

**Chapter 20**

**SUBDIVISION AND DEVELOPMENT ORDINANCE**

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**Section 20.100ART. Article I. General Provisions**

(Ord. 5443, Amended, 12/16/2014)

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### Section 20.100SEC. Title and Applicability.

(a) Official Name (Title)

The official name of this chapter (Chapter 20) is the Subdivision and Development Ordinance of the Village of Downers Grove, Illinois. For convenience, it is referred to throughout this chapter as the "subdivision ordinance".

(b) Applicability

(1) This subdivision ordinance shall apply to all land divisions within the planning jurisdiction of the Village. In particular this subdivision ordinance shall apply to all land divisions pursuant to the Illinois Plat Act.

(2) Except for exempt land divisions, it shall be unlawful for any person to sell or lease, or offer for sale or lease, any property in the planning jurisdiction of the Village which would result in a land division subject to the provisions of this subdivision ordinance until approved as provided herein.

(3) Except for exempt land divisions, no plat or document of conveyance, such as but not limited to deeds, which affect land within the planning jurisdiction of the Village and which results in a land division shall be recorded in the Office of the DuPage County Recorder of Deeds, or shall be valid, unless approved in accordance with this subdivision ordinance.

(4) All regulations of this subdivision ordinance governing design, construction, installation and financial guarantees related to streets, sidewalks, rights-of-way, utilities and other public and private improvements apply to land divisions and to development that does not involve land division. The plat review and approval procedures of this subdivision ordinance do not apply to development that does not involve land division.

(5) The owner of any development must submit plans, specifications and calculations demonstrating compliance with all applicable design standards and improvement requirements to the village engineer, who shall have authority to determine whether such plans comply with applicable requirements. No development may be commenced until approved by the Village Engineer.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### Section 20.101. Definitions.

Wherever any term is used in this subdivision ordinance, it shall have the same meaning as defined in Chapters 1 and 28, unless otherwise defined in this subdivision ordinance. Words that are not expressly defined in Chapters 1, 20 or 28 of the Municipal Code have the meaning in the latest edition of Merriam-Webster's Unabridged Dictionary.

**Chapter:** Chapter 20 of the Downers Grove Municipal Code.

**Code:** The Downers Grove Municipal Code, as now or hereafter amended.

**Construction security:** A letter of credit or other security required under this subdivision ordinance to guarantee timely and proper completion of all public improvements.

**County parcel:** A parcel located outside the corporate limits, but within the planning jurisdiction, of the Village.

**County plat:** A final subdivision plat of a County parcel.

**Director:** The Director of Community Development, or such person's designee.

**Development:** Development means any of the following:

1. Construction of any new building or structure with a total gross floor area of more than 500 square feet on any parcel of land;
2. Expansion by more than 25% of any existing building or structure with a total gross floor area of more than 500 square feet; or
3. Construction on any parcel of land that will create more than 4 parking spaces.

**Land division:** Any change in the boundary or partition lines of a parcel.

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**Exempt land division:** The following land divisions or conveyances of property which are exempt from the requirements of this subdivision ordinance: (1) A land division into parcels of 5 acres or more in size which does not involve any new streets or easements of access: (2) The conveyance of parcels of land or interests therein for use as a right of way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access and which does not create any additional lots: (3) The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land improved with a public use and which does not create any additional lots: (4) Conveyances made to correct descriptions in prior conveyances.

**Engineering documents:** Plans, designs and specifications for public improvements required under the provisions of this Code, including but not limited to such documents, plans, designs, studies and other information or items reasonably required by the Village Engineer, to ensure compliance with applicable codes and laws. Until approved by the Village Engineer, the engineering documents shall be considered preliminary. After approval by the Village Engineer, the engineering documents shall be considered final.

**Flag lot:** A parcel of land, whose area and dimensions meet all the requirements of this subdivision ordinance, in which access from the public right-of-way to the land is a narrow, extended portion of the parcel which does not meet the minimum lot width as required by this ordinance.

**Guarantee security:** A letter of credit or other security as required under this subdivision ordinance, and posted at the time a required public improvement is transferred to, and accepted by, the Village or other public body, to guarantee that such public improvement has been properly constructed.

**Lot:** A lot that is part of a real estate subdivision, the plat of which has been recorded in the office of the DuPage County Recorder of Deeds.

**Lot reconfiguration:** An exchange of land between adjoining or contiguous parcels, located within the corporate limits of the Village, which changes the boundaries of the existing lots, but does not create an additional lot and which does not qualify as a subdivision or an exempt land division.

**Net NonConformity:** The relative degree to which all the parcels or lots involved in a lot reconfiguration and/or consolidation are, or are not, in conformance with the standards for lots within the zoning district in which the property is located as compared before and after a lot reconfiguration and/or consolidation.

**Owner:** The fee title holders of property, including such fee holders' designees and agents.

**Parcel:** An identified tract of contiguous real property.

**Petitioner:** The Owner of a parcel seeking approval under this subdivision ordinance and any other party identified as the petitioner in a petition filed under this Chapter.

