

Ordinance #16-03

Town of York, Green County

Land Division-Development and Transfer Ordinance

This Ordinance supersedes Ordinance #14-1 and its amendments.

1. AUTHORITY

These regulations are adopted under the authority granted by Section 236.45 of the Wisconsin Statutes, with the addition of Sections 60.10(2), 60.22(3) and 61.34(1).

2. PURPOSE

The purpose of this ordinance is to regulate and control the division of land and the platting of subdivisions within the jurisdictional limits of the Town in order to promote the public health, safety and general welfare of the community. The regulations are designed to further the orderly layout and use of land to avoid undue concentration of population; to facilitate adequate provision for water, sewerage, schools, parks, playgrounds, and other public requirements; to minimize the public impact from subdivision of large tracts of land into smaller parcels of land; to encourage the most appropriate use of land throughout the Town; and to provide the best possible environment for human habitation.

This ordinance is designed to achieve the goals, objectives and policies as set forth in the Town of York Comprehensive Plan, adopted November 8, 2005, specifically:

- a. To protect economically productive areas, including farmlands and forests;
- b. To maintain the rural and agricultural character of the community;
- c. To encourage the preservation of the family farm, cropland, and farmland in the community;
- d. To encourage residential and commercial development to locate in areas least suited for agricultural purposes;
- e. To discourage the fragmentation of cropland;
- f. To protect natural areas including wetlands, wildlife habitats, lakes, woodlands, open spaces and groundwater resources.

If the conservation design principles incorporated in the Tier 2 option of this ordinance are utilized by residents, the Town of York has an opportunity to protect fifty-percent (50%) of its remaining undeveloped land in conservation easements, direct development to appropriate lands, and protect the rural farm-friendly atmosphere of the Town. The desired result is the preservation of the Town's best farmland in large, contiguous pieces, and the establishment of a finite and static number of dwelling unit allotments throughout the Town as of the date of adoption. This plan must be reviewed on an annual basis to assess its compatibility with the needs of the Town.

3. JURISDICTION

Every division of land within the unincorporated areas of the Town of York, Green County, Wisconsin, shall be subject to all provisions of this ordinance and Chapter 236 of the Wisconsin Statutes.

4. EXCEPTIONS

In no instance shall the provisions of this ordinance apply to divisions of tracts of land into less than five (5) parcels under any of the following:

- a. Transfers of interest in land by will or pursuant to court order;
- b. Leases for a term not to exceed ten (10) years, mortgages, or easements;
- c. The sale or exchange of 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; and
- d. The redrawing of lot lines by the owner of a parcel as to create the same number or fewer lots within that parcel, so long as each of the resulting lots are of equal or greater size than the minimum sizes required by this ordinance.

5. COMPLIANCE

No person, firm, corporation, partnership or legal entity of any sort shall divide any land located within the Town which results in a land division as defined herein without compliance with all requirements of this ordinance and with:

- a. Chapter 236 of the Wisconsin Statutes;
- b. Green County Zoning Regulations, Sanitary Code, and Subdivision regulations;
- c. State of Wisconsin rules of sewers and septic systems;
- d. State of Wisconsin rules on pollution abatement;
- e. State of Wisconsin Department of Transportation rules relating to safety of access and the preservation of the public interest and investment in the highway system if the land owned or controlled by the subdivided abuts on a state trunk highway or connection street; and
- f. All applicable master plans, zoning ordinances, official maps adopted under Section 62.33 Stats. and any other ordinances and regulations.

Where provisions of this ordinance impose greater restrictions than in Section 5 (a-f) above, it is intended that the provisions of this ordinance shall apply.

6. DEFINITIONS

Adjoining Property: Parcels of land under the control of separate owners that share common border lines or points regardless of whether they are separated by streets, highways, or railroad right-of-ways.

Board: The York Town Board.

Building: Any structure having a roof supported by posts, columns or walls and its appendages including, but not limited to balconies, porches, decks, stoops, fireplaces and chimneys. Also included for permit and locational purposes are swimming pools, both above and below ground, and towers, except communication towers. Not included within the definition, for permit purposes or otherwise, are poles, towers and posts for lines carrying telephone messages or electricity and recreational structures of open construction and without walls, such as swing sets, slides, yard gyms, climbers, sand boxes and teeter totters.

Building envelope: The area on a certified survey map, or plat, or concept plan within which a dwelling unit and accessory buildings shall be contained.

Certified survey map (CSM): A map of land prepared in accordance with Sec. 236.34 of the Wisconsin Statutes and in full compliance with applicable provisions of this ordinance and the Green County Code of Ordinances. A CSM has the same legal force and effect as a subdivision plat.

Clerk: The current clerk of the Town of York

Cluster: Clustering refers to dwelling units grouped on only a portion of a parcel of land. The number of clusters should be minimized given the lay of the land.

Conservation Easement: A conservation easement is a voluntary agreement between a private landowner and a municipal agency or qualified not-for-profit corporation to restrict the development, management, or use of the land. That agency holds the interest and is empowered to enforce its restrictions against the current landowner and all subsequent owners of the land.

