

# CONSERVATION SUBDIVISION

## A. GENERAL

1. The Conservation Subdivision shall be administered as a conditional use in the R-1 (Residential) and the R-R (Rural Residential) zones and as an alternative to the permitted uses and regulations applicable to existing districts and shall be applicable only to those lands which are hereby and may hereafter be classified Conservation Subdivision by the Town Board.
2. Basic underlying zoning requirements for lands conditionally classified as Conservation Subdivision shall continue in full force and effect and shall be solely applicable until such time as the Town Board grants final approval as hereinafter provided.
3. A contingency fund, the amount to be established by the Town Board, to provide payment for meeting fees, lawyer fees and associated additional Town expense will be determined at the Preliminary Approval meeting. Contingency funds will be forwarded by the applicant/developer to the Zoning Administrator prior to any additional meetings held regarding the Conservation Subdivision.
4. A fee of two hundred fifty dollars (\$250.00) shall be required for each meeting held by the Plan Commission regarding the Conservation Subdivision application and approval process.
5. A fee of five hundred dollars (\$500.00) per house in the proposed subdivision shall be included as part of the Conservation Subdivision application.
6. Applicant/developer shall be responsible for all attorney fees incurred during the subdivision formation process.
7. An Irrevocable Letter of Credit shall be required. The amount and terms of such Irrevocable Letter of Credit shall be determined by the Glenmore Town Board members for costs associated with the project.
8. Permission to sell lots and/or begin construction on lots will be contingent upon all documents being executed, recording of such documents at the Brown County Register of Deeds office and receipt of copies of the same by the Glenmore Town Clerk.

## B. PURPOSE

The purpose of the Conservation Subdivision and the regulations applicable to the same are to encourage and provide means for effecting desirable and quality development by permitting greater flexibility and design freedom than that permitted under the basic district regulations, and to accomplish a well-balanced, aesthetically satisfying town and economically desirable development of building sites within a Conservation Subdivision.

These regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit, and intent of this ordinance and is found not to be hazardous, harmful, offensive, or otherwise adverse to the environment, property values, or the character of the neighborhood or the health, safety, and welfare of the community.

It is further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate preservation of open space, farmland, and other natural features, such as woodlands, floodplains, and wetlands at the same time that such land realizes the development potential allowed in the zoning district.

## **C. DEFINITIONS**

1. Basic Zoning Regulations. Zoning regulations as are applicable to the use district other than the regulations set forth in this section.
2. Building Site. A tract of land under single ownership, owned by a corporation or other legal entity, or a single-family lots development which is located on a public street or highway.
3. Cluster Development. Development in which dwellings and other buildings are grouped densely giving priority consideration to the least fertile and least productive portion of a parcel suitable for development in order to:
  - a. Preserve the remainder of the parcel for present or future agricultural productivity.
  - b. Expand and maintain protective barriers contiguous with wetlands and other natural resources including farmland.
4. Comprehensive Plan. The official guide for the physical, social, and economic growth of the Town of Glenmore, which is now or may hereafter be in effect.
5. Conservation Subdivision. An area of land which is to be developed as a single unit, in a rural setting, owned and managed by a homeowners association or local land trust.
6. Density. The number of dwelling units permitted per square foot of land area or number of dwelling units permitted per acre of land area.
7. Easement. Land over which a liberty is granted to the public, utility, some particular person, corporation, or part of the public for limited right of use.
8. Homeowners Association (HOA). An association of all homeowners in the subdivision who own and manage all the open space land in the subdivision. Further described in Section H, Homeowners Association (HOA) Standards.
9. Irrevocable Letter of Credit. An irrevocable promise by the applicant/developer's bank that the bank will make any payment to the Town requested by the Town of Glenmore should the Town of Glenmore, in the Town's sole discretion, believe that the applicant/ developer has broken one or more of its promises to the Town.
10. Land Trust. A private, non-profit land conservation group or individual capable of buying and holding significant properties to prevent their total development.

11. Open Space. Land conserved through compact residential development comprised of primary conservation areas and secondary conservation areas as explained in Section G, Open Space.