**Plat:** A plat of subdivision as required under this subdivision ordinance.

**Plat Act:** The Illinois Plat Act (765 ILCS 205/0.01 et seq.) as enacted or hereafter amended.

**Plan Commission:** The Downers Grove Plan Commission, as now or hereafter configured and appointed.

**Planning Jurisdiction:** That area located within the corporate limits of the Village and that unincorporated area surrounding the Village but within the authority of the Village Council for planning and subdivision approval pursuant to State law or a boundary line agreement with a neighboring municipality.

**Public Improvement Cost Estimate:** The estimate of costs of public improvements within a subdivision upon which the engineering review fee and engineering inspection fees are based. The preliminary public improvement cost estimate is the estimate of costs based upon the preliminary engineering documents. The final public improvement cost estimate is the estimate of costs based upon the approved final engineering documents.

**Sanitary District:** The Downers Grove Sanitary District, which is a separate unit of local government, independent of the Village of Downers Grove, that is responsible for providing sanitary sewer service for much of the Village and several other municipalities.

**Special Service Area:** A taxing mechanism that can be used to fund a wide range of special or additional services and/or physical improvements in a defined geographical area within the Village.

**Subdivision:** Any development for which a plat of subdivision or Village approval is required or

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authorized pursuant to the Plat Act. This may include, but is not limited to, land divisions or the establishment or dedication of a road, highway, street or alley through a tract of land, regardless of area.

**Subdivision and Development Ordinance:** Chapter 20 of the Downers Grove Municipal Code.

**Water Course:** Any river, stream, creek, brook or other branch or drainage way in or into which stormwater runoff and floodwater flow either regularly or irregularly.

**Village Engineer:** The Downers Grove Village Engineer, or such person's designee.

**Village Manager:** The Downers Grove Village Manager, or such person's designee.

**Zoning Ordinance:** The Downers Grove Zoning Ordinance as now or hereafter enacted.

(Ord. 5443, Amended, 12/16/2014; Ord. 4960, Amended, 03/18/2008; Ord. 4550, Amended, 11/18/2003; 4033, Enacted, 05/18/1998)

### **Section 20.102. Administration.**

(a) Community Development Director.

Except as provided below regarding the engineering documents, the Community Development Director shall be primarily responsible for administration of this subdivision ordinance and shall have the following powers and duties:

(1) Maintain permanent and current records of this subdivision ordinance, including all maps, amendments and exceptions.

(2) Receive and process all petitions.

(3) Provide technical assistance and support to the Village Council, staff, boards and commissions. This shall include, but is not limited to, providing analysis and recommendations regarding petitions under this subdivision ordinance.

(4) Establish written rules and regulations implementing the provisions of this subdivision ordinance, including but not limited to, rules related to the content and processing of any petition, and the interpretation and administration of this subdivision ordinance.

(5) Exercise such other powers and perform such other duties as specified or necessarily implied herein.

(b) Village Engineer.

The Village Engineer shall be primarily responsible for review and approval of the engineering documents and shall have the following powers and duties:

(1) Maintain permanent and current records of the approved engineering documents.

(2) Receive, review and process all engineering documents.

(3) Provide technical assistance and support to the Village Council, staff, boards and commissions. This shall include, but is not limited to, providing analysis and recommendations regarding petitions under this subdivision ordinance.

(4) Establish written rules and regulations implementing the provisions of this subdivision ordinance, including but not limited to, rules related to the content and processing of any engineering documents, and the interpretation and administration of this subdivision ordinance relative thereto.

(5) Exercise such other powers and perform such other duties as specified or necessarily implied herein.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.200ART. Article II. Procedures**

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

#### **Section 20.200SEC. Petitions.**

(a) All petitions shall be signed or acknowledged by the Owner and all other co-petitioners. Provided, if the land is held in trust, the owner must file a disclosure statement identifying the beneficiaries of

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the trust. A petition shall include such submittals, information and materials as may be required by the Community Development Director or the Village Engineer to establish that the petition meets the standards and requirements of this chapter. This may include, but is not limited to, maps, plats of surveys, engineering documents, environmental reports regarding property to be dedicated, traffic studies, and other materials and information as required by rules established by the Community Development Director or the Village Engineer.

(b) The Community Development Director shall receive and coordinate the processing of all petitions under this subdivision ordinance.

(c) A petition shall be considered complete upon certification by the Community Development Director that all required information has been submitted.

(d) A petition may be amended at any time before final action upon such terms and conditions as the Community Development Director (if amended before any required hearing), the Plan Commission (if amended before final action by such body), or the Village Council may direct. Such terms and conditions may include, but are not limited to, requiring repayment of fees or portions thereof, republication of notices, rehearing of the petition and/or tolling any time limits for Village action as otherwise mandated herein.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.201. Fees.**

Review and Inspection fees must be paid in accordance with the Village's User-Fee, License and Fine Schedule.

(Ord. 5443, Amended, 12/16/2014; Ord. 5285, Amended, 11/06/2012; 4065, Amended, 09/14/1998; 4033, Enacted, 05/18/1998)

### **Section 20.202. Public Hearings.**

(a) Public hearings required by this subdivision ordinance shall be conducted by the Plan Commission. The Plan Commission shall control the conduct of such hearing and may establish reasonable rules and regulations including but not limited to rules and regulations governing public participation, limitations on redundant or irrelevant testimony, the presentation of information and comments, the order and length of statements or testimony, and time limitations. The hearing may be continued from time to time as directed by the Plan Commission.