Contiguous: Lots or parcels shall be considered as contiguous for the purpose of this chapter, if they share a common boundary for a distance of at least 66 feet. For the purpose of calculating allowable dwelling units, a real estate parcel that is divided by a public road, whether an easement road or a fee title road, or by a navigable water body, or by a private drive owned by an entity other than the entity that owns the abutting lands, shall be treated as contiguous.

Divider: Any person, firm, partnership, corporation, association, estate, trust, or other legal entity, or any agent thereof, dividing or proposing to divide land resulting in a division or replat, or which requests the review of the same.

Driveway: A private driveway, road, land, field road or other avenue of travel that runs through any part of a private lot or parcel of land, or that connects with or will connect with any public highway.

Dwelling unit: Any structure fixed to the ground that is occupied or intended to be occupied as a residence, consisting of the following:

Single-family dwelling unit: A building designed for and occupied exclusively as a residence for one family or household.

Duplex dwelling unit: A single building designed for and to be occupied by two families or two households living independently of each other. A duplex constitutes two (2) dwelling units for the purposes of this ordinance.

Multiple-family dwelling unit: A single building designed for or intended to be used by more than two families or households living independently of each other. The number of dwelling units designated for a multi-family building is the same as the number of separate living units within the building.

Dwelling Unit Allotment: The number of residences a landowner is entitled to construct or have constructed on his/her property, in keeping with the present ordinance and related provisions.

Easement: The area of land set aside or over which or through which a liberty, privilege, or advantage in land, distinct from ownership of the land, is granted to the public or some particular person or part of the public.

Final Plat: The final map, drawing, or chart, on which the subdivider's plan of subdivision is presented for approval and which, if approved, will be submitted to the County Register of Deeds.

Immediate Family: For the purposes of this ordinance, an immediate family member includes spouse, parent, child, grandparent, and sibling, including the "step" relationships. Also included are the parents of the spouse (i.e. mother or father-in-law, including the "step" relationships). No other in-law relationship is included.

Land Divider: Any person, corporation, partnership, association, individual, firm, trust, agent or any other legal entity requesting review or action on a land division.

Land Division: The division of a parcel of land by the owner thereof or the owner's agent where the act of division creates two or more parcels.

Land Transfer: Conveyance of title to real estate through any legal means, including but not limited to sale, inheritance or court order.

Lot: A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principle structure or use and sufficient size to meet the lot width, lot frontage, lot area, yard, parking area and other open space provisions of this ordinance and any other applicable ordinance. A lot may be designated in a plat or described in a conveyance recorded in the office of the Register of Deeds.

Lot, Area: The area contained within the exterior boundaries of a lot. No land included in any street, highway, or railroad right-of-way shall be included when computing lot area.

Lot, Width: The width of a parcel of land measured along the building line; a building line being defined as the shortest line between the side lines bisecting the structure.

Net Buildable Land: The land area in a proposed subdivision that is suitable for building. This area excludes wetlands, steep slopes, and other conditions that make an area unsuitable for building.

Owner: Either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, trust, or a combination of these.

Parcel: Contiguous land under the control of a land divider regardless of whether it is separated by streets, highways, railroad right-of-ways, utility easements, or other easements.

Pasture Woodland: Wooded pasture that is enclosed by a fence and used for the purpose of grazing animals.

Plan Commission: The Town of York Plan Commission

Plat: A map, drawing or chart on which the subdivider's plat of subdivision is presented to the Town for approval.

Preliminary Parcel Division Inquiry: A document submitted to the Town Plan Commission which includes a legible map showing boundaries and acreage of the original parcel and the lots proposed to be created thereon, location of proposed improvements (including proposed septic placement), topographical elevations, and location of natural waterways and other natural topographical features.

Prime Agricultural Land: Lands containing soils classified as 1, 2, 3, or 4 of the United States Department of Agriculture, Soil Conservation Service, Soil Classification System.

Replat: The process of changing, or a map or plat that changes, the boundaries of a recorded subdivision plat or part thereof. The legal dividing of a large block or lot within a recorded subdivision plat or certified survey map without changing the exterior boundaries of such block, lot or outlot is not a replat.

Ridge Top: For a building to be considered off of a ridge top, the highest point on the building must be below the nearest ridgeline.

Setback Lot: A lot not contiguous to a road except that portion that serves as the access driveway and not less than 450' at its closest point from any town road, county road or state highway. The area of the driveway serving the setback lot shall be excluded for the purpose of calculating the minimum one and a half (1.5) acre lot size.

Soil Classification: Soils are classified based on the United States Department of Agriculture, Soil Conservation Service, Soil Classification System. Classes 1-4 are cropland, Class 5 is cropland with massive rocks present, Classes 6-7 are pasture, and Class 8 is rock outcroppings.

Standard Lot: A lot that is contiguous to a road and does not meet the definition of a Setback Lot.

Subdivider: Any person, firm, partnership, corporation, association, estate, trust, or other legal entity, or any agent thereof, dividing or proposing to divide land resulting in a subdivision or replat, or which requests the review of the same.

Subdivision: A division of a parcel of land where the act of division creates either: five (5) or more lots, parcels or building sites of 35 acres each or less in area, or five (5) or more lots, parcels or building sites of 35 acres each or less in area by successive divisions within a period of five (5) years whether by the original owner or a subsequent owner. All area calculations shall be exclusive of any dedications, rights-of-way, easements or reservations.

