

CHAPTER 26
SUBDIVISION REGULATION

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SUBDIVISION REGULATIONS

Sec. 26.01 Introduction and Purpose

- a) **INTRODUCTION.** In accordance with the authority granted by Section 236.45 of the Wisconsin Statutes and for the purposes listed in Section 236.01 and 236.45 of the Wisconsin Statutes, the Village Board of the Village of Whiting does hereby ordain as follows:
- (1) The provision of this Chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Village.
 - (2) This Chapter shall not repeal, impair or modify private covenants or public ordinances, except that it shall apply whenever it imposes stricter restrictions on land use.
- b) **PURPOSE.** The purpose of this Chapter is to promote the public health, safety, convenience, and general welfare. The regulations are designed to lessen congestion in the streets, to foster the orderly layout and use of land; to insure safety from fire, flooding, panic and other dangers, to provide optimum light and air; to discourage overcrowding of the land; to lessen concentration of population, to facilitate adequate provision of transportation, public water and sewage, schools, parks, playgrounds and other public necessities, and to facilitate the further division of large tracts of land into smaller parcels. The regulations are made with reasonable consideration of, but not limited to, the present character of the Village and its environments, with the objectives of conserving the value of the land and improvements placed thereon, providing the most appropriate environment for human habitation, encouraging commerce and industry, and providing for the most appropriate use of land in the Village. This Chapter is further intended to promote the application of conflicting land uses, to protect the value of property; to serve as a tool to help manage the location and timing of growth; to provide for economical and efficient development; and to protect the fiscal integrity of the Village government.
- c) **MANDATE.**
- (1) Major Subdivision (Plat). Any division of land within the Village of Whiting or its extraterritorial plat approval jurisdiction which results in a major subdivision as defined herein shall be surveyed and a plat thereof approved and recorded as required by this Chapter and Chapter 236, Wis. Stats.
 - (2) Minor Subdivision (Certified Survey Map.) Any division of land within the Village of Whiting or its extraterritorial plat approval jurisdiction which results in a minor subdivision as defined herein shall be surveyed and a certified survey map thereof approved and recorded as required by this Chapter.

Sec. 26.02 Definitions

- a) For the purposes of this Chapter, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory and not directory or precatory. The definitions herein shall apply with equal effect to the division or creation of lots or building sites whether or not said tracts shall at such time be part of a previously platted subdivision.
- (1) Alley. A public right-of-way affording only secondary vehicular access to abutting property.
 - (2) Building Line. A line parallel to a lot line and at a distance from the lot line to comply with the yard and setback requirements.
 - (3) Collector Street. A street used, or intended to be used, to carry traffic from minor streets to the major system of arterial streets including the principal entrance streets to residential development.
 - (4) Community. A town, municipality, or group of adjacent towns and/or municipalities having common social, economic, or physical interest.
 - (5) Comprehensive Plan. An extensively developed plan, also called a Development Guide or Master Plan, which may be adopted by the Plan Commission and village Board pursuant to Section 62.23 of the Wisconsin Statutes, including proposals for future land use, transportation and public facilities. Devices for the implementation of these plans, such as zoning, official map, land division regulations, building codes, and capital improvement programs shall also be considered a part of the comprehensive plan. The official map, for the purposes of this Chapter, may also be considered independent of the comprehensive plan.
 - (6) Cul-de-sac. A short street having but one end open to traffic and the other end being permanently terminated in a vehicular turnaround.
 - (7) Easement. Is the area of land set aside or over 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.
 - (8) Extraterritorial Plat Approval Jurisdiction. The area exiting one and one-half (1-1/2) miles beyond the Village corporate limits or to a point equidistant between the corporate limits of the Village of Whiting and the corporate limits of any other incorporated municipality, whichever is less. This is the area within which

- the Village Board shall exercises the authority to approve plats and certified survey maps with such authority provided in Sections 236.45(3) and 236.10(1) (6)2., Wis. Stats.
- (9) Frontage Street. A minor street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.
 - (10) Local Street. A street of little or no continuity designed to provide access to abutting property and leading into collector streets.
 - (11) Lot. A place, parcel or plot of land with yards fronting a street intended for building development or as a unit for transfer of ownership, and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions, pursuant to the Zoning Ordinance, except as specifically authorized by Village Board.
 - (12) Lot, Corner. A lot abutting intersection streets at their intersection.
 - (13) Lot, Reserved Corner. A corner lot which is oriented so that it has its rear lot line coincident with or parallel to the side lot line of the interior lot immediately to its rear.
 - (14) Lot, Through. A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot. On a “though lot,” both street lines shall be deemed front lot lines.
 - (15) Lot, Area. The total area in a horizontal plane within the peripheral boundaries of a lot.
 - (16) Lot Lines. The peripheral boundaries of a lot as defined herein.
 - (17) Lot Width. The width of a parcel of land measured allowing the front building line.
 - (18) Major Street. A street designated by the Village Board as an arterial street.
 - (19) Major Subdivision. A division of a lot, parcel, or tract of land by the owner thereof or his agent for the purpose of sale or of building development or other improvement where:
 - a. The act of division creates five (5) or more lots, parcels or out lots of any size in area; or
 - b. Five (5) or more lots, parcels or out lots of any size which are created by successive divisions within a period of five (5) years.
 - (20) Minor Street. A street used, or intended to be used, primarily for access to abutting properties.
 - (21) Minor Subdivision. The division of land by the owner or subdivider resulting in the creation of two (2) to four (4) lots, parcels, outlots, or building sites, of any size, or the division of a lock, lot, or outlot within a recorded subdivision plat into not more than four (4) lots or building sites without changing the exterior boundaries of said block, lot, or outlot, and which is not defined as a subdivision by Sec. 236.02(8), Wis. Stats.
 - (22) Official Map. A map which may be developed by the Village Board showing the Village of Whiting and its extraterritorial plat approval jurisdiction, together with its extraterritorial zoning jurisdiction, if any, showing the streets, highway, parkways, parks and play grounds laid out, adopted and established by law, to be final and conclusive with respect to the location and width of said streets, highways, and parkways, and the location and extent of parks and playgrounds shown thereon.
 - (23) Owner. Includes the plural as well as the singular and may mean either a natural person firm, association, partnership. Private corporation, public or quasi-public corporation, or combination of these.
 - (24) Outlet. An outlot is a parcel of land, other than a lot or block, so designated on the plat.
 - (25) Pedestrian Pathway. A public way, usually running at right angles to streets, which is intended for the convenience of pedestrians only, it may also provide public right-of-way for utilities.
 - (26) Plan Commission. A body which shall be instituted by the Village Board consisting of the Village President, a trustee, and five (5) local citizen members of recognized experience and qualifications. The functions of the Plan Commission are to develop the comprehensive plan, including the official map, review all subdivision plats and minor subdivision maps, and make recommendations on land use and other duties as stated in section 62.23 of the Wisconsin Statutes.
 - (27) Preliminary Plat. A map showing the salient features of a proposed subdivision submitted to an approving authority for purposed of preliminary consideration.
 - (28) Public Way. Any public road, street, highway, walkway, drainage way, or part thereof.
 - (29) Replat. The changing of the boundaries of a recorded subdivision plat or part thereof.
 - (30) Setback. Minimum distance from property lines as set forth in this Subdivision Chapter.
 - (31) Subdivider. Any person, firm, or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, minor subdivision or replat.
 - (32) Surveyor. A State of Wisconsin registered land surveyor.
 - (33) Zoning Ordinance. A set of mandatory rules and regulation which may be instituted and amended from time to time by the village Board describing what uses, and the requirements for such uses, allowed on land within the Village of whiting, its extraterritorial plat approval jurisdiction, and its extraterritorial zoning jurisdiction, if any.