(b) Notice of a public hearing will be given as provided in Section 28-12.0.10(F) of the Downers Grove Zoning Ordinance.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.203. Time Periods.**

Any time limit specified in this subdivision ordinance for any decision or action by the Community Development Director, the Village Engineer, the Plan Commission or the Village Council may be extended or tolled by the joint agreement of the petitioner and the Community Development Director. In the event a decision or action by the Community Development Director, the Plan Commission or the Village Council is not rendered within the time period specified, the owner may serve written notice upon the Village that the owner has elected to treat this as denial. In the event such notice is not served, the time limits shall be deemed to be extended by the joint agreement of the petitioner and the Community Development Director.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.300ART. Article III. Development Standards**

(Ord. 5443, Amended, 12/16/2014)

**Section 20.300SEC. Park and School Donation.**

**(a) Applicability.**

As a condition of approval of a final plat of subdivision, special use for multi-family residential, or of a final development plan of a planned unit development, the Owner will be required to dedicate land for park and recreational purposes and land for school sites, to serve the immediate and future needs of the residents of the development, or cash contribution in-lieu-of actual land dedication, or a combination of both, at the discretion of the Village in accordance with the following criteria set forth in this section.

**(b) Criteria for Requiring Park and Recreation Land Dedication:**

(1) Requirements and Population Ratio: The ultimate residential density of a proposed development shall bear directly upon the amount of land required for dedication. The total requirement shall be five and five-tenths (5.5) acres of land per one thousand (1,000) of ultimate population. The required 5.5 acres may be allocated by the Village Council, in its discretion, based upon Table 3-1.

<i>Table 3-1; Park Size Criteria</i>		
<b>Park Type</b>	<b>Size Range</b>	<b>Minimum Area (acres per 1,000 population)</b>
Mini or vest pocket park	.20 acres	Not applicable
Playlot	.5 to 2.9 acres	.5
Neighborhood playground	3 to 4.9 acres	1.5
Neighborhood park and school	5 acres per elementary school to 6.9 acres per junior high school	Not applicable
Neighborhood park	7 to 14.9 acres	1.5
Playfield	15 to 40 acres or more	1.5
Regional community park	40 to 100 acres or more	4.00

(2) Location: The "Policy on Optimum Amount of Recreation and Open Space Land" and/or the "Recreation Park and Open Space Standards and Guidelines" as adopted by the Downers Grove Park District shall be used as a guideline in locating sites. A park site adjoining all elementary school sites of not less than five (5) acres shall be considered a requirement. A central location which will serve equally the entire development is most desirable. In large developments these sites can be located throughout the development according to established standards for park area distances.

(3) Credit for Private Open Spaces and Recreation Areas: When an Owner provides their own open space for recreation areas and facilities, it has the effect of reducing the demand for local public recreational services. Depending on the size of the development a portion of the park and recreational area in subdivisions or planned unit developments may, at the option of the Village Council, be provided in the form of "private" open space in-lieu-of dedicated "public" open space. The extent of same shall be determined by the Village Council, based upon the needs of the projected residents and in conformance to the total park and recreation land for the general area. In general, a substitution of private open space for dedicated parks will imply a substantially higher degree of improvement and the installation of recreational facilities, including equipment by the Owner as part of the Owner's obligation. Detailed plans of such area, including specification of facilities to be installed, must be approved by the Village, and before any credit is given for private recreation areas, the Owner must guarantee that these private recreation areas will be permanently maintained for such use by the execution of the appropriate legal documents. Private "swimming clubs" are included in this provision. A copy of "Suggested Criteria for Swimming Pool Development" as adopted by the Downers Grove Park District shall be used for the guidance of the Owner. When an adjustment for private recreation areas is warranted, it will be necessary to compute the total park land dedication that would have been required from the subdivision or planned unit development and then subtract the credit to be given.

**(c) Criteria for Requiring School Site Dedication:**

(1) Requirement and Population Ratio: The ultimate number of students to be generated by a

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subdivision or a planned unit development shall bear directly upon the amount of land required to be dedicated for school sites. The land dedication requirement shall be determined by obtaining the ratio of: (1) estimated children to be served in each such school classification over the (2) maximum recommended number of students to be served in each such school classification as stated herein, and then applying such ratio to the (3) said minimum recommended number of acres for a school site of each such school classification as stated herein. The product thereof shall be the acres of land deemed needed to have a sufficient land for school sites to serve the estimated increased children in each such school classification.

(2) School Classification and Size of School Site: Classifications and size of school sites within the Village shall be determined in accordance with Table 3-2.

<i>Table 3-2; School Size Criteria</i>		
School Classification By Grades	Maximum Number of Students	School Land Area
Elementary Schools - Grades - Kindergarten through 6th (K-6)	600 students	11 acres
Middle Schools - Grades 7th through 8th (7-8)	900 students	19 acres
High Schools - Grades 9th through 12th (9-12)	2300 students	48 acres

(3) Location: The Comprehensive School Plan and/or the standards adopted by the affected school district shall be used as a guideline in locating sites.