Tier 1: Land division procedure as outlined in section 9 of this ordinance.

Tier 2: Land division procedure as outlined in section 12 of this ordinance.

Tracking Data Base: A database maintained by the York Town Clerk and Plan Commission for the purpose of providing accurate and timely information, in response to queries from landowners or potential landowners, regarding Dwelling Unit Allotment(s) attached to a given property.

Woodland: Areas of harvestable timber, including Christmas tree plantations and tree farms.

7. ELIGIBILITY REQUIREMENTS

- a. Existing property owner(s) at the time that this land division ordinance was originally enacted by the Town of York Board are hereby grandfathered in and are eligible based on the guidelines of the Land Division Ordinance #04-01 (4/15/2004) in regard to the eligibility requirements defined below in 7(b).
- b. New land owner(s) cannot divide any existing parcels until after five (5) years of ownership. This is calculated from the date of closing plus five (5) years. An exception will be made when property is purchased by or inherited by immediate family and the prior owner(s) have met the five (5) year conditions. The entity dividing the land cannot for the intent of resale, divide the parcel(s) prior to selling or transfer for the benefit of the buyer(s).
- c. Parcels of twenty (20) acres or greater are allowed one (1) dwelling unit allotment per twenty (20) acres. If there is a pre-existing dwelling on the parcel built prior to April, 2004, this dwelling does not count against the dwelling unit allotment.
- d. Parcels less than twenty (20) acres, having a CSM prior to 4/15/2004 are allowed one (1) dwelling unit allotment.
- e. All access drives onto any public roads shall require a review by the Town Board. The Town Board shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow. Access roads onto County roads shall require an access permit from the County Engineer. This permit shall be issued prior to the issuance of any land use permit. The County Engineer, at his discretion, may refer a request for an access drive permit onto a County road to the Plan Commission for its recommendations.

8. LAND TRANSFER

- a. In addition to any land division (tier 1 or tier 2), any land transfer in the Town of York shall be notified to the Plan Commission via submission, a minimum of six (6) weeks prior to transfer (closing, in the case of sale) of a "Notice of Land Transfer" form, identifying the Section and

Tax Parcel(s) concerned and contact details of both transferor and anticipated transferee, as well as the number of dwelling unit allotments transferor proposes to convey along with the land transfer. For land transfers involving a realtor, submission of the form may be effected by the realtor, although responsibility to ensure submission rests with the transferor. For land transfers not involving a realtor, submission of this form must be effected by the transferor.

b. The Plan Commission will confirm with transferor whether the proposed number is within the maximum number of dwelling unit allotments which might accompany the transfer under the present Ordinance and related provisions. If so, the Commission shall approve the form and provide a copy to both transferor and transferee. If not, the Commission shall remand the form to transferor for reconsideration and resubmission, and provide a copy to transferor and transferee at such time as the form is approved. The Plan Commission will in due course update the tracking database accordingly.

c. In the absence of compliance with the foregoing two paragraphs, transferor will be deemed to have conveyed with any land transfer one dwelling unit allotment per every 20 acres transferred, to the extent such dwelling unit allotments are available and permissible for transfer under the present Ordinance (#14-1) and related provisions. The Plan Commission will in due course update the tracking database accordingly.

d. By promulgation of the present Ordinance, the Board of the Town of York puts on notice all future prospective transferors and transferees of land in the Town of York that the final arbiter of number of dwelling unit allotments accompanying any land transfer with the Town is the Plan Commission, and subject only to review by the Town Board. The Plan Commission may be consulted by prospective transferors or prospective transferees at any of its regularly scheduled monthly meetings.

e. All dwelling unit allotments within the Town of York must be assigned to existing tax parcels within the township. Property owners within the town who are entitled to one or more dwelling units may also relinquish at any time and permanently, said dwelling unit allotment(s), whether as a condition of sale or transfer, or at the discretion of the property owner. Any such relinquishing of dwelling unit allotments requires submission to the Town of York Plan Commission of a notarized "Dwelling Unit Allotment Relinquishment Form."

9. LAND DIVISION – TIER 1

- a. A Certified Survey Map (CSM) prepared by a land surveyor registered in this state shall be required for all land divisions that create any parcel less than thirty-five (35) acres. A CSM is not required if the division of land does not create any parcels less than thirty five (35) acres. The map shall comply in all respects with the requirements of Sec. 236.34 of the Wisconsin Statutes. A subdivision plat is required for all land divisions resulting in five (5) or more parcels or building sites. The land divider is required to pay for all legal, engineering and other review fees associated with a submitted CSM or plat.
- b. Parcel Size: One (1) dwelling unit allotment shall be allowed for every twenty (20) contiguous acres under the control of a land divider as of the original enactment date of this ordinance (4/15/2004). The division may create no lots less than 1.5 acres except in the case of a setback lot when the minimum size will be 1.5 acres excluding the area for the access of the driveway. This limitation runs with the land in perpetuity and is irrespective of future ownership. The clerk and Plan Commission shall maintain a database tracking the

number of allowable dwelling unit allotments per parcel. If the land divider has any remaining dwelling unit allotments, he or she may choose to transfer one or more of these remaining dwelling unit allotments to the newly created lot(s). Any lots created exceeding twenty (20) acres may not have additional dwelling unit allotments available, if all allowable dwelling unit allotments have been exhausted or transferred. The land divider will be required to include language on the instruments of conveyance noting the number of available dwelling unit allotments for future divisions, if any.

