

TOWN OF ALDEN

LAND DIVISION ORDINANCE

CHAPTER 3

CHAPTER 3

LAND DIVISION

- 3.01 Purpose
- 3.02 Definitions
- 3.03 General Provisions
- 3.04 Exclusions
- 3.05 Land Suitability
- 3.06 Lot Regulations
- 3.07 Conservation Design
- 3.08 Dedication
- 3.09 Easements in All Land Divisions
- 3.10 Improvements
- 3.11 Public Roads
- 3.12 Private Roads
- 3.13 Stormwater Management and
Erosion Control Devices
- 3.14 Procedures for Submitting a
Certified Survey Map or Preliminary Plat
- 3.15 Condominium Plat
- 3.16 Final Plat
- 3.17 Fees
- 3.18 Enforcement and Penalties

ADOPTED MARCH 8, 1994
PUBLISHED MARCH 15, 1994
AMENDED AUGUST 14, 2003
AMENDED AUGUST 12, 2004
AMENDED MARCH 23, 2005
AMENDED NOVEMBER 12, 2009

REVISION OF CHAPTER 3 (CODE OF ORDINANCES) LAND DIVISION

3.01 PURPOSE. This chapter is adopted pursuant to § 236.45, Wisconsin Statutes, to achieve the purposes of Ch. 236, Wisconsin Statutes, and to provide for the safe and orderly division of land in a manner that is harmonious with current and future land use and road plans and that makes adequate provisions for the protection and preservation of open space, agricultural land and wetlands. The purpose of this ordinance is to regulate the division of land in the Town of Alden that results in a change from prior open space and agricultural uses and adds building sites in the Town in a manner that will protect the continued use of good and productive farmland for farming purposes and that will maintain the rural appearance and character of the Town. To that end, it is the objective of the Town to protect the productive farmland in the Town, to encourage land division decisions that place building sites in areas that are not well-suited for agricultural purposes and uses and to encourage the creative use of clustering and open space in areas being divided so as to preserve the rural appearance of the Town, especially in areas where denser, residential developments are located. The Town of Alden contains many wetlands, streams and lakes, and it is an equally important purpose of this ordinance to protect both the surface and ground waters, shoreland and wildlife and plant habitat thereby provided from land division activities that could have adverse effect on such waters and habitats. Where residential land divisions are planned that are close to surface waters or productive farmland in the Town, this ordinance shall be administered and interpreted to promote the division of land in a manner that best preserves vulnerable areas intact and best protects good, productive farmland's availability for future generations.

3.02 DEFINITIONS. For the purpose of this ordinance, the following terms are defined as indicated below:

ADEQUATE COPIES OF THE PLAT OR CSM. The number of copies of the plat or CSM to be filed deemed sufficient for distribution to reviewing parties by the Town Clerk at the time of application or recordation.

BUILDING. Any structure having a roof supported by columns or walls used, or intended to be used, for the shelter or enclosure of persons, animals, equipment, machinery or materials

COMMON FACILITIES. Those developed facilities owned, managed and maintained in common by the members of a homeowners or condominium association. Roads and trails, a water supply well or wells and water treatment and distribution systems, sewerage and on-site wastewater treatment systems serving one or more residences, stormwater management facilities and recreational facilities are examples of common facilities.

COMMON OPEN SPACE. A portion of a site in a conservation design subdivision, which may or may not be held in common ownership by those owning dwellings in that conservation design subdivision, permanently set aside for public or private use with restrictions on development and its use. The space is reserved to protect natural, cultural and visual resources or to buffer natural areas, and may be used for agriculture, passive or active recreation and approved associated facilities.

DENSITY TRANSFER. The allowable residential development from an entire property under single ownership is clustered on small lots on the least agriculturally productive portion of the property and the remaining portion is protected from further development.

DEVELOPED FACILITY. The end result of the alteration of land or that which exists on it and construction of a structure or structures that provides space, equipment or services intended for a particular purpose.

DEVELOPMENT. The act, process or result of altering the land or that which exists on it and/or constructing or erecting structures.

DRIVEWAY. A private road used for purposes of ingress and egress that intersects with a Town road that serves open unimproved land (a “field” driveway) or serving not more than two (2) residential or commercial lots.

DWELLING UNIT. A room or group of rooms including cooking, sleeping or living accommodations designed for or occupied exclusively by one family as a residence.

LAND DIVISION. A subdivision, minor subdivision, resubdivision, replat, condominium plat or parcel add-on.

LEAST AGRICULTURALLY PRODUCTIVE PORTION OF THE PROJECT AREA. Development is situated on the portion of the site with soils least suitable for the production of crops or livestock. This includes areas not traditionally used for agricultural production. Development occurs so as to use areas of Lesser Soils in lieu of areas of Prime Soils to the maximum extent as is practicable, and any encroachment on Prime Soils is configured to achieve the maximum preservation of Prime Soils for agricultural use as is possible.

LESSER SOILS. All soil types classified in Soil Capability Class IV thru VIII.

LOT. Subdivided land shown on a plat or in a certified survey map and identified therein by a number, e.g., Lot 1.

MINOR SUBDIVISION. Division of a lot, parcel or tract of land by the owner(s) thereof or agent for the owner(s) for the purpose of sale or building development where the act of division creates one (1) lot or building site and a remnant parcel.