**(d) Criteria for Requiring Cash in-Lieu-of Contributions.**

(1) Cash in-lieu: Where the development is small and the resulting site is too small to be practical or when the available land is inappropriate for park and recreational purposes or a school site, the Village shall require the Owner to pay a cash contribution in-lieu-of the land dedication required. The cash contributions in-lieu-of park and recreation land dedication shall be held in trust by the Village, or other public body designated by the Village, solely for the acquisition and/or improvement of park and recreational land as hereinbefore classified, which will be available to serve the immediate or future needs of the residents of that subdivision or development or for the improvement of other existing local park and recreation land which already serves such needs. The cash contributions in-lieu-of school sites shall be held in trust by the Village, or other public body designated by the Village, solely for use in the acquisition and/or improvement of land for a school site to serve the immediate or future needs of children from that subdivision or development or for the improvement to any existing school site which already serves such needs. Improvement under this Section shall be liberally construed and shall include, but shall not be limited to the development of parking lots; sidewalks, traffic signals; arterial streets; collector streets; internal roadways; connections with sewer, water and electrical lines; playgrounds; recreation grounds; fieldhouse; refreshment stand; and athletic fields. Improvement shall also include the purchase of any material, goods or equipment necessary to said development and construction. Improvement shall further include the construction of buildings; additions to existing school buildings; remodeled or renovated non-instructional spaces in classrooms and the purchase of prefabricated classroom units to be used at a school site. If any improvement provided for herein shall require voter referendum approval under existing statutory authority before such funds may be lawfully expended, then and in those cases such approval shall be first obtained. If any portion of a cash contribution in-lieu-of park and recreation land dedication, or cash contribution in-lieu-of school site, which contribution was made on or after October 16, 1995, is not expended for the purposes set forth herein within ten (10) years from the date of receipt, it shall be refunded to the owners of record of all lots, except lots dedicated pursuant to the provisions of this Section, in the subdivision for which such contribution was made. The refund shall be paid to the person who is the owner of record on the day which is the tenth anniversary of the receipt of such contribution. The amount of the refund due to each lot owner shall be equal to the amount of the original contribution, together with accrued interest thereon, divided by the total number of lots in the subdivision (excluding only those lots which were dedicated pursuant to this Section for which

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such contribution was made.

(2) **Fair Market Value:** The cash contributions in-lieu-of land shall be based on the fair market value of the acres of land in the area improved as specified herein, that otherwise would have been dedicated as park and recreation and school sites. It has been determined that the present fair market value of such improved land in and surrounding the Village is \$545,000 for school and park and recreation sites. Such figures shall be used in making any calculation herein unless the Owner files a written objection thereto. In the event of any such objection the Owner shall submit an appraisal showing the fair market value of such improved land in the area of the development or other evidence thereof and final determination of said fair market value per acre of such improved land shall be made by the Village Council based upon such information submitted by the Owner and from other sources which may be submitted to the Village Council by the park district, school district or others.

(3) **Criteria for Requiring Dedication In-Lieu of Contribution:** There will be situations in a subdivision or a planned unit development when a combination of land dedication and a contribution in-lieu-of land are both necessary. These occasions will arise when:

(i) Only a portion of the land to be developed is proposed as the location for a park or school site. That portion of the land within the subdivision falling within the park or school location shall be dedicated as a site as aforesaid, and a cash contribution in-lieu-of shall be required for any additional land that would have to be dedicated;

(ii) A major part of the local park or recreation site or school site has already been acquired and only a small portion of land is needed from the development to complete the site. The remaining portions shall be required by dedication, and a cash contribution in-lieu-thereof shall be required.

**(e) Density Formula:**

(1) **In General:** It is recognized that population density, age distribution and local conditions changed over the years, and the specific formula for the dedication of land, or the payment of fees in-lieu-thereof, as stated herein, is subject to periodic review and amendment if necessary. Table 3-3 is generally indicative of current and short range projected trends in family size for a new construction and shall be used in calculating the amount of required dedication of acres of land or the cash contribution in-lieu-of unless a written objection is filed thereto by the Owner in accordance with Section 20.300(f).

<i>Table 3-3: Population Density (Household Size) by Unit Type</i>							
Unit Type (as defined in Ch. 28)	Preschool	Grades K-5	Grades 6-8	Total Grades K-8	Grades 9-12	Adults	Total per Unit
	0-4 years	5-10 years	11-13 years	5-13 years	14-17 years	18+	
<b>Detached Houses</b>							
2 Bedroom	0.113	0.136	0.048	0.184	0.020	1.700	2.017
3 Bedroom	0.292	0.369	0.173	0.542	0.184	1.881	2.899
4 Bedroom	0.418	0.530	0.298	0.828	0.360	2.158	3.764
5 Bedroom	0.283	0.345	0.248	0.593	0.300	2.594	3.770
<b>Attached Houses and Two-Unit Houses</b>							
1 Bedroom	0.000	0.000	0.000	0.000	0.000	1.193	1.193
2 Bedroom	0.064	0.088	0.048	0.136	0.038	1.752	1.990
3 Bedroom	0.212	0.234	0.058	0.292	0.059	1.829	2.392



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4 Bedroom	0.323	0.322	0.154	0.476	0.173	2.173	3.145
Apartment/Condo							
Efficiency	0.000	0.000	0.000	0.000	0.000	1.294	1.294
1 Bedroom	0.000	0.002	0.001	0.003	0.001	1.754	1.758
2 Bedroom	0.047	0.086	0.042	0.128	0.046	1.693	1.914
3 Bedroom	0.052	0.234	0.123	0.357	0.118	2.526	3.053

(2) Credit for Existing Residential Units

A credit shall be given within the density formula for existing residential units within a proposed subdivision. To receive the credit the residential unit must have been in existence at the time of, or within one year prior to, a petition for final plat approval.

