcel, or where a non-conforming structure, use, or parcel would be created as a result of the division without a properly reviewed and approved variance.
- (4) All subdivision parcels smaller than one acre in size not served by municipal wastewater treatment systems will be served by clustered wastewater treatment systems approved by the Town, County, and WSPS.
- (5) No parcel two (2) acres or less in area with ½-acre (21,780 sq. ft.) or more of the parcel within a floodplain shall include an on-site sanitary sewage disposal system (e.g., septic tank, mound, etc.).
- (6) All parcels two (2) acres or larger in areas served by on-site sanitary sewage disposal shall contain not less than twenty-two thousand (22,000) square feet of land which is at least two (2) feet above the elevation of the 100-year flood plain, or if such information is not available, five (5) feet above the maximum flood of record.
- (7) Lands made, altered, or filled with non-earth materials within the preceding twenty (20) years shall not be divided into building sites served by on-site soil absorption sanitary sewage disposal systems.
- (8) Each parcel shall have a continuous area of at least three thousand (3,000) square feet which has ground slopes not exceeding twelve (12) percent.
- (9) The Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is unsuitable for residential use and afford the Subdivider an opportunity to present evidence in rebuttal to such findings of unsuitability if he/she so desires. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

18.14 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 Certified Survey Map within the jurisdiction of this chapter and not of record as of May 12, 2008 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.

18.15 Penalties. (1) Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Chapter shall, upon conviction, forfeit not less than \$100, plus any additional applicable costs incurred by the Town for each offense. Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant penalties are not limited to, but may include the following:

- (a) Recordation improperly made shall be subject to the provisions of Sec. 236.30, Wisconsin Statutes.
- (b) Conveyance of parcels in unrecorded plats shall be subject to the provisions of Sec. 236.31, Wisconsin Statutes.

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- (c) Monuments disturbed or not placed shall be subject to the provisions of Sec. 236.32, Wisconsin Statutes.
- (d) An assessor's plat may be ordered by the Town when a subdivision is created by successive divisions as provided in Sec. 236.31(2), Wisconsin Statutes.

18.16 Fees. The subdivider shall pay the Town all required fees at the specified time. Fees shall be established from time to time by resolution of the Town Board.

18.17 Appeals. Any person aggrieved by an objection to a plat or failure to approve a plat may appeal as provided in Chapters 236.13(5) and 62.23(7), Wis. Stats.

18.18 Replat. When it is proposed to replat a recorded land division, or part thereof, so as to change the exterior boundaries of a recorded land division, or part thereof, the Subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in Chapter 236, Wis. Stats. The Subdivider, or person wishing to replat, shall then proceed as specified in this Chapter. The clerk shall schedule a public hearing before the Town of Oconto Falls Plan Commission when a proposed preliminary plat of a replat of lands within the Town limits is filed, and shall cause notices of the proposed replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within one mile of the exterior boundaries of the proposed replat.

18.19 Reserved for future use.

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ARTICLE III: SKETCH MAP AND CONCEPT PLAT

18.20 Application. (1) Any Subdivider who divides or proposes to divide land located in the Town of Oconto Falls, including a Conservation Design Subdivision, Certified Survey Map, Replat, or revision of an existing land division shall submit to the Town Clerk a completed Application for Sketch Map (for Certified Survey Maps) or Application for Concept Plat (for subdivision plats) with the appropriate fee.

18.21 Sketch Map/Concept Plat. (1) For a Minor Land Division via Certified Survey Map, the Subdivider shall submit to the Town Clerk a Sketch Map no larger than 11 x 17 inches. The Sketch Map shall show all of the following:

- (a) A north arrow, date, and tax parcel number.
- (b) The general location and type of existing and proposed structures and uses.
- (c) The general location of drainage ditches, private wells, sewerage systems, and other features pertinent to the land division.
- (d) The general location of existing roads, highways, developments, and driveways and estimated distance to the nearest adjoining highways, roads, or driveways on all sides of the proposed site.
- (e) The uses of the land adjacent to the property.
- (g) The location of any proposed streets, roads, road access, and culverts.
- (h) The general location of primary conservation areas including rivers, streams, creeks, lakes, ponds, wetlands, floodplains, and any estimated to be of 12% or greater.

(2) For a conservation subdivision, the Subdivider shall submit to the Town Clerk a Concept Plat no larger than 11 x 17 inches. The Concept Plat shall show all of the following:

- (a) All of the information included in section 18.21(a through h) above.
- (b) The location of secondary conservation areas as identified in Section 18.41 of this Chapter.

(3) The Town Clerk shall review the initial Application for Sketch plan / Concept Plat for completeness within ten (10) working days of receipt. The Town Clerk shall thereafter notify the Subdivider if the application is determined by the Town Clerk to be complete or incomplete. The Town Clerk shall, within five (5) working days after filing, transmit the copies of any complete or incomplete Land Division Application and sketch map to the Town Plan Commission.

(4) The Town Clerk shall send to the Subdivider an agenda of the scheduled date of the Town Plan Commission meeting to review and consider the land division no later than ten (10) days prior to the date of the meeting.

(5) The Subdivider or the Subdivider's designee shall attend the meeting and present the proposed Land Division and sketch map to the Town Plan Commission for its consideration.

18.22 through 18.29 Reserved for future use.

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ARTICLE IV: MINOR LAND DIVISIONS BY CERTIFIED SURVEY MAP

18.30 When Required. When it is proposed to divide land into at least one but not more than four parcels or building sites or when it is proposed to create by land division not more than four parcels or building sites within a recorded Subdivision Plat without changing the exterior boundaries of the block, parcel or outlot, the Subdivider shall subdivide by use of a Certified Survey Map.

18.31 Submittal of a Certified Survey Map. Prior to the filing of an application for the approval of a Certified Survey Map, the Subdivider shall consult with the Town Plan Commission, in order to obtain their review, advice and assistance in the preparation of the Certified Survey Map. Creation of a minor land division shall be by Certified Survey Map and shall be submitted to the Town of Oconto Falls Clerk. The Certified Survey Map shall be prepared according to Chapter 236.34, Wis. Stats. and shall show clearly on its face those items listed in this section. In addition, the names of all landowners within ¼-mile of any property line of proposed area shall be listed on a separate sheet submitted with the Certified Survey Map.

18.32 Required Information. (1) The Certified Survey Map shall show clearly on its face the following:

- (a) All existing buildings, existing setbacks for all buildings, setbacks to structures on adjacent property, water courses, drainage ditches, navigable water bodies, and other features deemed pertinent to the division of property.
- (b) Location of access to public road.
- (c) Date of the map with a graphic scale.
- (d) Name and address of the person for whom the survey was made.
- (e) An owner's certificate and approval signature of the Town of Oconto Falls Chairperson and Clerk after approval by the Town Plan Commission 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.
- (f) The most recent deed and document number.
- (g) Compliance with applicable design standards outlined in this Chapter.

