

CHAPTER 17

LAND DIVISION

17.01 DISCLAIMER: (1) MULTIPLE JURISDICTIONS: All persons reviewing the provisions of this Chapter should be aware that the Town of Rome is only one of a number of governmental bodies that may have jurisdiction over proposed land divisions or development. The Town of Rome cannot make any representations on behalf of any other governmental body. No land division may be made unless all required approvals have been given.

(2) BINDING ACTS: No statement or actions by any official, employee, agent, chapter or committee of the Town of Rome should be construed or taken as a binding act of the Town except as permitted by State statute or a duly adopted Town ordinance.

(3) COMPLIANCE ASSURANCE: The Town of Rome expressly states that it has no responsibility whatsoever for assuring that land and/or buildings sold in the Town are in compliance with any ordinances, regulations, or rules. The Town also assumes no responsibility for the suitability of any property whose land division has been approved by the Town Board.

17.02 PURPOSE: The purpose of this Chapter is to regulate and control the division of land within the limits of the Town in order to promote the public health, safety, morals, prosperity, aesthetics and general welfare of the community; to lessen congestion in the streets and highways; to further the orderly layout and appropriate use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds, and other public requirements; to facilitate the division of larger tracts into smaller parcels of land; to ensure adequate legal description and proper survey monumentation of subdivided land; to provide for the administration and

enforcement of this Chapter; and to provide penalties for its violation.

17.03 AUTHORITY: The regulations contained in this Chapter are adopted pursuant to the authority granted to Towns in section 236.45 Wis. Stats., as well as the general powers delegated to Towns in Chapters 60 and 66 Wis. Stats.

17.04 JURISDICTION AND SCOPE: (1) Jurisdiction of these regulations shall include **any land division** within the limits of the Town of Rome. The provisions of this Chapter as they apply to division of tracts of land into less than five (5) parcels, shall not apply to:

(a) Transfers of interest in land by will or pursuant to court order;

(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 additional buildable lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this Chapter or other applicable laws or ordinances.

(2) EXEMPTIONS: The following divisions of land shall be exempt from these land division requirements:

(a) The public acquisition of land for the widening of existing streets or for constructing other public works.

(b) Any lot, parcel or tract of land located within the area governed by these regulations which has been legally subdivided or re-subdivided by map or deed prior to the adoption of these regulations;

(3) INTERPRETATION AND CONFLICT:

(a) Higher Standards: The Town of Rome may require higher standards than established by this Chapter if required for a specific site by reason of topography, hydrology, parcel shape, infrastructure limitations or compatibility with existing or planned uses on adjacent parcels.

(b) Overlapping Standards: Where there are multiple standards, the more specific or stringent shall take precedence.

(c) Fees: The subdivider shall pay a fee equal to the cost of any legal, administrative or fiscal work which may be undertaken by the Town in connection with the plat or certified survey map. Fees shall be set by the Town Board and subject to adjustment from time to time.

(4) CONDOMINIUMS: Pursuant to sec. 703.27, Wis. Stats., this Chapter shall be applicable to condominiums. It is hereby declared and determined that each provision of this Chapter reasonably relates to the nature of all forms of ownership, including condominium ownership.

(5) ABROGATION AND GREATER RESTRICTION: It is not intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to laws. However, where this ordinance imposes greater restrictions, the provisions of this Chapter shall govern.

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

17.06 SEVERABILITY: The provisions of this Chapter are severable. If any provision of the Chapter is invalid, or if its application to any person or circumstance is invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application.

17.07 COMPLIANCE: No person, firm or corporation shall divide any land located within the jurisdictional limits of this Chapter which results in a subdivision, certified survey map, or a replat as defined herein unless permitted by the Town. No such division or replat shall be entitled to record and no street shall be laid out

or improvements made to land without compliance with all requirements of this Chapter, and:

- (1)** Provisions of Chapter 236, Wisconsin Statutes.
- (2)** Rules of the Wisconsin Department of Commerce regulating lot size and lot elevation if provisions for public sewer service to the land to be subdivided have not been made.
- (3)** Rules of the Agencies that are empowered to establish rules under Wisconsin Statutes Chapter 236.
- (4)** Comprehensive and/or land use plans or components of such plans prepared by the Town, County, State, regional or other agencies duly adopted by the Town Board.
- (5)** All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.

17.08: LAND SUITABILITY: (1) No land shall be divided if the Town Board determines that it will materially interfere with existing uses or will conflict with other goals and policies as set forth in the Town of Rome Comprehensive Plan.

(2) No land shall be divided that is found by the Town Board to be unsuitable as divided for the proposed use(s) for reasons of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate septic or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the residents of the community.

(3) When applying the provisions of this Chapter, the Town Board may afford the land divider an opportunity to present evidence regarding suitability of the proposed land division at a public hearing. At this hearing, the Plan Commission shall recite the particular facts

upon which it bases its recommendation on the land's suitability for the proposed use(s). These facts shall be recorded in the minutes of that public hearing. The Town Board may affirm, modify, or override the Plan Commission's recommendation.

17.09 LOT DESIGN: (1) ALL LAND DIVISIONS:

(a) SIZE: Lot size and dimensions shall comply with the minimum standards of applicable land division and zoning ordinances, as well as the provisions of COMM. 85, Wisconsin Administrative Code, and Chapter 236, Wisconsin Statutes.

(b) ACCESS: Each parcel of land created must abut a public street by at least seventy (70) feet. Easements are prohibited as a means of provided access to public streets for new parcels.