12. Site Plan Procedure. Sequence of actions for conservation subdivisions including a yield plan, site analysis plan, preliminary plan, and final plan as explained in Section I, Procedure.

## **D. PERMITTED USES**

The following uses are permitted in a conservation subdivision upon obtaining all necessary approvals required under this ordinance:

1. Permitted uses include single and multi-family homes, condominiums, and apartment houses.
2. Such additional uses, or mixture of uses, as are recommended by the Planning Commission and approved by the Town Board.

## **E. GENERAL REQUIREMENTS**

### **1. Building Restrictions**

When all necessary approvals required under this ordinance are obtained, the lot size, setback, side and rear yard, density and open space requirements under the basic zoning regulations shall not be applicable, but rather such requirements as are made a part of the approved precise development plan, and the plan itself, shall be construed to be and shall be enforced as part of this ordinance.

### **2. Engineering Design Standards**

The width of rights-of-way, width and location of street or other paving, requirements for outdoor lighting, location of sewage facilities and water lines and provision for drainage and other similar environmental engineering considerations shall be based upon a determination as to the appropriate standards necessary to insure the public safety and welfare.

### **3. Character and Intensity of Land Use**

The uses proposed and their intensity and arrangement on the site shall be a visual, aesthetic and operational character which:

- a. Is compatible to the physical nature of the site, with particular concern for preservation of agricultural areas, natural features, tree growth, and open space.
- b. Would produce an attractive environment of sustainable aesthetic and ecological desirability, economic stability and functional practicality, compatible with the general development plans for the area as established by the community.
- c. Would not adversely affect the anticipated provision for roads, school, snow removal, fire protection, or other municipal services.

#### **4. Preservation and Maintenance of Open Space**

Adequate provision shall be made for the permanent preservation and maintenance of common "open space" and rights-of-way either by private reservation or dedication to the public.

a. Common open space areas which are not dedicated to the public shall be protected against development by conveyance of easement to the Town as a condition of project approval. Areas conveyed by easement shall be restricted to prevent future building construction, development, or use, except as is consistent with that of providing landscaped open space for the aesthetic recreational satisfaction of surrounding residential properties.

Non-commercial recreational or cultural buildings or uses compatible with the open space objective may be permitted where specifically authorized as part of the approved development plan, or subsequently upon the Plan Commission recommendation and Town Board approval.

b. For roadways and other rights-of-way which are not dedicated to the public, there shall be granted to the Town, as a condition of project approval, such easements as may be necessary to enable the Town to provide fire protection and other required municipal services to the development.

c. The care and maintenance of recorded easements, open space reservations and right-of-ways shall be assured by establishment of an appropriate private management organization for the project. The Town shall have the right to carry out and levy assessments for costs of necessary maintenance if not otherwise performed to the satisfaction of the Town.

The manner of assuring maintenance and assuring costs to individual properties shall be determined prior to approval of the final development plan and shall be included in the title to each property.

d. Ownership and tax liability of private open space reservations and rights-of-way shall be established in a manner acceptable to the Town and shall be made part of the conditions of final development plan approval.

#### **5. Approvals**

The applicant/developer shall develop the site in accordance with the terms and conditions of development presented to and approved by the Town Board. Any changes or additions to the original approved development site, structures, or plans of operation shall require re-submittal and recommendation by the Plan Commission and approval by the Town Board. A reasonable schedule for implementation of the development shall be submitted to the Plan Commission and the Town Board with assurance that each phase will be brought to completion in a manner which shall not result in adverse effect on the community.

## 6. Rescinding Approval

Failure to comply with the conditions, commitments, guarantees, or the recommendations established in the approval of such development project shall be cause for rescinding the approval of the same. Upon notice given by the Zoning Administrator, the applicant/developer then shall be required to appear before the Town Board at its next public meeting to explain any such failure to comply. The Town Board at such meeting shall determine whether or not the applicant/ developer shall have failed to comply and, if there has been failure, may either:

a. Rescind its approval whereupon such rescission and cessation of all rights and privileges of the applicant/developer, including the right to complete construction or to construct any building or other structure or improvement shall become effective on the thirty-first (31st) day following mailing by certified mail to the applicant/ developer at his/her last known address of a written notice of such rescission; or

b. Adjourn such discussion at the Town Board meeting for a period not to exceed sixty-five (65) days to enable the applicant/ developer to comply. Whereupon, if the applicant/ developer is then in substantial compliance and has then established to the reasonable satisfaction of the Board that there will be compliance in the future, the rights and privileges of the applicant/developer shall continue for such period of time that there shall be such compliance; but, if the applicant/developer is not then in substantial compliance, or does not establish to the reasonable satisfaction of the Board that there will be compliance in the future, the Board will proceed in accordance with subparagraph a., immediately above.