Sec. 26.03 General Provisions

- a) **COMPLIANCE.** No person shall divide any land located within the jurisdictional limits of these regulations which results in a subdivisions, land division, or a replat as defined herein; no such subdivision, land division or replat shall be entitled to record; and no street shall be laid out or improvements made to land without compliance with all requirements of this chapter and the followings:
- (1) The provisions of Chap. 236. and Sec. 80.08, Wis. Stats.
 - (2) The rules of the Division of Health contained in Wis. Adm. Code for Subdivisions H65 not served by public sewer.
 - (3) The rules of the Division of Highways, Wisconsin Department of Transportation contained in Wis. Adm. Code for subdivision H33, which about a state trunk highway or connecting street.
 - (4) The rules of the Wisconsin Department of Natural resources contained in Wis. Ad. Code for Floodplain Management program.
- b) **JURISDICTION.** Jurisdiction of these regulations shall include all lands within the corporate limits of the Village as well as the unincorporated area within one and one-half (1-1/2) miles of the corporate limits as provided in Sec. 236.10 and 62.32, Wis. Stats. The provisions of this Chapter, as they apply to divisions of tracts of land into less than five (5) parcels, shall not apply to:
- (1) Transfers of interests in land by will or pursuant to court order;
 - (2) Leases for a term not to exceed ten (10) years, mortgages or easements;
 - (3) The sale or exchange of parcels
- c) **PERMITS.** No building permit shall be issued by the Village authorizing the building on or improvement of any parcel of land not on record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been met.

Sec. 26.04 Procedure for Submitting Subdivisions

- a) **SUBDIVISION**
- (1) **Pre-Application Meetings.** Before filing a preliminary plat, or certified survey, the subdivider is encouraged to consult with the Plan Commission Chairman and the Village staff for advice and assistance. The subdivider should also consult with the Village Utility Director regarding the availability of utilities for the proposed development. This step does not require formal application, fee, or filing of a plat, but is intended to explain to the subdivider the purposes and objectives of these regulations, the comprehensive plan, official map, utility provisions, and to informally reach mutual conclusions regarding the general program and objectives of the proposed development.
 - (2) **Preliminary Plat.**
 - a) The Subdivider shall submit to the Village Board and to those agencies having the authority to object to plats under provisions in Chapter 236 of the Wisconsin Statutes, a preliminary plat (or certified survey) based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale of not more than one (1) inch per one hundred (100) feet having two (2) foot contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), easements which the subdivider proposes to make and shall indicate by accompanying letter when the improvements will be provided. The subdivider shall submit ten (10) copies of the preliminary plat, clearly marked "preliminary plat" to the Clerk-Treasurer of the Village, who shall forthwith forward the same to the Plan Commission. These copies shall be filed with the Clerk-Treasurer at least ten (10) days prior to the Plan Commission meetings at which action is desired. Any proposed restrictive covenants for the land involved shall be submitted.
 - b) The Village Board shall submit a copy of the preliminary plat to the Village Plan Commission, and, at its option to the Village Engineer and/or Land Planning Consultant for review and written report of their recommendations and reactions to the proposed plat.
 - c) After review of the preliminary plat or survey map and negotiations with the subdivider on changes being advisable and the kind and extent of public improvements which will be required, the Plan Commission shall reject, approve or approve conditionally the preliminary plat, or request and receive an extension of time for such consideration with the subdivider. Approval, approval with conditions, or rejection of a subdivision plat shall be based on consistency or conflict with the Village's subdivision ordinance; Sections 236.20 and 236.45 of the Wisconsin Statutes; the zoning ordinance; official map; and any other preliminary or adopted Village plans, policies, or studies that are designated as applicable in the review of subdivision plats.

- d) If the Plan Commission rejects the plat or map, it shall return it to the owner. If it approves or conditionally approves the plat or map, it shall make its recommendation to the Village Board.
 - e) If the Plan Commission approves or conditionally approves the preliminary plat, the Village Board shall, within ninety (90) days of the date the plat was filed with the Village Clerk-Treasurer, approve, approve conditionally or reject such plat and shall state, in writing, any conditions of approval or reasons for rejection, unless the time is extended by agreement by the subdivider. Failure of the Village Board to act within ninety (90) days or extension thereof shall constitute and automatic approval of the preliminary plat, unless other authorized agencies object to the plat. The Clerk-Treasurer shall communicate to the subdivision the action of the Village Board. If the plat or map is approved, the Clerk-Treasurer shall endorse it for the Village Board.
- (3) Property Owners Association. The Plan Commission may require submission of a draft of the legal instruments and rules for proposed property owners associations when the subdivider proposes that common property within a subdivision would be wither owned or maintained by such an organization of property owners.
- (4) Affidavit. The surveyor preparing the preliminary plat shall certify on the face of the plat that it is a correct representation of all existing land divisions and features and that he has fully complied with the provisions of this Chapter.
- (5) Final Plat.
- a. Final Plats shall be submitted to the Village within six (6) months of preliminary plat acceptance unless this requirement is waived in writing by the Village Board.
 - b. 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 by Section 236.12(2), Wisconsin Statutes. The final plat map, if permitted by the Village Board, may constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time. The Village Board may, at its option only, waive failure to comply with this requirement.
 - c. The subdivider shall file ten (10) copies of the final plat with the Village Clerk-Treasurer at least ten (10) days prior to the Plan Commission meetings at which action is desired.
 - d. The Village Clerk-Treasurer shall forward the plat or map and plans and specifications of public improvements to the Plan Commission. He shall forward copies of the plat to the Director of Local affairs and development, as provided by Sec. 236.12(2), Wis. Stats.
 - e. If necessary, the Plan Commission shall refer the final plat or map and final plans and specifications of public improvements to the Village Engineer for review.
 - f. The Village Engineer shall examine the plat or map and final plans and specifications of public improvements or technical details and, if he finds them satisfactory, shall so certify in writing to the Plan Commission.
 - g. If the plat or map or the plans and specifications are not satisfactory, the Village Engineer shall return them to the owner and so advise the Plan Commission.
 - h. The Plan Commission which shall refer said final plat with its recommendations to the board. If recommended by the Plan Commission, and if permitted by the Village Board, the final plat may constitute only that portion of the approved preliminary plat which the owner proposes to record at that time.
 - i. The final plat shall be accepted or rejected by the Village Board within sixty (60) days of its submission, unless the time is extended by an agreement with the subdivider. When the Village Board determines to approve to the plat, it shall give at least ten (10) days prior written notice of its intention to the Clerk of any municipality whose boundaries are within one thousand (1,000) feet of any portion of such proposed plat. Reasons for rejection shall be stated in the minutes of the Village Board meeting and a copy thereof or a written statement of such reasons supplied to the subdivider. If the Village Board fails to act within sixty (60) days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the plat shall be deemed to be approved, and upon demand, a certificate to that effect shall be made on the face of the plat by the Clerk-Treasurer of the Village which has failed to act in accordance with sec. 236.11(2), Wis. Stats. Following the approval of the plat as certified by all necessary officials, the plat shall be recorded in accordance with the requirements of the Wisconsin Statutes. The plat shall be recorded prior to the time that lots are offered for sale, reference is made to the map for sales purposes, or use is made of lot and block numbers on the plat.
 - j. If the original of the final plat has been files with another approving authority, the subdivider may file a true copy of such plat in lieu of the original. However, before approval of the Village Board will be