18.33 Testing. The Town of Oconto Falls may require that borings and/or 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 developments shall comply with the provisions of the Wisconsin Administrative Code, Chapter SPS 383 and SPS 385 relative to sanitary systems. All appropriate data shall be submitted with the Certified Survey Map.

18.34 Review and Approval. The Town shall, within sixty days of the date of submission of the Certified Survey Map application, unless mutually extended by both parties, review the application and map against the applicable standards of this Chapter, and approve, approve conditionally, or reject the application and map based upon a determination of conformity or non-conformity with the standards.

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

18.36 Maximum Minor Land Divisions per Parent Parcel. The maximum allowable number of land divisions from a parent parcel through the use of a certified survey map at any one time is four. The Plan Commission, at its discretion, may require submittal and approval of a subdivision plat for future land divisions on the parent parcel beyond the maximum number permitted via a certified survey map. Such a plat

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may require the inclusion and incorporation of previously approved minor land divisions.

18.37 through 18.39 Reserved for future use.

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ARTICLE V: CONSERVATION DESIGN SUBDIVISION

18.40 General. (1) This article is designed to preserve rural character, natural resource areas, farmland, and other large areas of open land, while permitting residential development. The conservation design subdivision standards, in addition to the land division standards outlined in Article II, apply to all divisions of a parent parcel when requested by a Subdivider where the division creates more than four (4) new parcels.

18.41 Secondary Conservation Areas. (1) Secondary conservation areas are defined as those natural, agricultural, cultural, and or historical resources within the Town that are not otherwise protected by federal, state, or county laws, regulations, or ordinances. Secondary conservation areas are resources that should be preserved when possible and/or economically feasible. The final determination of secondary conservation areas within a given development will be made by the Town Board. Secondary conservation areas in the Town of Oconto Falls may include, but are not limited to:

- (a) Stream corridors within one-hundred (100) feet of the ordinary high-water mark.
- (b) Environmental corridors, as defined by Oconto County.
- (c) Critical wildlife habitat, as defined by the Wisconsin Department of Natural Resources and Oconto County.
- (d) Mature woodlands, wherein twenty-five percent or more of the trees have a diameter-at-breast-height (DBH) of twenty inches or more.
- (e) Unique natural features, which may include hills, knolls, depressions, rock outcroppings, and others.
- (f) Prime agricultural lands, as defined in the Town of Oconto Falls Comprehensive Plan.
- (g) Structurally sound barns, silos, fence lines, and other structures that exemplify, or are symbolic, of the Town's agricultural character.
- (h) Historic structures, as defined by the Plan Commission or any future town of Oconto Falls Historic Preservation Ordinance.
- (i) Scenic views, as defined by the Plan Commission.
- (j) Large trees, identified as trees with DBH of sixty inches or greater, unless otherwise deemed a safety hazard

18.42 Open Space Standards. (1) The minimum amount of preserved open space in a conservation design subdivision shall be forty percent of the gross tract area and include all primary conservation areas.

(2) Location. The required open space should be situated, when practicable, to take advantage of the site's natural, historic, and cultural features, to create buffer areas between residential and agricultural uses, to preserve scenic views, and to serve as a transitional area between the Town of Oconto Falls and City of Oconto Falls. Environmentally sensitive areas must be included within the preserved open space. The open space should if at all possible be located so as to connect with existing or proposed open spaces. The size and shape of the areas established as open space shall be sufficient and suitable for agricultural, natural resource protection, recreation, or other intended uses and should remain as large and contiguous as the property will allow.

(3) Active Recreation Area. Not more than 30% of the required open space shall consist of active recreation area.

(4) Trails. The Plan Commission and Town Board encourage, and may require, that each conservation subdivision include an internal trail system providing access to homeowners with a section of the trail system identified for potential future public use as part of an integrated trail network. The section identified for potential public use may vary by development and circumstance. The Plan Commission may require easements or walkways to access open space that does not abut public right-of-way.

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(5) Ownership and Maintenance of Common Open Space. Unless otherwise approved by the Town Board, preserved open space in a conservation subdivision shall be owned and maintained by a Homeowners' Association. All documents and instruments relating to the ownership, use, and maintenance of open space shall be reviewed and approved by the Town. A Homeowners' Association shall be created and operated under the following provisions:

- (a) The Owner shall submit all documentation in connection with the creation of a Homeowners' Association and its powers, duties and responsibilities for Town review prior to approval.
- (b) The Homeowners' Association shall be created as a separate legal entity by the Owner, with its bylaws, organization and responsibilities contained in a document recorded with the Oconto County register of Deeds.
- (c) Membership in the Homeowners' Association shall be mandatory for all lot owners and their successors and assigns.
- (d) The Homeowners' Association shall be authorized to levy fees and assessments against all lots in an amount sufficient for payment of real estate taxes and to discharge its duties and responsibilities.
- (e) Unpaid fees and assessments by any lot owner shall become and remain a lien on the lot until paid, with the Homeowners' Association authorized to bring any action against a lot owner for the collection of fees and assessments.
- (f) Modification of any bylaws shall require approval of the Town.

18.43 Development Yield Standards. (1) Conservation Design Subdivisions shall utilize the following checklist in determining the maximum permitted parcel density. This calculation information must be submitted with any application to the Town.

(a) Calculate Gross Tract Area (GTA). This shall be the total acreage of the property.

GTA: _____ **acres**

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

- 1. All lands located within existing rights-of-way: _____ acres
- 2. All lands located within existing Utility and Railway Right-of-Ways: _____ acres
- 3. All lands located within floodplain: _____ acres
- 4. All lands within environmentally sensitive areas: _____ acres
- 5. All lands located within wetlands: _____ acres
- 6. All of the land area having slopes 12% or greater: _____ acres
- 7. Sum of 1 through 6 above: _____ acres

PCA: _____ **acres**

(c) Calculate Adjusted Tract Area (ATA). The ATA shall equal the GTA minus the PCA.

ATA: _____ **acres**

(d) Calculate Secondary Conservation Areas (SCA). SCA shall include, but is not necessarily limited to:

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1. Stream corridors within one hundred feet of the ordinary high-water mark: _____ acres
2. Environmental corridors: _____ acres
3. Critical wildlife habitat: _____ acres
4. Mature woodlands, wherein twenty-five percent or more of the trees have a DBH of twenty inches or more: _____ acres
5. Unique natural features, which may include hills, knolls, depressions, rock outcroppings, and others: _____ acres
6. Prime agricultural lands: _____ acres
7. Barns, silos, fence lines, and other structures that exemplify, or are symbolic of, the town's agricultural character: _____ acres
8. Historic structures: _____ acres
9. Scenic views _____ acres
10. Large trees, identified as trees with DBH of forty-eight (48) inches or greater, unless otherwise deemed a safety hazard.
11. Sum of 1 through 11 above.

