

MENOMINEE COUNTY
ORDINANCE #58 -
SUBDIVISIONS

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1. General Provisions

1.1 Title. These regulations shall be officially known, cited, and referred to as the Menominee County Subdivisions Ordinance, Wisconsin (hereinafter "ordinance").

1.2 Purposes. This ordinance is adopted for the following purposes:

1. To guide the future growth and development of the community consistent with Menominee County's Comprehensive Plan.
2. To guide the detailed analysis of the development parcel so as to locate and coordinate appropriate areas for development and conservation.
3. To preserve the rural and natural character through the permanent preservation of meaningful open space and sensitive natural resources.
4. To preserve scenic views by minimizing views of new development from existing roads.
5. 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.
6. To provide for a diversity of lot sizes, housing choices and building densities to accommodate a variety of age and income groups.
7. To preserve prime agricultural land by concentrating housing on lands that have low agricultural potential.
8. To provide buffering between residential development and non-residential uses.
9. To protect and restore environmentally sensitive areas and biological diversity, minimize disturbance to existing vegetation, and maintain environmental corridors.
10. To preserve significant archaeological sites, historic buildings and their settings.
11. To meet demand for housing in a rural setting.

1.3 Statutory Authorization. This ordinance is adopted pursuant to the authority contained in section 236.45 Wis. Stats.

1.4 Jurisdiction. Jurisdiction of these regulations shall include all lands within the unincorporated areas of the County of Menominee, Wisconsin, and those lands within the jurisdiction of cities and villages to determine if the county has an objection to a plat on the basis of planned public improvements under section 236.12 Wis. Stats.

This ordinance does not apply to:

1. Transfers of interests in land by will or pursuant to court order.
2. Cemetery plats under section 157.07 Wis. Stats.
3. The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this ordinance or other applicable laws or ordinances.
4. Assessors' plats made under section 70.27 Wis. Stats., but such assessors' plats shall comply with sections 236.15(1)(a)—(g) and 236.20(1), (2)(a)—(c) Wis. Stats.
5. All lands held in Federal Trust for the Menominee Indian Tribe of Wisconsin.

1.5 Applicability and Compliance. The conservation subdivision standards apply to all divisions of a parent parcel of ten [10] acres or more by a subdivider where the division creates at least three [3] new parcels. The number of new parcels that can be created shall be consistent with the applicable zoning ordinance for the parent parcel. The provisions of this ordinance apply to residential development within the following districts established in the Menominee County Zoning Ordinance: R-R, LL-R, ML-R, LM-R, BL-R, RL-R, F-1, A-1 and PUD.

Subdivisions shall not be permitted in the following districts established in the Menominee County Zoning Ordinance: R-1, R-2, R-3, R-4, I-1, C-1, C-2, UID-1, I-2, and CV-1.

1. No person shall divide any land under the provisions of this ordinance without compliance with all requirements of this ordinance and the following:

- a. The provisions of Wis. Stats. 236 and Wis. Stats. §80.08.
- b. The rules of the Wisconsin Department of Commerce, contained in Chapter COMM 83 and related chapters of the Wisconsin Administrative Code for land divisions not served by public sewer.
- c. The rules of the Division of Transportation Infrastructure Development, Wisconsin Department of Transportation, contained in Chapter TRANS 233 of the Wisconsin Administrative Code for subdivisions that abut a state trunk highway or connecting street.
- d. The rules of the Wisconsin Department of Natural Resources contained in Chapter 118 of the Wisconsin Administrative Code for shoreland, shoreland-wetland, and floodplain management.
- e. The Comprehensive Plan adopted by Menominee County.
- f. All applicable local and county regulations, including zoning, sanitary, building and official mapping ordinances.
- g. All other applicable rules contained in the Wisconsin Administrative Code.

1.6 Condominium Plats. A condominium plat prepared under Chapter 703 of the Wisconsin Statutes, creating at least four units with a parent parcel size of ten [10] acres or more, shall be reviewed by Menominee County in the same manner as a subdivision as set forth in the ordinance and shall comply with the applicable design standards and required improvements of this ordinance.

1.7 Abrogation and Greater Restrictions.

1. Public Provisions. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

2. Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement impose duties and obligations more restrictive than these regulations, and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

1.8 Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly in favor of Menominee County to promote the purposes for which they are adopted.

1.9 Separability. If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered. It shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The County of Menominee hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

1.10 Enforcement, Violations, Penalties.

1. Violations. It shall be unlawful to build upon, divide, convey, record, or monument any land in violation of this ordinance or state law, and no person shall be issued a building permit by Menominee County authorizing the building on or improvement of any subdivision within the jurisdiction of this ordinance not of

record as of the effective date of this ordinance until the requirements of this chapter have been fully met. Menominee County may institute appropriate action or proceedings to enjoin violations of this ordinance or applicable state law.

2. Penalties. Penalties for violation of this ordinance shall be as follows:
 - a. Any person who fails to comply with this chapter shall, upon conviction, be subject to the penalties as provided by Menominee County.
 - b. Recordation improperly made has penalties provided in section 236.30 Wis. Stats.
 - c. Conveyance of lots in unrecorded plats has penalties provided for in section 236.31 Wis. Stats.
 - d. Monuments disturbed or not placed have penalties provided for in section 236.32 Wis. Stats.
 - e. Assessors' plat made under section 70.27 Wis. Stats. may be ordered by Menominee County as a remedy at the expense of the subdivider when a subdivision is created by successive divisions.

3. Appeals. Any person aggrieved by an objection to a plat or a failure to approve a plat under this ordinance may appeal therefrom, as provided in sections 236.13(5) and 62.23(7)(e) 10, 14, and 15 Wis. Stats., within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable, or discriminatory.