inscribed on the original of the final plat, the surveyor or subdivider shall certify the respects in which the original of the final plat differs from the true copy and all modifications must first be approved by the Village Board.

(6) REPLAT.

- a. 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 Sections 236.40 through 236.44 of the Wisconsin Statutes. The subdivider, or person wishing to replat, shall then proceed as specified in Subsection (a) above.
- b. The Village Clerk shall schedule a public hearing before the Plan Commission when a Preliminary Plat of the replat of lands within the Village is filed, and shall cause notices of the proposed replat and public hearing to be mailed to the owners of all properties within the limits of the exterior boundaries of the proposed replat and to the owners of all properties within two hundred (200) feet of the exterior boundaries of the proposed replat.

(7) ASSESSOR'S PLAT OPTIONAL FOR SUCCESSIVE SUBDIVISION.

- a. When it is not practical to require that a final plat of a subdivision created by successive divisions be filed in accordance with this ordinance, the Village Board may in lieu thereof order an assessor's plat to be made under Section 70.27 of the Wisconsin Statutes and may assess the cost thereof as provided in such Section, or to the subdivider.
- b. Regardless of the type of plat filed, any such subdivision shall comply with all provisions of this Chapter to the extent that they may reasonably be applied.

Sec. 26.05 Procedure for Minor Subdivisions - Certified Survey Maps

- (a) CERTIFIED SURVEY MAP. When it is proposed to divide land into two (2) to four (4) lots, of any size, or when it is proposed to divide a block, a lot or outlot into not more than four (4) lots or building sites within a recorded subdivision plat without changing the boundaries of said block, lot or outlot, the subdivider may subdivide by use of a Certified Survey Map. The subdivider shall prepare the Certified Survey Map in accordance with this Ordinance and shall file ten (10) copies of the map with the Village Clerk-Treasurer ten (10) days prior to the meeting of the Plan Commission at which action is desired.
- (b) CONSULTATION. It is recommended that prior to submitting a certified survey map for approval, the subdivider consult with the Plan Commission Chairman, Utilities Director and any other appropriate staff for advice and assistance. This step does not require formal application, fee, or filing of a certified survey map, but is intended to explain to the subdivider the purposes and objectives of these regulations, the comprehensive plan, official map, utility provisions, and to informally reach mutual conclusion regarding the proposed development.
- (c) REVIEW PROCEDURE. The Village Clerk-Treasurer shall transmit the copies of the map of the Plan Commission and to all affected boards, commissions or departments for their review and recommendations concerning matters within their jurisdiction. Their recommendations shall be transmitted to the Plan Commission. The Plan Commission shall recommend approval, conditional approval, or rejection of the Map, to the Village Board based on consistency or conflict with the Village's subdivision ordinance; Sections 236.34 and 236.45 of the Wisconsin Statutes; the zoning ordinance, official map; and any other preliminary or adopted Village plans, policies, or studies that are designated as applicable in the review of certified survey maps. The Village Board shall approve, conditionally approve, or reject such certified survey map within ninety (90) days of its original submitted date.
- (d) CERTIFICATION. If the map is rejected by the Village Board, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider. If the map is approved, the Village Board shall cause the Village Clerk-Treasurer and President to so certify on the original map and return the map to the subdivider.
- (e) RECORDING. The subdivider shall record the map with the County Register of Deeds within thirty (30) days of its approval by the Village Board. Immediately following recording, the subdivider shall file two (2) certified copies (by the Register of Deeds) of the Certified Survey Map with the Village Clerk-Treasurer.

Sec. 26.06 Drafting and Data Requirements

a) PRELIMINARY PLATS.

- (1) The preliminary plat shall be drawn with waterproof, nonfading black ink or legibly drawn with pencil or tracing cloth, or tracing paper of good quality, on a scale of not more than one hundred (100) feet to an inch and shall be in sufficient detail and contain such information as will enable the Plan Commission to determine whether the design of the final plat will conform to this ordinance.