c. Normal Density and Frontage

- i. The maximum allowable number of dwelling unit allotments for all existing parcels of twenty (20) acres or more as of the original enactment date of this ordinance (4/15/2004) shall be calculated as follows:

The number of allowable dwelling unit allotments when multiplied by twenty (20) acres, must be greater than or equal to ninety-five percent (95%) of the actual surveyed area of the parcel to be divided. This can be written as a formula as follows:

of allowable dwelling unit allotments (20 acres) > 95% x area of original parcel

For example, if four (4) dwelling unit allotments are desired: Four dwelling unit allotments x 20 acres per dwelling unit allotment = 80 acres. Ninety-five percent (95%) of 80 acres is 76 acres. Therefore, parcels measuring 76 to 80 acres would be eligible for up to 4 dwelling unit allotments. Those parcels containing less than 76 acres would be eligible for up to three (3) dwelling unit allotments.

- ii. Any lots created along an existing town road, county highway, or state highway where the driveway for that lot comes off of the existing town road, county highway, or state highway, shall have a minimum of two hundred feet (200') of frontage on the existing town road, county highway, or state highway. Setback lots shall have a minimum of fifty feet (50') of frontage on the existing town road, county highway, or state highway.
- iii. An existing dwelling that has been occupied as a dwelling within five years prior to the original date of enactment of this ordinance (4/15/2004) on a parcel does not count against the one (1) dwelling unit allotment per 20 acres.
- iv. Variances may be issued for instances which will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship that the spirit and purposes of this ordinance shall be observed and the public safety, welfare and justice secured. When making recommendations about the appropriateness of the variance applications, the Town Plan Commission will analyze the proposal to see if it is compatible with the Town Vision Statement and related policies and comment and hold a hearing before making any recommendation on the granting of the variance. Recommendations of the Plan Commission will be referred to the Town Board for final review and determination.
- v. Dwelling Unit Allotment Special Exceptions: The following is an exception to the limited number of dwelling unit allotments as calculated in this 9(c) (i): Non-Contiguous parcels: A non-contiguous parcel of land of less than twenty (20) acres that was in existence prior to the Town's enactment of this original ordinance (4/15/2004).

d. Information Required: The CSM or plat map as called for in this ordinance shall show

correctly on its face, in addition to the information required by Sec. 236.34 of the Wisconsin Statutes, the following:

- i. Date of the map;
 - ii. Graphic scale;
 - iii. Name and address of the owner, land divider and surveyor.
- e. Certificates:
- i. Surveyor: The surveyor shall certify on the face of the map that he has fully complied with all provisions of this ordinance;
 - ii. Town: The following certificate of approval shall be typed, lettered, or otherwise reproduced legibly on the face of the map:

APPROVED BY THE TOWN OF YORK

_____ (chairman) _____ (date)

_____ (clerk) _____ (date)

- f. Recording: The land divider shall record the CSM with the Green County Register of Deeds after it has been approved, and shall file a certified copy of the recorded map with the Town Clerk within ten (10) days after the map is recorded.

10. PROCEDURE FOR APPROVAL OF LAND DIVISIONS - TIER 1

Any land divider who seeks to divide land located in the Town of York shall comply with the following procedure:

- a. The proposed land divider shall prepare a Preliminary Parcel Division Inquiry. It shall be submitted to the Town of York Plan Commission for review. Preliminary Parcel Division Inquiry forms and instructions may be obtained from the Town Clerk. The inquiry shall include a legible map showing:
 - i. Boundaries and acreage of the original parcel and the proposed lots to be created thereon with lot widths and depths;
 - ii. Location of proposed improvements (including proposed septic placement, roads, and easements);
 - iii. Description of uses of land adjacent to proposed land division;
 - iv. Description of all property owned or controlled by the subdivider contiguous to the proposed subdivision even though only a part of the area is proposed for immediate development;

- v. Topographical elevations, general soil conditions, seasonally wet areas, rock outcrops, areas with slope over 12%, and location of natural waterways and other natural topographical features.
 - vi. Attribution of all existing dwelling unit allotments attached to the corresponding tax parcels.
- b. The Plan Commission shall review the proposed Preliminary Parcel Division Inquiry for compliance with the provisions of this ordinance. The Plan Commission shall review the records of the Town Clerk to determine if the parcel in question has been subject to previous division or is subject to deed restrictions.
- c. Upon approval of the Preliminary Parcel Division Inquiry by the Plan Commission, the land divider shall submit to the Plan Commission either a CSM if four (4) or less lots are proposed, or a preliminary plat map if more than four (4) lots are being proposed. The survey shall include an accurate legal description of the parcel from which the new lots are to be created, the acreage of each proposed lot, locations of all proposed driveways, locations of public road frontage, locations of natural waterways or other natural topographical features and locations of proposed public and/or private easements. In addition to this survey, the following items must be submitted with a CSM:
- i. **Use Statement:** A statement of the proposed use of lots stating the size and type of residential buildings with the proposed dwelling unit allotments; types of business or industry or other developments which could affect traffic, fire hazards, and congestion of population.
 - ii. **Zoning Changes:** A description of any zoning changes that may be sought.
 - iii. **Area Plan:** In cases where the divider owns property adjacent to the land which is proposed for division, the divider must provide a concept plan for all the involved land so as to show the possible relationships between the proposed land division and future land divisions.
 - iv. **Adjacent Land Divisions:** A record of any adjacent land divisions made within the past five (5) years.
 - v. **Road and Driveway Plans and Profiles:** When required by the proposed land division, the divider shall provide road and driveway plans and profiles.
 - vi. **Soil Testing and Aerial Photographs:** The divider shall provide results of any soil tests and shall provide aerial photographs of the land to be divided when available.