SCA: _____ acres

(e) Calculation of Net Development Area (NDA). The NDA shall be a maximum of sixty percent (60%) of the GTA. If the NDA is less than sixty percent (60%) of the GTA, the Plan Commission and Town Board may allow the NDA to be increased to sixty percent (60%).

NDA: _____ acres

(f) Calculation of Permitted Dwelling Units (PDU). The maximum number of permitted dwelling units in a conservation subdivision shall equal the ATA multiplied by 0.6, with a minimum lot size of 21,780 sq. ft. If the calculation of PDU results in a figure ending in .5 or greater, it shall be rounded up to the next whole number. If the calculation of PDU results in a figure ending in .4 or lower, it shall be rounded down to the next whole number.

PDU: _____

18.44 Conservation Subdivision Concept Plat. (1) Prior to the filing of an application for a preliminary plat for a conservation design subdivision, the Subdivider shall consult with the Town Plan Commission, in order to obtain their review, advice, and assistance in the preparation of the preliminary plat. Such consultation shall be termed the "concept plat" stage of the land division procedure and includes the following steps and information:

(2) The Subdivider shall prepare a Concept Plat consistent with ARTICLE III of this Chapter.

(3) The Plan Commission shall either reject the Concept Plat giving reasons for such rejections or approve the Concept Plat and make recommendations. Such review and approval of the concept plat shall

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constitute approval of the Concept Plat only and shall not be deemed an approval of the layout and design of the proposed Preliminary Plat.

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

18.45 Conservation Subdivision Preliminary Plat Submittal. The Subdivider shall submit a Preliminary Plat, prepared by a Wisconsin Registered Land Surveyor, that conforms to the requirements of Chapter 236, Wis. Stats., and all applicable sections of this Chapter. The Subdivider or their designated agent shall submit the application and two copies of the Preliminary Plat on paper no smaller than 22" x 30", and fifteen copies of the Preliminary Plat on 11" x 17" paper, and one electronic (PDF) copy of the Preliminary Plat with the Town Clerk.

18.46 Requirements for Conservation Subdivision Preliminary Plat. (1) In addition to the any other requirements of Chapter 236, Wis. Stats., the Preliminary Plat shall include the following:

- (a) A map of sufficient scale showing the boundaries of the property being considered for division.
- (b) General parcel layout as proposed.
- (c) The proposed subdivision name. This name shall not duplicate the name of any Plat previously recorded in Oconto County. A subtitle of "County Plat" shall be required for all County Plats.
- (d) Owners name, along with Volume and Page of the instrument that shows title to the Platted area. The Volume and Page of the affected property may be shown on the map, in the Surveyor's Certificate, on the Preliminary Plat, or in the Owner's Certificate.
- (e) Volume and Page or platted status (i.e. State or County Plat by name and parcel number, Certified Survey Map by volume, page and parcel number) of adjoining lands.
- (f) Radius of all curves.
- (g) Proposed and existing road(s) showing road name and right angle width. Proposed and existing roads shall be dedicated as required in Article VIII of this Chapter.
- (h) Public areas to be dedicated, if any, and subsequently identified as "dedicated to the public."
- (i) Floodplain, wetland and shoreland boundaries. Source of the data shall be identified.
- (j) Locations of existing buildings, watercourses, drainage ditches, fences and any other pertinent features.
- (k) Locations and names of adjoining parks, cemeteries, subdivisions, ponds, streams, lakes and flowages.
- (l) Any proposed lake or stream access or any proposed lake or stream improvement or relocation.
- (m) The name and address of the surveyor and Subdivider placed on the face of the Plat.
- (n) Report on Soil Borings and Percolation Tests. Locations of borings may be required to be shown on the face of the map.
- (o) A general description of all property owned and controlled by the Subdivider contiguous to the proposed land division.
- (p) An area development plan for future use may be required if proposed development in some way affects adjoining lands.
- (q) Road name application must be submitted to the Plan Commission for approval for any road names (i.e. new, extension, private, etc.).
- (r) Dimensions of all parcels, together with proposed parcel and block numbers.
- (s) Location of secondary conservation areas as identified in Section 18.34 of this Chapter.

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18.47 Conservation Subdivision Preliminary Plat Review & Approval. (1) Upon receipt of an application for a Conservation Subdivision Preliminary Plat, the Town Clerk shall transmit one copy of the map to each of the following:

- (a) Each member of the Town Board.
- (b) Each member of the Plan Commission,
- (c) The Town Planning Consultant.
- (d) Oconto County Planning & Zoning Department.
- (e) Any other parties as deemed necessary on a case-by-case basis by the Plan Commission.

(2) Recommendations from the parties identified in Section 18.40(1) above, with the exception of the Plan Commission, must be received by the Town Clerk within thirty days from the date the copy is transmitted. If a recommendation is not received within thirty days it shall be deemed an approval.

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

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

(5) The Town Board, within ninety days of the date of filing of a Preliminary Plat with the Town Clerk, shall approve, approve conditionally, or reject the Preliminary Plat, unless the time is extended by mutual agreement with the Subdivider. One copy of the Preliminary Plat shall there upon be returned to the Subdivider with the date and the action recorded thereon; and if approved conditionally or rejected, a letter setting forth the conditions of approval or the reasons for rejection shall accompany the plat. One copy each of the plat and letter shall be kept on record by the Town.

18.48 Relationship between Conservation Subdivision Preliminary Plat and Final Plat. (1) Approval of a preliminary conservation plat shall be deemed an expression of approval or conditional approval of the layout submitted and a guide to the preparation of the final plat which will be subject to further consideration by the Plan Commission at the time of its submission.

(2) If the final Plat conforms substantially to the preliminary Plat as approved, including any conditions of the approval, and to local plans and ordinances authorized by law, it is entitled to approval. If the final Plat is not submitted within one year of the last approval of the preliminary plat, and 36 months of the first approval, any approving authority may refuse to approve the final Plat. The Town reserves the right to add further restrictive covenants as provided in Chapter 236.293, Wis. Stats.

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

18.49 Conservation Subdivision Final Plat. (1) Upon approval of the Preliminary Plat the Subdivider shall submit a Final Plat based upon a survey by a Wisconsin Registered Land Surveyor for review. In addition to the requirements of the Preliminary Plat and Chapter 236, Wis. Stats., and the Preliminary Plat as identified in Section 18.39 of this Chapter, the submitted Final Plat shall include the following:

- (a) A clear and concise legal description that exactly matches the bearings and distances shown on the map. The error of closure for the legal may not exceed 1 in 3,000.
- (b) Area of each parcel shown in square feet (nearest square foot) and acres (nearest 100th acre).