- (2) Supplementary Information. The subdivider shall furnish the following information with is preliminary plat:
 - a. A brief description of the improvements such as grading, paving, tree planting, installation of utilities which the subdivider proposes to make and the time when he proposes to make them
 - b. A brief description of deed restrictions, if any, which will be put on the plat.
- (3) The preliminary plat shall show:
 - a. The location of present property lines, streets, buildings, watercourses, tree masses and other existing features of the area to be subdivided and similar information regarding existing conditions of land immediately adjacent thereto.
 - b. The proposed location, width, and grade of streets, alleys, lots, building and setback lines and easements.
 - c. Existing sanitary and storm sewers, water mains, culverts, and other underground structures or utilities within the tract or immediately adjacent thereto.
 - d. The title under which the proposed subdivision into be recorded and the name of the subdivider platting the tract.
 - e. The size in square feet and frontage of each proposed lot.
 - f. The names and adjoining boundaries of all adjoining subdivisions and the names of recorded owners of adjoining parcels or unsubdivided land
 - g. Contours with intervals sufficient to determine the character and topography of the land to be subdivided, but in no case shall the intervals be more than five (5) feet.
 - h. North Point, scale, date, owners of subdivision, name of surveyor.
- b) FINAL PLATS.
 - (1) A final plat of subdivided land shall comply with the requirements of Section 236.20 of the Wisconsin Statutes, which is hereby adopted by reference.
 - (2) The affidavits and certificates required by Chapter 236, Wisconsin Statutes shall be lettered or printed legibly with black durable ink or typed legibly with black ribbon on the final plat.
 - (3) The final plat shall show:
 - a. Private restrictions and trusteeships and their periods of existence. Should these restrictions or trusteeships be of such length as to make their lettering on the plat impractical and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat.
 - b. Acknowledgement of the owner or owners to the plat and restrictions, including dedication to public use of all streets, alleys, parks, or other open spaces shown thereon and the granting of easements required.
- c) CERTIFIED SURVEY MAPS.
 - (1) General. A certified survey map prepared by a registered land surveyor shall be required for all minor subdivisions within the corporate limits and the Village's extraterritorial jurisdiction except as provided in paragraph (a) and (b) below. Such survey map shall comply in all respects with the requirements, design standards, and required improvement as specified in Section 10-3-7 herein. Certain land divisions are exempted by Chapter 236.45(2) of the Wisconsin Statutes as follows:
 - a. Transfer of interests in land by will or pursuant to court order;
 - b. Leases for a term not to exceed ten (10) years, mortgages or easements;
 - c. The sale or exchange of parcels of land between owners of adjoining property if additional or new lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by Chapter 236 of the Wisconsin Statutes and the zoning and subdivision ordinances of the Village of Whiting.
 - d. Surveys of parcels or lots of record existing at the time of adoption of this ordinance or subsequently approved by the Village Board, where dedications for public purposes are not involved.
 - (2) Additional Information. The map shall show correctly on its face, in addition to the information required by Section 236.34 of the Wisconsin Statutes, as follows:
 - a. All existing buildings, watercourses, drainage ditches, and other features pertinent to proper division.
 - b. Setbacks or building lines required by the Zoning Ordinance or Village Plan Commission.
 - c. All lands reserved for future acquisitions.
 - d. Date of the map.
 - e. Graphic scale.
 - f. Name and address of the owner, subdivider, and surveyor.
 - g. The size in square feet of all parcels being created or surveyed.
 - h. Existing sanitary and storm sewers, water main, culverts, and other underground structure or utilities within the tract or immediately adjacent thereto.
 - (3) Certificates.

- a. The surveyor shall certify on the face of the map that he has fully complied with all the provisions of the Ordinance. The Village Board, after a recommendation by the reviewing agencies, shall certify its approval on the map.
 - b. Dedication of streets and other public areas shall require, in addition, the owner's certificate and the mortgagee's certificate in substantially the same form as required by Section 236.21(2) (a) of the Wisconsin Statutes.
- (4) Recordation. The Certified Survey Map shall only be recorded with the County Register of Deeds after the certificates of the Village Board and the surveyor are placed on the face of the map and signed by the required parties.

Sec. 26.07 Design Standards and Required Improvements - General

All proposed subdivisions of minor subdivisions shall conform to:

- a) The provisions of Chapter 236, Wisconsin Statutes.
- b) All applicable ordinances of the Village of Whiting.
- c) The rules of the State Highway Commission relating to safety of access and the preservation of the public interest and investment in the streets, if the subdivision or any lot contained therein abuts on a state trunk highway or connecting street.
- d) The duly approved comprehensive plan, official map, and zoning ordinance, or special plan such as a sewer and water plan, solid water plan, etc.
- e) No land shall be subdivided which is held unsuitable for such use by the Village Board for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography, pollutants of ground or surface water, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the Village. The Village Board in applying the provisions of this Section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for residential use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter, the Village Board may affirm, modify, or withdraw its determination of unsuitability.

Sec. 26.08 Design Standards - Utilities

a) SANITARY SEWERS.

- (1) A public sanitary sewer system adequate to serve the subdivision and compatible with the Village-wide sanitary sewer development plan shall be provided and include a lateral connection for each lot and a satisfactory connection to the Village sanitary sewer system. Each lateral shall be marked in the field by a five (5) foot Douglas fir stake four inches by four inches (4" X 4") visible above the ground. The subdivider shall pay for one hundred (100%) percent of the costs necessary to install these improvements.
- (2) If a sewage lift station is necessary to serve the subdivision, the subdivider shall share in the cost of the lift station and associated force main in the same ratio that the land area of the subdivision bears to the total area served by the lift station. The subdivider shall pay one hundred (100%) percent of the total construction cost of the lift station and force main up front. The Village will reimburse the subdivider for special assessments which are levied and immediately paid by affected property owners. In the event that special assessments are deferred or paid over a five (5) year period, the subdivider will be reimbursed when the special assessments are paid or when installment payments are received.
- (3) If it is necessary to traverse unimproved land with sanitary sewer to serve the proposed subdivision, the Village may authorize installation of such sanitary main and the subdivider shall pay one hundred (100%) percent of the cost of such construction up front. The Village will reimburse the subdivider for special assessments which are levied and immediately paid by benefited property owners. In the event that special assessments are deferred or paid over a five (5) year period, the subdivider will be reimbursed when the special assessments are paid or when installment payments are received.
- (4) The Village may authorize the subdivider to construct the necessary sanitary sewer facilities provided that the subdivider enter into a development agreement with the Village agreeing to pay one hundred (100%) percent of the cost of such sanitary sewer facilities. In the event that such construction benefits land outside of the subdivision, authorization will be granted only if the appropriate waives in writing any and all rights to reimbursement from the Village and agrees to pay for one hundred (100%) percent of the cost of such sanitary sewer.
- (5) All proposed sanitary sewer extensions require a review by the Portage County Planning Department to check conformance with the Stevens Point Urban Area Sewer Service Plan. Wisconsin Department of Natural Resources approval of all sanitary sewer design plans is also required prior to extending of any sewer lines.