(c) DEPT/WIDTH RATIO: The depth of a lot shall not exceed four (4) times its width at its widest point.

(2) CONSERVATION SUBDIVISIONS: ADDITIONAL REQUIREMENTS

(a) Intent: In addition to Section 17.09 (a) through (c), it is the intent of this section to permit the use of non-traditional residential subdivision design that would cluster the residential parcels and preserve open space and forest land by the use of restrictive covenants, deed restrictions and/or other binding criteria. In so doing the overall density as required by zoning is maintained without sprawling the home sites over a large area.

(b) Design Standards

1. The number of development lots permitted shall be determined by preparing a yield plan on a preliminary plat showing a general layout that would conform to lot area and dimensions for the zoning district in which the development is proposed. This plan must show wetlands, floodplains, hydric soils, slopes exceeding twenty five percent (25%), rock outcrops, proposed and existing roads or any other natural or artificial feature that would make

that part of the site undevelopable. No more than ten percent (10%) of these undevelopable areas shall be included in calculating yield. When no natural or artificial features that would limit development exist the yield plan can be done mathematically.

2. The required minimum project area is twenty (20) acres.

3. The number of lots in a conservation design subdivision may be increased above the yield plan by one (1) lot for each whole twenty (20) acres in the proposed development.

4. Fifty percent (50%) or more of the developable land and all undevelopable land area shall be designated as undivided permanent open space.

5. All the land which is not divided into development land shall be designated as permanent open space, not to be further subdivided, and protected through conservation easement held by the Town, by a recognized land trust or conservancy, or shall be held in common by equal shares by the owners of the development lots. All development lots capable of being further divided shall be restricted from further division by setting forth such restrictions in a recordable document naming the Town as an interested party with standing to enforce such restrictions.

6. Stormwater detention basins and other non-structural uses may be included as part of the minimum required open space.

c) Design and Evaluation Criteria:

1. In evaluating the layout of lots and open space, the following criteria will be considered by the Community Development Department and the Planning Commission as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purposes of this ordinance. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. Accordingly, the Plan Commission and Town Board shall evaluate proposals to determine whether the proposed conceptual preliminary plat:

- a.** Protects and preserves all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the County and Town for essential infrastructure or active or passive recreation amenities).
- b.** Preserves and maintains woodlands, meadows, significant wildlife habitat and open areas and creates sufficient buffer areas to minimize conflicts between residential and conflicting adjacent uses.
- c.** Where development must be located on open areas because of greater constraints in all other parts of the site, considers locating dwellings at the far edge of the open area, as seen from existing public roads. Other considerations include whether the development will be visually buffered from existing public roads, such as by a planting screen consisting of a variety of indigenous native trees, shrubs, and wildflowers (specifications for which should be based upon a close examination of the distribution and frequency of those species found in a typical nearby woodlot).
- d.** Maintains or creates an upland buffer of natural native species vegetation of at least one hundred (100) feet in depth adjacent to wetlands and surface waters, including creeks, streams, springs, lakes and ponds.
- e.** Is designed around existing hedgerows and treelines between open areas or meadows, and minimizes impacts on large woodlands (greater than five (5) acres), especially those containing many mature trees or a significant wildlife habitat. Also, woodlands of any size on highly erodible soils with slopes greater than ten percent (10%) should be avoided. However, woodlands in poor condition with limited management potential can provide suitable locations for residential development. When any woodland is developed, great care shall be taken to design all disturbed areas (for buildings, roads, yards, septic disposal fields, etc) in locations where there are no large trees or obvious wildlife areas, to the fullest extent that is practicable.
- f.** Leaves scenic views and vistas unblocked for uninterrupted panoramas, particularly as seen from public thoroughfares. For example, in open landscapes, a deep “no-build, no plant” buffer is recommended along the public thoroughfare where those views or vistas are prominent or locally significant. The concept of “foreground meadows,” with homes facing the public thoroughfare across a broad grassy expanse is strongly preferred to mere buffer strips, with or without berms or vegetative screening. In wooded areas where the sense of enclosure is a feature that should be maintained, a deep “no-build, no-cut” buffer should be respected, to preserve existing vegetation.
- g.** Avoids siting new construction on prominent hilltops or ridges by taking advantage of lower topographic features.
- h.** Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the U.S. Fish and Wildlife Service and/or by the Wisconsin Department of Natural Resources.
- i.** Designs around and preserves sites of historic, archaeological, or cultural value, and their environs, insofar as needed to safeguard the character of the feature, including stone walls, earthworks, and burial grounds.
- j.** Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads and establishes buffer zones along the scenic corridor of rural roads with historic buildings, stone walls, hedgerows, and so on.
- k.** Landscapes common areas including cul-de-sac islands, and both sides of new streets with native specie shade trees and shrubs with high wildlife conservation value. Deciduous shade trees shall be planted and maintained at forty (40) ft. intervals on both sides of each street, so that the neighborhood will have a stately and traditional appearance when they grow and mature. These trees shall generally be located at the edge of the right-of-way, within a planting strip of not less than five (5) feet in width.

l. Provides active recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby houselots.

m. Includes a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space system. All roadside footpaths shall connect with off-road trails, which in turn shall be capable of linking with potential open space on adjoining undeveloped parcels (or with existing open space on adjoining developed parcels, where applicable).

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

(d) Ownership and Maintenance of Open Space:

1. General:

Different ownership and management options apply to the permanently protected open space created through the conservation design development process. The open space shall remain undivided and may be owned and managed by a homeowners' association, the Town, or a recognized land trust or conservancy. A public land dedication, not exceeding ten percent (10%) of the total development area, may be required by the

Town, through this open space, to facilitate trail connections. A narrative describing ownership, use and maintenance responsibilities shall be submitted for all common and public improvements, utilities, and open spaces.