## **F. FACTORS and REQUIREMENTS**

To be considered by the Plan Commission and the Town Board.

1. The site itself as it relates to neighborhood environment, compatibility to existing neighborhood use, and general neighborhood characteristics.
2. Physical, natural, and topographical features of building site.
3. Building arrangement, density, and floor area ratio.
4. Building setbacks.
5. Screening and fencing.
6. Landscaping.
7. Auto parking facilities. Parking areas shall meet requirements of **Off-Street Parking and Loading**.
8. Exterior lighting.
9. Site drainage.

10. Open space reservations.
11. Design and location of roadways, driveways, and walks. They shall conform to standards set up by the Plan Commission and Town Board of the Town of Glenmore.
12. Traffic generation and traffic patterns.
13. Nature and use of the proposed structures and design, architecture, and materials to be used.
14. Availability and capacity of sewer, water, and other utilities.
15. Snow removal, fire protection, and other municipal services.
16. Educational capacity capabilities (number of families and school load).
17. Economic impact on the town.
18. Commencement and completion dates.
19. Deed restrictions and sureties deemed necessary to protect the health, safety, and welfare of the community.
20. Such other limitations, conditions, or special requirements as may be deemed necessary to protect the health, safety, and welfare of the town.

## **G. OPEN SPACE**

Open space shall be comprised of two (2) types of land: "Primary Conservation Areas" and "Secondary Conservation Areas."

All land within both Primary and Secondary Conservation areas are required to be protected by a permanent conservation easement prohibiting further development and setting other standards safeguarding the site's special resources from negative change.

All easements shall be acceptable to the township and duly recorded in the County Register of Deeds Office.

The landowner should be considered as a resource person for the applicant/ developer in helping to determine the Primary and Secondary Conservation Areas.

1. Primary Conservation Area shall consist of wetlands, floodplains, slopes over 25%, and soils susceptible to slumping, allowing for some flexibility.
2. Secondary Conservation Areas shall comprise 50% of the remaining total tract area (after deducting the Primary Conservation Area) and shall include the most sensitive and noteworthy natural, scenic, and cultural resources on that remaining half of the property. This includes woodlands, prime farmland, natural meadows, and wildlife habitats. The Plan Commission and Town Board reserve the right to allow flexibility on the secondary conservation area.

The above areas shall generally be designed as "undivided" open space to facilitate easement monitoring and enforcement, and to promote appropriate management by a single entity. At least 25% of the minimum required open space shall be suitable for active recreation purposes, but no more than 50% shall be utilized for that purpose, in order to preserve a reasonable proportion of natural areas on the site. The purpose for which open space areas are proposed shall be documented by the applicant/developer.

The required open space may be used, without restriction, for underground drainage fields for individual or community septic systems. However, "mound" systems protruding above grade shall be limited to no more than 10% of the required minimum open space.

Stormwater management ponds or basins may be included as part of the minimum required open space.

Undivided open space shall be directly accessible to the largest practicable number of lots within a conservation subdivision. To achieve this, the majority of house lots should abut undivided open space in order to provide direct views and access. Safe and convenient pedestrian access to the open space from all lots not adjoining the open space shall be provided (except in the case of farmland, or other resource area vulnerable to trampling damage or human disturbance.)

As these policies are implemented, the protected open spaces in each new subdivision will eventually adjoin each other, ultimately forming an interconnected network of Primary and Secondary Conservation Areas across the township.