- b) **WATER MAIN.**
 - (1) A public water main extension adequate to serve the subdivision and compatible with the Village-wide water system shall be provided and include a lateral connection for each lot and a satisfactory connection to the Village water system. Each lateral shall be marked in the field by a five (5) foot Douglas fir stake four inches by four (4" X 4") inches, visible above the ground. The subdivider shall pay for one hundred (100%) percent of the costs necessary to install these improvements.
 - (2) The same provisions for water main shall apply as applicable to sanitary sewer in Subsections (a) (3) and (4) above.
- c) **OTHER UTILITIES.** The subdivider shall cause gas, electrical power, street lights, and cable facilities to be installed in such a manner as to make service available to each lot. All such utilities shall be installed underground within the boundaries of the subdivision. The subdivider shall have written statements from all the utilities stating that the easements as shown on the final plat are acceptable to them. The subdivider shall pay for one hundred (100%) percent of the costs necessary to install these utilities.
- d) **STORM SEWER.** Storm sewer facilities where required by the Village Board shall be constructed within the subdivider boundaries in the locations and sizes needed to accommodate the design flow volumes. Such facilities shall include mains, channels, inlets, catch basins, dry wells, and laterals are required. The subdivider shall pay one hundred (100%) percent of the cost of such construction up front. The Village will reimburse the subdivider for special assessments which are levied and immediately paid by benefited property owners. In the event that special assessments are paid by benefited property owners. In the event that special assessments are deferred or paid over a five (5) year period, the subdivider will be reimbursed when the special assessments are paid or when installment payments are received.
- e) **EASEMENTS.** Easements across lots or centered on rear or side lot lines shall be provided for the installation of utilities when necessary and shall be at least ten (10) feet wide and such easements shall be continuous from block to block. When an easement is centered on a rear or side lot line, the width of the easement in each lot can be added together to meet the width requirements.

Sec. 26.09 Design Standards - Streets

- a) **COMPLIANCE WITH STATUTES.** In laying out a subdivision, the owner shall conform to the provisions of Chapter 236, Wis. Stats., and all applicable code sections. In all cases where the requirements of the code section are different from the requirements of Chapter 236, the more restrictive shall apply.
- b) **DEDICATION.** The subdivider shall dedicate land and improve streets as provided herein. Streets shall be locate with due regard for topographical conditions, natural features, existing and proposed streets, utilities and land uses and public convenience and safety. Streets shall conform to the official map of the Village.
- c) **GENERAL CONSIDERATION.** Streets shall be designed and located in relation to existing streets and planned streets on the official map, to topographic conditions and natural terrain features such as streams and existing tree growth, to public convenience and safety, and in appropriate relations to the proposed uses of the land to be served by such streets.
- d) **MAJOR STREET AND HIGHWAY PROTECTION.** Whenever the proposed subdivision contains or is adjacent to a major street or highway, adequate protection of residential properties, limitation of access and separation of through and local traffic shall be provided by reversed frontage with screen planting contained in a non-access reservation along the rear property line, or by the use of frontage streets.
- e) **ALIGNMENT AND VISIBILITY.** There shall be a minimum sight distance with clear visibility along the centerline of all major streets of not less than three hundred (300) feet.
- f) **STREET NAMES.** All streets and public ways shall be named and designated by appropriate markers at all street intersections of the proposed plat. There shall be no duplication of the name of any street heretofore used in the Village unless the street is an extension of an existing street, in which case the existing street name shall be used. Street markers shall conform to materials and be set in a manner approved by the Village Board.
- g) **CURB AND GUTTER.** Curb and gutter may be required by the Village Board if determined necessary and in the public interest. The subdivider shall pay one hundred (100%) percent of the cost of such improvements.
- h) **SIDEWALKS.** Sidewalks may be required on all new streets by the Village Board if determined necessary and in the public interest. The subdivider shall pay one hundred (100%) percent of the cost of such improvements.
- i) **GRADES.** The grade of streets shall not exceed sin (6%) percent unless necessitated by topography and approved by the Village Board.
- j) **RADII OF CURVATURE.** When a continuous street centerline deflects at any one point more than five (5°) degrees, a circular curve shall be introduced having a radius of curvature on said centerline of not less than the following:

Major Streets.....300 feet

Minor Streets.....100 feet

- k) CONTINUATION. Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit. Provision shall be made so that all proposed streets shall have a direct connection with, or be continuous and in line with, existing, planned or platted streets with which they are to connect. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Plan Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with existing layout or the most advantageous future development of adjacent tracts.
- l) NUMBER OF INTERSECTIONS.
 - (1) The number of intersection of minor streets with major streets shall be reduced to the practical minimum consistent with circulation needs and safety requirement.
 - (2) When streets intersect and cross major streets, their alignment shall be continuous and street jogs or off-center intersections shall be avoided.
 - (3) Streets shall intersect as nearly as possible at right angles or allow for vision triangles.
 - (4) Not more than two (2) streets shall intersect at one point unless approved by the Village Board.
- m) FRONTAGE ROADS. When a subdivision abuts or contains an existing or proposed major highway, the Village Board may require a frontage road, nonaccess reservation along the rear of the property contiguous to such highway, or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.
- n) TANGENTS. A tangent at least one hundred (100) feet long shall be required between reverse curves on major and collector streets. On all streets at least one hundred (100) feet of tangent shall be provided between the curve and any intersection.
- o) VISIBILITY. Streets shall afford maximum visibility and safety and shall intersect at right angles, where practicable.
- p) HALF STREETS. Where a half street is adjacent to the subdivision, the other half street shall be dedicated by the subdivider. The platting of half-streets should be avoided if possible.
- q) ALLEYS. Alleys may be provided in commercial and industrial districts for off-street loading and service access subject to approval of the Village Board. Dead-end alleys shall not be approved and alleys shall not connect to a major thoroughfare. Alleys shall not be less than twenty-four (24) feet in R.O.W. width and shall be continuous through blocks. Alleys shall not be used in residential areas.
- r) STREET DESIGN STANDARDS. The minimum right-of-way and roadway width of all proposed streets and alleys shall be as specified by the comprehensive plan, comprehensive plan component, official map or neighborhood development study; or if no width is specified therein, the minimum widths shall be as follows:

Urban Section

<u>Type of Street</u>	<u>R.O.W. Width To Be Dedicated</u>	<u>Pavement Width (Face of Curb to Face of Curb)</u>
Arterial Streets	Variable*	44 to 52 feet
Minor Streets	68 feet	36 feet
Cul-de-sac and Frontage Streets	66 feet	22 feet
Alleys	24 feet	20 feet
Pedestrian Ways	10 feet	5 feet

* The Plan Commission and Village Board shall establish definite pavement widths. The suggested R.O.W. and pavement widths indicated above are for urban sections; if permanent rural sections are to be used, the following widths are suggested:

Rural Section

<u>Type of Street To Be Dedicated</u>	<u>R.O.W. Width</u>	<u>Pavement Width</u>
Arterial Streets	66 feet	24 feet, 10 feet outside shoulders
Collector Street	66 feet	36 feet, 8 feet outside shoulders
Minor Streets	66 feet	22 feet, 3 feet outside shoulders