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

a. Offer of Dedication: The Town shall have the first and last offer of dedication of undivided open space in the event said land is to be conveyed. Dedication shall take the form of a fee simple ownership. The Town may, but shall not be required to accept undivided open space provided: (1) such land is accessible to the residents of the Town; (2) there is no cost of acquisition; and (3) the Town agrees to and has access to maintain such lands. Where the Town accepts dedication of common open space that contains improvements, the Town may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed eighteen (18) months from the date of acceptance of dedication. The amount of financial security shall not exceed fifteen percent (15%) of the actual cost of installation of said improvements.

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

1) The developer shall provide a description of the association, including its bylaws and methods for maintaining the open space.

2) The association shall be organized by the developer and shall be operated with a financial subsidy from the developer, before the sale of any lots within the development.

3) Membership in the association is automatic (mandatory) for all purchasers of

homes therein and their successors. The conditions and timing of transferring control of the association from the developer to homeowners shall be identified.

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

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

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

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

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

a) That the residents of the development shall at all times have access to the open space lands contained therein;

b) That the undivided open space to be leased shall be maintained for the purposes set forth in this ordinance; and

c) That the operation of open space facilities may be for the benefit of the residents only, or may be open at the election of the developer and/or homeowners' association, as the case may be.

9) 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.

c. Condominiums: The undivided open space and associated facilities may be controlled through the use of condominium agreements, approved by the County and the Town. Such agreements shall be in conformance with the state's condominium laws. All undivided open space land shall be held as a "common element."

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

e. Transfer of Easements to a Private Conservation Organization: With the permission of the County and the Town, an owner may transfer easements to a private, nonprofit organization, among whose purposes it is to conserve open space and/or natural resources, provided that:

1) The organization is acceptable to the County and the Town, and is a bona fide conservation organization with perpetual existence;

2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions; and

3) A maintenance agreement acceptable to the Town Board is entered into by the developer and the organization.

3. Maintenance Standards:

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

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

c. Failure to adequately maintain the undivided open space in reasonable order and condition constitutes a violation of this ordinance. The Town is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any violation, directing the owner to remedy the same within twenty (20) days. If the violation is not timely remedied, the Town is authorized to enter the premises and perform the required maintenance. The associated expense of such maintenance shall be billed to the owner.

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

17.10 PUBLIC IMPROVEMENTS: (1) AUTHORIZATION REQUIRED: Prior to starting any of the work covered by the plans approved above, authorization to start the work shall be obtained from the Town Zoning Administrator upon receipt of all necessary permits and in

accordance with the construction methods of this Chapter.

(2) CONTRACT: Before any final plat or certified survey map is inscribed by the Clerk, the subdivider shall enter a contract with the Town wherein the subdivider agrees to install all required improvements within eighteen (18) months of the date that the plat or certified survey map is recorded. The Town Engineer shall review and approve all improvements prior to the granting of approval by the Zoning Administrator. The plat or certified survey map must be recorded within six (6) months of Town Board approval, or the approval shall lapse.

(3) SECURITY REQUIRED:

(a) At the time said contract is entered, the subdivider shall, at the discretion of the Board, file a bond, certificate of deposit, irrevocable letter of credit, or certified check, with the Town in an amount equal to the estimated cost of the required improvements as determined by the Town's Engineer and approved by the Town Board.

(b) The security posted shall be in such form as is acceptable to the Town Board and approved by the Town Attorney. When a certificate of deposit or certified check is posted as security, the instrument must be negotiable by the Town. When a letter of credit is posted as security, the Town must be the beneficiary.

(c) The security deposit shall guarantee that all required improvements will be completed according to Town specifications by the subdivider or its contractors not later than eighteen (18) months from the date that the plat is recorded.

(4) WATER SUPPLY SYSTEM DESIGN STANDARDS: If the area to be subdivided is served by public facilities, there shall be provided a water supply system in conformity with the master plan of the Rome Water Utility. The subdivider shall construct water mains in such a manner as to make adequate water service available to each lot within the subdivision and shall provide the Town with an easement for such mains. If

municipal water service is not available, the subdivider shall provide substantiated information indicating the amount and quality of available groundwater at the time of platting. The Town may require a private water system capable of serving the entire subdivision. The Town may require the installation of water laterals to the street lot line. The size, type and installation of all public water mains proposed to be constructed shall be in accordance with plans and standard specifications set by the Town, Rome Water Utility and State of Wisconsin.

(5) STORM WATER DRAINAGE FACILITIES:

Pursuant to this Section, the subdivider shall provide storm water drainage facilities which may include curb and gutter, catch basins and inlets, storm sewers, road ditches, open channels and detention basins as may be required. All such facilities are to be of adequate size and grade to hydraulically accommodate the one hundred (100) year storm event. Storm drainage facilities shall be so designed as to present no hazard to life or property, and the size, type and installation of all storm water drains and sewers proposed to be constructed shall be in accordance with all State of Wisconsin DNR requirements and the plans and specifications shall be approved by the Town Engineer licensed in Wisconsin. The subdivider shall pay all costs of all storm sewer work.

(a) Where appropriate, natural drainage ways shall be retained to minimize interference with potential floodwater conveyance, floodwater storage, wetlands, and both surface and subsurface hydrology. The Zoning Administrator may, after consulting with the Town Engineer, recommend approval of modifications to natural channels that are consistent with the other provisions of this Chapter.

