

ORDINANCE NO. 1-2011

TOWN OF GARFIELD POLK COUNTY, WISCONSIN

SUBDIVISION AND PLATTING ORDINANCE

Section A: Authority. This Ordinance is adopted under the statutory authority granted pursuant to the Village Powers of the Town of Garfield, to Ch. 60.10(2)(c), 60.22(3), 61.34(1), 236.03, and 236.45, Wis. Stats.

Section B: Title. This Ordinance shall be known as the “Town of Garfield Subdivision and Platting Ordinance” and when referred to herein it is also known as “this Ordinance.”

Section C: Purpose. The purpose of this Ordinance is to regulate and control the division of land within the limits of the Town of Garfield, in order to accomplish all of the following purposes:

1. Promoting public health, safety and general welfare.
2. Supplementing County, State, and Federal land division controls to implement the goals and policies set forth in the Town Comprehensive Plan.
3. Promoting the planned and orderly lay out and use of the land.
4. Encouraging the most appropriate use of the land.
5. Minimizing the public impact resulting from the division of large tracts into smaller parcels of land.
6. Facilitating the adequate provision of transportation, water, sewage, health, education, recreation, and other public requirements.
7. Provide for adequate provisions for the protection and preservation of open space, agricultural land and wetlands.
8. Protect the continued use of productive farmland for farming purposes to maintain the rural appearance and character.
9. Encourage the creative use of conservation developments and open space.
10. Insure accurate legal descriptions.

Section D: Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, or permits already issued. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

Section E: Definitions. For the purpose of this Ordinance, the following terms are defined as follows:

Block. An area of land within a subdivision that is entirely bounded by a combination or combinations of streets, exterior boundary lines of the subdivision and streams or water bodies.

Certified Survey Map (CSM). A map showing division of land prepared in accordance with Ch. 236.34, Wis. Stats. and this Ordinance.

Common Open Space. Undeveloped land with a Conservation Development that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common open space shall not be part of individual

residential lots. It shall be substantially free of structures, but may contain historic structures and archaeological sites, and/or such recreational facilities for residents as indicated on the approved development plan.

Conservation Easement. As provided in Ch. 700.40 Wis. Stats., means a holder's nonpossessory interest in real property imposing any limitation or affirmative obligation the purpose of which includes retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, preserving a burial site, or preserving the historical, architectural, archeological or cultural aspects of real property.

Conservation Development. A development in which the lots are reduced in size and placed into compact groupings, in return for the permanent preservation of undeveloped land and the creation of common open space.

Final Plat. A map prepared in accordance with Ch. 236 Wis. Stats. and this Ordinance for the purpose of precisely dividing larger parcels into lots and used in conveying these lots.

Homeowners Association. An association of homeowners in a particular subdivision, planned unit development (PUD), condominium or other development organized to manage the common area of the development, provide community facilities and services for the common enjoyment of the residents, and/or to enforce the association rules, regulations and/or restrictive covenants, which rules, regulations and/or restrictive covenants shall be recorded. Each lot or homeowner in the development shall be a member of the association subject to a proportionate charge for the expenses of the association.

Lot. Subdivided land shown on a preliminary or final plat or in a Certified Survey Map and identified therein by a number, e.g., Lot 1.

Major Subdivision. A subdivision creating five (5) or more lots.

Minor Subdivision. A subdivision creating one (1) to four (4) lots.

Navigable Waters. Waters deemed navigable under the navigable-in-fact principle of the Ch. 30, Wis. Stats.

Non-profit Conservation Organization. Any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

Outlot. A parcel of land other than a lot or block so designated on subdivision plat or Certified Survey Map.

Ordinary High Water Mark (OHWM). The ordinary high water mark is the point on the banks or shore up to which the presence and action of water is so contiguous as to have a distinct mark either by erosion, destruction of terrestrial vegetation, or other easily recognized characteristics.

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

Parent Parcel. The existing parcel of record, as identified by individual tax parcel numbers, as of the effective date of this Ordinance.

Plat. A map of a subdivision. Certified Survey Maps are, therefore, treated as “plats” under this Ordinance.

Shoreland. All land within 300 feet of the ordinary high water mark of a navigable river or stream and within 1,000 feet of the ordinary high water mark of a navigable lake, pond, or flowage or to the landward side of the floodplain, whichever is greater.