1.11 Modifications.

1. Authority; application.
 - a. Where, in the judgment of Menominee County, it would be inappropriate to apply literally the provisions of this ordinance because exceptional or undue hardship would result,

Menominee County may waive or modify any requirements to the extent deemed just and proper.

- b. Application for any such modification or waiver shall be made in writing by the subdivider at the time when the preliminary plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plan, or other additional data that may aid Menominee County in the analysis of the proposed project.

2. Conditions for granting. Menominee County shall not grant modifications or waivers to this ordinance unless it shall make findings based upon the evidence presented to it in each specific case that:

- a. The granting of the modification will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- b. The conditions upon which the request for a modification is based are unique to the property for which the modification is sought and are not applicable generally to other property.
- c. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, financial hardship, or self-imposed hardship, if the strict letter of this ordinance were carried out.
- d. Such modification is necessary for the preservation and enjoyment of substantial property rights possessed by other similar properties in the vicinity.

3. Granting by Menominee County.

- a. Menominee County, if it approves of the modification to this ordinance, shall do so by motion or resolution and shall instruct the zoning department to notify the subdivider.
- b. Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this chapter or the desirable general development of

Menominee County consistent with the Menominee County Comprehensive Plan or this ordinance.

c. Any modification granted can only provide the minimum relief needed to alleviate the unnecessary hardship or obtain reasonable use of the property.

4. A majority vote of the entire membership of the Menominee County Board of Supervisors (hereinafter "Board of Supervisors") shall be required to grant any modification of this ordinance, and the reasons shall be entered in the minutes.

1.12 Fees. Menominee County may, by resolution, establish reasonable fees for the administration of this ordinance.

2. Definitions

The following definitions shall be observed and applied, except when the context clearly indicates otherwise. Words used in the present tense shall include the future tense. Words used in the singular form shall include the plural form. Words used in the plural form shall include the singular. The word "shall" is mandatory and the word "may" is permissive.

2.1 Common open space. Undeveloped land within a conservation subdivision that has been designated, dedicated, reserved, or restricted in perpetuity from further development and is set aside for the use and enjoyment by residents of the development. Common open space shall not be part of individual residential lots. It shall be substantially free of structures, but may contain historic structures and archaeological sites including Indian mounds, and/or such recreational facilities for residents as indicated on the approved development plan.

2.2 Condominium. A community association combining individual unit ownership with shared use or ownership of common property or facilities, established in accordance with the requirements of the Condominium Ownership Act, Chapter 703 Wis. Stats. A

condominium is a legal form of ownership of real estate and not a specific building type or style.

- 2.3 Conservation easement.** The grant of a property right or interest from the property owner to a unit of government or nonprofit conservation organization stipulating that the described land shall remain in its natural, scenic, open or wooded state, precluding future or additional development.
- 2.4 Conservation subdivision.** A housing development in a rural setting that is characterized by compact lots and common open space, and where the natural features of the land are maintained to the greatest extent possible.
- 2.5 Development envelopes.** Areas within which grading, lawns, pavement and buildings will be located.
- 2.6 Gross acreage.** The total area of a parcel including the area of perimeter street rights-of-way to the center line of the street.
- 2.7 Homeowners association.** A community association, incorporated or not incorporated, combining individual home ownership with shared use or ownership of common property or facilities.
- 2.8 Nonprofit 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.
- 2.9 Parent parcel.** The existing parcel of record, as identified by individual tax parcel numbers, as of the effective date of this ordinance.

2.10 Subdivider. Any person, corporation, partnership, association, individual, firm, trust or agent dividing or proposing to divide land resulting in a conservation subdivision.

3. Application Procedure and Approval Process

3.1 Initial Conference. Before submitting an application for a conservation subdivision, the subdivider shall schedule an appointment and meet with the zoning administrator to discuss the procedure for approval of a conservation subdivision, including submittal requirements and design standards.

3.2 Initial Application. After the initial conference, the subdivider shall submit a series of maps and descriptive information to the zoning department according to the following. Mapping for the initial application can be done in any combination of features as long as individual map components can be distinguished and the relationship between map components can be determined.

1. Inventory and mapping of existing resources including the following mapped at a scale of no less than one inch = 50 feet:
 - a. Topographic contours at 2 foot intervals.
 - b. United States Department of Agriculture, Natural Resource Conservation Service 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.
 - c. Hydrologic characteristics, including surface water bodies, floodplains, groundwater recharge and discharge areas, wetlands, natural swales, drainage ways, and steep slopes.
 - d. Land cover on the site, according to general cover type (pasture, woodland, etc.), and stand-alone trees with a diameter of more than twenty (20) inches measured four and