- s) CUL-DE-SACS. Cul-de-sac streets designed to have one end permanently closed shall not exceed five hundred (500) feet in length. All cul-de-sac streets designed to have one end permanently closed shall terminate in a circular turnaround of not less than one hundred (100) feet and a minimum outside curb radius of forty (40) feet.
- t) STREET CONSTRUCTION AND SURFACING.
 - (1) In accord with the dimensions set forth in Subsection (s) above, all streets and public ways shall be graded to their full R.O.W. width including necessary side slopes, and to the appropriate sub grade. The required pavement width shall be surfaced with a minimum of four (4) inches of road gravel, and three (3) inches of hot-mix, all in accordance with specifications required by the Village. Said blacktopping shall not be applied to the streets until such time as the minimum of four (4) inches of road gravel has laid on the proposed street for a period of one (1) winter season (December 15th to May 31st). Such construction shall be subject to inspection and approval by the Village Board and its designated engineering representative if the Board determines it necessary.
 - (2) The subdivider shall pay one hundred (100%) percent of the total cost of constructing and inspecting all public streets accepted by the Village Board in an approved subdivision or minor subdivision. In the event that such streets benefit property location outside of the subdivision plat, the subdivider shall pay for one hundred (100%) percent of the cost of such construction up front. The Village will reimburse the subdivider for special assessments which are levied and immediately paid by benefited property owners. In the event that special assessments are deferred or paid over a five (5) year period, the subdivider will be reimbursed when the special assessments are paid or when installment payments are received.

Sec. 26.10 Design Standards - Block Design

- a) LENGTH. The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated, but block length in residential areas shall not exceed one thousand five hundred (1,500) feet nor have less than four hundred (400) feet between street lines.
- b) RIGHT ANGLE INTERSECTIONS. Wherever possible, right angle street intersections should be encouraged.
- c) PEDESTRIAN PATHWAYS. Pedestrian pathways, not less than ten (10) feet wide, may be required by the Village Board through the center of a block more than nine hundred (900) feet long, where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, and other community facilities.
- d) TREES. The Village Board may require that certain species of trees be planted on both sides of all streets.
- e) MONUMENTS. Subdivisions shall be monumented as required by Section 236.15, Wis. Stat., which is hereby adopted in full by reference.

Sec. 26.11 Design Standards - Lots

- a) Size, shape, and orientation of lots shall be appropriate for the topography of the subdivision and for the type of development contemplated, provided that no residential lot shall be smaller in area than the minimum lot size for the appropriate zone as established by the Zoning Code.
- b) Lot dimensions shall conform to the requirements of the Zoning Code.
- c) Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated, as required by the Zoning Code.
- d) Major Street and Highway Protection. Whenever the proposed subdivision contains or is adjacent to a major street or highway, adequate protection of residential properties, limitation of access and separation of through and local traffic shall be provided by reversed frontage, with screen planting contained in a non-access reservation along the rear property line, or by the use of frontage streets.
- e) Corner lots for residential use shall have sufficient width to permit building setback from each street, as required by the Zoning Code.
- f) Every lot shall abut or face a dedicated public street.
- g) Side lot lines shall be substantially at right angles to or radial to abutting street lines.
- h) Lots shall follow municipal boundary lines whenever practical, rather than cross them.

Sec. 26.12 Drainage System

- a) DRAINAGE SYSTEM REQUIRED. A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of the surface water of the subdivision and the drainage area of which it is a part. A final plat shall not be approved until the subdivider shall submit plans, profiles and specifications as specified

in this Section, which have been prepared by a registered professional engineer and approved by the Village Engineer.

- b) **DRAINAGE SYSTEM PLANS.**
- (1) The subdivider shall submit to the Village Engineer and Plan Commission a report on the ability of existing watercourse channels, storm sewers, culverts, and other improvements pertaining to drainage or flood control within the subdivisions to handle the additional runoff which would be generated by the development of the land within the subdivision. Additional information shall be submitted to adequately indicate that provision has been made for disposal of surface water without any damage to the developed or undeveloped land downstream or below the proposed subdivision. The report shall also include:
 - a. Estimates of the quantity of storm water entering the subdivision naturally from areas outside the subdivision.
 - b. Quantities of flow at each inlet or culvert.
 - c. Location, sizes and grades of required culverts, storm drainage sewers and other required appurtenances.
 - (2) A grading plan for the streets, blocks and lots shall be submitted by the subdivider for the area with the subdivision.
 - (3) The design criteria for storm drainage systems shall be based upon information provided by the Village Engineer.
 - (4) Material and construction specification for all drainage projects (i.e., pipe, Culverts, seed, sod, etc.) shall be in compliance with specifications provided by the Village Board or Village Engineer.
- c) **GRADING.** The subdivider shall grade each subdivision in order to establish street, block and lot grades in proper relation to each other and to topography as follows:
- (1) The subdivider shall grade the full width of the right-of-way of all proposed streets in accordance with the approved plans.
 - (2) Block grading shall be completed by one or more of the following methods;
 - a. A ridge may be constructed along the rear lot lines which provides for drainage onto the streets.
 - b. Parts of all lots may be graded to provide for drainage to the street or to a ditch along the rear lot line.
 - c. Drainage across rear or side lot lines may be permitted provided that drainage onto adjoining properties is skillfully controlled.
 - (3) Lot grading shall be completed so that water drains away from each proposed building at a minimum grade of two (2%) percent and provisions shall be made to prevent excessive drainage onto adjacent properties.
 - (4) The topsoil stripped by grading shall not be removed from the site and shall be uniformly spread over the lots when rough grading is finished.
- d) **DRAINAGE SYSTEM REQUIREMENTS.** The subdivider shall install all the storm drainage facilities indicated on the plans required in Subsection (a) of this Section.
- (1) Street Drainage. All streets shall be provided with an adequate storm drainage system. The streets storm system shall serve as the primary drainage system and shall be designed to carry street, adjacent land and building storm water drainage. No storm water shall be permitted to be run into the sanitary sewer system with the proposed subdivision.
 - (2) Off-Street Drainage. The design of the off-street drainage system shall include the watershed affecting the subdivision and shall be extended to a watercourse or ditch adequate to receive the storm drainage. When the drainage system is outside of the street right-of-way, the subdivider shall make provisions for dedicating an easement to the Villages to provide for the future maintenance of said system. Easements shall be a minimum of twenty (20) feet, but the Village may require larger easements if more area is needed due to topography, size of watercourse, etc.
- e) **PROTECTION OF DRAINAGE SYSTEM.** The subdivider shall adequately protect all ditches to the satisfaction of the Village Board and Village Engineer. Ditches and open channels shall be seeded, sodded or paved depending upon grades and soil types. (Generally ditches or channels with grades up to one (1%) percent shall be seeded; those with grades up to (4%) percent shall be sodded and those with grades over four (4%) percent shall be paved.)