State Subdivision. The division of a lot, parcel, or tract of land by the owners thereof, or their agents, for the purpose of transfer of ownership or building development where the act of division creates five (5) or more parcels of building sites of one and one-half (1-1/2) acres or less in area, or where the act of division creates five (5) or more parcels or building sites of one and one-half (1-1/2) acres each or less in area by successive division within a period of five (5) years.

Subdivider. Any person, partnership, corporation, or other legal entity that has an ownership or other legal interest in the subject land that the land is being divided or is proposed to be divided, resulting in a land division.

Subdivision. Division of a lot, parcel or tract of land by the owner(s) thereof or agent for the owner(s) for the purpose of sale or building development where the act of division creates two (2) or more lots or building sites or two (2) or more lots or building sites are created by successive subdivision activity within a five (5) year period.

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

Section F: General Provisions.

1. The subdivision of land in the Town of Garfield shall be conducted in compliance with all of the provisions of this Ordinance. Subdivision activity is also regulated by Ch. 236, Wis. Stats., and by the Polk County Subdivision Ordinance. To the extent these requirements may differ, the more restrictive regulations shall apply.
2. All subdivisions that create four (4) or fewer lots or building sites shall be made by a certified survey map, the original of which shall be recorded at the Register of Deeds Office and a recorded copy of which shall be filed with Clerk of the Town of Garfield.
3. All re-plats, vacations or alterations of subdivisions shall be in compliance with provisions of Ch. 236.36 through 236.445, Wis. Stats.

Section G: Exclusions. In so far as this Ordinance applies to divisions of land into fewer than five (5) parcels, it does not apply to:

1. Transfers of interest in land by will or pursuant to court orders, except when a division of land occurs in such a transfer.
2. Leases for a term of not to exceed ten (10) years, mortgages or easements.
3. The sale or exchange of parcels of land between owners of adjoining property if no new lots are created.
4. The single division of a fractional or full quarter-quarter section in two (2) equal parcels.
5. Lots created by CSM for utility and/or telephone transmission facilities not to exceed ten thousand (10,000) square feet in size.
6. Cemetery plats made under Ch. 157.07, Wis. Stats.
7. Assessors' plats made under Ch. 70.27, Wis. Stats.

Section H: Land Suitability.

1. No land shall be subdivided which is held unsuitable for the proposed use by the Town Plan Commission for the following reasons:
 - a. Flooding
 - b. Inadequate drainage
 - c. Adverse soil or rock formation
 - d. Severe erosion potential
 - e. Unfavorable topography
 - f. Inadequate water supply or sewage disposal capabilities
 - g. Any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or the Town.
2. The Town Plan Commission in applying the provisions of this Section shall recite in writing the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and shall then afford the subdivider an additional opportunity to present evidence regarding such suitability. Thereafter, the Plan Commission may affirm, modify or withdraw its determination of unsuitability.

Section I: Dedications.

1. Open Space.
 - a. All subdivision layouts shall be developed in proper relation to existing and planned or proposed roads and in harmony with the pre-subdivision topography, surface water, vegetative cover and other natural features, in a manner that will promote the most advantageous and beneficial development of adjoining areas, whether for residential or for open space, recreational or agricultural purposes, so that changes in land use due to subdivision are compatible with existing adjacent land uses and/ or make use of open space to provide a buffer between different uses.
 - b. The Plan Commission may require that suitable area not exceeding ten percent (10%) of the total area being subdivided be reserved for open space uses such as parks, playgrounds, public access, wildlife habitat, buffer space providing separation between different land uses and may further require that such open space not be further subdivided in perpetuity, to permanently preserve such areas for the purposes for which it is being reserved.
2. Homeowners Association.
 - a. For all subdivisions where open space is required and stormwater management or erosion control devices will be located in such open space, such areas shall be owned by an incorporated Homeowners Association with ownership required of each buildable lot in the subdivision.
 - b. Each lot shall hold membership in such a manner that one lot has one vote.
 - c. Homeowners Associations shall hold title to all open space, shall be responsible for improvements to and maintenance of such open space and shall be responsible for the management, maintenance and improvement of erosion control and stormwater management devices or naturally occurring surface waters and shore lands located in such open spaces.
 - d. If any member lot owner so requests, and the said Homeowners Association agrees, erosion control and storm water management devices or naturally occurring surface waters and shore lands located on private land in the subdivision shall also be managed, maintained and improved by the Homeowners Association.
3. Roads. Any part of a street, drainage way or other public way which is shown on a plat must be in compliance with the Town of Garfield Road, Driveway, Erosion Control and Stormwater Management Ordinance. All public roads shall be offered for dedication to the Town.