**(f) Objections to Population Density (Household Size) Estimates**

In the event an Owner files a written objection to the household size estimates of Table 3-3., the Owner shall submit a demographic study showing the estimated additional population to be generated from the subdivision or planned unit development and in that event final determination of the density formula to be used in such calculations shall be made by the Village Council based upon such demographic information submitted by the Owner and from other sources which may be submitted to the Village Council by the park district, school districts, or others.

**(g) Reservation of Additional Land**

Where the Comprehensive Plan of the Village calls for a larger amount of park and recreational land or school sites in a particular proposed subdivision or planned unit development than the Owner is required to dedicate, the land needed beyond the Owner's contribution shall, if so determined by the Village Council, be reserved for subsequent purchase by the Village or other public body designated by the Village provided that no land is required to be reserved for more than one year from the date of approval of the final plat.

**(h) Combining With Adjoining Developments** Where the subdivision or planned development is less than forty (40) acres, public open space or a school site which is to be dedicated should, where possible, be combined with dedications from adjoining developments in order to produce usable recreation areas or school sites without hardship on a particular Owner.

**(i) Topography, Grading and Seeding**

The slope, topography and geology of the dedicated site as well as its surroundings must be suitable for its intended purposes. Grading on sites dedicated for park and recreational uses shall not differ greatly from surrounding land. At the discretion and direction of the Park District, property to be dedicated as open space shall be seeded by the Owner unless otherwise directed by the Park District.

**(j) Improved Sites**

All sites shall be dedicated in a condition ready for full service of electrical, water, sewer and streets (including enclosed drainage and curb and gutter) as applicable to the location of the site, or acceptable provision made therefor. The sidewalks and trees normally included within the definition of improved sites may be deferred due to the delay time between dedication of any such park or school sites and construction of facilities thereon.

**(k) Title to Sites**

All sites shall be conveyed, prior to issuance of any permits, by plat, or other document of conveyance such as a warranty or trustee's deed, to the applicable park or school district as designated by the Village. The Owner shall be responsible for conveying good, merchantable title to such sites, and shall be responsible for payment of all real estate taxes to the date of conveyance, including any agricultural roll back taxes which might be extended or levied against such sites, for any tax years or periods prior to the time of conveyance.

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### **(l) Sale of Dedicated Land**

When, in the opinion of the unit of local government holding title to any parcel of land dedicated under this Chapter, any such parcel has become unnecessary or unsuitable or inconvenient, such parcel may be sold as provided by applicable statutory authority and the proceeds shall be held in trust by said unit of local government, solely for such uses as are provided for in this section (Sec. 20-300), and said proceeds shall be subject to the ten (10) year expenditure requirements from and after the date when said land is converted to cash proceeds.

### **(m) Alternative Compliance**

At the written request of the Owner the Village Council may authorize an alternative park and/or school donation plan in lieu of strict compliance with the requirements of this section. Such alternative donation plan shall provide the equivalent or greater benefit to the applicable park or school district. The final decision to grant such approval shall be within the sole discretion of the Village Council.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

## **Section 20.301. Lot Dimensions.**

### **(a) General**

(1) Except as provided herein, lot dimensions shall conform to the requirements of the underlying zoning district.

(2) New lots located in an area serviced by sanitary sewers shall have a minimum lot width of seventy-five (75) feet and a minimum area of ten thousand, five hundred (10,500) square feet, or shall meet the lot width and area requirements of the underlying zoning district, whichever is greater.

(3) New lots located in an area not serviced by sanitary sewers, shall have a minimum lot width of one hundred fifty (150) feet and a minimum area of forty thousand (40,000) square feet, or shall meet the lot width and area requirements of the underlying zoning district, whichever is greater.

(4) The lot lines along the boundaries of watercourses shall be aligned with such watercourse when practicable and feasible. When such alignment is not practicable and feasible, easements along watercourses shall be provided in accordance with the requirements as established by the Community Development Director and Village Engineer.

(5) Minimum lot dimensions provided herein shall not include any area dedicated for street, roadway, or alley purposes.

### **(b) Residential Lots**

Residential lot dimensions shall conform to the following:

(1) New lots which front on cul-de-sacs or on curved streets with characteristics similar to a cul-de-sac shall have a minimum lot frontage of twenty-five (25) feet. Provided, the width of the lot at the building setback line shall be no less than the minimum lot width required by the subject zoning district.

(2) Minimum depth shall be one hundred forty (140) feet, except as herein otherwise provided.

(3) Whenever exceptions in the minimum frontage or minimum depths are permitted, no reduction in the minimum lot area shall be permitted.

### **(c) Nonresidential Lots**

Nonresidential lot dimensions shall conform to the following:

(1) Minimum frontage shall be seventy-five (75) feet, except that Business and Employment lots shall have a minimum frontage of one hundred (100) feet.