OUTLOT. A tract of land, other than a lot or block, so designated on a plat or certified survey map for purposes other than a building for human habitation.

PARCEL. That portion of a tract of land belonging to a single owner at the time a land division application is submitted to the Town.

PLAN COMMISSION. The Town of Alden planning agency as authorized and created pursuant to Sections 60.62 (4) and 62.23, Wisconsin Statutes.

PLAT. A map of a land division. Certified Survey Maps are, therefore, treated as “plats” under this ordinance.

PRIME SOILS. All soil types classified in Soil Capability Class I, II & III as described in the Soil Survey for Polk County, Wisconsin, by the U.S. Department of Agriculture, Natural Resources Conservation Service.

STRUCTURE. Anything constructed or erected, the use of which requires more or less permanent location on or in the ground or which is attached to something having more or less permanent location on or in the ground.

SUBDIVIDER. The owner(s) or agent for the owner(s) of a parcel executing a land division thereon.

SUBDIVISION. Division of a lot, parcel or tract of land by the owner(s) thereof or agent for the owner(s) for the purpose of sale or building development where:

- A. The act of division creates two (2) or more lots or building sites; or
- B. Two (2) or more lots or building sites are created by successive subdivision activity within a five (5) year period.

TRACT. Contiguous land not separated by public road or railroad right-of-way. Streams, rivers or lakes do not sever contiguity. A tract of land may have more than one owner.

3.03 GENERAL PROVISIONS.

A. The division of land in the Town of Alden shall be conducted in compliance with all of the provisions of this ordinance. Land division activity is also regulated by Ch. 236, Wisconsin Statutes, and by the Polk County Subdivision Ordinance. To the extent these requirements may differ, the more restrictive regulations shall apply.

B. All land divisions that create four (4) or fewer lots or building sites shall be made by a certified survey map, the original of which shall be recorded at the Register of Deeds Office and a recorded copy of which shall be filed with Clerk of the Town of Alden.

C. All re-plats, vacations or alterations of subdivisions shall be in compliance with provisions of §§ 236.36 through 236.445, Wisconsin Statutes.

3.04 EXCLUSIONS. In so far as this chapter applies to divisions of land into fewer than five (5) parcels, it does not apply to:

- A. Transfers of interest in land by will or pursuant to court orders, except when a division of land occurs in such a transfer.
- B. Leases for a term not to exceed ten (10) years, mortgages or easements.
- C. The sale or exchange of parcels of land between owners of adjoining property if no new lots are created.

3.05 LAND SUITABILITY.

A. No land shall be divided which is held unsuitable for the proposed use by the Plan Commission for reasons of flooding, inadequate drainage, adverse soil or rock formation, 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 the future residents of the proposed land division or the Town. The Plan Commission in applying the provisions of this section shall recite in writing the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and shall then afford the subdivider an additional opportunity to present evidence regarding such suitability. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

B. Environmental Assessment. The Plan Commission may require an environmental assessment be prepared by an independent consultant at the expense of the applicant when it deems necessary to make determinations of land suitability. Environmental assessments shall address:

(1) A description of the development that the Town is being requested to approve.

(2) Affected environment. A description of the resources or conditions that will be affected by the development, the areal extent of which may vary, including but not limited to:

- a. Agriculture.
- b. Water resources, surface and ground water.
- c. Surface drainage.
- d. Soils.
- e. Geology.
- f. Topography.
- g. Vegetation.
- h. Cultural resources.
- i.. Existing development.
- j. Community infrastructure.

(3) Impacts. Assess the degree to which the affected environment will be impacted, negatively and beneficially.

- a. Direct impacts. At the same time and in the same place as the development.
- b. Indirect impacts. Occur later in time or in another place than the development.

c. An assessment of the cumulative impacts the proposal; existing development in the area and possible future development in the area will have on the Town.

(4) Any other information the Plan Commission deems necessary to make a determination of land suitability.

3.06 LOT REGULATIONS.

A. Basic Development Project

(1) The lots in a subdivision shall be a minimum of two (2) acres in size and all lots in a subdivision shall average a minimum of seven (7) acres in size. See Table 1 below.

(2) A minor subdivision lot shall be a minimum of two (2) acres in size and the remnant parcel shall be a minimum of two (2) acres in size. See Table 1 below.

(3) If conservation design is used in a subdivision, lots shall be a minimum of one (1) acre and all lots in a subdivision shall average a minimum of two and a half (2.5) acres in size. See Table 1 below.

(4) The lot requirements in (1), (2) and (3) above apply to lots accommodating single-family dwellings (one dwelling unit per residential building). A lot intended for a building containing more than one (1) dwelling unit shall require seventy-five (75) percent and one hundred (100) percent of the minimums in (1), (2) and (3) above for each dwelling unit, respectively for lands in the Residence (R) and Agricultural (A-1) Districts. A-1 District standards apply to the Shoreland General Purpose District. See Table 1 below.

(5) Road rights-of-way and road easements shall not be included in the lot area used to calculate lot size in (1), (2), (3) or (4) above.

B. Density Transfer Project

(1) A density transfer project provides additional and alternative subdivision design analysis and standards for properties in the Agricultural (A-1) District with the intent of preserving farmland. The allowable residential development from an entire property under single ownership is clustered on small lots on the least agriculturally productive portion of the property and the remaining portion is protected from further development. See Table 1 below.