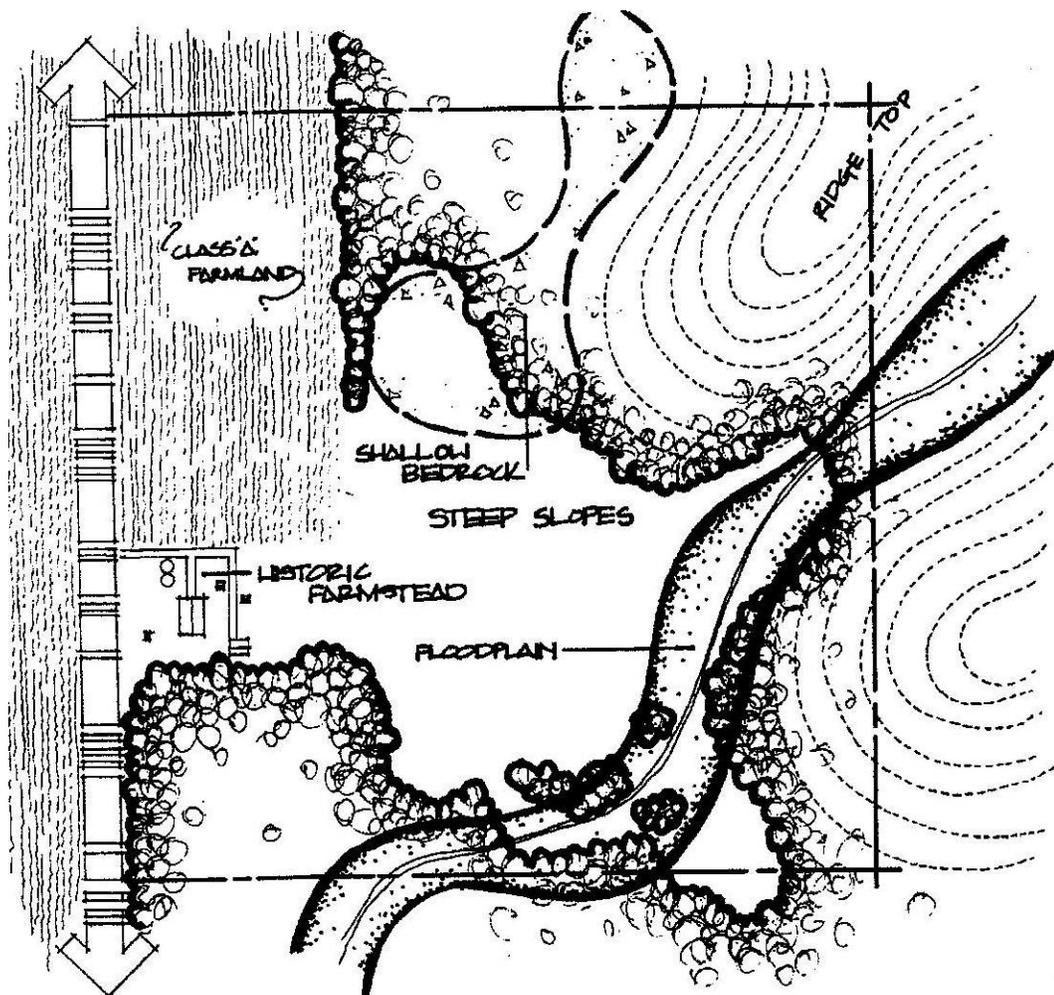
one-half feet (4.5 feet) off the ground. The inventory shall include comments on the health and condition of the vegetation.

- e. 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.
 - f. Known critical habitat areas for rare, threatened or endangered species.
 - g. Views of the site, 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.
 - h. Unique geological resources, such as rock outcrops and glacial features.
 - i. Cultural resources: brief description of historic character of buildings and structures, historically important landscapes, and archaeological features. This includes a review of existing inventories, including those the State Historical Society of Wisconsin maintains for historic buildings, archaeological sites, and burial sites.
2. Development yield analysis. The subdivider shall submit a table showing the maximum number of dwelling units that would be permitted under the Menominee County 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.
3. Site analysis and concept plan. Using the inventory provided in section 3.2(1), the development yield analysis provided in section 3.2(2), and applying the design standards specified in section 4 of this ordinance, the subdivider shall submit a concept

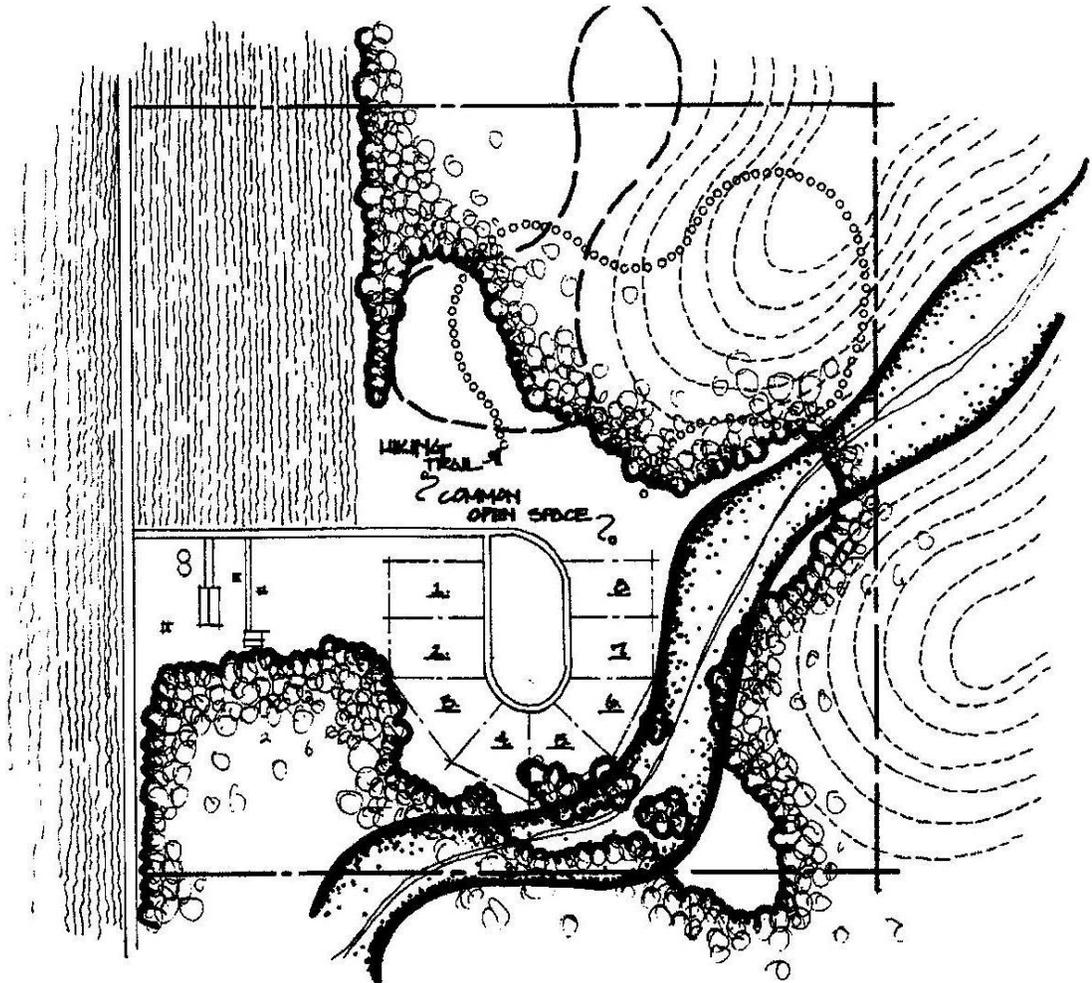
plan including at least the following information at a scale of no less than one (1) inch = fifty (50) feet:

- a. Open space areas indicating which areas are to remain undeveloped and trail location(s).
- b. Boundaries of areas to be developed and proposed general street and lot layout.
- c. Number and type (i.e., single-family, multi-family) of housing units proposed.
- d. Example plan in the following two (2) figures.

Step 1: Inventory and mapping of existing resources.



Step 2: Concept map of the conservation subdivision showing the lots that would be permitted, plus the historic farmhouse, which would be preserved.



- e. Proposed methods for and location of water supply, stormwater management (e.g., best management practices), and sewage treatment.
- f. Inventory of preserved and disturbed natural features and prominent views.
- g. Preliminary development envelopes showing areas for lawns, pavement, buildings, and grading.
- h. Proposed methods for ownership and management of open space.

4. General location map. The subdivider shall submit a map showing the 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 (1) inch = four-hundred (400) feet.

3.3 Review of Initial Application. Within thirty (30) days following the filing of a complete initial application, the plan commission shall meet with the subdivider to review the initial application. Staff from appropriate state agencies may also be requested by Menominee County to review the application. The plan commission shall make the determination of whether the initial application is complete. The zoning administrator may schedule a visit to the site with the subdivider to review the existing features of the site and the concept plan. The visit shall occur prior to the meeting. Within thirty (30) days following the meeting, the zoning department shall provide a written report informing the subdivider of any additions, changes, or corrections to the concept plan submitted as part of the initial application.

3.4 Preliminary Plat Review and Approval Procedures. Following review and comment of the plan commission on the initial application, the subdivider agent shall file an application for review and approval of the plan commission of a preliminary plat with the zoning department.

1. Referral. Administrative staff reviews. The zoning department shall provide copies of the preliminary plat to Menominee County department heads (e.g., highway department, land information department), to the appropriate objecting agencies under Wis. Stats. § 236.12, and to the appropriate utilities for their review and comment. The Menominee County staff and utility comments will be forwarded to the plan commission and Board of Supervisors for consideration during the review process.

2. Plan commission recommendation. After review of the preliminary plat and negotiations with the subdivider on changes and the kind and extent of public improvements that will be required, the plan commission shall recommend to the Board of Supervisors disapproval, approval, or conditional approval of the preliminary plat within sixty (60) days of the filing date.
3. Board action. After receipt of the plan commission's recommendation, the Board of Supervisors shall, within ninety (90) days of the date the plat was filed with the zoning department, approve, approve conditionally, or reject such plat and shall state, in writing, conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the Board of Supervisors to act within ninety (90) days or extension thereof shall constitute an approval of the preliminary plat, unless other authorized agencies object to the plat. The zoning administrator shall communicate to the subdivider the action of the Board of Supervisors. If the preliminary plat is approved, the zoning administrator shall endorse it for the Board of Supervisors.
4. Effect of approval. Approval of a preliminary plat shall be valid for six (6) months from the date of approval. Approval or conditional approval of a preliminary plat shall not constitute automatic approval of the final plat. The preliminary plat shall be deemed an expression of approval or conditional approval of the layout submitted as a guide to the preparation of the final plat, which will be subject to further consideration by the plan commission and Board of Supervisors at the time of its submission.
5. Amendment. If the subdivider desires to amend the preliminary plat as approved, the subdivider may resubmit the amended plat, which shall follow the same procedure, except for the fee, unless the amendment is, in the opinion of the plan commission, of such scope as to constitute a new plat, in which case it shall be refilled.

3.5 Preliminary Plat Requirements. The preliminary plat shall be prepared by a licensed land surveyor or engineer at a convenient scale not less than one (1) inch = one-hundred (100) feet. More than one (1) sheet may be used to present the information required in this section and shall include the following:

1. Name of the proposed subdivision. The proposed name of the subdivision shall not duplicate or be alike in pronunciation of the name of any plat previously recorded in the County.
2. Project ownership and development information.
 - a. Name, address, and telephone number of the legal owner and, if applicable, agent of the property.
 - b. Name, address, and telephone number of the professional person(s) responsible for subdivision design, for the design of public improvements, and for surveys.
 - c. Date of preparation
3. Existing site conditions. Provide this information on a property survey map.
 - a. Boundary line of the proposed site and all property to be subdivided. Include all contiguous land owned or controlled by the subdivider.
 - b. Location, width, and names of all existing platted streets and rights-of-way to a distance of one-hundred (100) feet beyond the site.
 - c. Show the type, width and condition of street improvements; railroad or major utility rights-of-way; parks and other public open spaces; location and widths of existing snowmobile or other recreational trails; and permanent buildings and structures to a distance of one-hundred (100) feet beyond the site, if any.
 - d. Location, widths, and names of all existing public and private easements to a distance of one-hundred (100) feet beyond the site.
 - e. Identify by name and ownership boundary lines of all adjoining lands within one-hundred (100) feet of the proposed plat.