(b) Storm sewers, where required, shall be designed and built to APWA Standards.

(c) Storm water systems shall be designed to minimize future operational and maintenance expenses.

(d) Storm water systems shall be designed to reduce the exposure of streets, utilities and

other public facilities to damage from storm water.

(e) Storm water drainage easements shall be provided where necessary for maintenance of the storm water facility, as determined by the Town Engineer.

(f) On-site storm water detention basins shall be required where needed to protect public or private property from increased volumes or velocity of storm water runoff.

(g) Erosion and sedimentation controls shall be required during and after new construction as needed to prevent increased erosion or increased deposits of material downstream from the development.

(h) Development design shall accommodate large floods and smaller, more frequent floods along major and minor waterways.

(i) Development design shall provide at least one (1) all-weather access to every parcel designed to remain open during the one hundred (100) year storm event.

(6) OTHER UTILITIES: The subdivider shall cause gas, electrical power, CATV and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision. No such electrical, CATV or telephone service shall be located on overhead poles; all utilities are to be underground. Plans indicating the proposed location of all gas, electrical power, CATV and telephone distribution and transmission lines required to service the plat shall be approved by the Town Board and such map shall be filed with the Town Zoning Administrator.

(7) Governmental Units to which these security provisions apply may file, in lieu of said security, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.

(8) CONSTRUCTION AND INSPECTION:

(a) During the course of construction, Town Staff shall make such inspections as deemed

necessary to ensure compliance with the plans and specifications as approved.

(b) The subdivider shall pay the Town for all costs incurred by the Town for review and inspection of the subdivision. This would include preparation and review of plans and specifications by an Engineer, Planner and Attorney as well as other costs of a similar nature.

(c) Map Requirement: After completion of all public improvements and prior to final acceptance of said improvements, the subdivider shall make or cause to be made a map showing the actual location of all valves, manholes, stubs, sewers, water mains, and such other facilities as the Town Board shall require. This map shall be on suitable paper and shall bear the signature and seal of a professional engineer registered in Wisconsin. The presentation of the map shall be a condition of final acceptance of the improvements and release of the security assuring their completion.

(d) Design Capacity: All improvements shall be installed to satisfy the service requirements for the service or drainage area in which the subdivision is located and the improvements shall be of sufficient capacity to handle the expected development of the overall service or drainage area involved.

(9) ROAD SIGNS: The subdivider shall provide and install traffic control signs, road name signs and building numbering signs of such a type and in such location as required by Town Ordinances and as designated by the Public Works Director.

(10) EASEMENTS:

(a) Adequate easements shall be provided and dedicated on each side of all rear lot lines and on side lot lines where necessary, for the installation of storm and sanitary sewers, gas, water, electric lines, and communication lines. Such easements as required by the Town or other private utility lines shall be noted as "Utility Easements" on the final plat or certified survey map. Prior to approval of the final plat or certified survey map, the concurrence of the electric and communications companies serving

the area as to the location and width of the utility easements shall be noted on the final plat or certified survey map. All easements for storm and sanitary sewers, water and pedestrian walks, and other public purposes shall be noted thereon as "Public Easement for" followed by reference to the use or uses for which they are intended.

(b) The utility easements shall be graded to within six (6) inches of final grade by the subdivider, prior to the installation of such facilities, and earth fill, piles or mound or mounds of dirt shall not be stored on such easement areas. Utility facilities when installed on utility easements shall not disturb any monumentation in the plat.

(c) A plat restriction shall be recorded with the final plat or certified survey map stating that the final grade established by the subdivider on the utility easements shall not be altered by more than six (6) inches by the subdivider, his agent, or by subsequent owners of the lots on which such utility easements are located, except with written consent of the utility or utilities involved. The purpose of this restriction shall be to notify initial and future lot owners of the underground facilities at the time of purchase and to establish responsibility in the event of damage to such facilities or to the need to alter such facilities. When the utility company uses a service application, said application should also notify the initial and subsequent lot owners of their responsibility regarding such underground facilities.

(d) Drainage Easements: Where a subdivision is traversed by a water course, drainageway, channel or stream, an adequate drainageway or easement shall be provided as required by the Town Board. The location, width, alignment and improvement of such drainageway or easement shall be subject to the approval of the Plan Commission and shall comply with the requirements of this section. Parallel streets or parkways may be required in connection therewith.

17.11 RESERVATION AND DEDICATION OF LAND: (1) PUBLIC ROADS: All roads located in a subdivision shall be dedicated to the

public and shall conform to the requirements of Chapter 4 of the Town Code of Ordinances.

(2) PUBLIC SITES AND OPEN SPACES:

(a) The subdivider shall dedicate sufficient suitable land area to provide adequate park, playground, recreation and open space to meet the needs to be created by and to be provided for the subdivision. The suitability of the lands for dedication shall be within the sole discretion of the Town Board. At least 2,900 square feet of land shall be dedicated for each proposed residential dwelling unit within the subdivision. Where a definite commitment is made to the Town by the subdivider with respect to the number of dwelling units to be constructed on any parcel of land which has a zoning classification that permits multi-family use, the dedication shall be based upon that number. Where no such commitment exists, the dedication shall be based upon the maximum number of dwelling units which the zoning classification of the parcel will permit.