TABLE 1

BASIC DEVELOPMENT PROJECT LOT SIZE AND DENSITY EXAMPLES	A-1 Agricultural and Shoreland- Wetland Districts			Residence District		
Land division type and number of dwelling units per lot	Minimum lot size, per dwelling unit	Average size of all lots, per dwelling unit	Approximate density, number of dwelling units per 40 acres *	Minimum lot size, per dwelling unit	Average size of all lots, per dwelling unit	Approximate density, number of dwelling units per 40 acres *
Subdivision, one dwelling unit per lot	2 acres	7 acres	5	2 acres	7 acres	5
Subdivision, more than one dwelling unit per lot	2 acres	7 acres	5	1.5 acres	5 acres	7
Minor subdivision, one dwelling unit per lot	2 acres	--	--	2 acres	--	--
Minor subdivision, more than one dwelling unit per lot	2 acres	--	--	1.5 acres	--	--
Conservation design, one dwelling unit per lot (minimum 50% open space)	1 acre +	2.5 acres +	7	1 acre +	2.5 acres +	7
Conservation design, more than one dwelling unit per lot (minimum 50% open space)	1 acre +	2.5 acres +	7	1 acre +	1.75 acres +	10
Traditional Neighborhood Design (allowed by site plan review in or adjacent to rural hamlets)	--	--	--	0.25 acres	0.33 acres &	--
Land division type and condominium unit (condo-unit) types **	Minimum acreage per condo-unit	Average acreage per condo-unit	Approximate density, number of condo-units per 40 acres *	Minimum acreage per condo-unit	Average acreage per condo-unit	Approximate density, number of condo-units per 40 acres *
Condominium plat, detached condominium units	2 acres	7 acres	5	2 acres	7 acres	5
Condominium plat, condominium units combined into buildings with more than one unit	2 acres	7 acres	5	1.5 acres	5 acres	7
Conservation design condominium plat, detached condominium units (minimum 50% open space)	1 acre +	2.5 acres +	7	1 acre +	2.5 acres +	7
Conservation design condominium plat, condominium units combined into buildings with more than one unit (minimum 50% open space)	1 acre +	2.5 acres +	7	1 acre +	1.75 acres +	10
Traditional Neighborhood Design Condo (allowed by site plan review in or adjacent to rural hamlets)	--	--	--	0.25 acres	0.33 acres &	--
DENSITY TRANSFER PROJECT LOT SIZE AND DENSITY EXAMPLES	A-1 Agricultural District			Common Open Space, Agricultural Conservation Easement (ACE) and Transfer Requirements		
Land division type and number of dwelling units per lot	Minimum lot size, per dwelling unit	Average size of all lots, per dwelling unit	Approximate density, number of dwelling units per 40 acres of development * ++ #	Minimum common open space in development	Minimum ACE area per 40 acres of development	Total density transfer project area per 40 acres of development
Density transfer subdivision, conservation design development, one dwelling unit per lot	½ acre +	Not applicable	35	50%	160 acres	200 acres
Density transfer subdivision, conservation design development, more than one dwelling unit per lot	½ acre +	Not applicable	35	50%	160 acres	200 acres
Land division type and condominium unit (condo-unit) types **	Minimum acreage per condo-unit	Average acreage per condo-unit	Approximate density, number of condo-units per 40 acres of development * ++ #	Minimum common open space in development	Minimum ACE area per 40 acres of development	Total density transfer project area per 40 acres of development
Density transfer condominium plat, conservation design development, detached condominium units	½ acre +	Not applicable	35	50%	160 acres	200 acres
Density transfer condominium plat, conservation design development, condo-units combined into buildings with more than one unit	½ acre +	Not applicable	35	50%	160 acres	200 acres

* maximum, depending on the area of road right-of-way and development limitations (yield plan) it could be less

** one condominium unit = one dwelling unit for density calculation purposes

+ this area cannot be included in required common open space

++ applies only to the development portion of a density transfer project

this is reduced to 34 if an existing or a new farm dwelling is in the density transfer project

& with community wastewater treatment; ½ acre minimum lot if conventional private onsite wastewater treatment is used

(2) Density transfer project criteria.

a. Density transfer projects are allowed only in the Agricultural (A-1) District.

b. The lots in the development portion of a density transfer project subdivision shall be a minimum of one-half (1/2) acres in size when the maximum density transfer is achieved. See Table 1 above.

c. Conservation design shall be used with a minimum of 50% of the development area in common open space, and in accordance with Section 3.07. See Table 1 above.

d. The development portion of density transfer projects are required to occur on the least agriculturally productive portion of the project area. The Polk County Soil Survey shall be consulted.

e. Allowable density is transferred to the development portion of the project with no more than 20% of total project area required for the development portion and at least 80% required for the non-development portion.

f. Road rights-of-way and road easements shall not be included in the lot area used to calculate lot size in b. above.

g. The non-development portion of the density transfer project shall be protected from future non-farm development with a Town Board approved agricultural conservation easement executed under §700.40, Wisconsin Statutes. The Town of Alden shall be a holder of all such agricultural conservation easements. An approved private conservation organization shall be a holder, or have a third-party enforcement right, in all such agricultural conservation easements. The subdivider shall propose a private conservation organization for this purpose with the preliminary plat.

h. A conservation easement shall be required for the common open space for the development portion according to 3.07 B. (7).

i. Newly created residential lots within the development portion of the density transfer project shall have recorded with the deed, a deed restriction stating that the new lot created for residential purposes is in or near a pre-existing agricultural area where agricultural uses predominate and are favored by the Town of Alden and owners of said lot are forewarned they are moving into a pre-existing agricultural area with its associated accepted normal agricultural practices and conditions, including but not limited to, animal and plant husbandry, broad hours of operation, farm equipment traffic, farming debris on roads, farm equipment lights, odors, dust, smoke, noise, and manure, sludge, chemical, pesticide and herbicide application.