- f. Topographic data including contours at vertical intervals of not more than two (2) feet. Elevation values shall be based on the National Geodetic Vertical Datum of 1929 (NGVD 29) or the North American Datum of 1988 (NAVD 88) or future adjustments to NAVD 88 as defined by the National Geodetic Survey and should also be so noted on the plat.
 - g. Significant natural resource features on the site, i.e. wetlands, floodplains, watercourses, existing wooded areas, steep slopes, drainage ways, rare, threatened and endangered species, and other natural resource features, views and other prominent visual features.
 - h. Burial sites categorized under Wis. Stats. § 157.70, Indian mounds, national and state register listed properties, and locally designated historic properties.
 - i. Existing soil classifications, including hydric soils.
 - j. Legal description of the property.
 - k. Existing zoning classifications for land in and abutting the subdivision.
 - l. Total acreage of the proposed site.
 - m. Provide graphic scale, north arrow, and date.
4. Subdivision design features. Provide this information on the preliminary plat.
- a. Layout of proposed streets, showing right-of-way widths, types of improvements, street surface widths, and proposed street names.
 - b. Locations and type of proposed public easements (i.e. drainage, utility, pedestrian, public access to waterways, etc.); and all conservation easements.
 - c. Layout of proposed blocks and lots within the plat.
 - d. Basic data regarding proposed and existing (if applicable) lots and blocks, including numbers, dimensions and area.
 - e. Minimum front, side and rear yard building setback lines for all lots.
 - f. Indication of the use of any lot.
 - g. Location and size of all proposed and existing sanitary sewer lines and water mains, proposed community sewer and water

- system, or individual on-site septic systems and potable water sources.
- h. Location and size of all proposed and existing storm sewers (lines, drain inlets, manholes), culverts, retention ponds, swales, infiltration practices and areas, and other stormwater facilities within the plat and to a distance of one-hundred (100) feet beyond the site.
 - i. Development envelopes showing areas for grading, lawns, pavement and buildings.
 - j. Open space areas, other than pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres. Provide information on the conditions, if any, of the dedication or reservation.
 - k. Management plan for restoration and long-term management of the open space area(s).
5. Preliminary construction plans. Provide information on one (1) or more sheets.
- a. Plan and profile. Proposed street centerline profile grades, showing the existing and proposed profile grade lines.
 - b. Grading and erosion control plan. A plan showing existing and proposed grades, drainage patterns, and stormwater facilities. The plan shall show the location and extent of grading activities in and adjacent to the plat, overall area of the site in acres, total impervious surface area of project, total pervious area, stockpile locations, erosion and sediment control facilities, and a schedule for erosion and sediment control practices including site specific requirements to prevent erosion at the source. Major trees to be preserved, with a diameter of twenty (20) inches or more measured fifty-four (54) inches above ground level, shall be shown on the preliminary grading and erosion control plan. Adequate measures for protecting major trees shall be shown on the plan.
 - c. Provisions for sewage disposal, water supply, stormwater management, and flood control.

3.6 Final Plat Review and Approval Procedures. A final subdivision plat shall be filed in accordance with the following:

1. Final plat. The subdivider shall prepare a final plat and a letter of application in accordance with this ordinance and shall file twenty (20) copies of the plat and application with the zoning department at least twenty-one (21) days prior to the meeting of the plan commission at which action is desired. The owner or subdivider shall file the final plat not later than six (6) months after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by Menominee County. The subdivider or subdivider's agent shall also submit at this time a current certified abstract of title or such other evidence as Menominee County may require showing ownership or control in the applicant.
2. Objecting agencies. The subdivider or the subdivider's agent shall submit the original plat to the Plat Review Section, Wisconsin Department of Administration, which shall forward two (2) copies to each of the agencies authorized to object under Wis. Stats. 236.12(2). The department shall have the required number of copies made at the subdivider's expense.
3. Final construction plans. Simultaneously with the filing of the final plat, the owner shall file with the zoning department four (4) copies of the final construction plans and specifications of public improvements required by Menominee County.
4. Installation, protection and maintenance plans. The subdivider shall also submit plans for areas to be protected and/or introduced native vegetation.
5. Referral of final plat. The zoning department shall provide copies of the final plat to Menominee County department heads and to the appropriate utilities for their review and comment. Menominee County Staff and utility comments will be forwarded

to the plan commission and Board of Supervisors for their consideration during the review process.

6. Plan commission review. The plan commission shall examine the final plat as to its conformance with the preliminary plat; this chapter; and all applicable ordinances, rules, regulations, and comprehensive plan elements that may affect it and shall recommend approval, conditional approval, or rejection of the plat to the Board of Supervisors.
 - a. The plan commission shall, within thirty (30) days of the date of filing of the final plat with the zoning department, recommend approval, conditional approval, or rejection of the plat and shall transmit the final plat and application along with its recommendations to the Board of Supervisors. The plan commission may hold the matter in abeyance if there is incomplete or inadequate information.