## **H. HOMEOWNERS ASSOCIATION (HOA) STANDARDS**

The undivided open space and associated facilities are held in common ownership by a homeowners association. The association shall be formed and operated under the following provisions:

1. The applicant/ developer shall provide a description and a map of all lands and facilities to be owned by the HOA.
2. The applicant/developer shall provide a description of the association including its bylaws, methods for maintaining the open space and restrictions on the open space.
3. The association shall be organized by the applicant/ developer and shall be operated with a financial subsidy from the applicant/ developer before the sale of any lots within the development.
4. Membership in the association is automatic and mandatory for all purchases of homes therein and their successors. Membership is a condition of sale and the membership document must be signed at the closing or settlement. The conditions and timing of transferring control of the association from the applicant/ developer to homeowners shall be identified.
5. The association shall be responsible for maintenance of liability insurance and taxes on undivided open space. The HOA is required to carry sufficient insurance coverage to meet possible court judgments against them. Association bylaws, reviewed by the Town Attorney before final plan approval is granted, must authorize the HOA or the Town of Glenmore Town Board to place liens on the

real property of members who fail to pay their dues. The open space assessment is included as a part of each homeowners tax bill.

6. The members of the association shall share equitably the cost of maintaining and developing such undivided open space. A management plan for the conservation lands and other open spaces in the subdivision must be submitted to the Plan Commission and the Town Board. It is advisable to minimize regular maintenance costs and avoid fancy physical improvements so that dues remain low.

7. The homeowners association may lease open space lands to any qualified person, or corporation, for operation and maintenance of open space lands. The lease shall be subject to the approval of the Town Board and any transfer or assignment of the lease shall be further subject to the approval of the Town Board. Lease agreements so entered upon shall be recorded with the County Register of Deeds within thirty (30) days of their execution and a copy of the recorded lease shall be filed with the Town Clerk.

8. Failure to adequately maintain the undivided open space in reasonable order and condition constitute a violation of this ordinance. The Town of Glenmore Zoning Administrator is hereby authorized to give notice to the owner of any violation, directing the owner to remedy the same within twenty (20) days. Failure to remedy the violation will constitute the town to have it done and the cost, plus 15 % additional fee, added to the owner's tax bill.

9. The applicant/ developer shall provide a mechanism for resolving disputes among association members.

## **I. PROCEDURE**

### **1. Pre-application Conference**

Prior to filing of an application for a Conservation Subdivision, the applicant/developer of the proposed Conservation Subdivision is encouraged to arrange a conference with the Town Board and the Plan Commission. The primary purpose of the conference shall be to provide the applicant/developer with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this chapter before incurring substantial expense in the preparation of plans, surveys and other data. The fee for such pre-application conference will be two hundred fifty dollars (\$250.00), payable to the Zoning Administrator prior to the arrangement of the pre-application conference.

The Plan Commission and the Town Board shall schedule a mutually convenient date to walk the property with the applicant/developer and his/her site designer. The purpose of the visit is to familiarize town officials and Plan Commission members with the property's special features and to provide them an informal opportunity to offer guidance (or at least a response) to the applicant/developer regarding the tentative location of the open space and the potential house locations.

A reasonable schedule for implementation of the development shall be submitted to the Plan Commission and the Town Board with assurance that each phase will be brought to completion in a manner which shall not result in adverse effect upon the community.

## **2. Re-zone Property as Conservation Subdivision.**

### **3. Preliminary Approval.**

a. A person desiring to develop a particular site as a conservation subdivision shall apply to the Zoning Administrator on such forms as shall be provided by the Town . Such application shall contain the names, mailing addresses and telephone numbers of the owners and developers, and a description of the development site.

b. The applicant/developer shall provide a yield plan. A yield plan shall include the total acreage of the tract and demonstrate the density potential of a conservation subdivision. It shall consist of conventional lot and street layouts and must conform to the township's regulations governing lot dimensions, land suitable for development (for example, not including wetlands) and street design. Although such plans shall be conceptual in nature and are not intended to involve significant engineering costs, they must be realistic and must not show potential house sites or streets in areas that would not ordinarily be legally permitted in a conventional layout.

c. The applicant/developer shall provide a site analysis plan. An aerial map of the area and the surrounding areas shall be provided and shall include basic topography, location of wetlands, 100 year floodplains, slopes exceeding 25%, and soils subject to slumping as indicated on the medium-intensity maps contained in the soil survey published by the USDA Natural Resources Conservation Service.