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- (c) All curve data.
- (d) Building setback lines shall be shown or noted on the face of the map.
- (e) Lands reserved for the common use of the property owners within the subdivision. The ownership of these common lands shall be shown and described. These lands shall be established as outlots.
- (f) Proposed deed and Plat restrictions.
- (g) It shall be required that on sheet one of the Plat a pre-designed recording block be available for the Register of Deeds to be placed on the Plat for recording information.
- (h) Show arc distances on the face of the map.
- (i) Certificates of approval in substantially the same form as required by Chapters 236.21(2)(a) and 236.21(3), Wis. Stats., and as per this Chapter as follows:
 - 1. Owner(s) Certificate with Notary Seal.
 - 2. Mortgagee's Certificate.
 - 3. Town Certificate.
 - 4. Other certificates as required by Chapter 236.21, Wis. Stats.
 - 5. Certification that the Plat is a true and correct representation of the features surveyed and mapped and that the Surveyor has fully complied with all local ordinances.
 - 6. Special restrictions required by the reviewing authorities.

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

18.51 Recording. Upon approval of all corrections addressed in the Preliminary and Final Plat reviews the Subdivider shall submit a Final Plat for recording with the Oconto County Register of Deeds in accordance with Chapter 236.25, Wis. Stats.

18.52 through 18.59 Reserved for future use.

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ARTICLE VI: GENERAL DESIGN STANDARDS

18.60 Street Arrangement and Design. The applicant shall dedicate land for and improve streets in accordance with Town of Oconto Falls and Oconto County requirements.

18.61 Ingress and Egress On Limited Access Highways. Where a tract or parcel of land abuts a County controlled limited access highway or State Highway access shall only be provided after obtaining any required permits or approvals from Oconto County Highway Department and Wisconsin Department of Transportation Permits.

18.62 Blocks. The widths, lengths and shapes of blocks shall be suited to the planned use of the land, applicable zoning requirements, need for convenient access, control and safety of street traffic and the limitations and opportunities of the topography in accordance with existing Town of Oconto Falls ordinances and all Oconto County requirements.

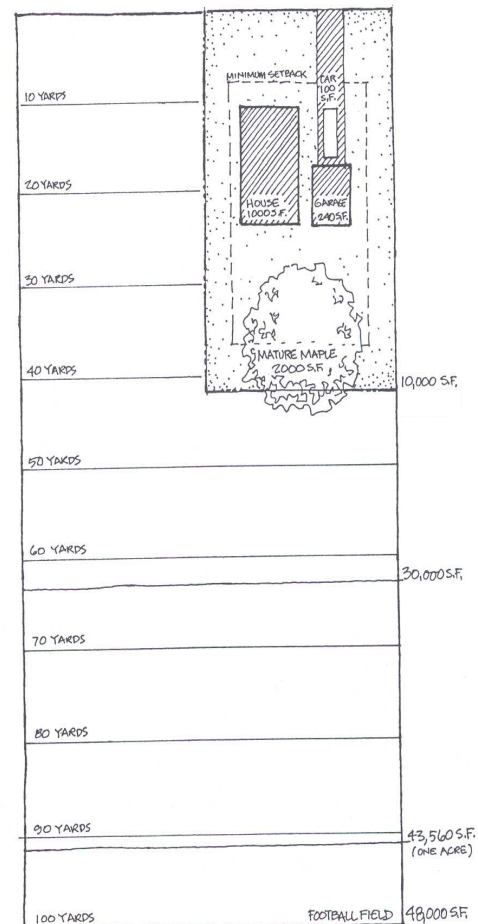
18.63 Driveway Standards. The location and size of all proposed driveways shall comply with all Town of Oconto Falls and Oconto County requirements.

18.64 Parcels. The size, shape and orientation of parcels shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The parcels should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the building contemplated. For the benefit of visual understanding of parcel sizes an illustration is provided at right.

18.65 Building Setbacks. (1) Building setbacks shall comply with the Oconto County Zoning Ordinance and any other relevant aspects of the Oconto County Code.

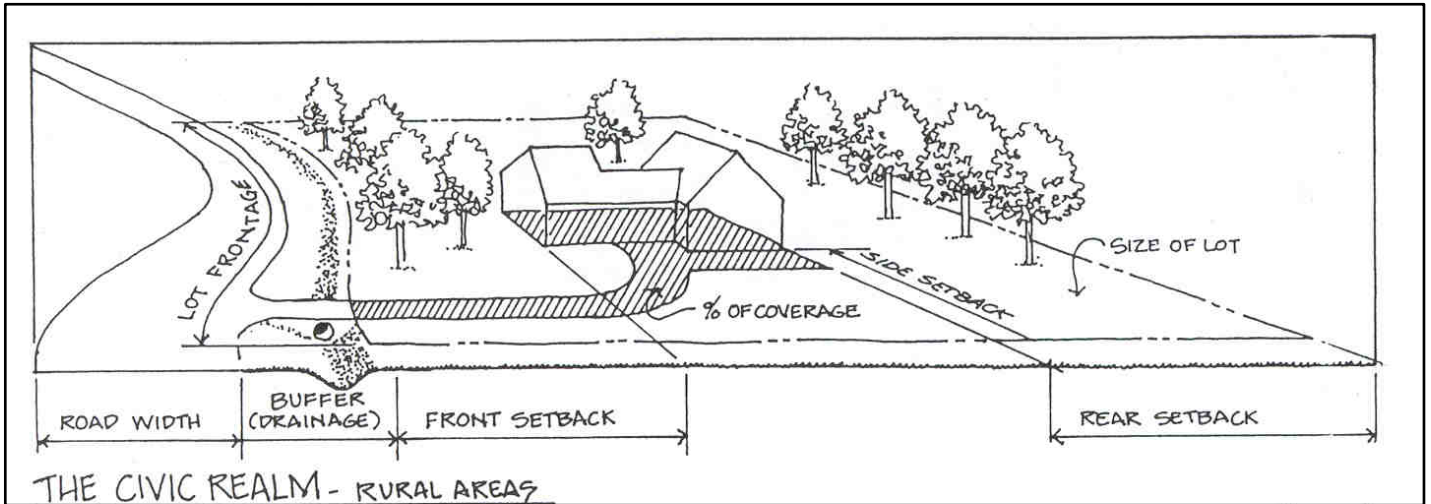
18.68 Phasing Requirements. (1) An approved preliminary plat may be final platted in phases with each phase encompassing at least 25 percent of the area of the approved preliminary plat. If the Subdivider elects to final plat in phases as approved by the Plan Commission, the Town Board shall require a timetable of completion of development of the entire property included in the preliminary plat at/or prior to the time of submittal of the first phase of the final plat as part of the Development Agreement. If the plat is to be developed in phases, the amount of the cash bond or irrevocable letter of credit shall be limited to the phase currently being constructed.