(2) Lots which front on cul-de-sacs or on curved streets with characteristics similar to cul-de-sacs shall have a minimum lot frontage of twenty-five (25) feet provided the width of the lot at the building setback line shall be no less than fifty (50) feet, if not otherwise regulated by the subject Zoning Ordinance.

(3) Minimum depths shall be one hundred and forty (140) feet.

### **(d) County Lots**

Outside the Village, the minimum widths, depths and areas of any subdivided lot shall be not less than the

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minimum widths, depths and areas specified by the zoning ordinance of DuPage County for the district in which such lots are located.

(Ord. 5443, Amended, 12/16/2014; Ord. 4960, Amended, 03/18/2008; 4033, Enacted, 05/18/1998)

### **Section 20.302. Flag Lots.**

The creation of flag lots shall not be permitted. All flag lots created prior to March 18, 2008 shall be deemed legal non-conforming.

(Ord. 5443, Amended, 12/16/2014; Ord. 4960, Amended, 03/18/2008; 4452, Amended, 10/15/2002; 4033, Enacted, 05/18/1998)

### **Section 20.303. Streets.**

#### **(a) Street names.**

All streets shall be named in accordance with the street naming plan of the Village.

#### **(b) Street connections.**

Provisions shall be made for direct connections with the existing streets in adjoining subdivisions.

#### **(c) Street improvements.**

(1) Construction of full width streets shall be required and shown on the plat except as provided herein:

i. If full width street construction is physically possible, but only the property of a single Owner on one side of such street will be developed and served by such street at the time of its construction, said Owner shall be required to construct the full width street. In such case, the Owner may submit for Village Council approval a proposed recapture agreement in conformance with standards established by the Village Engineer.

ii. Half-width streets are prohibited, except in cases when the Village Council determines that all of the following conditions exist:

1. It is not physically possible to construct a full width street; and
2. Construction of a half-width street is absolutely essential to allow for reasonable development of the area; and
3. It will be practical to require dedication and construction of the other half of the street when the adjoining property is developed.

iii. An Owner shall be required to construct sidewalks, provide payment for parkway trees, and erect street lights only on the side of the street being developed by such Owner.

iv. Construction of private roads which might be considered by the general public to be public streets are prohibited.

#### **(d) Street widths.**

Widths of all roads, streets and rights-of-way shall be as follows, unless otherwise determined by the Village Engineer:

(1) Arterial street rights-of-way shall not be less than one hundred feet wide and pavement widths shall be not less than sixty (60) feet wide from edge to edge not including curb and gutter.

(2) Collector street rights-of-way shall not be less than eighty (80) feet wide and pavement widths shall be not less than thirty-six (36) feet wide from edge to edge not including curb and gutter.

(3) Local street rights-of-way shall not be less than sixty-six (66) feet wide and pavement widths shall be not less than twenty-eight (28) feet wide from edge to edge not including curb and gutter.

#### **(e) Dead-end streets.**

Dead-end streets shall end in a turn-around or cul-de-sac, providing an outside turning radius of not less than thirty (30) feet without reducing the width of the parkway or sidewalk.

#### **(f) Alleys.**

Alleys shall not be required. If an Owner elects to provide an alleys, such alley shall be not less than

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eighteen (18) feet wide from edge to edge not including curb and gutter and shall be approved in accordance with specifications approved by the Village Engineer.

**(g) Lot frontages.**

All lots shall front on dedicated streets. Where possible, non-residential development access shall be on arterial streets and residential development access shall be on collector or local streets.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.304. Sanitary Sewage Requirements.**

(a) Any lot of a proposed land division which is located within the facilities planning area boundary of the Downers Grove Sanitary District, or which is required to annex to a district as provided in Sec. 20.304(b), or that is located within an area served by the County sanitary sewers, shall be connected to a sanitary sewer as provided under the rules and regulations of such district or the County. If the Sanitary District or the County certifies that sanitary sewers are not reasonably available, the lot shall be connected to an individual sanitary sewage disposal system as provided under the rules and regulations of the Downers Grove Sanitary District or the County.

(b) Any lot of a proposed land division which is not located within the facilities planning area boundary of the Downers Grove Sanitary District, or area served by the County sanitary sewers, shall be annexed to the Downers Grove Sanitary District if sanitary sewer service is reasonably anticipated to be available as certified by the district. Such annexation shall be subject to all rules and regulations of the district, including but not limited to payment of required fees.

(c) Any lot of a proposed land division which is not located within the facilities planning area boundary of the Downers Grove Sanitary District, or area served by the County sanitary sewers, and which is not required to annex to a sanitary district as provided under Section 20.304(b), shall be connected to an individual sanitary sewage disposal system as provided under the rules and regulations of the County.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.305. Easements and Public Utilities.**

(a) Easements shall be provided for the construction and maintenance of public utilities. Such easement shall be not less than ten (10) feet wide across the rear of all lots where no alleys are platted and not less than five (5) feet wide adjacent to the side lines of all lots where necessary for continuity of such utilities from block to block. Provided, the easement requirements set forth herein may be reduced or located in areas other than, or in lieu of, the foregoing, but only upon the mutual agreement of the Village and the Owner.

(b) All dedications of easements shall specify that no building or other structure, except for driveways and fences, may be erected on such easements.