If a CSM is not required for the proposed division, the Plan Commission shall forward its recommendation for approval, conditional approval, or rejection of the proposed division to the Town Board. If a plat map is required for the proposed division, the procedures outlined in section 11 of this ordinance shall be followed.

- d. If a CSM or plat is required, the Plan Commission shall review the CSM or plat for compliance with the provisions of this ordinance and forward its recommendation for approval, conditional approval, or rejection to the Town Board.
- e. Upon receiving the recommendation of the Plan Commission, the Town Board shall approve,

approve conditionally, reject, or table the land division within forty (40) days, as provided by 236.11, Wis. Stats. Failure of the Town Board to act within forty (40) days shall constitute an approval. As a condition of approval the Town Board may require the land divider to include deed restriction language on any instrument of conveyance.

- f. No Driveway Permit will be issued and no construction shall commence on a lot created by a land division which does not comply with the provisions of this ordinance.

11. LAND DIVISION – TIER 2

PLAT MAP OR CERTIFIED SURVEY MAP REQUIRED

- a. A plat map shall be required for all land divisions under Tier 2, unless the division results in less than five (5) lots. If less than five (5) lots are being created, the divider shall submit a CSM and associated documents as described in Section 9(d) of this ordinance. The plat, prepared according to Section 11 of this ordinance, shall clearly show the acreage to be placed in the required conservation easement and shall comply in all respects with the requirements of Sec. 236.34 of the Wisconsin Statutes. *Conservation design principles will be utilized to identify the portion of the net buildable lands to be included in the required conservation easement. These lands would be prime agricultural lands, class 1-4 under the United States Department of Agriculture, Soil Conservation Service, Soil Classification System, and other lands of significant ecological or cultural value as defined in the Town of York Comprehensive Plan and Section 2 of this ordinance.*
- b. Parcel Size: One (1) dwelling unit allotment shall be allowed for every twenty (20) contiguous acres under the control of a land divider as of the original enactment date of this ordinance. The division may create no lots less than 1.5 acres except in the case of a setback lot when the minimum size will be 1.5 acres excluding the area for the access of the driveway. This limitation runs with the land in perpetuity and is irrespective of future ownership. The clerk and the Plan Commission shall maintain a database tracking the number of allowable dwelling unit allotments per parcel. If the land divider has any remaining dwelling unit allotments, he or she may choose to transfer one or more of these remaining dwelling unit allotments to the newly created lot(s). Any lots created exceeding twenty (20) acres may not have additional dwelling unit allotments available, if all allowable dwelling unit allotments have been exhausted or transferred. The land divider will be required to include language on the instruments of conveyance noting the number of available dwelling unit allotments for future divisions, as confirmed by the Plan Commission, if any.
- c. Additional dwelling unit allotments shall be allowed based on the following Tier 2 criteria:

For parcels 80 acres or less:

- **Base Requirement:** One (1) additional dwelling unit allotment allowed if fifty percent (50%) of the parcel is placed in a permanent conservation easement, with the acreage in the conservation easement being contiguous.

- The maximum number of clusters for this acreage is one (1). Clustered lots must be a minimum of 1.5 acres and a maximum of 5 acres.

For parcels 81 - 120 acres:

- **Base Requirement:** One (1) additional dwelling unit allotment allowed if at least 50% of the parcel is placed in a permanent conservation easement, with the acreage in the conservation easement being contiguous.
- One (1) additional dwelling unit allotment allowed if lots are clustered. The maximum number of clusters for this acreage is two (2). Clustered lots must be a minimum of 1.5 acres and a maximum of 5 acres.

For parcels 121 - 160 acres:

- **Base Requirement:** One (1) additional dwelling unit allotment allowed if at least 50% of the parcel is placed in a permanent conservation easement, with the acreage in the conservation easement being contiguous.
- One (1) additional dwelling unit allotment allowed if lots are clustered. Clustered lots must be a minimum of 1.5 acres and a maximum of 5 acres.
- One (1) additional dwelling unit allotment allowed if building envelopes are sited to minimize visual impacts; i.e. located off ridge tops, outside of wooded areas.
- The maximum number of clusters for this acreage is two (2).