C. Concerning All Projects

(1) Condominium plats shall conform to the residential density resulting from these lot regulations. See Table 1 above.

(2) When three (3) or more lots are created, all lots shall abut a public or private road. When one (1) or two (2) lots are created, they may receive access from a driveway. See the Town of Alden Driveway Ordinance.

(3) The Plan Commission, at its discretion, may require the applicant to establish the general location of proposed dwelling footprints, driveways, on-site wastewater treatment facilities, and/or stormwater management facilities.

3.07 CONSERVATION DESIGN. Conservation design provides additional and alternative subdivision design analysis and standards for basic development and density transfer projects. If the subdivider elects or is required to use a conservation design subdivision, these provisions shall prevail over any conflicting provisions in this ordinance.

A. Site Inventory and Analysis. The subdivider shall map principal conservation areas, secondary conservation areas and potential development areas.

(1) Principal conservation areas shall be protected. No structures, buildings or developed facilities, except best management practices for stormwater management are allowed. Principal conservation areas consist of the following:

a. All wetlands, including a 75-foot buffer measured from the delineated wetland.

b. Floodplains.

c. All navigable waters, including a 75-foot buffer measured from the ordinary high water mark.

d. Perennial and intermittent streams, springs and drainage ways that contain running water during spring runoff, during storm events or when it rains, including a filter strip as defined in NRCS Filter Strip practice standard, Code 393.

e. Areas of steep slopes twenty (20) percent or greater and with a vertical relief of four (4) or more feet.

f. Unique wildlife habitat areas.

(2) Secondary conservation areas should be protected or integrated into the development to enhance open space values such as rural character, historical significance, wildlife habitat, native vegetation, scenic views and agricultural production, and include the following areas:

a. Mature native woodlands.

b. Hedgerows and rock or boulder fences or walls.

- c. Freestanding large, healthy trees or groups of trees of native, non-invasive species.
- d. Grasslands, pastures, meadows and identified prairie remnants.
- e. Productive farmland.
- f. Historic or archeological features.
- g. Old farmsteads or farm buildings.
- h. Scenic views onto the site.
- i. Geologic features.
- j. Areas of steep slopes twelve (12) percent to less than twenty (20) percent and with a vertical relief of four (4) or more feet.
- k. River or stream valleys.
- l. Other natural or cultural elements of the site that have enough significance or value to be spared from cleaning, clearing, grading and development or to mitigate the adverse impacts of such activity.

(3) Potential development areas shall completely avoid the principal conservation areas and shall be sensitive to the visual and physical impacts of development on the secondary conservation areas.

- a. Potential development areas that do not comprise either principal or secondary conservation areas should be the first portions of the site to look to place development.
- b. The remainder of the potential development area should be placed to meet minimum open space requirements, maximize open space views onto the site and protect, or mitigate adverse impacts on, the most significant natural and cultural features of the site.

B. The minimum amount of common open space shall be fifty (50) percent of the gross land area of the parcel to be subdivided, or the development portion of a density transfer project, excluding existing rights-of-way and utility easements. Common open space shall be contained in an outlot or outlots and shall comply with the following:

- (1) All common open space shall be a part of a larger contiguous and integrated open space system. At least seventy-five (75) percent of the common open space areas shall be contiguous to another open space area. For this purpose, contiguous means either physically touching or located within 100 feet across a public right-of-way or private road easement.

(2) Common open space shall contain all primary conservation areas and to the greatest extent possible, protect other site features identified in the site inventory and analysis as having particular value in preserving rural character and conserving natural resources.

(3) Common open space may not contain private lot areas, public or private road and highway rights-of-way or easements, parking areas, farmsteads or railroad and utility rights-of-way, except underground utilities.

(4) Common open space may contain approved water supply wells, approved on-site wastewater treatment facilities and approved stormwater best management practices. Easements and management plans shall be required for individually owned facilities.

(5) Up to ten (10) percent of the common open space area can be used for active recreational uses, including structures for facilities that serve such uses.

(6) All or part of the common open space area can be used for agriculture, forest management or passive recreation.

(7) Common open space shall be protected from future land division or development with a Town Board approved conservation easement executed under §700.40, Wisconsin Statutes. The Town of Alden shall be a holder of all such conservation easements. An approved private conservation organization shall be a holder, or have a third-party enforcement right, in all such conservation easements. The subdivider shall propose a private conservation organization for this purpose with the preliminary plat.