(b) The Town Board may, in its sole discretion, permit the subdivider to satisfy the requirements of Section 17.11(2) (a) by combining a land dedication with a fee payment. The fee, in such cases, shall be determined by subtracting the most recent equalized value of the dedicated land, as determined by the Town Assessor, from the total fee which would have been imposed had no land been dedicated by the subdivider.

(c) The Town shall place any fee collected pursuant to the provisions of this section in a separate account to be used by the Town Board for land acquisition and development of adequate park, playground, recreation and open space to meet the needs created by the subdivision.

(d) Subdivision Plats abutting on a navigable lake or stream shall provide public access at least sixty-six (66) feet wide to the ordinary high water mark so that there will be public access, which is connected to existing public roads, at not more than one-half mile intervals as measured along the lake or stream shore except where greater intervals and wider access is agreed upon by the Department of

Natural Resources and the Department of Agriculture, Trade and Consumer Protection and excluding shore areas where public parks or open space streets or roads on either side of a stream are provided. The Town Board may require dedications of access points of greater width or at more frequent intervals at points designated by them.

(e) The lands lying between the meander lines, established in accordance with Section 236.20(2)(g) and the water's edge, and any otherwise unplatable lands which lie between a proposed land division and the water's edge shall be included as part of lots, outlots, or public dedications in any plat abutting a lake or stream.

(f) This requirement applies not only to lands under option to the subdivider or in which he holds any interest and which are contiguous to the lands proposed to be divided and which abut a lake or stream as provided in Section 236.16(4), Wisconsin Statutes.

(3) Where land is dedicated pursuant to this section, conveyance to the Town shall be by warranty deed. The land shall be free and clear of all liens and encumbrances except as may be allowed by the Town Board in its sole discretion. Where land is to be dedicated pursuant to this section, before any final plat or certified survey map is inscribed by the clerk, the subdivider shall enter an agreement with the Town to dedicate specified land according to terms approved by the Town Board. The agreement shall establish a date for closing and shall provide that the subdivider shall furnish and deliver to the Town for examination at least fifteen (15) days prior to the date set for closing, subdivider's choice of either;

(a) A complete abstract of title made by an abstract company, extended to within thirty (30) days of the closing, said abstract to show the subdivider's title to be marketable and in the condition called for by the agreement. The Town Attorney shall notify the subdivider in writing of any valid objection to the title within ten (10) days after the receipt of said abstract and the subdivider shall then have a reasonable time but not exceeding sixty (60) days, within which to rectify the title (or furnish a title policy

as hereinafter provided) and in such cases the time of closing shall be accordingly extended; or

(b) An owner's policy of title insurance, in the amount of the full purchase price, naming the Town as the assured, as its interest may appear, written by a responsible title insurance company licensed by the State of Wisconsin, which policy shall guarantee the subdivider's title to be in condition called for by the agreement. A commitment by such a title company, agreeing to issue such a title policy upon the recording of the proper documents as herein, shall be deemed sufficient performance.

17.12 SURVEY MONUMENTS: Before final approval of any plat or certified survey map within the limits of the Town, the subdivider shall install survey monuments placed in accordance with the requirements of Section 236.15 of the Wisconsin Statutes and as may be required by the Town. The Town Board may waive the placing of monuments required under Section 236.15 (b), (c) and (d), subject to Wisc. Dept. of Administration approval for a reasonable time on condition that the subdivider executes a surety bond to insure the placing of such monuments within the time required.

17.13 CERTIFIED SURVEY MAP PROCEDURE:

(1) NON-LAND DIVISION CSM REVIEW; Any certified survey map (CSM) that does not have the effect of a land division (including, but not limited to, a CSM that combines lots) shall be submitted to the Zoning Administrator for review prior to recording, together with a review fee in an amount established by the Town board by resolution.

(2) Any division of land other than a subdivision as that term is defined herein shall be surveyed and a CSM shall be prepared according to the requirements in section 236.34 Wis. Stats. The proposed CSM shall be submitted to the Zoning Administrator, along with a submittal fee in an amount set by the Town Board. The subdivider shall submit eight (8) duplicate copies of the proposed CSM to the Zoning Administrator. At the time of submission, the subdivider shall pay

an application fee in an amount that is set by the Town Board.

(3) CONSIDERATION:

(a) The Zoning Administrator shall have the authority to accept, reject, or require modification of a proposed CSM based on its compliance with this section, and other relevant town, county, state and federal regulations. The Zoning Administrator may refer the proposed CSM to the Plan Commission for approval when deemed necessary and appropriate.

(b) Within forty-five (45) days of its submission, the Zoning Administrator shall approve, deny or require modification of the proposed CSM. If the Zoning Administrator requires modification of the proposed CSM, the applicant shall have thirty (30) days to make the required modifications. The Zoning Administrator shall then review the modified CSM and either approve or reject it within thirty (30) days.

(4) The certified survey map shall be prepared by a registered land surveyor at a scale of not more than four hundred (400) feet to one (1) inch. The following certified survey map checklist shall be utilized by the Town staff in determining whether or not approval should be given to the proposed certified survey map. The certified survey map shall include:

(a) The name and address of the individual dividing the lands.

(b) The date of the survey.

(c) A metes and bounds description referenced to a line and two (2) corners of the U.S. Public Land Survey, or referenced to an adjoining recorded plat.

(d) The locations, rights-of-way widths and names of existing or proposed streets, alleys or other public ways, easements, and utility rights-of-way and access restrictions where applicable included within or adjacent to the proposed land division.

(e) The area(s) of the parcel(s) being created, including the total acreage and square feet.

(f) The locations of existing property lines, buildings, drives, streams and water courses, lakes, marshes, drainage ways and other significant features within the parcel(s) being created.