Section J: Improvements.

1. The recommended approach to the construction of public improvements is that the subdivider installs all required street and utility improvements before final approval of any plat.
2. If such improvements are not installed, inspected and accepted by the time the final plat is submitted for approval then all areas shown on the plat as dedicated to the public shall not be deemed to have been accepted by the Town and shall not be maintained by the Town until such roads have been built in conformity with all Town standards and requirements, inspected and separately accepted by Town Board action.
3. Where roads or other public improvements have not been inspected and unconditionally recommended for acceptance prior to final plat approval, the subdivider shall, as a condition of final plat approval and before recording the plat, enter into a contract with the Town in which the subdivider shall agree to install the required improvements in conformity with Town requirements and shall provide the Town with an irrevocable letter of credit in an amount equal to 120% of an accepted bid or engineer's estimate of the cost of the proposed public improvements and meeting the approval of the Town Clerk as a guarantee that such improvements shall be completed by the subdivider.
4. Upon completion of each improvement, the subdivider must notify the Town Board so that adequate inspections can be made.
5. The Developer shall pay all inspection and related engineering fees.
6. Upon Town acceptance of all public improvements, funds held or the irrevocable letter of credit shall be released.
7. Pursuant to Ch. 236.13(2)(a), Wis. Stats., if the project is approved to be developed in phases, which approval shall not be unreasonably held, the security required to be deposited shall be limited to the phase of the project currently being constructed.

Section K: Survey Required. Any division of land creating a lot or outlot of less than 19 acres in size, or the division of a parcel resulting in the remaining parcel being reduced to less than 19 acres in size, shall require that such division be done by a Certified Survey Map or Certified Plat conducted by a Wisconsin registered land surveyor.

Section L: Conservation Development Option.

1. Purpose and Intent. The purpose of the Conservation Development Option is to encourage development of rural housing clusters to meet the following purposes:
 - a. To guide future growth and development of the Town consistent with the Town of Garfield's adopted comprehensive plan.
 - b. To guide the detailed analysis of the development parcel so as to locate and coordinate appropriate areas for development and conservation.
 - c. To preserve the rural character through permanent preservation of meaningful open space and sensitive natural resources.
 - d. To preserve scenic views by minimizing views of new development from existing roads.
 - e. To preserve prime agricultural land by concentrating housing on lands that have low agricultural potential.
 - f. To provide commonly-owned open space areas for passive and/or active recreational use by residents of the development, and, where specified, the larger community.
 - g. To provide for a diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups.
 - h. To provide buffering between residential development and non-residential uses.
 - i. To protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors.
 - j. To preserve significant archeological sites, historic buildings and their settings.
 - k. To meet the demand for housing in a rural setting.