Sec. 26.13 Non-Residential Subdivisions

- a) **GENERAL.**
- (1) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provisions as the Village may require.
 - (2) A non-residential subdivision shall also be subject to all the requirements of site plan approval set forth in the Zoning Code. A non-residential subdivision shall be subject to all the requirements of these regulations, as

well as such additional standards required by the Village, and shall conform to the proposed land use standards established in the Comprehensive Plan, Official Map, and Zoning Ordinance.

- b) **STANDARDS.** In addition to the principal and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Village that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
- (1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
 - (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
 - (3) Special requirements may be imposed by the Village with respect to street, curb, gutter and sidewalk design and construction.
 - (4) Special requirements may be imposed by the Village with respect to the installation of public utilities, including water, sewer and storm water drainage.
 - (5) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for permanently landscaped buffer strip when necessary.
 - (6) Streets carrying non-residential traffic, especially truck traffic, shall not normally extend to the boundaries of adjacent existing or potential residential areas.

Sec. 26.14 Compliance With Chapter

- a) Before final plat or a certified survey map approval of any subdivision or minor subdivision within the Village is granted, the subdivider shall either install the improvements required by this Chapter or shall furnish the Village Clerk-Treasurer with a satisfactory surety performance bond or other form of satisfactory surety to the Village to cover the sub divider's cost of such required improvements as estimated by the Village. Such surety shall provide for one hundred ten (110%) percent of the cost of the required improvements. The purpose of said surety is to secure the actual construction and installation of such improvements immediately after final plat approval or at a time in accordance with the Village Board.
- b) If a surety performance bond is furnished as provided in Subsection (a) above, all required improvements must be completed within one (1) year from approval of the final plat. If not so completed and unless good cause can be shown for granting an extension of time, the Village Board, at its option, may cause all the uncompleted work to be constructed, and the parties executing the bond shall be firmly bound for the payment of all necessary costs thereof. The Village Clerk-Treasurer shall return the bond to the subdivider upon the completion and acceptance of required improvements, at which time a one (1) year maintenance guarantee bond must be filed guaranteeing the timely repair of any defects that may occur in the ensuing year.
- c) Prior to commencing construction of any improvements, the subdivider shall furnish the Village all plans, specifications, and other data and information deemed necessary to determine the character of such proposed improvements. Such plans and specifications shall be examined by the Village and shall be approved if in accordance with the requirements of this Subdivision Ordinance. If the Village determines that their engineering representatives should review the plans and specifications, the subdivider shall be responsible for one hundred (100%) percent of the cost associated with this engineering review.
- d) All requirements hereunder shall be deemed conditions of approval under Section 10-3-4 and 10-3-6 hereof.
- e) All construction hereunder shall be subject to inspection and approval of the engineering representative of the Village.
- f) The subdivider and Village shall enter into a Development Agreement specifying the improvements to be made in the subdivision, estimates of the cost of such improvements and arrangements for the payment of these costs. Such agreement shall be signed by both the subdivider and Village prior to commencement of any improvements to the land unless otherwise authorized by the Village Board.

Sec. 26.15 Easements

- a) **UTILITY EASEMENTS.** The Village Board, on the recommendation of the Plan Commission and other appropriate agencies of the Village shall require utility easements for poles, wires, conduits, storm and sanitary sewers, gas, water and head mains or other utility lines. It is the interest of this Chapter to protect all established easements so as to assure proper grade, assure maintenance of the established grade, prohibit construction of permanent fences or retaining walls over underground installation, and prevent the planting of trees in the easement area.

- b) **DRAINAGE EASEMENTS.** Where a subdivision is traversed by a watercourse, drainage way, channel or stream:
 - (1) There shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose and as may be necessary to comply with this Section; or
 - (2) The watercourse, drainage way, channel or stream may be relocated in such a manner that the maintenance of adequate drainage will be assured and the same provided with a storm water easement or drainage right-of-way conforming to the lines of the relocated watercourse, and such further width or construction, or both, as will be adequate for the purpose and may be necessary to comply with this Section.
 - (3) Wherever possible, it is desirable that drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow. In all cases, such watercourse shall be of a minimum width established at the high water mark, or in the absence of such specification, not less than thirty (30) feet.
- c) **EASEMENT LOCATIONS.** Such easements shall be at least ten (10) feet wide and may run across lots or alongside of rear lot lines. Such easements should preferably be located along rear lot lines. Evidence shall be furnished the Plan Commission that easements and any easement provision to be incorporated in the plat or in deeds that been reviewed by the individual utility companies or the organization responsible for furnishing the services involved.

Sec. 26.16 Public Sites and Open Spaces - Dedication and Reservation of Lands

- a) **PURPOSE.** The requirements of this Subsection are established to insure that adequate parks, open spaces and sites for other public uses are properly located and preserved as the Village grows. It has also been established to insure that the cost of providing the park and recreation sites and facilities necessary to serve the additional people brought into the community by land development may be equitably apportioned on the basis of the additional needs created by the development. The requirements shall apply to all lands proposed for all residential development.
- b) **DESIGN.** In the design of a subdivision, land division, planned unit development, or development project, provision shall be made for suitable sites of adequate area for schools, parks, playgrounds, open spaces, drainage ways and other public purposes. Such sites as are shown on the Official Map, Master Plan or Parks and Open Space Plan, if applicable, shall be made a part of the design. Consideration shall be given ponds, streams, watercourses, watersheds and ravines and woodland, prairie and wetland plant and animal communities.
- c) **DEDICATION.**
 - (1) The subdivider shall dedicate adequate developable land for the park, recreation and open space needs of the development, subject to a determination of acceptability by the Plan Commission.
 - (2) The subdivider shall dedicate sufficient land area that is suitable and readily developable to provide adequate park, playground, recreation and open space to meet the needs to be created by and to be provided for the subdivision, land division, group housing project or planned community development project. A minimum of one thousand (1,000) square feet of land in single- or two-family residential zoning, and a minimum of seven hundred (700) square feet of land in multiple-family residential zoning shall be dedicated for each proposed dwelling unit.
- d) **FEE IN LIEU OF DEDICATION.**
 - (1) Where, in the discretion of the Planning Commission, there is no land suitable for parks within the proposed subdivision or the dedication of land would not be compatible with the Village's comprehensive development plan, or the Planning Commission determines that a cash contribution would better serve the public interest, the Planning Commission shall recommend to the Village Board that the subdivider pay a fee in lieu of making the required land dedication.
 - (2) The amount of any fee imposed shall be determined as follows: the number of proposed one- or two-family residential dwelling units within the development multiple-family residential dwelling units within the development shall be multiplied by seven hundred (700) square feet; then the resulting product shall be divided by forty-three thousand, five hundred sixty (43,560) (square feet in an acre); and the resulting quotient shall be multiplied by the fair market value of an acre of comparable land. The fair market value shall be determined by the Village Assessor.
 - (3) All funds so collected by the Village shall be deposited as "Special Fund for the Acquisition and Development of Public Sites, Recreation Areas, Open Spaces and Greenways" (Park Special Fund), and that said funds so levied and collected shall be used for such purposes at such places and in such manner as shall be approved, ordered and directed by the Village upon recommendation by the Plan Commission. Any and all interest accumulated upon such funds shall be added to the Special Fund and be used only for acquisition and developments for said purposes.
- e) **DEDICATION AND FEE.**

