

CHAPTER XXXII
LAND DIVISION ORDINANCE
VILLAGE OF SLINGER, WASHINGTON COUNTY, WISCONSIN

SECTION 2.00 GENERAL PROVISIONS

2.01 AREA OF JURISDICTION

This Ordinance shall apply to all lands within the corporate limits of the Village of Slinger and to all lands within the extraterritorial plat approval jurisdiction of the Village.

2.02 APPLICABILITY

- A. Subdivision: Any division of land within the Village or the extraterritorial plat approval jurisdiction of the Village that results in a subdivision as defined in Section 11.00 shall be, and any other division of land may be, surveyed and a plat thereof approved and recorded pursuant to the provisions of Section 5.00 this Ordinance and Chapter 236 of the Wisconsin Statutes.

- B. Minor Land Division: Any division of land within the Village or the extraterritorial plat approval jurisdiction of the Village that results in a minor land division as defined in Section 11.00 shall be surveyed and a certified survey map of such division approved and recorded as required by Section 6.00 of this Ordinance and Chapter 236 of the Wisconsin Statutes.

- C. It is the Express Intent of this Ordinance to regulate condominiums having one or more principal structures on any parcel, except for condominium conversions of existing structures where no additional units are being created. In no case shall the maximum number of units in a condominium exceed the maximum number of lots the same parcel could have accommodated under the Village Zoning Ordinance if the parcel had been conventionally divided.

- D. The provisions of this Ordinance shall not apply to:
 - 1. Cemetery plats made under Section 157.07 of the Wisconsin Statutes.
 - 2. Assessors' plats made under Section 70.27 of the Wisconsin Statutes; however, assessors' plats shall comply with Sections 236.15(1)(a) through (g), and 236.20(1), and (2)(a) through (e) of the Wisconsin Statutes unless waived under Section 236.20(2)(L).
 - 3. Sale or exchange of parcels of public utilities or railway rights-of-way to adjoining property owners if the Village Board and the county planning agency approve such sale or exchange on the basis

of applicable local ordinances or the provisions of Chapter 236 of the Wisconsin Statutes.

4. Transfers of Interests in land by will or pursuant to court order.
5. Sale or Exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by these regulations the zoning ordinances, or other applicable laws or ordinances.

2.03 COMPLIANCE

No person shall divide any land located within the jurisdictional limits of the Village which results in a subdivision, minor land division, replat, or condominium as defined herein; and no such subdivision, minor subdivision, replat, or condominium shall be entitled to record without compliance with:

- A. All requirements of this Ordinance.
- B. The Village Comprehensive Plan or any component thereof, the zoning ordinance, and official map ordinance.
- C. The Provisions of Chapter 236 of the Wisconsin Statutes.
- D. The Provisions of Chapter 703 of the Wisconsin Statutes for all proposed condominiums.
- E. The Rules of the Wisconsin Department of Commerce regulating lot size and lot elevation necessary for proper sanitary conditions if any lot or unit is not served by a public sewer and provisions for such service have not been made.
- F. The Rules of the Wisconsin Department of Transportation relating to provision for the safety of entrance upon and departure from state trunk highways or connecting highways and for the preservation of the public interest and investment in such highways.
- G. The Rules of the Wisconsin Department of Natural Resources setting water quality standards preventing and abating pollution, and regulating development within floodplain, wetland, and shoreland areas.
- H. All Other applicable ordinances.

2.04 LAND SUITABILITY

No land shall be divided which is held unsuitable for such use by the Village Plan Commission, upon recommendation of the Village Engineer or other agency as determined by the Plan Commission, for reason of flooding, inadequate drainage, adverse soil or rock formation, unfavorable topography, or any other feature

likely to be harmful to the health, safety, or welfare of the future residents or occupants of the proposed land division, or the Village, or poses an imminent harm to the environment. In addition:

- A. Floodplains. No lot served by public sanitary sewerage facilities shall have less than 50 percent of its required lot area, or 4,200 square feet, whichever is greater, above the elevation of the 100-year recurrence interval flood, or where such data are not available, five feet above the maximum flood of record. No lot one acre or less in area served by an onsite sanitary sewage disposal system shall include floodplains. All lots more than one acre in area served by an onsite sanitary sewage disposal system shall contain not less than 40,000 square feet of land which is at least two feet above the elevation of the 100-year recurrence interval flood, as determined by the Federal Emergency Management Agency or the Southeastern Wisconsin Regional Planning Commission. Where such flood stage data are not available, the regulatory flood elevation shall be determined by a registered professional engineer and the sealed report of the engineer setting forth the regulatory flood stage and the method of its determination shall be approved by the Village Engineer.