PARCEL SIZE DIAGRAM
FOR ILLUSTRATION PURPOSES ONLY

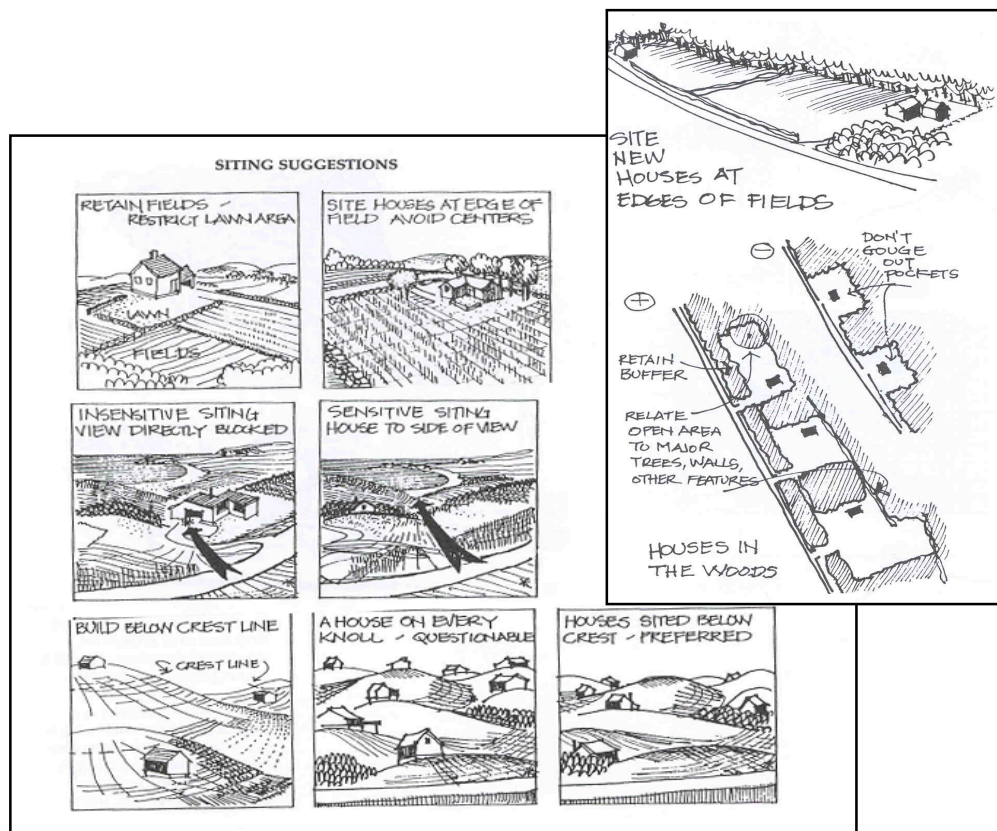


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(2) The diagrams provided on this page illustrate siting suggestions designed to retain the rural character of the Town of Oconto Falls. Subdividers are strongly encouraged to consider these techniques when proposing Minor Land Divisions or Subdivisions.



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(2) If a development includes more than 40 lots (e.g. new parcels), phases must be provided on the preliminary and final plat such that no more than 50 percent of the total number of parcels are included in a single phase. The Town has the authority to require phased final plat approval in which each new phase may only be initiated once 80 percent of the parcels in the previous phase have been sold.

18.69 Building Requirements. Any temporary structure (e.g. modular home, storage building, etc.) must be removed within 1 year of occupancy of a principal residence.

18.70 Groundwater Monitoring. The installation of one groundwater test and observation well to measure transivity (how fast water moves, how much can be pumped) and storivity (how much water can be stored) is required for each new subdivision development and for commercial and industrial development that utilize individual private wells. The information from this well shall be made available to the Town and residents living within that development. Development projects using community wells will not require ongoing groundwater monitoring.

18.71 Surface Water Drainage Restrictions. To the extent practical, no drainageway contained within a drainage easement shall be disturbed, except in accordance with Oconto County and applicable State requirements.

18.72 Community Water Supply. A community water supply shall be required for all residential subdivisions of fifteen lots or more. Residential subdivisions of forty lots or more shall include two wells to serve the development.

18.73 Street Address Numbering Required. Any residence or place of business intended for human occupancy shall be identified by a street address number assigned in accordance with Oconto County requirements and standards.

18.74 Street Names. (1) Any street which is the reasonable continuation of an existing street shall bear the same name as the existing street. The Plan Commission may disapprove the name of any street shown on the Plat which has already been used elsewhere in Oconto County which, because of similarity, spelling, or pronunciations may cause confusion. The following table shall be used in the naming of streets and roadways in all proposed land divisions:

Type	Cul-de-sacs	Curving	Straight
Short Streets (less than 999 feet in length)	Places or Courts	Crescent, Way, Circle, or Lane	Terrace, Row, or Lane
Long Streets (1,000 feet or longer)	N/A	Drive, Road, or Trail	Street or Avenue

(2) The term boulevard shall be reserved for such streets which, because of their breadth or monumental character, are to be especially designated.

(3) Public streets and roads shall be located and designed to take into account:

- (a) Existing and planned streets.
- (b) Topographic conditions including bearing capacity and erosion potential of soil.
- (c) Public convenience and safety including facilitating fire protection, snow plowing, and pedestrian traffic.
- (d) The desire of the Town to reduce impervious surfaces in order to protect surface waters.
- (e) The proposed uses of land to be served.
- (f) Anticipated traffic volumes based upon State ADT standards [see 18.61 (1) through (5) below].
- (g) Further land division possibilities.

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18.75 Private Roads. Private roads developed to serve a Certified Survey Map or Subdivision in the Town of Oconto Falls shall be constructed consistent with all State and Town standards and shall be required to adhere to all applicable Oconto County requirements for public road construction, such that, the developed roadway will be indistinguishable from a public road.

18.76 Minimum Design Standards for Town Roads. (1) All roads designed as part of new subdivisions in the Town of Oconto Falls shall be constructed consistent with applicable State standards. In order to reduce the percentage of impervious surface within proposed land divisions so as to reduce the negative impact of run-off to surface waters, minimum road width for new construction in the Town of Oconto Falls shall be based upon the Average Daily Traffic volume consistent with State standards.

(2) The State standard for trip generation is 9.57 per day from a single-family, detached home.

(3) ADT Under 100

- | | |
|----------------------------|-----|
| (a) Minimum roadway width | 24' |
| (b) Minimum surface width | 18' |
| (c) Minimum Shoulder width | 3' |

(4) ADT 100-250

- | | |
|----------------------------|-----|
| (a) Minimum roadway width | 26' |
| (b) Minimum surface width | 20' |
| (c) Minimum Shoulder width | 3' |

(5) ADT 251-400

- | | |
|----------------------------|-----|
| (a) Minimum roadway width | 32' |
| (b) Minimum surface width | 22' |
| (c) Minimum Shoulder width | 5' |

(6) ADT 400-1000

- | | |
|----------------------------|-----|
| (a) Minimum roadway width | 34' |
| (b) Minimum surface width | 22' |
| (c) Minimum Shoulder width | 6' |

(7) ADT 1001-2400

- | | |
|----------------------------|-----|
| (a) Minimum roadway width | 44' |
| (b) Minimum surface width | 24' |
| (c) Minimum Shoulder width | 10' |

(8) Cul-de-sacs. Any portion of a street designed to have one end permanently closed shall not exceed six hundred feet in length and shall provide a turnaround with a minimum right-of-way diameter of one hundred fifty feet. In the case of a temporary cul-de-sac identified on the plat as the location of a future ingress/egress point, as approved by the Plan Commission, said cul-de-sac shall not be less than one hundred fifty feet in diameter.