(g) A statement on the face of the certified survey map that the parcel(s) created are considered unbuildable until an approved Sanitary Permit is obtained from the Adams County Planning and Zoning Department. If the parcel has access to a public sanitary sewage system, the surveyor shall note on the face of the certified survey map that the parcel(s) are unbuildable unless a hookup is made to the public sanitary sewer.

(h) When dedication of lands is required, an owner's certification of dedication prepared in accordance with Section 236.34, Wisconsin Statutes; and a governmental jurisdiction certificate of acceptance of the dedication, approved by the Town Board.

(i) Where the certified survey map requires dedication for a public road, the subdivider shall follow all applicable Town ordinances.

(j) All public road dedications shall be a minimum sixty-six (66) feet wide.

(k) Each lot must abut to a public street by at least seventy (70) feet.

(l) Location of existing buildings, wells and on-site sanitary systems. Where applicable, the regional floodplain boundary and the vertical contour line, which is two (2) feet above the regional flood elevation.

(m) Wetland boundaries from the Department of Natural Resources Wetland Inventory Maps.

(n) All other applicable survey standards shall be maintained by the surveyor.

(o) Lots must comply with minimum frontage and area for their zoning classification.

(p) A statement, signed by the surveyor, attesting that they have complied with all State, County and Town land division requirements.

(q) A certified survey map shall include all lots, parcels or building sites created by the land division and all remnants of the original parcel which are less than forty (40) acres in size.

(5) RECORDING OF CERTIFIED SURVEY MAP: Upon final approval by all approving authorities of a CSM, the subdivider shall have the CSM recorded in the office of the Register of Deeds for Adams County, and a copy of the same shall be provided to the Zoning Administrator within Fourteen (14) days of recording.

17.14 SUBDIVISION PROCEDURE:

(1) SITE PLAN:

(a) The Site Plan review procedure is designed to allow the applicant to present a concept plan to the Town Zoning Administrator, Public Works Director and Town Engineer for a discussion of suggestions and concerns.

(b) Site Plans are not officially approved or denied. They are reviewed by the Zoning Administrator, Public Works Director and Town Engineer for consistency with adopted plans, policies and regulations.

(c) The Zoning Administrator, Public Works Director and Town Engineer shall identify the most appropriate process and any inconsistencies with adopted plans, policies or codes. Following the review, the Zoning Administrator, Public Works Director and Town Engineer shall send the applicant written comments regarding the proposed subdivision to assist the applicant in completing the subdivision process. No notice or public hearing is required for this application.

(d) The following information will be required for a thorough administrative review of the Site Plan. Lack of information will result in a delayed assessment by the Zoning Administrator, Public Works Director and Town Engineer.

1. Name of the proposed subdivision;
 2. Date, dimensions, north arrow;
 3. Property owner(s) name and address;
 4. Description of all existing or proposed covenants and restrictions and affirmation that the proposed subdivision is in compliance with the same.
 5. Acreage and location of the property;
 6. Location, dimensions and area of all proposed and existing parcels, including the acreage and square feet;
 7. Location, dimensions and area of all parcels of land proposed to be set aside for park or playground use or other public use;
 8. Vicinity map showing all streets and the general development pattern and land uses of the surrounding area;
 9. If the Site Plan covers only a part of the applicant's contiguous holdings, the applicant shall show the extent of adjacent land holdings;
 10. Proposed land uses, including the type of dwellings or commercial use, the number of dwellings, and acreage of each proposed land use.
 11. Existing or proposed easements, rights-of-way, streets or other public ways;
 12. Location, sizes and elevations of existing sewers, water mains, culverts, and other underground structures within the boundaries of the proposed subdivision and adjacent thereto;
 13. Existing permanent buildings;
 14. Utility poles and utility rights-of-way on or immediately adjacent to the property proposed to be subdivided;
 15. Approximate topography based on ten (10) foot contour intervals;
 16. Approximate location and width of all existing and proposed streets within and abutting the proposed subdivision;
 17. Preliminary proposals for connections with existing water supply and sanitary sewerage systems, and preliminary proposals for collecting and discharging surface water drainage;
 18. A proposed phasing plan for the development of multi-phase projects;
 19. Any documents needed to supplement the information provided on the map.
 20. A Storm Water Management Plan in conformance with Town, County and State requirements.
- (2) PRELIMINARY PLAT REVIEW:** The Preliminary Plat shall conform to the requirements of this Chapter and Chapter 236 of the Wisconsin Statutes and shall be accompanied by an application.
- (a) Application:** The application shall be signed by the subdivider and shall contain the following information:
1. Title under which the proposed subdivision is to be recorded.
 2. Names and addresses of the owner(s), subdivider and land surveyor preparing the plat.
 3. Specifications for the construction of any public improvements required by this Chapter.
 4. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; types of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population.
 5. Draft of the legal instruments, covenants, deed restrictions, rules and bylaws for proposed property owners associations when the subdivider

proposes that common property within a subdivision would be either owned or maintained by such an organization of property owners.