The site analysis plan shall include the zoning districts on and within four hundred (400) feet adjacent to the proposed project. Property lines, if any, within the proposed project shall be identified. The plan shall show the location of significant features such as woodlands, meadows, farmland, scenic views into or out from the property. It shall show the location of any historic, archaeological, and cultural features. The aquifer and its recharge areas shall be identified.

The nature, use, and character of abutting properties shall be provided. A description of the proposed system for drainage shall be included. No land use shall pose a threat to the groundwater, interfere with existing agricultural uses, or conflict with other goals and policies of the Town of Glenmore.

Proposed methods for stormwater management and sewage treatment shall be submitted as part of the site analysis plan. Soil suitability for individual septic systems shall be demonstrated. The applicant/developer shall select a small percentage of lots (10 to 15%) to be tested in areas considered to be marginal. If tests on the sample lots pass the percolation test, the applicant/developer's other lots shall be deemed suitable for septic systems, for the purpose of calculating total lot yield.

However, if any of the sample lots fail, several others (of the county's choosing) shall be tested, until all lots in a given sample pass. The resultant "lot yield" would determine the number of units permissible in a cluster layout.

After the site analysis plan has been prepared, the Plan Commission and the Town Board may schedule a mutually convenient date to walk the property a second time with the applicant/developer and his/her site designer. The purpose of the visit is to review the property's special features and to offer guidance (or at least a response) to the applicant/developer regarding the tentative location of the open space and the potential house locations.

d. The applicant/developer shall provide a preliminary plan. Each conceptual preliminary plan shall follow a four-step design process:

- (1) Designating Open Space. All potential primary and secondary conservation areas are identified.
- (2) Location of House Sites. Potential house sites are tentatively located. House sites should generally be located not closer than one hundred (100) feet from primary conservation areas, but may be situated within fifty (50) feet of secondary conservation areas, in order to enjoy views of the latter without negatively impacting the former. Buffer areas should be established between homes and farmland.
- (3) Street and Lot Layout. Proposed streets are aligned to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the primary and secondary conservation areas. Consideration may be given to the addition of sidewalks to the subdivision.
- (4) Lot Lines. Tentative lot lines are drawn midway between house locations.

e. A Homeowners Association (HOA) Document shall be provided for the Conservation Subdivision. The elements of this document shall include, but shall not necessarily be limited to the standards set forth in Section H **HOMEOWNERS ASSOCIATION STANDARDS**.

f. An irrevocable letter of credit from the applicant/developer's bank will be required for assurance that each phase could and should be brought to completion in a manner that shall not result in adverse effect upon the community as a result of termination at the end of any phase. Such letter of credit shall be presented to the Zoning Administrator prior to any further meetings on the Conservation Subdivision.

The amount of a contingency fund, to cover meeting fees, lawyer fees and associated additional Town expense will be determined at the preliminary approval. The contingency fund must be maintained at 30% of the original amount until the completion of the project. Excess contingency funds will be refunded to the applicant/developer. Contingency funds will be forwarded by the applicant/developer to the Zoning Administrator prior to any additional meetings held regarding the Conservation Subdivision.

Following the preliminary approval, contingency funds will begin to cover the costs associated with the application process including, but not limited to, Plan Commission meeting fees and lawyer fees .

g. The Plan Commission, after such preliminary discussions and such further discussions as may be required with the applicant/developer shall report in writing such proposed project development to the Town Board, together with its recommendation for either approval or disapproval of the same. Such report and recommendation of the Plan Commission shall be made to the Town Board no later than four (4) months from the date of the filing of the application with the Zoning Administrator. A recommendation of approval by the Plan Commission shall in no way be binding on the Town Board.

The Town Board shall either approve or disapprove the proposed development

project, without modification, within sixty (60) days receipt of the Plan Commission recommendation. Any such approval shall be a preliminary approval and shall not bind the Town Board regarding final approval.

h. The Town Board shall hold a public hearing on the proposed Conservation Subdivision application. Time, place, and purpose of the hearing shall be published as provided in the state law on planning and zoning and applicable to the Town of Glenmore. Due notice of the hearing shall be given to the applicant, as well as parties of interest.