18.77 through 18.89 Reserved for future use.

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ARTICLE VII: DEDICATIONS AND IMPROVEMENTS

18.90 Dedication And Reservations Of Land. (1) Whenever a tract of land to be divided embraces all or any part of a street, such public way shall be made a part of the plat and either dedicated or reserved by the applicant in the locations and dimensions indicated on such plan.

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

18.91 Improvements. (1) No construction or installation of improvements may commence in a proposed subdivision until the Preliminary Plat has been approved by the Plan Commission and Town Board.

(2) Upon approval and recording of the Final Plat, the Subdivider shall install all street, utility, and other improvements as required in this section. Such improvements may be completed prior to submission for approval of any final plat or final certified survey map, but must be made to the satisfaction of the Town Engineer or designee within 12 months from the date of Final Plat approval or such approval will be considered null and void. If for some reason the required improvements cannot or should not be made within the prescribed 12-month period, the Town Board may extend the period and require a cash bond or irrevocable letter of credit in an amount equal to 120% of the cost of completing such improvements as estimated by the Town Engineer or designee as a guarantee that the required improvements will be made within a reasonable period prescribed by and satisfactory to the Town Board. Any such cash bond or irrevocable letter of credit shall remain in the custody of the Town, and the Town will not be obligated to pay interest thereon. In no event shall the provision of a cash bond or irrevocable letter of credit for completion of required improvements remove the burden of such completion from the Subdivider.

(3) All private systems in the Town of Oconto Falls shall be constructed pursuant to applicable regulations of Oconto County and the State of Wisconsin, including SPS 383 and SPS 385, Wis. Stats.

(4) When it is proposed to establish a private water supply and distribution system (or common sanitary system) to serve two or more parcels or dwelling units, the applicant shall construct the facilities in such a manner as to make adequate water service (and sewer) available to each parcel within the subdivision or Certified Survey Map. Private water supply systems shall conform to all applicable regulations of the State of Wisconsin.

(5) No drainageway contained within a drainage easement shall be disturbed in accordance with the following:

(a) No artificial obstruction may be constructed, planted, or maintained within any man-made or natural drainageway so that such an obstruction impedes the natural flow of water and/or diminishes the natural aesthetic quality of the drainageway.

(b) Lot boundaries shall be made to coincide with new and/or pre-existing man-made and natural drainageways to avoid the creation of lots that can be built upon by altering such drainageways.

(c) Surface water shall not be regarded as unduly retained or diverted if:

1. The retention or diversion results from a technique, practice, or device deliberately installed as part of an approved sedimentation or stormwater runoff control plan.

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2. The retention or diversion is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such a retention presents a danger to health or safety.
3. The retention or diversion results from the actions of natural obstructions, whereby maintenance shall be performed by the property owner.
4. The retention or diversion has been allowed or required by the Town of Oconto Falls, Oconto County Zoning Department, or Oconto County Land Conservation Department and noted on the approved drainage plan.

18.92 Plans. (1) The following plans and accompanying construction specifications may be required by the Town Board before authorization of construction or installation of improvements:

- (a) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.
- (b) Installation of street signs meeting the approval of the Town of Oconto Falls and Oconto County at all intersections.
- (c) Sanitary system plans and profiles showing the locations, grade, sizes, elevations and materials of required facilities in accordance with County and State Requirements. Each parcel shall indicate a location of a septic field and a viable alternative location for a replacement septic field on the site should the system fail.
- (d) 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.

Erosion control plans in accordance with State, County, and, if applicable, Town Standards.

18.93 Inspection and Guarantee. 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 approval of the final plat or release of the sureties. All public improvements shall be guaranteed against physical defect and repaired by the developer for a period of one year following initial acceptance of such improvements by the Town Board.

18.94 through 18.99 Reserved for future use.

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ARTICLE VIII: DEVELOPMENT AGREEMENT AND GUARANTEE

18.100 Development Agreement. (1) As a condition of a Certified Survey Map or final plat approval for any land division or subdivision requiring improvement, the Subdivider shall enter into a Development Agreement with the Town.

(2) The Development Agreement shall contain the following provisions:

(a) Estimated Improvement Costs. The itemized estimated cost of the following improvements:

1. Street grading
2. Street base course construction
3. Street binder layer
4. Street signage
5. Street final pavement
6. Other improvements such as drainage
7. Town inspection, administrative, and legal costs, as applicable.

(3) Financial Security for Improvements.

(a) Cash Escrow. The owner shall establish, prior to final plat approval, a cash escrow account for the benefit of the Town and in the name of the Town in an amount not less than 100 percent of the estimated cost for street grading, street base course construction, street binder layer and drainage. The escrow instructions shall provide:

1. That the owner shall have no right to a return of any funds except as authorized by the Town upon completion of the improvements.
2. That the escrow agent shall have a legal duty to deliver the escrowed funds to the Town upon receipt of a written notice from the Town signed by the Town Board Chair and attested to by the Town Clerk, whether or not the owner protects delivery of the funds. The escrow agent shall be acceptable to the Town.
3. If the plat is to be developed in phases, the escrow amount shall be limited to the phase currently being constructed.

(b) Letter of Credit. The owner may, in lieu of establishing a cash escrow account prior to final plat approval, provide a letter of credit for the benefit of the Town and in the name of the Town in an amount not less than 100 percent of the estimated costs for street grading, street base course construction, street binder layer and drainage. The letter of credit shall be:

1. Irrevocable.
2. For a term sufficient to cover completion of the improvements.
3. Require only that the Town present the credit with a sight draft and written notice signed by the Town Chair and attested to by the Town Clerk of the Town's right to draw funds under the credit. The issuer of the letter of credit shall be acceptable to the Town.
4. If the plat is to be developed in phases, the letter of credit amount shall be limited to the phase currently being constructed.

(c) Warranties. The owner shall warrant and guarantee all improvements against defects due to faulty materials of workmanship which appear within one year from the date of acceptance of the improvements by the Town, provided, however, that for improvements constructed between November 15 and May 1, there shall be a warranty period of three years from acceptance of the improvements by the Town.