(b) Preliminary Plat: The Preliminary Plat shall be based upon an exterior boundary survey by a registered land surveyor and the plat prepared on appropriate material at a scale of not more than one (1) inch per one-hundred (100) feet and four (4) foot contour intervals. The preliminary plat shall include the following:

1. Location including complete legal description of the proposed subdivision by government lot, quarter section, section, township, range, county and state.
2. The total acreage of the proposed subdivision to the nearest one-hundredth (1/100) of an acre if the area is two (2) acres or more; or in square feet if the area is less than two (2) acres.
3. Date, scale and north arrow
4. Entire area contiguous to the proposed plat owned or controlled by the subdivider shall be included on the Preliminary Plat even though only a portion of said area is proposed for immediate development.
5. Exact length and bearing of the exterior boundaries of the proposed subdivision referenced to two (2) corners established in the U.S. Public Land Survey and the total acreage encompassed thereby.
6. Locations of all existing property boundary lines, structures, drives, boundary lines, drives, streams and water courses, marshes, rock outcrops, wooded areas, and other significant features within the tract being subdivided or immediately adjacent thereto.
7. Location, right-of-way width and names of all existing streets, alleys or other public ways, easements, and utility rights-of-way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.
8. Building setback lines and easements for rights-of-way provided for public use, services or utilities, showing their dimensions and listing the proposed use of such easements and any limitations on said easements.
9. Location and names of any adjacent subdivisions, parks and cemeteries and owners of record of abutting unplatted land.
10. Type, width and elevation of any existing street pavements within the exterior boundaries of the plat or immediately adjacent thereto, together with any legally established centerline elevations.
11. Location, size and invert elevation of any existing sanitary or storm sewers, culverts and drain pipes, hydrants, electric and communication facilities, whether overhead or underground and the location and size of any existing water and gas mains within the exterior boundaries of the plat or immediately adjacent thereto. If no sewers or water mains are located on or immediately adjacent to the tract, the nearest such sewers or water mains which might be extended to serve the tract shall be indicated by the direction and distance from the tract, size and invert elevations.
12. Corporate limit lines within the exterior boundaries of the plat of immediately adjacent thereto.
13. Existing zoning on and adjacent to the proposed subdivision. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions.

14. Contours within the exterior boundaries of the plat and extending to the centerline of adjacent public streets to National Map Accuracy Standards based upon Mean Sea Level Datum at vertical intervals of not more than four (4) feet. At least two (2) permanent bench marks shall be located in the immediate vicinity of the plat; the location of the bench marks shall be indicated on the plat, together with their elevations referenced to Mean Sea Level datum and the monumentation of the bench marks clearly and completely described. Where, in the judgment of the Town Board, undue hardship would result because of the remoteness of the parcel from a Mean Sea Level reference elevation, another datum may be used.
 15. High-water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat and located within one hundred (100) feet thereof.
 16. Water elevation of all ponds, streams, lakes, flowages and wetlands within the exterior boundaries of the plat and located within one hundred (100) feet thereof at the date of the survey.
 17. Floodland and Shoreland boundaries and the contour line lying a vertical distance of four (4) feet above the elevation of the one hundred (100) year recurrence interval flood or, where such data is not available, four (4) feet above the elevation of the maximum flood of record within the exterior boundaries of the plat and within one hundred (100) feet there from.
 18. Location and results of soil evaluation tests within the exterior boundaries of the plat conducted in accordance with Section Comm. 85 of the Wisconsin Administrative Code where the subdivision will not be served by public sanitary sewer service.
 19. Approximate dimensions of all lots together with all proposed lot and block numbers.
 20. Location and approximate dimensions of any sites to be reserved or dedicated for parks, playgrounds, drainage ways or other public use or which are to be used for group housing, shopping centers, church sites or other non-public uses not requiring platting.
 21. Approximate radii of all curves.
 22. Any proposed lake and stream access with a small drawing and notice of application for approval by the Division of Environmental Protection, Department of Natural Resources, when applicable.
 23. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the subdivider shall submit a preliminary plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. All subdivisions must be shown to relate well with existing or potential adjacent subdivisions.
- (c) Nine (9) copies of the application and preliminary plat shall be filed with the Zoning Administrator who shall forward one copy of the application and preliminary plat to each member of the Plan Commission.
1. Within forty-five (45) days of it being filed with the Zoning Administrator, the Plan Commission shall hold a public hearing on the application. Notice of the hearing shall be published as a Class II notice pursuant to Chapter 985 Wis. Stats.
 2. Within sixty (60) days of its filing, the Plan Commission shall take action to recommend to the Town Board that the application either be approved, be approved conditionally or be rejected, and shall state in writing the bases for its recommendation.

3. Within ninety (90) days of its filing, the Town Board shall take action to approve, approve conditionally or reject the application and shall state in writing any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider.

(3) FINAL PLAT REVIEW:

(a) The subdivider shall prepare and file eighteen (18) copies of the final plat together with a written application for approval with the Clerk within twenty-four (24) months of the approval of the preliminary plat and at least thirty (30) days prior to the meeting of the Plan Commission at which action is desired.

(b) The Clerk shall forward eight (8) copies of the plat to the Plan Commission. The Plan Commission shall examine it for conformity with the preliminary plat and any conditions of approval, with the requirements of this Chapter, and with the requirements of any other ordinances, statutes, administrative rules and regulations, or local plans which may be applicable.

(c) The Plan Commission shall recommend approval of the final plat to the Board or shall reject the plat. If approval is recommended, the final plat shall be referred to the Board for consideration. The Board shall then approve or reject the final plat. The final Plat shall be approved if it is identical to the preliminary plat approved by the Town Board. The Plan Commission shall recommend and the Board shall establish as condition of final approval that within a reasonable time limit, not to exceed six (6) months, the subdivider shall meet or enter an agreement to meet all requirements and conditions of approval. One copy of the plat shall then be returned to the subdivider, his surveyor, or engineer with the date and action attached thereto, and the conditions or requirements of approval or reasons for rejection shall be attached thereto. Unless the time is extended by written agreement between the subdivider and the Board, failure to complete the action required herein within sixty (60) days of filing the final plat shall constitute an approval of the final plat.