C. Lots shall be clustered on the potential development area in a manner that complies with all of the following requirements:

(1) For parcels 40 acres or less each cluster shall be between 4 and 9 lots. For parcels over 40 acres each cluster shall be between 6 and 16 lots.

(2) All lots in a cluster shall abut common open space on at least one side and take access from interior roads.

(3) Each cluster of lots shall be defined and separated by common open space to provide direct access to common open space and privacy to individual lots or yard areas.

(4) Lot clusters should be arranged to maximize the open space views from each dwelling and minimize their visual impact from off-site.

(5) Lot clusters containing 10 or more lots shall provide internal common open space at a minimum rate of 2,000 square feet per lot in the cluster, which shall be applied to the minimum open space requirement, and should be configured as a cul-de-sac island, loop lane, an island within a larger loop ("eyebrow" or semi-circular loop), an island in a center median road, a common green area, or other configurations that yield internal open space within the cluster.

D. Natural features shall generally be maintained in their natural condition. If recommended by a professional with pertinent qualifications, the Plan Commission may authorize modifications to improve the natural features' appearance or restore their overall condition and natural processes, consistent with the approved management plan, and may include:

- (1) Woodland or forest management.
- (2) Reforestation.
- (3) Meadow, savanna or prairie management.
- (4) Wetlands management.
- (5) Streambank protection.
- (6) Establishing native, non-invasive vegetation in buffer areas.

E. Management Plan. To ensure adequate management, operation and/or maintenance of common open space or facilities the subdivider shall prepare and the Plan Commission shall approve a management plan.

(1) A draft management plan shall be submitted at the time of preliminary plat review and a final management plan at final plat approval and shall:

- a. Define ownership.
- b. Define the use.
- c. Establish necessary regular and periodic operation and maintenance activities that may need to include:
 - i. Mowing schedules.
 - ii. Weed control program.
 - iii. Planting schedules.
 - iv. Clearing and cleanup program.
 - v. Prescribed burns.
 - vi. Facilities maintenance.
- d. Estimate service contract needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
- e. Include a stormwater management plan.
- f. Include a section specifically focusing on the long-term management of common open space.

(2) Any subsequent cutting of healthy trees, grading or regrading, topsoil removal, altering, diverting or modifying watercourses or waterbodies must be done in compliance with the approved management plan and other applicable laws.

(3) At the Plan Commission 's discretion, the subdivider may be required to provide a financial assurance for the maintenance and operation costs of common open space and facilities.

(4) The Plan Commission can require that a letter of credit be secured by the subdivider or the owner of the common open space and facilities to cover the costs of corrective action if development or maintenance of common open space and facilities does not occur.

(5) The town may take corrective action in the event a person or organization fails to maintain common open space or facilities according to the approved management plan. The town, following §66.0703, Wisconsin Statutes, can levy special charges upon property within the development for work it does or contracts for in corrective action.

(6) Modification of the management plan after final plat approval may be allowed by the Town Board, after Plan Commission recommendation.

F. Ownership of Common Open Space and Facilities. Documentation of the proposed ownership arrangement for the common open space and facilities shall accompany the preliminary plat, including any draft contracts, agreements, condominium instruments and easements, articles of incorporation, by-laws, management plans, initial annual budget for common facilities and open space management, restrictive covenants, etc. Documentation shall include association or organization dues or member fee structure and how initial and subsequent operating budgets will be funded.

(1) The following forms of ownership may be used, either singly or in combination, to own common open space and facilities:

a. Homeowners Association. Common open space and facilities are held in common ownership by the association, subject to the provisions set forth herein. The homeowners association shall be governed according to the following:

i. The members of a homeowners association shall hold common open space and facilities as undivided proportionate interests..

ii. The organization shall be established by the subdivider and shall be operating (with financial subsidy by the subdivider, if necessary) prior to the sale of any lots and/or dwelling units in the development.

iii. Membership in the organization shall be mandatory for all purchasers of lots and/or dwelling units and their successors and assigns.

- iv. The organization shall be responsible for maintenance of and insurance for the common open space and facilities.
 - v. Written notice of any proposed transfer of common open space and/or common facilities by the homeowners association or the assumption of maintenance of common open space and/or facilities must be given to all members of the organization and to the Plan Commission at least 30 days prior to such event.
- b. Condominium. Common open space and facilities may be held as common elements described in condominium instruments.
- i. The members of a condominium association shall hold common open space and facilities as undivided proportionate interests..
 - ii. The condominium instruments shall conform to the requirements of Chapter 703, Wisconsin Statutes, as amended.
 - iii. The organization shall be established by the subdivider and shall be operating (with financial subsidy by the subdivider, if necessary) prior to the sale of any lots and/or dwelling units in the development.
 - iv. The condominium plat shall follow the same design and installation standards for subdivisions and conservation design that are found in this ordinance.
 - v. The condominium association shall be responsible for maintenance of and insurance for the common open space and facilities.
 - vi. Written notice of any proposed transfer of common open space and/or common facilities by the condominium association or the assumption of maintenance of common open space and/or facilities must be given to all members of the organization and to the Plan Commission at least 30 days prior to such event.
- c. Ownership retained by original landowner. Ownership of common open space may be retained by the original landowner or developer provided that:
- i. The requirements of **3.07 B.** and E. are met.
 - ii. Resident access to the open space is limited by agreement between the owner of the common open space and property owners of the development, as indicated by documents signed at the time of purchase of lots or dwelling units.