18.101 Financial Security for Final Pavement. Final street pavement shall not be installed until 50 percent of the lots in the land division or subdivision have been developed, three years from the date of final plat approval, or by Town order, whichever comes first. The owner shall provide, prior to final plat approval, a separate cash escrow account or letter of credit as provided in Sections 18.66(3)(a) or

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18.66(3)(b) above for the final pavement in an amount not less than 125 percent of the estimated cost for final pavement.

18.102 through 18.109 Reserved for future use.

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ARTICLE IX: DEFINITIONS

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

- (1) Adjusted Tract Area. The area of the total parcel without any primary conservation areas.
- (2) Alley. A public or private right-of-way which provides secondary access to abutting properties.
- (3) Agricultural Use, as provided in Chapter 91.01(2), Wis. Stats.
- (4) Applicant. The Subdivider or Subdivider's Developer's agent.
- (5) 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.
- (6) Block. A group of parcels existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name through which it may be identified.
- (7) Bufferyard. An area of land within the boundaries of a parcel or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences and/or berms, designed to limit continuously the view and/or sound from the parcel or site to adjacent parcels or sites. Bufferyards are typically defined by a delineated easement graphically indicated on the fact of the Certified Survey Map or Subdivision Plat.
- (8) 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.
- (9) Certified Survey or Certified Survey Map. A map of a minor land division prepared in accordance with sec. 236.34, Wis. Stats., and in full compliance with the applicable provisions of this Chapter.
- (10) Common Element. The common facilities in a condominium.
- (11) Common Facilities. All the real property and improvements set aside for the common use and enjoyment of the residents of a cluster development, including, but not limited to, buildings, open space, private streets, parking areas, walkways, recreation area, drainage easements, and any utilities that service more than one unit, such as sewerage and well facilities.
- (12) Common Open Space. Undeveloped land within a conservation design subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common Open Space shall not be part of individual residential parcels, and shall be substantially free of structures, but may contain such recreational facilities for residents as are shown on the approved development plan.
- (13) Comprehensive Plan. The official guide for the physical, social, and economic growth of a municipality, properly enacted or adopted according to statute, which is now or may hereafter be in

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effect.

- (14) Conditional Approval. Approval of a land division, subject to the land division meeting certain requirements as determined by the Plan Commission.
- (15) Condominium. A form of ownership combining individual unit ownership with shared use and ownership of common property or facilities, established in accordance with the requirement of Chapter 703 of the Wisconsin Statutes. Common areas and facilities are owned by all members of the condominium association on a proportional, undivided basis. A condominium is a legal form of ownership and not a specific building type or style.
- (16) Condominium Agreement. A legal agreement outlining the management of the common open space.
- (17) Condominium Association. An association, whose members consist of owners of units in a condominium, which administers and maintains the common property and common elements of a condominium.
- (18) Conservation Areas, primary. The primary conservation areas are those areas that are automatically set aside when determining open space for conservation development subdivisions. The following are areas of primary conservation: all lands located within existing street Right-of-Ways, all lands located within existing Utility and Railway Right-of-Ways, all lands located within floodplain, all lands located within wetlands, all slopes of 12% or greater.
- (19) Conservation Areas, secondary. Those areas identified in, but not limited to, Section 18.34 of this Chapter.
- (20) Conservation Easement. The grant of a property right or interest from the property owner to another person, agency, unit of government, or organization stipulating that the described land shall remain in its natural, scenic, open, or wooded state, precluding future or additional development.
- (21) Conservation Subdivision. A subdivision where open space is the central organizing element of the subdivision design and that identifies and permanently protects all primary conservation areas and all or some of the secondary conservation areas within the boundaries of the subdivision and retains a minimum of forty percent of the adjusted tract area as protected open space.
- (22) County. Reference to County shall mean Oconto County and shall include any agency, department or committee thereof.
- (23) Cul-de-sac Street. A minor street with only one outlet and having a turn around for the safe and convenient reversal of traffic movement.
- (24) Dead end Street. A street having only one outlet for vehicular traffic and no vehicular turn around.
- (25) Deed restriction. A restriction on the use of a property set forth in a deed or other instrument of conveyance, including, but not limited to, a restrictive covenant, conservation easement, transfer of development rights, or any restriction placed on undeveloped land as a condition for the division or development of the undeveloped land.

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- (26) **Development.** Any man-made changes to improved or unimproved real estate including, but not limited to, construction of or addition or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations, or disposition of materials.
- (27) **Development Agreement (or Developer's Agreement).** An agreement by which the Town and the Subdivider agree in reasonable detail to all of those matters which the provisions of these regulations permit to be covered by the developers agreement and which shall not take effect unless and until an irrevocable Letter of Credit or other appropriate surety has been issued to the Town.
- (28) **Developmental Yield.** The amount of permitted structures in the development of a subdivision.
- (29) **Double Frontage Lots.** A lot other than a corner lot which has frontage on two substantially parallel streets.
- (30) **Drainageway.** The land on either side of and within fifty (50) feet of the centerline of any intermittent or perennial stream graphically shown on: a topographic survey prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet or the U.S. Geological Survey (USGS) 7.5-minute quadrangle topographic map of the area.
- (31) **Easement.** Authorization by a property owner for another to use the owner's property for a specified purpose.
- (32) **Existing Parcel.** A parcel, lot, or tract of land which the enclosing boundaries are separately described and recorded with the Office of register of Deeds, Oconto County Planning and Zoning Department, Town of Oconto Falls Plan Commission, or defined by an existing tax parcel.
- (33) **Final Plat.** A map prepared in accordance with requirements of Chapter 236 of the Wisconsin State Statutes and this Chapter for the purpose of precisely dividing larger parcels into smaller parcels and used in conveying these new parcels.
- (34) **Floodlands.** Those lands, including the channels, floodways and floodplain fringe of any given reach, which are subject to inundation by the flood within a given recurrence frequency. The 100-year recurrence interval flood (or that flood having a 1 percent probability of occurring in any given year) is generally used for regulation.
- (35) **Floodplain.** The land adjacent to a body of water which has been or may be hereafter covered by floodwater including, but not limited to, the regional flood.
- (36) **Frontage.** The length of the front property line of the parcel, or tract of land abutting the right-of-way of a public street road or highway.
- (37) **Grade or Gradient.** The slope of land, a road, street or other public way, specified in percent.
- (38) **Grading Plan.** A drawing of a proposed area with plans and specifications for grading.
- (39) **High Water Elevation.** The average annual high water level of a pond, stream, lake, flowage, or wetland referred to an establish datum plane or, where such elevation is not available, the elevation of

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the line up to which the presence of water is so frequent as to leave a distinct mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic or vegetative characteristics.