2. **Applicability.** The conservation development option provides an alternative set of standards for major subdivisions. Conservation developments are permitted as a Conditional Use in the following districts established in the Town of Garfield Zoning Ordinance: Residential, Agricultural, and Agricultural-Residential. Conservation developments shall not be permitted in the following districts established in the Town of Garfield Zoning Ordinance: Commercial, Conservancy, and Shoreland.
3. **Application.** The following must be submitted when proposing a Conservation Development and will be processed according to the Subdivision and Conditional Use processes:
 - a. **Conditional Use Permit Application.** Conservation developments will be reviewed according to the criteria stated in Ordinance No. 2-2010, Article 4, Section G.
 - b. **Major Subdivision Application,** as in Section M of this Ordinance.
 - c. **Resource Inventory,** including the following:
 - i. Topographic contours at 2-foot intervals, showing slopes over twenty (20%) percent.
 - ii. Soil type locations and identification of soil type characteristics such as agricultural capability, depth to bedrock and water table, and suitability for wastewater disposal systems. Type and stability of bedrock should also be noted, particularly in karst areas and areas with high potential for groundwater contamination due to fractured bedrock or the presence of arsenic and mercury.
 - iii. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas, wetlands, natural swales, and drainage ways.
 - iv. Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a caliper of more than twenty-four (24) inches measured four (4) feet off the ground. The inventory shall include comments on the health and condition of the vegetation.
 - v. Current and past land use, all buildings and structures on the land, cultivated areas, brownfields, waste sites, and history of waste disposal practices, paved areas, and all encumbrances, such as easements or covenants.
 - vi. Known critical habitat areas for rare, threatened or endangered species.
 - vii. Visual resources, including views onto the site from surrounding roads, public areas and elevated areas, including photographs with a map indicating the location where the photographs were taken.
 - viii. Geographical resources, such as rock outcrops and glacial features.
 - ix. Cultural resources: brief description of historic character of buildings and structures, historically important landscapes, and archaeological features.
 - d. **Development Yield Analysis.** The subdivider shall submit a table showing the maximum number of dwelling units that would be permitted under the Town Zoning Ordinance, consistent with the minimum lot size, lot widths, setbacks, and other provisions of the Zoning Ordinance and compare it to the number of dwelling units proposed. Land that is undevelopable because of other laws and ordinances that prohibit development in certain areas (e.g. floodplains, wetlands, steep slopes, and drainage ways) shall be excluded from the development yield analysis.
 - e. **Site Analysis and Concept Plan.** Using the Resource Inventory, development yield analysis, and applying the standards specified in Section L.5., the subdivider shall submit a concept plan including at least the following at a scale of no less than one inch = 50 feet:
 - i. Open space areas indicating which areas are to be protected.
 - ii. Boundaries of areas to be developed and proposed general street and lot layout.
 - iii. Number and type of housing units proposed.
 - iv. Proposed methods for and location of water supply, stormwater management,

- and sewage treatment.
 - v. Inventory of preserved and disturbed natural features and prominent views.
 - vi. Preliminary development envelopes showing areas for lawns, pavement, buildings, and grading.
 - vii. Proposed methods for ownership and management of open space.
 - f. General Location Map. The subdivider shall submit a map showing general outlines of existing buildings, land use, and natural features such as water bodies or wooded areas, roads and property boundaries within five hundred (500) feet of the tract. This information may be presented on an aerial photograph at a scale of no less than one inch: four hundred (400) feet.
4. Uses. The following uses are permitted within Conservation Developments and must meet the standards and criteria specified for those uses, as set forth in and regulated by the Town of Garfield Zoning Ordinance.
- a. Residential. The following uses are permitted uses in the residential portion of the Conservation Development:
 - i. Single-family dwellings.
 - ii. Two-family dwellings.
 - iii. Minor Home Occupations, as in Ordinance No. 2-2010, Article 4, Section H.4.
 - b. Open Space. The following uses are allowed uses in the open space portion of the Conservation Development:
 - i. Conservation areas.
 - ii. Agricultural, except feedlots or large-scale agricultural operations.
 - iii. Recreational uses and associated parking intended mainly to serve the residents of the development.
 - 1. Non-motorized trails.
 - 2. Public and private parks and playgrounds, including swimming pools, golf courses, tennis courts, picnic grounds, and associated buildings.
 - iv. Stormwater management facilities for the development.
 - v. Water supply and sewage facilities for the development.
5. Requirements for Design and Improvements.
- a. Land Suitability.
 - i. No land shall be developed which is held to be unsuitable for any proposed use, subject to Section H of this Ordinance.
 - ii. Areas determined to be environmentally sensitive may be included as common open space in a Conservation Development but shall not be included in the development yield analysis in (d.) above. These lands shall be identified as an outlot or other designation that indicates the land is not available for development.
 - b. Development Yield. The number of residential units for a parcel shall be determined in accordance with the following:
 - i. The Development Yield Analysis in 3.d. of this Section shall establish the base development yield for the parcel.
 - ii. The base development yield may be increased if the development complies with one or more of the following standards. Each standard provides a development yield bonus of five (5%) percent to the base development yield. The maximum bonus permitted is twenty (20%) percent.
 - 1. Creating an endowment where the principal would generate sufficient annual interest to cover the conservation easement holder's yearly costs (taxes, insurance, maintenance, enforcement, etc.)
 - 2. Providing access by the general public to trails, parks, or other recreational facilities, excluding golf courses.