(c) The final plat for each subdivision shall set forth on the face thereof general restrictions or covenants which require that any public utility structures and facilities whether located on public or private property, shall be constructed wholly underground, except for transformers, transformer pads, light poles, regulators, valves, markers and similar structures approved by the Village Engineer prior or subsequent to recording of the final plat, and except for structures and facilities existing prior to recording of the final plat. Where such public utilities are required to be installed underground, the installation and maintenance thereof shall be in compliance with applicable orders, rules and regulations of the Illinois Commerce Commission as now or hereafter effective. The Owner of any property to be served from such underground installations shall be responsible for compliance with the rules and regulations applicable to such underground facilities of any public utility whose services are required to be provided by such underground facilities.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

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### **Section 20.400ART. Article IV. Public Improvements**

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

#### **Section 20.400SEC. Engineering Documents.**

(a) The Owner shall file engineering documents with the Village Engineer in the forms prescribed by the Village Engineer. These submittals and information may include such information and materials as may be required by the Village Engineer to establish that the petition meets the standards and requirements of this Code.

(b) At the time of the initial filing of the preliminary engineering documents, and in addition to the submittals required by the Village Engineer, the Owner shall cause a proposed preliminary public improvement cost estimate to be prepared and filed in conformance with regulations established by the Village Engineer.

(c) The Village Engineer shall review the preliminary engineering documents and the Owner's proposed preliminary public improvement cost estimate and shall review and approve the preliminary public improvements cost estimate. The Village Engineer may modify the approved preliminary public improvements cost estimate at any time before the final engineering documents and the final public improvements cost estimate are approved to conform to the then pending public improvement plans.

(d) Prior to approval of the final engineering documents, the Village Engineer shall review and approve the final public improvements cost estimate.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

#### **Section 20.401. Required Public Improvements.**

(a) The Owner of a proposed subdivision within the Village's planning jurisdiction shall provide, at the Owner's expense, the following public improvements, in accordance with Village ordinances and specifications:

(1) Street pavement, including combination curb and gutter or a curb and gutter alternative as approved by the Village Engineer.

(2) Public sidewalks.

(3) Village water system extensions, including but not limited to water mains and service stubs.

(4) Sanitary sewer service connections.

(5) Stormwater management facilities.

(6) Street lighting facilities.

(7) Traffic signals.

(8) Payment for public area vegetation, including but not limited to parkway trees. Payment to the Village shall be as set forth in the Village's User-Fee, License and Fine Schedule. Parkway tree quantities shall be determined by the Village Forester. Generally, one parkway tree is required every forty (40) linear feet rounded to the nearest whole number. The Village Forester shall install the required parkway trees.

(b) The Owner, at the Owner's expense, shall construct and install the required public improvements, including but not limited to all streets with roadway surfacing, of such materials, width and thickness, and in conformity with this subdivision ordinance and such design and specifications as shall be required by the Village Engineer. That portion of such specifications that pertains to types of materials, depth of base, depth of pavement and street lighting facilities shall apply to all streets required under this subdivision ordinance, whether or not such streets are to be dedicated and accepted as public streets.

(c) Before approval of any final plat, the Community Development Director may require a written development agreement to be prepared by the Village and submitted to and approved by the Village Council, to install and construct right-of-way, utility, and other public improvements, to pay all required fees, and to

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make all required donations in accordance with the requirements of Village ordinances. The development agreement may state the approximate date when installation of public improvements will commence and a reasonable date for completion of said public improvements. If the development agreement does not otherwise provide a completion date, the improvements shall be completed within two (2) years of the date of final plat approval and recording.

(d) Before approval of any final plat or development agreement in such platted subdivision, the subdivider shall guarantee the completion of the public improvements to be installed or constructed in accordance with the development agreement and Village ordinances, together with all other commitments by the subdivider by submitting a letter of credit or cash bond, in a form approved by the Village Attorney.

(e) Before approval of any final plat or development agreement, the subdivider shall prepare for Village review the homeowner's association declaration of covenants, conditions, easements and restrictions (HOA declaration). The HOA declaration shall include a provision for a dormant Special Service Area (SSA) for maintenance and operation of any common areas and stormwater facilities, including but not limited to stormwater detention and retention basin areas, inlet and out structures, connection storm sewers, connecting surface drainage channels and subsurface drainage systems. The Village may not issue any certificates of occupancy for any construction on the property until the SSA has been established. The HOA declarations shall be recorded with the DuPage County Recorder's Office and a copy shall be provided to the Village. The HOA declaration shall be recorded before the issuance of any development permits.

(f) A subdivider may freely assign, transfer or convey property within a platted subdivision, but such assignment, transfer or conveyance shall not affect the principal obligation of the subdivider to perform its obligations under this Chapter or an executed development agreement without a written amendment to the development agreement. The conveyance of property within a platted subdivision to grantees of such subdivider shall render such grantees responsible only for performance of a pro rata share of such obligations in the event of a default.