- B. Lands Made, Altered, or Filled with Non-earth Materials within the preceding 20 years shall not be divided into building sites which are to be served by onsite sanitary sewage disposal systems except where soil tests by a licensed soil scientist clearly show that the soils are suited to such use. Soil reports shall include, but need not be limited to, an evaluation of soil permeability, depth to groundwater, depth to bedrock, soil bearing capacity, and soil compaction. To accomplish this purpose, a minimum of one test per acre shall be made initially. The Village does not guarantee, warrant, or represent that the required samples represent conditions on an entire property and thereby asserts that there is no liability on the part of the Village Board, its agencies, agents, or employees for sanitary problems or structural damages that may occur as a result of reliance upon such tests.

- C. Lands Made, Altered, or Filled with Earth within the preceding seven years shall not be divided into building sites which are to be served by onsite sanitary sewage disposal systems except where soil tests by a licensed soil scientist clearly show that the soils are suited to such use. Soil reports shall include, but need not be limited to, an evaluation of soil permeability, depth to groundwater, depth to bedrock, soil bearing capacity, and soil compaction. To accomplish this purpose, a minimum of one test per acre shall be made initially. The Village does not guarantee, warrant, or represent that the required samples represent conditions on an entire property and thereby asserts that there is no liability on the part of the Village Board, its agencies, agents, or employees for sanitary problems

or structural damages that may occur as a result of reliance upon such tests.

- D. Lands Having a Slope of 12 percent or more may be required by the Plan Commission to be maintained in natural open uses. No lot shall have more than 50 percent of its minimum required area in slopes of 12 percent or more.
- E. Lands Having Bedrock within 10 feet of the natural undisturbed surface shall not be divided into building sites to be served by private onsite waste treatment systems, unless the sites are compliant with standards set forth in Chapters Comm 83 and 85 of the Wisconsin Administrative Code. The minimum depth of suitable soil over bedrock must comply with the specifications set forth in Table 83.44-3 of Comm 83. The depth of soil required over bedrock will be dependent on soil texture, soil structure, and the quality of the influent entering the proposed soil dispersal area. The subdivision layout shall permit the infiltrative surfaces of dispersal cells to be located at least 24 inches above bedrock.
- F. Lands Having Seasonal and/or Permanent Groundwater within 10 feet of the natural undisturbed surface shall not be divided into building sites to be served by private onsite waste treatment systems unless the sites are compliant with standards set forth in Chapters Comm 83 and 85 of the Wisconsin Administrative Code. The minimum depth of unsaturated soil above seasonal groundwater must comply with the specifications set forth in Table 83.44-3 of Comm 83. The subdivision layout shall permit the infiltrative surfaces of the dispersal cells to be located at least 24 inches above the highest groundwater elevation as estimated utilizing soil redoximorphic features. At least six of the 24 inches of soil separation required shall be comprised of an in situ soil type for which soil treatment capability is credited under the aforereferenced table. Seasonal soil saturation shall be assumed to reach the ground surface where redoximorphic features are present within four inches of the bottom of the A horizon.
- G. Lands Covered by Soils Having Coarse Textures such as loamy coarse sand with 60 percent or more coarse fragment content shall not be divided into building sites to be served by private onsite waste treatment systems unless compliance with Chapters Comm 83 and 85 of the Wisconsin Administrative Code can be demonstrated.
- H. Land Drained by Farm Drainage Tile or Farm Ditch Systems shall not be divided into building sites to be served by private onsite waste treatment systems unless compliance with Chapters Comm 83 and 85 of the Wisconsin Administrative Code can be demonstrated.