- iii. The open space may be retained by the owner for agricultural purposes.
- iv. The original landowner or legal representative may transfer ownership to another person in compliance with this subsection.
- j. Fee simple conveyance to the Town, other public agency, private agency or utility approved by the Town Board. The Town, other public agency, private agency or utility approved by the Town Board may, but shall not be required to, accept any portion of the common open space and facilities, provided that:
 - i. There is no cost of acquisition to the Town.
 - ii. Common open space and facilities so conveyed shall be accessible to the residents of the Town, if the Town Board or other public or private agency or utility so chooses.
 - iii. The acquiring entity shall maintain such common open space and facilities based on the management plan.
- e. Fee simple conveyance to a private conservation organization. With approval of the Town Board, an owner may convey any portion of the common open space and/or facilities to a private, nonprofit conservation organization, provided that:
 - i. The organization is acceptable to the Town Board and is a bona fide conservation organization.
 - ii. The conveyance contains appropriate provisions for reversion or reconveyance to the owner in the event that the organization becomes unwilling or unable to continue carrying out its functions.
 - iii. A maintenance agreement acceptable to the Town Board that is consistent with the management plan is entered into.
- f. Other arrangements approved by the Town Board that substantially address the basic intent as the above.

3.08 DEDICATIONS.

A. Open Space. All land division layouts shall be developed in proper relation to existing and planned or proposed roads and in harmony with the pre-subdivision topography, surface water, vegetative cover and other natural features, in a manner that will promote the most advantageous and beneficial development of adjoining areas, whether for residential or for open space, recreational or agricultural purposes, so that changes in land use due to land division are compatible with existing adjacent land uses and/ or make use of open space to provide a buffer between different uses. The Plan Commission may require that a suitable area not

exceeding ten percent (10%) of the total area being subdivided be reserved for open space uses such as parks, playgrounds, public access, wildlife habitat, buffer space providing separation between different land uses and may further require that such open space not be further subdivided in perpetuity, to permanently preserve such areas for the purposes for which it is being reserved.

B. Homeowners Association. For all subdivisions where open space is required and stormwater management or erosion control devices will be located in such open space, such areas shall be owned by an incorporated Homeowners Association with ownership required of each buildable lot in the subdivision. Each lot shall hold membership in such a manner that one lot has one vote. Homeowners Associations shall hold title to all open space, shall be responsible for improvements to and maintenance of such open space and shall be responsible for the management, maintenance and improvement of erosion control and stormwater management devices or naturally occurring surface waters and shore lands located in such open spaces. If any member lot owner so requests and the said Homeowners Association agrees erosion control and storm water management devices or naturally occurring surface waters and shore lands located on private land in the subdivision shall also be managed, maintained and improved by the Homeowners Association

C. Roads. Any part of a street, drainage way or other public way which is shown on a plat and also indicated on the comprehensive plan of the Town or any plan component shall conform to the arrangement, width and location indicated in any such plan or plan component. All public roads shall be offered for dedication to the Town. The subdivider shall pay for and install all required road signs.

3.09 EASEMENTS IN ALL LAND DIVISIONS. Easements across lots or centered on rear or side lot lines shall be designed for utilities where necessary and shall be at least fifteen (15) feet wide. Electric and telephone lines shall be planned along rear lot lines wherever possible. The Plan Commission shall determine the feasibility of burying utility lines. Where a land division is traversed by a water course, drainage way, channel or street, there shall be provided a storm water easement or drainage right-of-way not less than thirty (30) feet in width, conforming substantially with the lines of such water courses. Parallel streets or parkways may be required in connection therewith. The Plan Commission can consider alternative dimensions for easements if it can be shown by the applicant to the satisfaction of the Plan Commission that the public interest is served.

3.10 IMPROVEMENTS. The recommended approach to the construction of public improvements is that the subdivider installs all required street, street sign, drainage, stormwater management and utility improvements before final approval of any plat. If such improvements are not installed, inspected and accepted by the time the final plat is submitted for approval then all areas shown on the plat as dedicated to the public shall not be deemed to have been accepted by the Town and shall not be maintained by the Town until such roads have been built in conformity with all Town standards and requirements, inspected and separately accepted by Town Board action. Where roads or other public improvements have not been inspected and unconditionally recommended for acceptance prior to final plat approval, the subdivider shall, as a condition of final plat approval and before recording the plat, enter into a contract with the Town in which the subdivider shall agree to install the required improvements in conformity with Town requirements and shall provide the Town with an irrevocable letter of credit in an amount equal to 120% of an accepted

bid or engineer's estimate of the cost of the proposed public improvements and meeting the approval of the Town Clerk as a guarantee that such improvements shall be completed by the sub-divider. Upon completion of each improvement, the subdivider must notify the Plan Commission so that adequate inspections can be made. The subdivider shall pay all inspection and related engineering fees. Upon Town acceptance of all public improvements, funds held or the irrevocable letter of credit shall be released.