3. Providing affordable housing, to include twenty-five (25%) percent of all units that would be affordable to moderate-income households, as defined by the U.S. Department of Housing and Urban Development.
 4. Reusing historical buildings and structures, including those sites by the State Historical Society of Wisconsin and the Polk County Historical Society. The U.S. Secretary of Interior's Standards for Rehabilitation of Historic Properties shall apply.
- c. Performance Standards.
- i. General Considerations.
 1. Conservation Developments may identify a conservation theme or themes. This theme shall be identified at the time of the initial application. Conservation themes may include, but are not limited to, forest stewardship, water quality preservation, farmland preservation, natural habitat restoration, watershed preservation, or archaeological and historic properties preservation. The Plan Commission shall have the ability to specify which areas shall be preserved.
 2. The residential lot shall be large enough to accommodate a house and two-car garage.
 3. For single-family attached and multi-family dwellings, the maximum number of units per freestanding building is six (6).
 4. A maximum number twenty (20%) percent of the residential dwellings units may be multi-family dwelling units.
 - ii. Residential Lot Requirements.
 1. Minimum Lot Size.
 - a. Sewered lot: 12,750 square feet
 - b. Unsewered lot: one (1) acre
 2. Principal Building Setbacks.
 - a. Front lot line: thirty (30) feet
 - b. Side lot line: ten (10) feet
 - c. Rear lot line: twenty (20) feet
 3. Accessory Building Setbacks.
 - a. Side lot line: ten (10) feet
 - b. Rear lot line: ten (10) feet
 4. Lots shall be configured to minimize the amount of impervious surfaces. Maximum lot coverage is thirty (35%) percent, which includes buildings and other impervious surfaces.
 5. Maximum Building Height: thirty-five (35) feet
 6. All lots shall take access from interior local streets.
 7. All lots within a neighborhood shall abut open space on at least one-side. A local street may separate lots from the open space.
 8. Lots shall be oriented around one or more of the following:
 - a. A central green or square.
 - b. A physical amenity such as a meadow, a stand of trees, or some other natural or restored feature.
 9. All stormwater management practices must be in accordance with Section G of the Town of Garfield Road, Driveway, Erosion Control and Stormwater Management Ordinance.
 - iii. Residential Cluster Siting Standards.
 1. All residential lots and dwellings shall be grouped into clusters. Each cluster shall contain no more than twenty (20) dwelling units and no less than five (5) units.

2. Residential clusters shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
 3. Residential clusters shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the Wisconsin Department of Natural Resources.
 4. Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and local or regional trails.
 5. Residential clusters should be sited to achieve the following goals, to the extent practical.
 - a. Minimize impacts to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
 - b. Minimize disturbance to woodlands, wetlands, grasslands, and mature trees.
 - c. Prevent downstream impacts due to runoff through adequate on-site stormwater management practices.
 - d. Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
 - e. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
- iv. Open Space Design.
1. Common Open Space. The minimum open space required shall be owned and maintained under one of the alternatives listed in 6.a. of this Section, as approved by the Town Board. The uses within the open space shall be accessible to the residents of the development. These uses may also be available to the general public providing the proper approvals are received. The required open space shall be undivided and restricted in perpetuity from future development.
 2. Open space shall be designed as part of the development. The minimum required open space is fifty percent (50%) of the gross acreage.
 3. The following areas or structures may be located within the open space area and shall be counted toward the overall open space percentage required:
 - a. Parking areas for access to and use of the open space.
 - b. Accessory buildings or structures.
 - c. Stormwater management facilities for the development.
 - d. Water supply and sewage facilities for the development.
 4. Road rights-of-way shall not be counted towards the required minimum open space.
 5. No more than fifty (50%) of the required open space may consist of unclassified water bodies, ponds, floodplain, or wetlands.
 6. That portion of open space designed to provide plant and animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.
 7. Accessible open space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens. A pathway system connecting open space areas accessible to neighborhood residents, and connecting these areas to neighborhood streets and to planned or developed trails on adjacent parcels shall be identified in the