- I. The Village Plan Commission, in applying the provisions of this section, shall, in writing, recite the particular facts upon which it based its conclusion that the land is not suitable for the intended use and afford the subdivider an opportunity to present evidence regarding such unsuitability, if so desired. The Plan Commission may thereafter affirm, modify, or withdraw its determination of unsuitability.

2.05 DEDICATION AND RESERVATION OF LANDS

- A. Streets, Highways, and Drainageways. Whenever a proposed subdivision, minor land division, or condominium plat encompasses all or any part of an arterial street, drainageway, or other public way which has been designated in the comprehensive plan or component thereof or the official map of the Village, said public way shall be made a part of the plat or certified survey map and dedicated or reserved, as determined by the Village, by the subdivider in the locations and dimensions indicated on said plan or map and as set forth in Section 7.00.
- B. Park, Open Space, and School Sites. Park and school sites shall be dedicated or reserved as provided in Section 7.10.
- C. Proposed Public Lands Lying Outside the corporate limits of the Village but within the extraterritorial plat approval jurisdictional area of these regulations shall be reserved for acquisition by the Village.

2.06 HOMEOWNER OR CONDOMINIUM ASSOCIATIONS

Common areas or facilities within a land division or condominium shall be held in common ownership as undivided proportionate interests by the members of a homeowners or condominium association, subject to the provisions set forth herein. The homeowners or condominium association shall be governed according to the following:

- A. The Subdivider shall provide the Village with a description of the homeowners or condominium association, including its bylaws, and all documents governing maintenance requirements and use restrictions for common areas and facilities. These documents shall be subject to review as to form by the Village Attorney at the subdivider's expense.
- B. The Association shall be established by the owner or applicant and shall be operating prior to the sale of any lots or units in the subdivision or condominium.
- C. Membership in the association shall be mandatory for all purchasers of lots or units therein and their successors and assigns.

- D. The Association shall be responsible for maintenance and insurance of common areas and facilities.
- E. A Land Stewardship Plan for any common open space to be retained in a natural state shall be included in the submittal of association documents.
- F. The Members of the association shall share equitably the costs of maintaining, insuring, and operating common areas and facilities.
- G. The Association shall have or hire adequate staff to administer, maintain, and operate common areas and facilities.
- H. The Subdivider shall arrange with the Village Assessor a method of assessment of any common areas and facilities, which will allocate to each lot, parcel, or unit within the land division or condominium a share of the total assessment for such common areas and facilities.
- I. The Village may require that it receive written notice of any proposed transfer of common areas or facilities by the association or the assumption of maintenance of common areas or facilities. Such notice shall be given to all members of the association and to the Village at least 30 days prior to such transfer.
- J. In the Event that the association established to own and maintain common areas and facilities, or any successor organization thereto, fails to properly maintain all or any portion of the aforesaid common areas or facilities, the Village may serve written notice upon such association setting forth the manner in which the association has failed to maintain the aforesaid common areas and facilities. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the association, or any successor association, shall be considered in violation of this Ordinance, in which case the Village shall have the right to enter the premises and take the needed corrective actions. The costs of corrective actions by the Village shall be assessed against the properties that have the right of enjoyment of the common areas and facilities.

2.07 IMPROVEMENTS

Before approval of any final plat located within the corporate limits of the Village, the subdivider shall install street and other improvements as hereinafter provided. In the alternative, if such improvements are not installed at the time the final plat is submitted for approval, the subdivider shall, before the recording of the plat, enter into a development agreement with the Village agreeing to install the required improvements, and shall file with said agreement a bond or letter of credit with good and sufficient surety meeting the approval of the Village Attorney or a certified check in the amount equal to the estimated cost of the

improvements. Said estimate shall be made by the Village Engineer, as a guarantee that such improvements will be completed by the subdivider or his or her subcontractors not later than one year from the date the plat is recorded and as a further guarantee that all obligations to subcontractors for work on the subdivision are satisfied. If the subdivider's project will be constructed in phases, the amount of the certified check, surety bond or letter of credit shall be limited to the phase of the project currently being constructed.