(d) The final plat may, if permitted by the Town Board, include only that portion of the approved preliminary plat which the subdivider proposes to record at that time.

(e) After the final plat has been approved by the Board and the contract is entered and security filed in accordance with Section 17.10 hereof, and all other conditions of approval have been met, the subdivider shall submit the final plat to the Clerk. The Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording.

(f) The subdivider shall file two (2) certified copies of the final plat with the Clerk within ten (10) days after it has been recorded. The subdivider shall record the plat in the office of the Register of Deeds of Adams County.

17.15 REPLATS: (1) When it is proposed to replat a recorded subdivision, or part thereof, so as to change its boundaries, or any part thereof, the person wishing to replat shall vacate or alter the recorded plat as provided in Section 236.40 through 236.44 of the Wisconsin Statutes and shall then proceed as specified in 17.14 herein.

(2) The Clerk shall schedule a public hearing before the Plan Commission when a preliminary plat of a replat is filed and shall cause notices of the proposed replat and public hearing to be mailed, at the subdivider's expense, 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-quarter (1/4) mile of the exterior boundaries of the proposed replat.

17.16 VACATION OF PLATS: The vacation of Plats and dedicated areas shall be governed by the provisions of Chapter 236, Wis. Stats.

17.17 FEES: A fee shall be required for all applications for consideration and approval of certified survey maps and subdivisions. In addition, a fee shall be imposed for the review of the site plan pursuant to sec. 17.14 (1) herein. All fees shall be imposed pursuant to a fee schedule established by the Town Board and subject to revision from time to time.

17.18 VIOLATIONS: It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Chapter or of the Wisconsin Statutes; and no person, partnership, firm, corporation, or entity of any sort shall be issued a building permit by the Town authorizing the building on, or improvement of, any land division, subdivision, or replat within the jurisdiction of this Chapter not of record as of the effective date of this Chapter 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.

17.19 PENALTIES: Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000) and the costs of prosecution for each violation, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding six (6) months. Each day a violation exists or continues shall constitute a separate offense.

17.20 DEFINITIONS: The following words and phrases shall have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning:

- (1) **ASSESSOR:** The assessor for the Town of Rome
- (2) **BOARD:** The Rome Town Board.
- (3) **CERTIFIED SURVEY MAP:** A drawing meeting all of the requirements of Section 236.34 of the Wisconsin Statutes which is the map or plan of record for a land division.
- (4) **CLERK:** The Rome Town Clerk.
- (5) **GOVERNMENTAL UNIT:** Any County, City, Village, Town or the State of Wisconsin.
- (6) **LAND DIVISION:** The creation of one or more lots, parcels or building sites with an area of fifteen (15) acres each or less.

(7) **MASTER PLAN:** Any master, development, or regional plan adopted pursuant to Section 62.23, 59, 97, 236, 46 or 66.945 of the Wisconsin Statutes which is applicable to the Town of Rome.

(8) **OFFICIAL MAP:** A map indicating the location, width, and extent of existing and proposed streets, highways, parkways, parks and playground as adopted and amended by the Town Board pursuant to Section 62.23(6) of the Wisconsin Statutes.

(9) **OUTLOT:** A parcel of land, other than a lot, building site, or block, so designated on the plat or certified survey map.

(10) **PARCEL:** Contiguous land under the control of a subdivider whether or not separated by streets, highways, railroad rights-of-way, bodies of water or waterways.

(11) **PLAN COMMISSION:** The Rome Plan Commission.

(12) **PRELIMINARY PLAT:** A map showing the salient features of a proposed subdivision or land division, as described in Section 4, submitted to the Town for purpose of preliminary consideration prior to all final plats and, when required, prior to all land divisions.

(13) **PUBLIC WAY:** Any public road, street, highway, walkway, drainageway, or part thereof.

(14) **REPLAT:** Process of changing, or the map or plat which changes, the boundaries of a recorded subdivision plat or a part thereof. The division of a block, lot or outlot within a recorded subdivision plat without changing the exterior boundaries of said block, lot or outlot is not a replat but is a land division.

(15) **RESIDENTIAL DWELLING UNIT:** A single family dwelling or that part of a duplex, apartment, or other multiple family dwelling occupied by one (1) family or one (1) distinct set of inhabitants.

(16) **STREET:** A public way for pedestrian and vehicular traffic whether designated as a

street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated.

(17) STRUCTURE: Anything which has the capacity to contain, used for the occupation or shelter of man or animal or for the storage, receiving, retaining or confining of personal property, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground. The term does not include the facilities and appurtenances of public utilities other than buildings.

(18) SUBDIVIDER: Any person, firm, corporation, partnership, or entity of any sort, which divides or proposes to divide land in any manner which results in a land division or subdivision.

(19) SUBDIVISION: The division of a lot, parcel or tract of land where the act of division:

(a) Creates five (5) or more lots, parcels or building sites of fifteen (15) acres each or less in area; or

(b) Creates five (5) or more lots, parcels or building sites of fifteen (15) acres each or less in area by successive divisions within a period of five years.

(20) TOWN: The Town of Rome situated in Adams County, Wisconsin.

(21) TOWN ATTORNEY: Any attorney engaged by the Town to perform legal work relating to this Chapter.

(22) TOWN ENGINEER: Any engineer engaged by the Town to perform engineering services related to this Chapter.