- plan.
- v. Road Standards. Roads shall be developed in the following standards that promote public safety, assure adequate access for fire and rescue vehicles, and promote adequate vehicular circulation.
 - 1. Right-of-way width shall be fifty (50) feet.
 - 2. Pavement surface width shall be twenty-two (22) feet with three (3) foot shoulders or a two (2) foot gutter pan.
 - 3. Additional Standards:
 - a. Design Speed: twenty-five (25) miles per hour
 - b. Vertical Curves: Minimum fifty (50) feet (when grade difference is less than one (1%) percent, no curve is needed)
 - c. Horizontal Curves: Minimum radius of one hundred twenty-five (125) feet
 - d. Road Grades: Maximum grade eight (8%) percent
 - e. Super-elevation: Maximum $e=0.04$ feet/feet
 - f. Pavement Strength: 7-ton minimum
 - g. Clear Zones:
 - i. Shoulder sections: ten (10) feet from edge of travel lane
 - ii. Curbed sections: two (2) feet from face of curb
 - h. Bridges: Width shall be traveled way, plus two (2) feet each side. Design loading for Structural Capacity HS-20, plus five (5) foot sidewalk necessary to maintain pedestrian crossing.
 - i. Cul-de-sacs: Minimum pavement radius of forty-five (45) feet and neck radius of twenty (20) feet.
 - j. Sidewalks, trails, and other walkways: Minimum five (5) feet width.
 - 4. If determined necessary, the Town Board may require shade trees be planted on both sides of the street.
 - 5. Street connections to adjacent parcels shall be provided in logical locations to avoid creating landlocked parcels and provide for connecting street patterns.
 - 6. The developed area shall have sidewalks on at least one side of the street.
 - vi. Sewage and Water Facilities.
 - 1. Water for a Conservation Development shall be provided by individual on-site wells or by one or more community wells meeting the requirements of the Wisconsin Department of Health. The use of shared or community wells is encouraged. Plans for shared or community wells should include a wellhead protection plan with separation distances for the zone of influence and sources of pollution.
 - 2. All Conservation Developments shall be provided with adequate sewage treatment facilities meeting the standards of Polk County and the permit requirements of the Wisconsin Department of Commerce and the Department of Natural Resources. Where sewage treatment is not provided by a publically-owned wastewater treatment works, a common sewage treatment and disposal unit located on the common open space is encouraged.
 - 3. A financial guarantee ensuring the construction and completion of the common facilities shall be submitted to the Town.
6. Ownership and Maintenance of Open Space and Common Facilities.
- a. The designated common open space and common facilities may be owned and managed

by one or a combination of the following:

- i. Homeowners Association, as in Section I.2. of this Ordinance.
 - ii. Non-profit Conservation Organization.
 - iii. The Town or another governmental body empowered to hold an interest in real property.
 - iv. An individual who will use the land for open space purposes as provided by a conservation easement.
- b. Maintenance Plan. Every Conservation Development must include a plan that provides evidence of a means to properly manage the common open space in perpetuity and evidence of long-term means to properly manage and maintain all common facilities, including stormwater facilities. The plan shall be approved by the Town Board prior to final plat approval.
- i. The plan shall do the following:
 1. Designate the ownership of the open space and common facilities in accordance with (a.) above.
 2. Establish necessary regular and periodic operation and maintenance responsibilities.
 3. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
 - ii. In the event that organization established to own and maintain the common open space and common facilities, or any successor organization, fails to maintain all or any portion of the common facilities in reasonable order and condition in accordance with maintenance plan and all applicable laws, rules, regulations, the Town of Garfield may serve notice upon such organization and upon the residents and owners of the open space and common facilities, setting forth the manner in which the organization has failed to maintain the common facilities in reasonable condition. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Ordinance, in which case the bond, if any, may be forfeited, and any permits may be revoked or suspended. The Town of Garfield may enter the premises and take corrective action(s).
 1. The costs of corrective action by the Town of Garfield shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties. The Town of Garfield, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the Office of the Register of Deeds upon the properties affected by such lien.
 - iii. Management plans can be amended by the Owner identified in (a.) above with the approval of the Town Board.

Section M: Procedures for Submitting a Certified Survey Map or Preliminary Plat.