3.11 PUBLIC ROADS.

A. Requirements. Public roads shall be designed and built in conformity with the Town's Land Division, and Public Works Ordinances and shall be located to take into account:

- (1) Existing and planned development and transportation plans.
- (2) Topographic condition, including the load bearing capacity and erosion potential of the soil.
- (3) Public convenience and safety, including facilitating fire protection, snow plowing and pedestrian traffic.
- (4) The proposed uses of land to be served.
- (5) Future connections to adjacent developable land likely to be subdivided and the stubbing of roads with temporary cul-de-sacs to facilitate those future connections.
- (6) Further re-division possibilities.

B. All public roads proposed to be constructed shall include provisions for control of erosion and sedimentation as part of the construction, which shall be presented to the Town for review as part of a concept or preliminary plat review.

C. All road rights-of-way shall be sodded or seeded at the time of construction. If constructed after September 15th, temporary seeding shall be planted followed by a permanent seeding the next growing season to prevent erosion and sedimentation.

D. The Plan Commission may require the construction of service roads or shared access roads or driveways serving multiple building sites to minimize congestion of road intersections with planned or existing public roads.

E. Placement of Driveways and Culverts. The Plan Commission, at its discretion, may require the applicant to establish the location of proposed driveways and culvert along the proposed road.

F. The Plan Commission shall require additional driveway construction beyond the right-of-way where deemed necessary to prevent erosion, provide emergency response vehicle access, or address any other public safety concern.

3.12 PRIVATE ROADS.

- A. All roads not offered for dedication to the Town shall conform to all the requirements for public roads in the Town's Land Division and Public Works Ordinances or for driveways in the Town's Driveway Ordinance.
- B. Driveways or private roads shall not exceed a minus one percent (-1%) grade within the public road right-of-way. Driveways or private roads shall not exceed a ten percent (10%) grade beyond the public road setbacks. Culverts shall be placed where needed under driveways and private roads of sufficient size to be able to adequately carry the natural flow of run-off water.
- C. The Plan Commission shall require additional driveway construction beyond the right-of-way/easement where deemed necessary to prevent erosion, provide emergency response vehicle access, or address any other public safety concern.
- D. The Plan Commission may require the construction of service roads or shared access roads or driveways serving multiple building sites to minimize congestion of road or driveway intersections with planned or existing public roads.
- E. Placement of Driveways and Culverts. The Plan Commission, at its discretion, may require the applicant to establish the location of proposed driveways and culvert along the proposed road.
- F. Disclaimer Required. No person shall sell any lot that abuts on a road that has not been accepted as a public road unless the seller informs the purchaser in writing that the said road is not a public road and is not required to be maintained or plowed by the Town or County.

3.13 STORMWATER MANAGEMENT AND EROSION CONTROL DEVICES.

Stormwater management and erosion control devices shall be designed to permit the unimpeded flow of natural watercourses, to ensure the drainage of all points along public and private roads and driveways and to provide positive drainage away from on-site sewage disposal facilities. In designing storm water management and erosion control devices, special consideration shall be given to protection against shoreland erosion and siltation of surface waters and preventing excess runoff onto adjacent property. Stormwater shall be managed so as to drain from an area proposed for subdivision in the same quantity and velocity after the area has been subdivided and built out as it drained from the land being subdivided when it was in an undeveloped state. Drainage easements of widths sufficient to accommodate anticipated storm water run-off shall be provided and shown on the plat.

3.14 PROCEDURES FOR SUBMITTING A CERTIFIED SURVEY MAP OR PRELIMINARY PLAT.

- A. Initial Consultation. The subdivider shall have an initial consultation with the Plan Commission before proceeding with platting procedures in order to obtain their advise and assistance, to review the sketch plan, concept of the land division and any road application, and so that the subdivider is familiar with the purpose and objectives of these regulations, the comprehensive plan, comprehensive plan components, and duly adopted plan implementation devices of the Town and to otherwise assist the subdivider in planning his development. In so doing, both the

subdivider and Plan Commission may reach mutual conclusions regarding the general progress and objectives of the proposed development and its possible effects on the neighborhood and community. Hence, before significant costs are incurred, the subdivider will gain a better understanding of the subsequent required procedures and the following general factors:

- (1) The suitability of the site for development.
- (2) The accessibility of the site.
- (3) The availability of public facilities (sewer, schools, parks, water, etc.) and public services (police, fire, etc.).
- (4) Soil conditions, topography and drainage patterns.
- (5) The effect on the proposed development on any contemplated improvements and surrounding area.
- (6) Zoning.

The applicant shall set up an appointment with the Town Clerk for the Plan Commission initial consultation and concept review.

B. **Concept Review.** The subdivider must submit a sketch plan to the Town Clerk at least ten (10) days before the Plan Commission appointment for the initial consultation. It may be a free-hand drawing, but in sufficient detail to determine the nature of the above conditions and compliance with the requirements of this ordinance. The sketch plan will be reviewed as it relates to:

- (1) Topography.
- (2) The improvements, design standards, dedications or reservations required by these regulations.
- (3) Continuity to existing development within 300 feet of all boundaries.
- (4) Regulations as set forth by Chapter 236 of the Wisconsin Statutes.
- (5) Regulations established by the Wisconsin Administrative Code as regulated by the State Department of Commerce for on-site wastewater treatment or septic systems.
- (6) Regulations established by the Wisconsin Administrative Code as it relates to highway regulations.