7. Board of supervisors review and approval. The Board of Supervisors shall, within sixty (60) days of the date of filing the original final plat with the zoning department, approve or reject such plat unless the time is extended by agreement with the subdivider. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. The Board of Supervisors may not inscribe its approval on the final plat unless the zoning administrator certifies on the face of the plat that the copies were forwarded to objecting agencies as required in this section, the date thereof, and that no objections have been filed within twenty (20) days or, if filed, have been met.
 - a. The Board of Supervisors shall, when it determines to approve a final plat, give at least ten (10) days' prior written notice of its intention to the municipal clerk of any municipality within one-thousand (1,000) feet of the final plat.
 - b. If the Board of Supervisors fails to act within sixty (60) days, without a time extension and no unsatisfied objections having been filed, the plat shall be deemed approved.
 - c. Recordation. After the final plat has been approved by the Board of Supervisors and required improvements either

installed or a contract and sureties ensuring their installation is filed, the zoning administrator 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 with the county register of deeds along with all conservation easements and deed restrictions. The register of deeds cannot record the plat unless it is offered within six (6) months from the date of last approval.

- d. Copies. The subdivider shall file eight (8) copies of the final plat with the zoning department for distribution to the approving agencies, affected sanitary districts, and other affected agencies for their files.

3.7 Final Plat Requirements. A final plat prepared by a registered land surveyor shall be required for all subdivisions. It shall comply with the requirements of Wis. Stats. § 236.20 and this ordinance.

- 1. Additional information. The final plat shall show correctly on its face, in addition to the information required by Wis. Stats. § 236.20, the following:
 - a. Exact length and bearing of the centerline of all streets.
 - b. Exact street width along the line of any obliquely intersecting street.
 - c. Exact location and description of utility and drainage easements.
 - d. Railroad rights-of-way within and abutting the plat.
 - e. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat, including public access to waterways.
 - f. Restrictions relating to access control along public ways.
 - g. Setback or building lines.
 - h. Restrictive covenants, deed restrictions, conservation easements for the proposed subdivision shall be filed with the final plat.
 - i. The legal instruments detailing the ownership of the common open space, as required in section 5, which shall be filed with the final plat.

- j. All final plats shall meet all the surveying and monumenting requirements of Wis. Stats. 236.15.
- k. State plan coordinate system. Where the plat is located within a quarter section, the corners of which have been relocated, monumented, and coordinated by Menominee County, the plat shall be tied directly to one of the section or quarter corners so relocated, monumented, and coordinated. The exact grid bearing and distance of such tie shall be determined by field measurements, and the material and state plane coordinates of the monument marking the relocated section or quarter corner to which the plat is tied shall be indicated on the plat.
- l. Certificates. All final plats shall provide all the certificates required by Wis. Stats. 236.21. In addition, the surveyor shall certify that the surveyor has fully complied with all sections of this chapter.
- m. Recording. The final plat shall be recorded within thirty (30) days of its approval by the Board of Supervisors.

3.8 Certified Survey Maps. Conservation subdivisions shall not be created by certified survey maps under Wis. Stats. 236.34.

4. Requirements for Design and Improvements

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

1. All areas mapped as Floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources (DNR), or other public or private entity.
2. All wetlands as defined in NR 103.02(5) of the Wisconsin Administrative Code, including a seventy-five (75) foot buffer.
3. All areas within seventy-five (75) feet of the ordinary high-water mark (OHWM) of navigable streams and lakes. Within the LL-R district, all areas within one-hundred (100) feet of the OHWM of Legend Lake.
4. All areas having slopes greater than twelve (12) percent.
5. Areas that are known to provide habitat for rare, threatened or endangered species.
6. Burial sites, Indian mounds, and any other culturally significant area of the Menominee Indian Tribe of Wisconsin as described by the National Historic Preservation Act.
7. Drainage ways that contain running water during spring runoff, during storm events or when it rains. A twenty-five (25) foot buffer from the edge of the drainage way shall be included.

Areas identified as being environmentally sensitive may be included as common open space in a conservation subdivision but shall not be included in the development yield analysis in section 3.2. These lands shall be identified as an outlot or other designation that indicates the land is not available for development.

4.2 Development Yield. The number of residential units for a parcel shall be determined in accordance with the following:

1. The development yield analysis in section 3.2 shall establish the base development yield for the parcel.

2. 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 in addition to the base development yield. The maximum bonus permitted is twenty (20) percent.
 - a. 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.)
 - b. Providing for access by the general public to trails, parks, or other recreational facilities, excluding golf courses.
 - c. Providing affordable housing, to include a minimum of 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.
 - d. Reusing historical buildings and structures, including those sites inventoried by the State Historical Society of Wisconsin. The U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Properties shall apply.

4.3 Performance Standards.

1. General considerations.
 - a. Conservation subdivisions shall 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, viewshed preservation, or archaeological and historic properties preservation. The plan commission shall have the ability to specify which areas shall be preserved.
 - b. The residential lot shall be large enough to accommodate a house and a two car garage.
2. Residential lot requirements.
 - a. Minimum lot size
 - Septic on-site: one (1) acre
 - Septic off-site: one-half (1/2) acre