- (1) The Plan Commission may recommend the subdivider satisfy the requirements by combining land dedication with fee payments. The fee, in such cases, shall be determined by subtracting the fair market value of the dedicated land, from the total fee which would have been imposed had no land been dedicated by the subdivider. The fair market value shall be determined by the Village Assessor.
 - (2) Payment may be made by one of the following methods:
 - a. Lump Sum. A lump sum minus a discount of the current interest rate of the Park Special Fund of the day the Village Board accepts the final plat or on the day the certified survey is approved for recording by the Clerk-Treasurer shall be paid prior to the issuance of any building permit for a development; or
 - b. Payment of one-third (1/3) of all land dedication and fee payments.
 - 1) The subdivider shall pay the Village 33.4% of the total fee by the date the first building permit is issued. At such time that 33.4% of the building permits are issued for the approved development or after one (1) year from the date that the Village issued the first building permit, whichever occurs first, the subdivider shall pay the second installment of 33.3% of the total fee. At such time that 66.7% of the building permits are used for the approved development or after two (2) years from the date that the Village issued the first building permit, whichever occurs first, the subdivider shall pay the final installment of 33.3% of the total fee.
 - 2) If this method of payment is used, the outstanding balance after the first payment is made shall be charged the interest rate earned by the Park Special Fund for the period of time that the second and third installments are outstanding.
 - (3) Subdividers shall be given the options identified above in Subsection (e)(2) except under the following circumstances:
 - a. The development is less than twenty-five (25) units; or
 - b. No plat of subdivision or certified survey is involved in the development.
 - (4) In either event, the subdivider will be required to pay the lump sum minus the discount (as defined above) prior to the issuance of any building permits.
 - (5) All fees required by Subsection (e) shall be paid within three (3) years from the date of the issuing of the first building permit. Failure to make the proper payments as defined in either option in Subsection (e) (2) shall result in the immediate withholding of all building permits until all delinquent payments are made to the Village.
- f) DEVELOPMENT OF AREA.
- (1) When park land is dedicated, the subdivider is required to bring the dedicated land up to the contours established in the approved street and utility plans, top soiled with a minimum of four (4) inches of quality topsoil, seeded as specified by the Village Board, fertilized with 16-6-6 fertilizer at the rate of seven (7) pounds per one thousand (1,000) square feet and mulched as specified in the Standard specifications for Road and Bridge Construction Section 726 and 629. The topsoil furnished for the park site shall consist of the natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life and such topsoil shall be neither excessively acid nor excessively alkaline. Fine grading and seeding must occur within one year following issuance of the first building permit within that subdivision unless otherwise authorized by the Plan Commission.
 - (2) It shall be the duty of the Village to maintain the dedicated areas and the owner who dedicated said land shall in no way be responsible for its maintenance or liability thereon except that said owner shall not develop the surrounding area in a manner which would unduly depreciate the purpose, use or value of the dedicated property and except if such owner shall reside on one of the subdivided parcels, in which case he shall be responsible for the maintenance of adjacent public property as may be required in other laws of the Village.
- g) DEFINITIONS. For purposes of this Section:
- (1) Subdivider. Any person, firm, partnership, corporation, association, estate, or other legal entity using land for residential development. This shall include all residential development whether or not there is an actual subdivision of land. Property which does not require subdivision but will be used for residential development shall be included.
 - (2) Fair Market Value (Market Value). The highest price in terms of money which a property will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus.
 - (3) Land Use Regulation. Broadly, any legal restriction, such as zoning ordinances which control the uses to which land may be put. A land use regulation may include such controls as those established by restrictive covenants or by redevelopment or urban renewal plans approved by local governing bodies.

- (4) Phase. A phase ends with the completion of public improvements (as shown in the final plat documents) and a new phase begins with the start of public improvements (as shown in the final plat documents) in the portion of the plat being developed.
- (5) Public Improvements. Installation of streets, electric service, sewer and water, gas lines and telephone lines.
- h) DEDICATION AND RESERVATION OF LANDS. Where an area being subdivided includes lands planned for public streets, as shown on the Village's Official Map or otherwise and in some other manner designated by the Village Board, said lands shall be dedicated to the public for such purpose as part of such plat or certified survey map.

Sec. 26.17 Variations and Exceptions

- a) Where the Plan Commission finds that extraordinary hardships or particular difficulties may result from strict compliance with these regulations, it may recommend to the Village Board variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of this Chapter.
- b) The Plan Commission shall not recommend variation or exceptions to the regulations of this Chapter unless it shall make findings based upon the evidence presented to it in each specific case that:
- (1) The granting of the variation 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;
 - (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable, generally to other property;
 - (3) 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, if the strict letter of the regulations were carried out.
- c) Any recommendations by the Plan Commission shall be so endorsed by the Secretary and transmitted to the Village Board. The Village Board, if it approves, shall do so by motion or resolution and instruct the Village Clerk-Treasurer to notify the Plan Commission and the owner.

Sec. 26.18 Enforcement, Penalties, and Remedies

- a) VIOLATIONS. It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Chapter or the Wisconsin Statutes and no person shall be issued a building permit by the Village authorizing the building on, or improvement of, any subdivision, land division or replat with the jurisdiction of this Chapter not of record as of the effective date of this Code until the provisions and requirements of this Chapter have been fully met. The Village may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin Statutes.
- b) PENALTIES.
- (1) Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit of less than Two Hundred (\$200.00) Dollars nor more than One Thousand (\$1,000.00) Dollars and the costs of prosecution for each violation and in default of payment of such forfeiture costs shall be imprisoned in the County Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.
 - (2) Forfeiture for Improper Recording shall be as provided in Sec. 236.30, Wis. Stats.
 - (3) Conveyance of lots in unrecorded plats penalties shall be as provided for in Sec 236.31, Wis. Stats.
 - (4) Monuments disturbed or not placed penalties shall be as provided for in Sec. 236.32., Wis. Stats.
- c) INTERPRETATION. In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.