C. **Preliminary Plat and Certified Survey Map Review.** All materials required to be prepared for County Certified Survey Map or preliminary plat application shall be provided to the Town Clerk when the subdivider submits a Certified Survey Map or preliminary plat for Town approval. Following concept review, adequate copies of the plat or CSM shall be provided to the Town Clerk at least two weeks prior to the next regular meeting of the Plan Commission in order for a Certified Survey Map or preliminary plat application to have been validly submitted for action by the Town.

The preliminary plat shall be accompanied by detailed design and construction plans for all public improvements being built by the developer that are proposed to be dedicated to the Town and for all private roads, and by all stormwater management and erosion control plans. The subdivider shall notify adjacent landowners in writing about the proposed subdivision activity and the date of the Plan Commission at which the application will first be considered. This notification shall be given at least two weeks prior to the meeting, and a copy of the notification and list of landowners to whom it was given shall be provided as part of the application materials provided to the Town. As part of the Town approval process, the Town Government checklist, required in section 18.11(B)(3) of the Polk County Subdivision Ordinance, shall be reviewed and completed as recommended by the Plan Commission for adoption by the Town Board and transmittal to Polk County.

D. Exception for Minor Subdivisions. Minor subdivisions shall be submitted to the Town Clerk for administrative review and approval of lot size and driveway requirements. Minor subdivisions are exempt from Town of Alden initial consultation and concept, preliminary plat and certified survey map review as required in 3.14 A., B. and C. above, except if the Town Clerk finds there are characteristics or circumstances which cannot be handled administratively or if the Town Clerk cannot make a straightforward determination that the CSM meets the lot and driveway requirements of the Town of Alden. The Town Clerk can then forward a minor subdivision application to the Plan Commission for review to address those characteristics, circumstances or determinations.

3.15 CONDOMINIUM PLAT. Condominium projects shall be reviewed on the basis of a condominium plat prepared pursuant to Chapter 703, Wisconsin Statutes, and other applicable statutes, as well as these land division control regulations, as a plat or certified survey map for the land development of the property. The procedures, requirements and standards of this chapter for plats or certified survey maps shall apply to the review of all condominium plats. As part of the Town approval process for condominium plats, the Town Government checklist, required in section 18.11(B)(3) of the Polk County Subdivision Ordinance, shall be reviewed and completed as recommended by the Plan Commission for adoption by the Town Board and transmittal to Polk County.

3.16 FINAL PLAT. To be considered and treated as a final plat, adequate copies of the plat shall be submitted to the Plan Commission within twenty-four (24) months of preliminary plat approval. The final plat shall substantially conform to the preliminary plat, and to the requirements of all applicable ordinances and State laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided in § 236.12, Wisconsin Statutes. Final plats shall be presented to the Plan Commission at least ten (10) working days prior to the meeting at which they are to be considered and shall be accepted or rejected by the Plan Commission and the Town Board within sixty (60) days of their submission. Approved final plats shall be recorded in accordance with the requirements of § 236.25, Wisconsin Statutes.

3.17 FEES. At the time of filing the preliminary plat, the subdivider shall pay to the Town the application fee in an amount established by resolution of the Town Board from time to time and on file in the office of the Town Clerk. Town expenses incurred in employment of the services of engineers, attorneys, planners and other professional consultants in connection with the review of plats shall be fully reimbursed to the Town by the subdivider. The Town Board may by resolution establish a deposit schedule for review fees.

3.18 ENFORCEMENT AND PENALTIES.

A. Any buildings hereafter erected, moved or otherwise placed on lots created in violation of the provisions of this chapter by any person, including building contractors or their agents, shall be deemed as unlawful structures. The Town Attorney may bring an action to enjoin, remove or vacate any building or structure on lots violating this chapter.

B. Any activity which fails to meet the requirements of this Ordinance or that violates state statutes shall be a violation of the Ordinance regardless of knowledge of or intent to violate, and shall subject the party or parties responsible for non-compliance to an action for an injunction requiring that the condition constituting the violation be ceased or cured and that remedial actions to achieve compliance be undertaken and/or a forfeiture of not less than \$100.00 plus actual costs of prosecution. Each day during which such violation exists is a separate offense. In addition, the Town Board may order an assessor's plat pursuant to the provision of Section 70.27, Wisconsin Statutes, at the expense of the subdivider whenever the conditions specified in that section are found to exist. No building permits shall be issued concerning any lot created in violation of any requirement of this ordinance.

C. All provisions of §§ 236.30, 236.31, 236.32 and 236.335, Wisconsin Statutes, are hereby incorporated by reference and any penalty set forth in such sections shall be imposed as a daily forfeiture payable to the Town Treasurer.

This ordinance shall be in effect and in force from and after the date of its passage and publication all in accordance with the Wisconsin State Statutes.

Ordinance first Adopted: March 8, 1994
Ordinance first Published: March 15, 1994

Amended by Town Board Action: August 14, 2003
Published in Osceola Sun: August 27, 2003

Amended by Town Board Action: August 12, 2004
Published in Osceola Sun: August 31, 2004

Amended by Town Board Action: March 10, 2005
Published in Osceola Sun: March 23, 2005

Amended by Town Board Action: November 12, 2009
Published in Osceola Sun: October 28, 2009

Signed: _____
Bradley Johnson, Chairman

Attest: _____
Judy Demulling, Town Clerk