- b. Principal building setbacks
 - Road right-of-way lot line: thirty (30) feet
 - Side lot line: ten (10) feet
 - Rear lot line: ten (10) feet
- c. Accessory building setbacks
 - Side lot line: ten (10) feet
 - Rear lot line: five (5) feet
 - Road right-of-way lot line: thirty (30) feet
- d. Lots shall be configured to minimize the amount of impervious surfaces. Maximum lot coverage shall be thirty (30) percent (includes buildings and other impervious surfaces).
- e. Maximum building height shall be thirty-five (35) feet.
- f. Most lots shall take access from interior local streets. Existing farmsteads to be preserved will have a driveway as part of the historic landscape that does not access a local street but should be preserved.
- g. Lots shall be configured to minimize the amount of road length required for the subdivision.
- h. Development envelopes shall be configured to minimize loss of woodlands.
- i. If agricultural uses are being maintained, lots shall be configured in a manner that maximizes the usable area remaining for such agricultural uses with appropriate buffers between agricultural uses and residential structures.
- j. All lots within a neighborhood shall abut open space on at least one side. A local street may separate lots from the open space.
- k. Lots shall be oriented around one or more of the following:
 - A central green or square.
 - A physical amenity such as a meadow, a stand of trees, or some other natural or restored feature.
- l. Development envelopes should not be located on ridges, hilltops, along peripheral public roads or in other visually prominent areas.
- m. Residential structures shall be oriented to maximize solar gain in the winter months.
- n. A thirty-five (35) foot native vegetation buffer shall be maintained around open water areas, unless a specific

common beach or grassed area is identified, which may be limited in size by the plan commission.

o. Stormwater management – Best Management Practices (BMPs)

- Minimize the use of curb and gutter and maximize the use of open swales.
- Roof down spouts should drain to porous surfaces.
- Peak discharges during the two (2) and ten (10) year storm events shall be no more than predeveloped conditions.
- The development should capture eighty (80) percent of the sediments/pollutants from the one (1) year storm event.
- Landscape plantings should be used to increase infiltration and decrease runoff.
- Natural open drainage systems shall be preserved and any applicable erosion control techniques shall be used in accordance with Wisconsin NR151, section III.

3. Residential cluster siting standards.

- a. 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.
- b. Residential clusters shall be located to minimize negative impacts on the natural, scenic and cultural resources of the site and conflicts between incompatible uses.
- c. Residential clusters shall avoid encroaching on rare plant communities, high quality sites, or endangered species identified by the DNR or Menominee County Land Conservation Department (LCD).
- d. Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and local or regional recreational trails.
- e. Residential clusters should be sited to achieve the following goals, to the extent practicable.
 - Minimize impact to prime farmland soils and large tracts of land in agricultural use, and avoid interference with normal agricultural practices.
 - Minimize disturbance to woodlands, wetlands, grasslands, and mature trees.

- Prevent downstream impacts due to runoff through adequate on-site stormwater management practices.
 - Protect scenic views of open land from adjacent roads. Visual impact should be minimized through use of landscaping or other features.
 - Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.
- f. Landscaping around the cluster may be necessary to reduce off-site views of residences.

4. Open space design.

- a. Common open space. The minimum open space required shall be owned and maintained under one of the alternatives listed in section 5, as approved by Menominee County. 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, as specified in section 5.
- b. Open space shall be designated as part of the development. The minimum required open space is sixty (60) percent of the gross acreage.
- c. Open space conservation ranking (in order of significance). The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enlarge the best quality natural features of each particular site.
- First priority will be given to intact natural communities, rare and endangered species, environmental corridors, natural and restored prairies, significant historic and archaeological properties, and steep slopes.
 - Second priority will be given to areas providing some plant and wildlife habitat and open space values.
 - Third priority will be given to areas providing little habitat but providing viewshed, recreation, or a sense of open space.

- d. The following areas or structures may be located within the open space area and shall be counted toward the overall open space percentage required:
 - Parking areas for access to and use of the open space developed at a scale limited to the potential users of the open space.
 - Privately-help buildings or structures provided that they are accessory to the use of the open space.
 - Shared septic systems and shared potable water systems.
 - e. Road rights-of-way shall not be counted towards the minimum required open space.
 - f. No more than fifty (50) percent of the required open space may consist of water bodies, ponds, floodplain, or wetlands.
 - g. 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.
 - h. Accessible open space in upland areas shall be available for recreational uses such as trails, play fields, or community gardens but should be designed in a manner that avoids adversely impacting archaeological sites.
 - 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.
5. Street standards.
- a. Neighborhood streets may take the form of a two-way street, a pair of one-way streets on either side of a landscaped median, or a one-way loop street around a small neighborhood green. Streets shall be developed according to the following standards that promote road safety, assure adequate access for fire and rescue vehicles, and promote adequate vehicular circulation.
 - b. The applicant must demonstrate that access to the development has the capacity to handle traffic generated by the proposed project, and will not endanger the safety of the general public.
 - c. Streets shall have the following design standards:

- Right-of-way widths. The right-of-way width for each road shall be wide enough to provide for all public services, including roadway drainage, sidewalks, trails and walkways, utilities and snow storage. The minimum right-of-way shall be provided in accordance with the following:

<u>Right-of-way</u>	<u>ADT less than 250</u>	<u>ADT over 250</u>
One-way roadway	20'	30'
Two-way roadway	40'	50'

- Travel lane widths for local roads shall be determined by the expected average daily traffic (ADT) and shall be within the following ranges:

<u>Travel Lanes</u>	<u>ADT < 100</u>	<u>100-250 ADT</u>	<u>ADT > 250</u>
One-way roadway*	11'-13'	11'-13'	11'-14'
Two-way roadway*	18'-24'	20'-26'	22'-28'
(curbed sections**)	13'	13'	13'
Shoulder or gutter pan width	2'-4'	2'-4'	2'-4'

* Does not include shoulder or gutter pan

** Measured from curb-face to curb-face

d. Additional standards:

- Design speed: maximum 25 miles per hour
- Vertical curves: minimum 50' (when grade difference less than 1%, no curve is needed)
- Horizontal curves: minimum radius of 125'
- Road grades: maximum grade 8%
- Super-elevation: maximum $e=0.04$ feet/ft
- Pavement strength: 7 ton minimum
- Clear zones:
 - shoulder sections: 10' from edge of travel lane
 - curbed sections: 2' from face of curb
- Bridges: width shall be traveled way, plus 2' each side. Design loading for structural capacity HS-20, plus 5' sidewalk necessary to maintain pedestrian crossing.