- (40) Highway, Limited Access. A freeway or expressway providing a trafficway for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over the trafficway.
- (41) Homeowners' Association. A Wisconsin membership corporation which serves as an association of homeowners within a Subdivision or Certified Survey Map having shared common interests, responsibilities with respect to costs and upkeep of common private property of a Subdivision or Certified Survey Map. Such common property includes private recreation and open space areas within the Subdivision or Certified Survey Map.
- (42) 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.
- (43) Land Divider. Any person, partnership, corporation, or other legal entity that has an ownership or other legal interest in the subject land that is being divided, or proposed to be divided, resulting in a land division.
- (44) Land Division. The division of an outlet, parcel, or tract of land by the owner of the land, or the owner's agent, for the purpose of sale or for development when the act of division creates two or more parcels or building sites by a division or by successive divisions of any part of the original property, including any land division by or for a Conservation Subdivision, a Cluster Development, a Statutory Subdivision, a Minor Land Division, Replat, and Certified Survey Map, and any other land division. Any residual parcel resulting from any division of land shall be included in the land division if said parcel is less than 35 acres in size.
- (45) Landscaping. Living material, such as grass, groundcover, flowers, shrubs, vines, hedges and trees and nonliving durable material, such as rocks, pebbles, sand, mulch, wood chips or bark, walls and fences, but not including paving.
- (46) Lot. A parcel of land resulting in a division of a parcel pursuant to this Chapter.
- (47) Lot, Corner. A parcel 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 parcel line.
- (48) Lot Lines (or Parcel Lines). The peripheral boundaries of a parcel of land.
- (49) Lot, Through. A parcel which has a pair of opposite parcel lines among two parallel streets and which is not a corner lot. On a through lot both street lines shall be deemed front parcel lines.
- (50) Lot, Width (or Parcel Width). The mean horizontal distance between the side lot lines of a parcel measured at right angles to the depth. On irregularly (non-perpendicular) shaped parcels, the width shall be the average width of the parcel. Lot width shall be measured at the building line (e.g. location

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

- (51) Major Street. Arterial and collector roads primarily intended for through traffic with a secondary function of direct access.
- (52) Minor Land Division. Any division of land other than a statutory subdivision and including all Certified Survey Maps, as defined herein of less than 35 acres in size including any residual parcel or parcels resulting from any division of land if said parcel is less than 35 acres in size.
- (53) Minor Street. A street used or intended to be used primarily for access to abutting properties.
- (54) Navigable Waters. Any body of water defined as navigable under the laws of the State.
- (55) Net Developable Area. The area of the tract in a conservation design subdivision that can be divided into parcels.
- (56) Nonprofit Conservation Organization. A nonprofit corporation, charitable trust, or other nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code, which includes the “acquisition of property or rights in property for conservation purposes” as part of its mission, as reflected in the bylaws, charter, or incorporation papers of the organization.
- (57) Open Space. The area of lands within a conservation design subdivision that cannot be developed. This area includes 40% of the adjusted tract area held in common ownership. This area is for passive/ active recreational use by the residents of the development and, where specified, the larger community.
- (58) Outlot. A parcel of land other than a residential lot or block so designated on a land division plat or Certified Survey Map.
- (59) Owner . For purposes of this Chapter the word "owner" if used herein shall be deemed to mean the person holding the fee title to the lands involved, except that where lands have been divided on a land contract the land contract vendee shall be deemed the owner.
- (60) Parcel. Contiguous lands under the control of a sub-divider(s) not separated by streets, highways, or railroad rights-of-way.
- (61) Plan Commission. The Town of Oconto Falls Plan Commission is the Plan Commission for the purposes of this Chapter.
- (62) Plat. A map of a subdivision.
- (63) Preliminary Plat. A map showing the salient features of a proposed subdivision as described in Section 18.39 of this Chapter, submitted to the Town Plan Commission for the purposes of preliminary consideration by the Town Plan Commission prior to any land division.
- (64) Public Utility. Every corporation, company, associations, sanitary district, or municipality that may own or operate any plant or equipment for the conveyance of telephone or other electronic messages, or for the production, transmission, delivery, or furnishing of heat, electricity, gas, water,

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cable television, sewer, or and other service deemed to be in the public interest shall be deemed a public utility.

- (65) Public Way. Any public road, street highway, walkway, drainageway or part thereof.
- (66) Recreation Land, Active. Areas that are altered from their natural state to accommodate organized athletic activities (e.g. soccer, football, baseball, golf). Active recreation lands may also require the installation of equipment (e.g. playground apparatus, riding stables, shooting ranges, golf ranges, etc.).
- (67) Recreation Land, Passive. Areas that are left in a natural state with minimal alteration for scenic enjoyment (e.g. walking/hiking trail) and outdoor activities with minimal impact on the landscape (e.g. birding, hunting).
- (68) Replat. The process of changing the map or plat which changes the boundaries of a recorded Statutory Subdivision Plat, Minor Land Division, Certified Survey Map, or other land division or part thereof; the division of a large block, parcel, or outlot within a recorded subdivision plat or certified survey which changes the exterior boundaries of said parcel, block, or outlot is a replat.
- (69) Restrictive Covenant. A deed restriction on the use of the land usually set forth in the deed that is binding upon subsequent owners of the property.
- (70) Retention Basin. A man-made or natural body of water of a depth of not less than three (3) feet, designed to contain water at all times, the levels of which will be increased as a result of the flow into it from surface and subsurface water collected therein and released gradually into natural and man-made outlets.
- (71) Review Period. The number of calendar days allotted to review a land division.
- (72) Right-of-Way. A strip of land occupied or intended to be occupied for a special use, dedicated to the public by the owner of the land division on which such right-of-way is established.
- (73) Setback. Those minimum street, front, rear, and/or side yards required between a building and a parcel line.
- (74) Shoreland Jurisdiction. The area within 1,000 feet of the ordinary high water mark of a navigable lake, pond or flowage; or within 300 feet of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.
- (75) Slope. The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.
- (76) State Plat. A map of a division of land prepared in accordance with Chapter 236 of the Wisconsin Statutes and the terms of this Chapter.
- (77) Stream. A course of running water, either perennial or intermittent, flowing in a channel (e.g. water body that forms a link between two bodies of water).
- (78) Street. A public way for vehicular and/or pedestrian traffic.

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- (79) Structure. Anything constructed or erected on the ground including, but not limited to, all types of buildings and attachments to buildings.
- (80) Subdivider. Person or persons requesting review or action on a subdivision.
- (81) Subdivision. The division of a parcel or parcel of land by the owner thereof or his agent where the act of division creates one or more parcels of land.
- (82) Surveyor. A person who surveys land and is duly registered in the State of Wisconsin.
- (83) Town. Reference to Town shall mean the Town of Oconto Falls including the Town Board, Plan Commission, Town Clerk or any other designated Town Commission or representative.
- (84) Tract. A contiguous area of land that exists or has existed in single ownership.
- (85) Utility Easement. An easement to place, replace, maintain or move utility facilities.
- (86) Variance. A departure from the terms of this Chapter as applied to a specific building, structure, or parcel of land, which the Plan Commission may permit, pursuant to this Chapter.
- (87) Wetland. An area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and that has soils indicative of wet conditions.