For parcels 161 – 200 acres:

- **Base Requirement:** One (1) additional dwelling unit allotment allowed if at least 50% of the parcel is placed in a permanent conservation easement, with the acreage in the conservation easement being contiguous.
- One (1) additional dwelling unit allotment allowed if lots are clustered. Clustered lots must be a minimum of 1.5 acres and a maximum of 5 acres.
- One (1) additional dwelling unit allotment allowed if building envelopes are sited to minimize visual impacts; i.e. located off ridge tops, outside of wooded areas.
- One (1) additional dwelling unit allotment allowed for the substantial size of contiguous land conserved and would require at least 65% of land to be placed in a conservation easement.
- The maximum number of clusters for this acreage is three (3). The number of clusters should be minimized given the lay of the land.

For parcels 201 – 240 acres:

- **Base Requirement:** One (1) additional dwelling unit allotment allowed if at least 50% of the parcel is placed in a permanent conservation easement, with the acreage in the conservation easement being contiguous.

- One (1) additional dwelling unit allotment allowed if lots are clustered. Clustered lots must be a minimum of 1.5 acres and a maximum of 5 acres.
- One (1) additional dwelling unit allotment allowed if building envelopes are sited to minimize visual impacts; i.e. located off ridge tops, outside of wooded areas.
- Two (2) additional dwelling unit allotments allowed for the substantial size of contiguous land conserved and would require at least 70% of land to be placed in a conservation easement.
- The maximum number of clusters for this acreage is three (3). The number of clusters should be minimized given the lay of the land.

For parcels 241 acres or greater:

- **Base Requirement:** One (1) additional dwelling unit allotment allowed if at least 50% of the parcel is placed in a permanent conservation easement, with the acreage in the conservation easement being contiguous.
- One (1) additional dwelling unit allotment allowed if lots are clustered. Clustered lots must be a minimum of 1.5 acres and a maximum of 5 acres.
- One (1) additional dwelling unit allotment allowed if building envelopes are sited to minimize visual impacts; i.e. located off ridge tops, outside of wooded areas.
- Three (3) additional dwelling unit allotments allowed for the substantial size of contiguous land conserved and would require at least 75% of land to be placed in a conservation easement.
- The maximum number of clusters for this acreage is four (4). The number of clusters should be minimized given the lay of the land.

d. Normal Density and Frontage

- i. The maximum allowable number of dwelling unit allotments for all existing parcels of twenty (20) acres or more as of the original adoption date of this ordinance (4/15/ 2004) shall be calculated as follows:

The number of allowable dwelling unit allotments when multiplied by twenty (20) acres, must be greater than or equal to ninety-five percent (95%) of the actual surveyed area of the parcel to be divided. This can be written as a formula as follows:

of allowable dwelling unit allotments (20 acres) $>$ 95% x area of original parcel

For example, if four (4) dwelling unit allotments are desired: Four dwelling units x 20 acres per dwelling unit allotment = 80 acres. Ninety-five percent (95%) of 80 acres is 76 acres. Therefore, parcels measuring 76 to 80 acres would be eligible for up to 4 dwelling unit allotments. Those parcels containing less than 76 acres would be eligible for up to three (3) dwelling unit allotments.

- ii. Any lots created along an existing town road, county highway, or state highway where the driveway for that lot comes off of the existing town road, county highway, or state highway, shall have a minimum of two hundred feet (200') of frontage on the existing town road, county highway, or state highway. Setback lots shall have a minimum of fifty feet (50') of frontage on the existing town road, county highway, or state highway.
- iii. An existing dwelling that has been occupied as a dwelling prior to the original enactment date (4/15/2004) of this ordinance on a parcel does not count against the allowed one dwelling unit allotment per twenty (20) acres.
- iv. Variances may be issued for instances which will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship that the spirit and purposes of this ordinance shall be observed and the public safety, welfare and justice secured. When making determinations about the appropriateness of the variance applications, the Town Plan Commission will analyze the proposal to see if it is compatible with the Town Vision Statement and related policies and comment and hold a hearing before making any recommendation on the granting of the variance. Recommendations of the Plan Commission will be referred to the Town Board, for final review and determination.
- v. Special Dwelling Unit Allotment Exceptions: The following is an exception to the limited number of dwelling unit allotments as calculated in this 10(d)(i): Non-Contiguous parcels: A non-contiguous parcel of land of less than twenty (20) acres that was in existence prior to the Town's enactment of this ordinance (4/15/2004).
- e. Information Required: The Plat or Certified Survey Map as called for in this ordinance shall show correctly on its face, in addition to the information required by Sec. 236.34 of the Wisconsin Statutes, the following:
 - i. Date of the map;
 - ii. Graphic scale;
 - iii. Name and address of the owner, land divider and surveyor.
- f. Certificates:
 - i. Surveyor: The surveyor shall certify on the face of the map that he has fully complied with all provisions of this ordinance;
 - ii. Town: The following certificate of approval shall be typed, lettered, or otherwise reproduced legibly on the face of the map:

APPROVED BY THE TOWN OF YORK

_____ (chairman) _____ (date)

_____ (clerk) _____ (date)

- g. Recording: The land divider shall record the Final Plat or Certified Survey Map with the Green County Register of Deeds after it has been approved, and shall file a certified copy of the recorded map with the Town Clerk within ten (10) days after the map is recorded.