1. Concept Review.
 - a. Prior to the filing of an application for the approval of a Certified Survey Map or a Preliminary Plat, the subdivider shall consult with the Town Plan Commission and present a Concept Certified Survey Map or Concept Plat for concept review.
 - b. The applicant shall provide the materials identified in the Major or Minor Subdivision Packet, available at the Town Hall, at least ten (10) days prior to the meeting.
2. Preliminary Plat and Certified Survey Map Review.
 - a. All materials required to be prepared for County Certified Survey Map or Preliminary Plat application shall be provided to the Town Clerk when the subdivider submits a

- Certified Survey Map or Preliminary Plat for Town approval.
- b. Following concept review, no less than two (2) sets of materials shall be provided to the Town Clerk at least two weeks prior to the next regular meeting of the Town Plan Commission in order for a Certified Survey Map or Preliminary Plat application to have been validly submitted for action by the Town.
 - c. The Preliminary Plat shall be accompanied by detailed design and construction plans for all public improvements being built by the developer that are proposed to be dedicated to the Town and by all stormwater management and erosion control plans.
 - d. The subdivider shall notify adjacent landowners in writing about the proposed subdivision activity and the date of the Town Plan Commission meeting at which the application will first be considered. This notification shall be given at least two weeks prior to the meeting, and a copy of the notification and list of landowners to whom it was given shall be provided as part of the application materials provided to the Town.
 - e. As part of the Town approval process, the Town Government checklist, required in the Polk County Subdivision Ordinance shall be reviewed and completed as recommended by the Town Plan Commission for adoption by the Town Board and transmittal to Polk County.

Section N: Final Plat.

1. To be considered and treated as a Final Plat, two (2) copies shall be submitted to the Town Plan Commission within thirty-six (36) months of preliminary plat approval, unless the Town and the applicant have agreed, in writing, to an extension.
2. The Final Plat shall substantially conform to the Preliminary Plat, and to the requirements of all applicable ordinances and State laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided in Ch. 236.12, Wis. Stats.
3. Final Plats shall be presented to the Town Plan Commission at least ten (10) working days prior to the meeting at which they are to be considered and shall be accepted or rejected by the Town Plan Commission and the Town Board within sixty (60) days of their submission.
4. The Final Plat shall be examined by the Town Engineer, Town Planner, or other qualified person as designated by the Town to determine whether the Final Plat conforms substantially to the Preliminary Plat. Any such conditions shall be made part of the record of any meeting at which the Final Plat is considered, pursuant to Ch. 236.11, Wis. Stats.
5. Approved final plats shall be recorded in accordance with the requirements of Ch. 236.25, Wis. Stats.

Section O: Fees.

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

Section P: Enforcement and Penalties.

1. Any buildings hereafter erected, moved or otherwise placed on lots created in violation of the provisions of this Ordinance by any person, including building contractors or their agents, shall be deemed as unlawful structures.
2. The Town Attorney may bring an action to enjoin, remove or vacate any building or structure on lots violating this Ordinance.
3. Any activity which fails to meet the requirements of this Ordinance or that violates state statutes

shall be a violation of the Ordinance regardless of knowledge of or intent to violate, and shall subject the party or parties responsible for non-compliance to an action for an injunction requiring that the condition constituting the violation be ceased or cured and that remedial actions to achieve compliance be undertaken and/or a forfeiture of not less than \$100.00 plus actual costs of prosecution.

4. Each day during which such violation exists is a separate offense.
5. The Town Board may order an assessor's plat pursuant to the provision of Section 70.27 of the Wisconsin Statutes at the expense of the subdivider whenever the conditions specified in that section are found to exist.
6. No building permits shall be issued concerning any lot created in violation of any requirement of this Ordinance.
7. All provisions of Ch. 236.30, 236.31, 236.32 and 236.335, Wis. Stats., are hereby incorporated by reference and any penalty set forth in such sections shall be imposed as a daily forfeiture payable to the Town Treasurer.

Section Q: Severability. If a court of competent jurisdiction determines that any section, clause, provision or portion of this Ordinance is unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected by any such determination.

Section R: Effective Date. This Ordinance shall be effective after public hearing, adoption by the Town Board, and publication as required by law.

Adopted by the Town of Garfield June 14th, 2011.

Edward O. Gullickson, Chairman

ATTEST

Sue Knutson, Town Clerk