- A. Contracts and contract specifications for the construction of street and utility improvements within public street rights-of-way, as well as contractors and subcontractors providing such work, shall be subject to approval of the Village Engineer.
- B. Governmental Units to which these bond and contract provisions apply may file, in lieu of said contract and bond, a letter from officers authorized to act on their behalf agreeing to comply with the provisions of this section.
- C. Survey Monuments. Before final approval of any plat within the corporate limits of the Village, the subdivider shall cause survey monuments to be installed as required by and placed in accordance with the requirements of Section 236.15 of the Wisconsin Statutes, and as may be required by the Village Engineer. The Village Engineer may waive the placing of monuments, as provided in Section 236.15(1) (h) of the Wisconsin Statutes, for a reasonable time, not to exceed one year, on condition that the subdivider provide a letter of credit, certified check, or surety bond equal to the estimated cost of installing the monuments to ensure the placing of such monuments within the time required by statute. Additional time may be granted upon show of cause.
- D. Plats Outside Corporate Limits. Before final approval by the Village of any plat located outside the corporate limits of the Village but within the extraterritorial plat approval jurisdiction of the Village, the subdivider shall give evidence that he or she has complied with all street and utility improvement requirements of the Town in which of the land being platted is located.

2.08 DEVELOPMENT AGREEMENT

Before or as a condition of receiving final approval from the Village Board of any final plat, condominium plat, or certified survey map for which public improvements are required by this Ordinance; or for which public improvements, dedications, or fees are being deferred under this Ordinance; or for which phasing approval is being granted under Section 9.02 of this Ordinance, the subdivider shall sign and file with the Village Board a development agreement. The development agreement shall be approved as to form by the Village Attorney, and

shall be approved by the Village Board prior to approval of the final plat, condominium plat, or certified survey map.

2.09 EXCEPTIONS AND MODIFICATIONS

Where, in the judgment of the Village Plan Commission, it would be inappropriate to apply literally the provisions of Sections 7.00 and 8.00 of this Ordinance because exceptional or undue hardship would result, the Plan Commission may waive or modify any requirement to the extent deemed just and proper. Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Ordinance or the desirable general development of the community in accordance with an adopted comprehensive plan or component thereof. No exception or modification shall be granted unless the Plan Commission finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:

- A. Exceptional Circumstances: There are exceptional, extraordinary, or unusual circumstances or conditions where a literal enforcement of the requirements of this Ordinance would result in severe hardship. Such hardships should not apply generally to other properties or be of such a recurrent nature as to suggest that this Ordinance should be changed.
- B. Preservation of Property Rights: That such exception or modification is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same vicinity.
- C. Absence of Detriment. That the exception or modification will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.
- D. A Simple Majority Vote of the full membership of the Plan Commission shall be required to grant any exception or modification of this Ordinance, and the reasons shall be entered into the minutes of the Commission.

2.10 VIOLATIONS

No person, firm, or corporation shall build upon, divide, convey, record or place monuments on any land in violation of this Ordinance or the Wisconsin Statutes. No person, firm, or corporation shall be issued a building permit by the Village authorizing the building on, or improvement of, any subdivision, minor land division, replat, or condominium within the jurisdiction of this Ordinance not of record as of the effective date of this Ordinance, until the provisions and requirements of this Ordinance have been fully met. The Village may institute appropriate action or proceedings to enjoin violations of this Ordinance.

2.11 PENALTIES AND REMEDIES

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$100 plus any additional applicable costs incurred by the Village for each offense, and the penalty for default of payment of such forfeiture and costs shall be imprisonment in the County Jail until payment thereof, but not exceeding six months. Each day a violation exists or continues shall constitute a separate offense. Violations and concomitant penalties shall include the following:

- A. Recordation improperly made carries penalties as provided in Section 236.30 of the Wisconsin Statutes.
- B. Conveyance of lots in unrecorded plats carries penalties as provided for in Section 236.31 of the Wisconsin Statutes.
- C. Monuments disturbed or not placed carries penalties as provided for in Section 236.32 of the Wisconsin Statutes.
- D. An Assessor's Plat made under Section 70.27 of the Wisconsin Statutes may be ordered as a remedy by the Village, at the expense of the subdivider, when a subdivision is created by successive divisions.

2.12 APPEALS

Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal such objection or failure to approve, as provided in Sections 236.13 (5) and 62.23 (7)(e) of the Wisconsin Statutes, within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable, or discriminatory.