12. PROCEDURE FOR APPROVAL OF LAND DIVISIONS -- TIER 2

Any land divider who seeks to divide land according to the guidelines outlined as Tier 2 of this ordinance shall comply with the following procedure:

- a. The proposed land divider shall prepare a Preliminary Parcel Division Inquiry. It shall be submitted to the Town of York Plan Commission for review. Preliminary Parcel Division Inquiry forms and instructions may be obtained from the Town Clerk. The inquiry shall include a legible map showing;
 - i. Boundaries and acreage of the original parcel and the proposed area to be conserved in a conservation easement.
 - ii. Proposed lots to be created thereon with lot widths and depths;
 - iii. Location of proposed improvements (including proposed septic placement, roads, and easements);
 - iv. Description of uses of land adjacent to proposed land division;
 - v. A description of all property owned or controlled by the subdivider contiguous to the proposed subdivision even though only a part of the area is proposed for immediate development;
 - vi. Topographical elevations, general soil conditions, seasonally wet areas, rock outcrops, areas with slope over 12 %, and location of natural waterways and other natural topographical features.
 - vii. Attribution of all existing dwelling unit allotments attached to the corresponding tax parcels
- b. The Plan Commission shall review the Preliminary Parcel Division Inquiry for compliance with the provisions of this ordinance. The Plan Commission shall review the records of the Town Clerk to determine if the parcel in question has been subject to previous division or is subject to deed restrictions.
- c. Upon approval of the Preliminary Parcel Division Inquiry by the Plan Commission, the land divider shall submit to the Plan Commission either a CSM if four (4) or less lots are proposed, or a preliminary plat map if more than four (4) lots are being proposed. Certified Survey Maps and associated documentation shall be prepared as described in Section 11 (e). of this ordinance, plat maps shall be prepared as described below.
- d. Procedures for submitting a plat:

Preliminary plat: The divider shall submit sufficient copies of the preliminary plat to the Plan Commission so that two (2) copies can be submitted by the Plan Commission to the agencies having authority to approve and review plats under the provisions of 236.10 and 236.12, Wis. Stats. The preliminary plat based upon an exterior boundary survey by a registered land surveyor shall include:

- i. Proposed area to be placed in the conservation easement;
- ii. Lot widths and depths;
- iii. Existing and proposed streets, parks, public access, community facilities, utilities and easements;
- iv. Land characteristics including soil classification, seasonally wet areas, and slopes over twelve percent (12%);
- v. Proposed filling, grading, lagooning, and dredging;
- vi. Delineation of any areas periodically flooded, shorelines and high-water lines.

The proposed layout shall be shown on a map at a scale of one inch equals one hundred feet (1"=100') and shall identify the improvements; grading, paving, installation of facilities including, if applicable, pre-planned sites for waste disposal and dedications or reservation of land which the subdivider proposes to make and shall indicate when the improvements will be provided.

Any proposed restrictive covenants for the land involved shall be stated. The Plan Commission shall review the preliminary plat, and if the conditions of this ordinance are met, will recommend that the preliminary plat be taken before the York Town Board who will approve, approve conditionally, reject, or table the preliminary plat within forty (40) days, as provided by 236.11, Wis. Stats. Failure of the Town Board to act within forty (40) days shall constitute an approval.

Final Plat: Sufficient copies shall be submitted to the Plan Commission within six (6) months of the preliminary plat approval unless this requirement is waived by the Town Board. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and State laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided in 236.12, Wis. Stats., before any lots are sold.

Replat: When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in 236.40 through 236.44, Wis. Stats. The subdivider, or person wishing to replat shall proceed as specified in the Preliminary Plat and Final Plat processes described in this ordinance. The Town Board shall schedule a public hearing before the Town Board when a preliminary plat of a replat of lands within the Town is filed, and shall cause notices of the proposed replat and public hearing to be mailed to the owners of all the properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within two hundred feet (200') of the exterior boundaries of the proposed replat.

- e. A Plat or CSM of the conservation easement, prepared by a registered surveyor, is REQUIRED in order to gain final approval by the Plan Commission and Town of York Board for the proposed Tier 2 land division.
- f. The owner(s), at their own expense, will, with the assistance of legal counsel, prepare land conservation easement documents relating to the areas set aside as required in this section.

In addition, the owner(s), at their own expense, will contract with a registered surveyor to prepare a CSM of the proposed conservation easement. The survey shall include an accurate legal description of the conservation easement. Upon completing these, the Owner(s) will present all of the original material plus the CSM and the executed conservation easement agreement to the Plan Commission. The Plan Commission shall forward its recommendation for approval, conditional approval, or rejection of the proposed division to the Town Board.

- g. Upon receiving the recommendation of the Plan Commission, the Town Board shall approve, approve conditionally, reject, or table the final plat within forty (40) days, as provided by 236.11, Wis. Stats. Failure of the Town Board to act within forty (40) days shall constitute an approval. As a condition of approval the Town Board may require the land divider to include deed restriction language on any instrument of conveyance.
- h. No Driveway Permit will be issued and no construction shall commence on a lot created by a land division which does not comply with the provisions of this ordinance.