- Cul-de-sacs should be designed as semi-circular and circular loop roads. Minimum 30' outside radius around a landscaped island with a minimum 10' radius. Open space internal to these road features can be counted toward the open space requirements.
 - Sidewalks, trails, and other walkways shall have a minimum 5 foot width.
- e. If determined necessary by the zoning administrator, shade trees shall be planted on both sides of any street.
 - f. Street connections to adjacent parcels shall be provided in logical locations to avoid crating landlocked parcels and provide for connecting street patterns.
 - g. Streets that serve as collectors, interconnecting subdivisions and other major traffic generators, shall be designed according to Menominee County's standards for collector roads.
 - h. Where streets will connect with streets having differing standards, the street dimensions shall be the same as those of the connecting street. All street widening shall occur at the nearest intersection.
 - i. The developed area should have sidewalks on at least one side of the street.
6. Sewage and water facilities.
 - a. Water for a conservation subdivision shall be provided by individual on-site wells or by one or more community wells meeting the permit requirements of the State of Wisconsin. 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.
 - b. All conservation subdivisions shall be provided with adequate sewage treatment facilities meeting the standards of Menominee County and the permit requirements of the Wisconsin Department of Commerce and the DNR.

4.4 Financial Guarantee. A financial guarantee ensuring the construction and completion of the common facilities shall be submitted to the zoning department.

5. Ownership and Maintenance of Open Space and Common Facilities

5.1 Alternatives. The designated common open space and common facilities may be owned and managed by one or a combination of the following:

1. A homeowners' association.
2. A condominium association established in accordance with the Condominium Ownership Act, Chapter 703 Wis. Stats.
3. A nonprofit conservation organization.
4. Menominee County or another governmental body empowered to hold an interest in real property.
5. An individual who will use the land for open space purposes as provided by a conservation easement.

5.2 Homeowners Association. A homeowners association shall be established if the common open space is proposed to be owned by a homeowners association. Membership in the association is mandatory for all purchasers of homes in the development and their successors.

The homeowners' association bylaws, guaranteeing continuing maintenance of the open space and other common facilities, and the declaration of covenants, conditions and restrictions of the homeowners association shall be submitted for approval to Menominee County as part of the information required for the preliminary plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions of the homeowners association shall contain the following information:

1. The legal description of the common land.
2. A description of the common facilities.

3. The restrictions placed upon the use and enjoyment of the lands or facilities.
4. Persons or entities entitled to enforce the restrictions.
5. A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums.
6. A mechanism for resolving disputes among the owners or association members.
7. The conditions and timing of the transfer of ownership and control of land or facilities to the association.
8. Any other matter the developer deems appropriate.

5.3 Condominium Associations. If the common open space and facilities are to be held under the Condominium Ownership Act, Chapter 703 Wis. Stats., the condominium instruments shall identify the restrictions placed upon the use and enjoyment of the common open space. All common open space shall be held as a “common element” as defined in section 703.01 (2) Wis. Stats.

5.4 A Nonprofit Conservation Organization. If the common open space is to be held by a nonprofit conservation organization, the organization must be acceptable to Menominee County. The conveyance to the nonprofit conservation organization must contain appropriate provisions for reversion in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance.

5.5 Public Dedication of Open Space and Streets.

1. Menominee County may accept the dedication of fee title or dedication of a conservation easement to the common open space. Menominee County may accept the common open space provided:
 - a. The common open space is accessible to the residents of Menominee County;
 - b. Menominee County agrees to and has access to maintain the common open space.

2. Streets or other public ways which have been designated on a duly adopted official map or element of the Menominee County Comprehensive Plan shall be dedicated or reserved by the subdivider to Menominee County. The street or public way shall be made part of the plat in the locations and dimensions indicated in the comprehensive plan and as set forth in this ordinance.

5.6 Individual Ownership. An individual may hold fee title to the land while a nonprofit conservation organization or other qualified organization holds a conservation easement prescribing the acceptable uses for the common open space.

5.7 Maintenance Plan. Every conservation subdivision must include a plan that provides evidence of a means to properly manage the common open space in perpetuity and evidence of the long-term means to properly manage and maintain all common facilities, including any storm water facilities. The plan shall be approved by the plan commission prior to final plat approval.

1. The plan shall do the following:
 - a. Designate the ownership of the open space and common facilities in accordance with section 5.1.
 - b. Establish necessary regular and periodic operation and maintenance responsibilities.
 - c. Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
 - d. Include a land stewardship plan specifically focusing on the long-term management of common open space lands. The land stewardship plan shall include a narrative, based on the site analysis required in section 3.2, describing:
 - Existing conditions including all natural, cultural, historic, and scenic elements in the landscape.
 - The proposed end state for each common open space area; and the measures proposed for achieving the end state.
 - Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as

erosion; and measures for restoring historic features and habitats or ecosystems.

- The operations needed for maintaining the stability of the resources, including: mowing schedules; weed control; planting schedules; clearing and clean-up; at Menominee County's discretion, the applicant may be required to place in escrow sufficient funds for the maintenance and operation costs of common facilities for a maximum of one (1) year.

2. In the event that the organization established to own and maintain the 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 the maintenance plan and all applicable laws, rules, and regulations, Menominee County may serve written 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. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. 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. Menominee County may enter the premises and take corrective action.
 - a. The costs of corrective action by Menominee County 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. Menominee County, 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 County Register of Deeds upon the properties affected by such lien.
3. Management plans may be amended by the owner identified under section 5.1 with the approval of the plan commission.