#### **4. Amendment to Preliminary Approval**

Any request or petition for an amendment to a preliminary approval shall be accompanied by an additional fee of five hundred dollars (\$500). Such fee is in addition to the normal Plan Commission meeting charge. No amendment shall be allowed or permitted until a recommendation is made by the Plan Commission, a public hearing is held and approval is granted by the Town Board in accordance with the procedures established in 3. **Preliminary approval.**

#### **5. Final Approval**

When the Town Board has granted preliminary approval for a conservation subdivision, the applicant/developer may file a petition for final approval stating that he/she seeks to develop such property under the provisions of **Conservation Subdivision**.

Such petition shall be submitted within twelve (12) months of the date of approval of the Preliminary Plan and shall conform to such layout and conditions of the approved Preliminary Plan and shall include the required final approval information.

The following procedures shall be adhered to when applying for the final approval of the development project.

a. Required Information. A final plan shall be submitted to the Plan Commission. The plan shall include the following information unless previously submitted:

(1) An accurate topographical map showing topographical data at two (2) foot intervals and extending within one hundred (100) feet of the exterior boundaries of such site. Such map shall show the size and capacities of all available utilities and high water elevations along rivers and bodies of water.

(2) A scale plot plan showing the proposed location of all house sites with front, side and rear yard building setbacks, driveways, walks, access roads, use of the open space, site drainage, landscaping, utility easements. Where applicable it will show parking facilities, exterior lighting, screening and fencing.

(3) A statistical table showing the acreage of development (exclusive of public streets), acreage of proposed open space and proposed population density.

(4) A table showing building sizes in square feet and approximate cost of buildings.

(5) A statement confirming the starting and completion dates of the project.

(6) All easements and other encumbrances of property which are or will be filed with the Register of Deeds of Brown County.

(7) A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply with the requirements of WI Stats 236.20 and shall meet all the surveying and monumenting requirements of Sec. 236.15 of WI Stats. All final plats shall provide all the certificates required by section 236.21 of WI Stats. Conservation Subdivisions shall not be created by CSM under Sec.236.34 of WI States.

(8) Any other pertinent information data, statements, drawings, or plans which may be required by the Plan Commission or the Town Board.

(9) A Homeowners Association (HOA) Document shall be provided for the conservation subdivision. The elements of this document shall include, but shall not necessarily be limited to the standards set forth in Section H **HOMEOWNERS ASSOCIATION STANDARDS**.

b. Names, mailing addresses, and telephone numbers of any additional owners or developers since filing of the original preliminary approval application shall be submitted. Unless previously submitted, the applicant/ developer shall provide information in sufficient detail for the Plan Commission and the Town Board to determine the acceptability of the final proposed development and whether it conforms to the general requirements set forth in Section E **GENERAL REQUIREMENTS**.

c. Public Hearing, Report and Recommendation. After receipt of a petition for final approval and submittal of all required information as itemized above, the Plan Commission shall file a written report on the proposed development to the Town Board, together with its recommendation for approval or disapproval. The Town Board shall hold a public hearing regarding the proposed development. Following such public hearing and review of all application materials the Town Board shall either issue a final approval or disapproval of such petition within sixty (60) days.

d. Commencement of Construction. No construction shall commence on the building site until the Town Board has granted final project approval.

Neither preliminary approval nor final approval shall constitute permission to begin construction of any building or structure prior to the issuance of required permits in accordance with the provisions of the Town of Glenmore Zoning.

Permission to sell lots and/or begin construction on lots will be contingent upon all documents being executed, recording of such documents at the Brown County Register of Deeds office and receipt of copies of the same by the Glenmore Town Clerk.

**6. Amendment to Final Approval.** Any request or petition for an amendment to a final approval shall be accompanied by an additional fee of five hundred dollars (\$500). Such fee is in addition to the normal Plan Commission meeting charge.

No amendment shall be allowed or permitted until a recommendation is made by the Plan Commission, a public hearing is held and approval is granted by the Town Board in accordance with the procedures established in Section I. **PROCEDURE 5. Final Approval.**