13. LAND SUITABILITY

No land shall be divided which is held unsuitable for the proposed use by the Plan Commission for reasons of flooding or potential flooding, inadequate drainage, adverse soil or rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate septic or sewerage disposal capabilities, improper utilization of prime agricultural soils, conflict with the goal of managing important agricultural lands for their highest and best agricultural use, undue costs or inefficiency in the provision of government services, or any feature likely to be harmful to the health, safety, or welfare of the future residents or users of any lot, parcel or proposed land division or proposed subdivision or of the community, or if the land is identified as environmentally sensitive as defined below. No land shall be divided or subdivided if the Plan Commission and/or Town Board determine that the division or subdivision will materially interfere with existing agricultural uses or will conflict with other goals, objectives and policies contained in the Town of York Comprehensive Plan and this ordinance.

Areas identified as environmentally sensitive include, but are not limited to:

- a. All areas mapped as Floodplain by the Federal Emergency Management Agency (FEMA), Wisconsin Department of Natural Resources (DNR), or other public or private entity.
- b. All wetlands as defined in NR 103.02(5), Wis. Admin. Code, including a 75 foot buffer.
- c. All areas within 75 feet of the ordinary high-water mark of navigable streams and lakes, as identified by the Wisconsin Department of Natural Resources Water Management Specialists.
- d. Areas that are known to provide habitat for rare, threatened or endangered species.
- e. Burial sites and Indian mounds.
- f. Drainage ways that contain running water during spring runoff, during storm events or when it rains. A 25-foot buffer from the edge of the drainage way shall be included.

The Plan Commission in applying the provisions of this ordinance shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed division, and afford the land divider an opportunity to present evidence regarding suitability at a public hearing before the Town Board. Thereafter, the Town Board may affirm, modify, or overturn the recommendation of unsuitability.

14. PENALTIES

Any person, firm, or corporation who fails to comply with the provisions of this ordinance shall, upon conviction, be subject to penalties and forfeitures as provided in Sections 236.30, 236.31, 236.32, 236.335, and 236.35 of the Wisconsin Statutes.

15. INTERPRETATION

In their interpretation and application, the regulations contained in this ordinance shall be held to be the minimum requirements for the promotion of public health, safety and general welfare. These regulations shall be construed broadly in favor of the Town of York to promote the purposes for which they were adopted.

16. SEVERABILITY

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Town Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may have been declared invalid. If any provision of this ordinance or the applicability thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

17. FEES

The Town Board may, by resolution, establish reasonable fees for the administration of this ordinance.

18. EFFECTIVE DATE

This ordinance shall take effect one day after its publication or posting as required by law.

Land Division-Development and Transfer Ordinance #14-1 and its amendments are hereby rescinded and replaced by Ordinance #16-03

Posted on October 13, 2016. Effective date October 14, 2016.

This ordinance was adopted by the Town of York Board of Supervisors at a meeting on this 11th day of October, 2016 by a vote of "3" yes and "0" no.

Dan Reeson, Chairman _____

Tim Czerwonka, 1st Supervisor _____

Steve Hermanson, 2nd Supervisor _____

Nancy Anderson, Clerk (attest) _____

Original signed copy on file with the Town Clerk

Dwelling Unit Relinquishment Form -Town of York, Green County

Ordinance #16-03

Name or Names of Relinquisher(s)_____

Number of Dwelling Unit Allotments being Relinquished_____

Tax Number of Affected Parcel_____

CSM Number (if applicable)_____

Notarized signature(s) of Relinquisher(s)

Signature of Notary Public_____

Date_____

Signature of Plan Commission Chairman_____

Date_____

Signature of York Town Board Chairman_____

Date approved by York Town Board_____

Form revised 8-20-2016

PRELIMINARY PARCEL DIVISION/TRANSFER INQUIRY FORM
TOWN OF YORK

Please complete this form and bring it and other required documents with you to a meeting of the York Township Plan Commission. (Please call a Plan Commission Member to be put on the agenda.) The Plan Commission meets on the first Tuesday of each month at 7:00 p.m.

Name of Applicant _____

Address _____

Phone: Daytime (____) _____ Evening(____) _____ Email _____

Status of Applicant-Current Landowner **Yes** or **No** (circle one) (If not current landowner, please explain reason for application)

Description of land proposed for division/transfer:

Section _____ Parcel
Number(s) _____

Intended use of land _____

Name of Proposed New Owner _____

Email and/or Phone Number _____

Dwelling Unit Allotment(s):

Number of Dwelling Units Allotted to Parcel _____

Number of Dwelling Units Being Transferred _____

Number of Remaining Dwelling Unit Allotments _____ (# DU Allotted - # DU Transferred)

PLEASE ATTACH A PLAT MAP OR CSM OF THE PROPOSED DIVISION/TRANSFER WITH ALL INFORMATION AS REQUIRED IN THE Town of York LAND DIVISION ORDINANCE, SECTS. 9 OR 11.

Applicant's signature _____ Date _____

This form is to be presented to the Town of York Plan Commission for review and approval before it is submitted to the York Town Board.

Plan Commission Recommendation _____

Plan Commission Chairman Signature _____ Date _____

Board Approval _____

Town Chairman Signature _____ Date _____

Please note: This form is for administrative use solely by the Town of York. It is recommended that the dwelling unit allocations be recorded on a legal document filed with the Register of Deeds.