(Ord. 5443, Amended, 12/16/2014; Ord. 4895, Amended, 08/07/2007; 4033, Enacted, 05/18/1998)

### **Section 20.402. Construction Security.**

(a) After the Village Engineer has approved the final engineering documents, the Owner shall submit to the office of the Village Engineer, construction security to guarantee completion of public improvements prior to the expiration of two (2) years from the approval and recording of the final plat of subdivision. Such construction security shall be in an amount determined by the Village Engineer to be sufficient to cover the cost of all public improvements required within such subdivision, but not in excess of one hundred and ten percent (110%) of the amount of the final public improvement cost estimate. Such construction security shall be in one of the following forms:

(1) A cash security deposit, together with an agreement for the disposition thereof, in form and substance approved by the Village Engineer, including the conditions set forth in Section 20.402(b); or

(2) A commercial bank letter of credit in form and substance approved by the Village Engineer and drawn on a bank located within a fifty (50) mile radius of the Village unless otherwise approved by the Village Engineer; or

(b) The instruments creating such construction security shall, in each case, expressly provide as follows:

(1) In the event that, as determined by the Village Engineer, any public improvement is not being properly constructed, completed, transferred and accepted within two (2) years from the approval and recording of the plat of subdivision as required herein, the funds represented by such security or any portion thereof, may be withdrawn by the Village, or a draft or drafts under any such letter of credit may be presented, upon the sole discretion of the Village Engineer. Such action shall be honored and paid by the surety, and disbursed to the Village Treasurer, to be held and used only for the payment of the cost of such public improvements or any portion thereof, and administrative costs in taking such action, including collection costs and attorney fees.

(2) That such security may be drawn upon demand of the Village in an amount equal to the

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cost of the Village for maintenance or restoration of such public improvements during the aforesaid two-year period, upon the sole determination by the Village Engineer, or the Village Engineer's authorized representative, that the requirements of this Code or applicable regulations regarding such maintenance and restoration have not been complied with by the Owner, and that either of the following conditions exist:

(i) Failure of the Owner to properly protect, maintain or restore existing public improvements will cause material deterioration thereto.

(ii) Failure of the Owner to properly protect, maintain or restore existing public improvements will present an imminent hazard to life or property within the subdivision or in areas adjacent thereto.

(c) In the event the construction security is insufficient to fund any charges, costs or expenses described in this section, including collection costs and attorney fees, the Owner shall be responsible for such deficiency. The Owner shall cause such deficiency to be paid to the Village upon thirty (30) days notice. In the event such payment is not timely made, the Village may institute appropriate proceedings to collect such amounts, plus all costs associated with such collection, including attorney fees.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.403. Protection of Public Improvements.**

(a) During the construction phases of development of the subdivision, and prior to acceptance by the Village of the public improvements, the Owner shall be solely responsible for all required public improvements which shall be maintained in good condition, as well as any existing public improvement within, or otherwise affected by, the subdivision. All such required and existing public improvements shall be protected and maintained in good condition, and as necessary repaired and restored, to prevent material deterioration thereof, and to assure that no imminent hazard to life or property shall exist or be created.

(b) In the event the Owner fails to properly protect, maintain or restore existing public improvements, as required herein, the Village of Downers Grove may, upon ten days prior written notice to the Owner, perform or have performed on its behalf any protection, maintenance or restoration work which, in the sole opinion of the Village Engineer, is reasonably necessary to assure the protection of the public, any required or existing public improvements, or to otherwise ensure compliance with this subdivision ordinance. Such notice shall be either personally served upon the owner or sent by regular mail and by certified mail, return receipt requested and shall be considered served by the earlier of the date of personal service, the date of receipt as evidenced by certified return, or five days after regular mailing.

(c) In the event that it is determined by the Village Engineer that failure of the Owner to properly protect, maintain or restore such required or existing public improvements will result in imminent hazard to life or property, the Village may, at the sole discretion of the Village Engineer and without prior notice to the Owner, perform or have performed on its behalf any maintenance or restoration work reasonably necessary to prevent such hazards. Within ten days thereafter the Owner shall be notified in writing by the Village of the performance of such work by the Village and the cost thereof.

(d) The Owner shall pay all costs incurred by the Village for work performed under this section within thirty days of completion of such work and receipt of a notice setting forth the work performed and expenses incurred. In the event such payment is not made in a timely manner, the Village Engineer shall withdraw the construction security required by this subdivision ordinance in an amount equivalent to the cost of such work and any collection costs, including attorney fees, incurred in collecting such amount.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.404. Construction of Public Improvements.**

(a) Except as provided herein, all public improvements required under the provisions of this subdivision ordinance to be provided at the Owner's expense shall be fully completed by the Owner within two years after approval and recording of the final plat, in accordance with the final engineering documents.

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Provided, at the request of the Owner, and provided appropriate documentation and endorsements are received, including but not limited to extension of the construction security, the two year public improvement construction deadline may be extended. Such extension, including the length and terms shall be at the sole discretion of the Village Engineer.

(b) In the sole discretion of the Village Engineer, a building permit for any structure to be erected on any lot in the subdivision may be denied until such time as the Owner shall have completed such public improvements as are determined by the Village Engineer, to be necessary to provide reasonable access, adequate drainage, sidewalks, and proper water and sanitary sewage facilities to serve the lot on which such structure is to be built.

(c) All contracts for the construction of any such public improvements shall be subject, on request, to review and approval by the Village Engineer prior to the commencement of construction. All such contracts shall contain contractors' warranties of material and workmanship in form and substance approved by the Village Engineer. The obligation of the Owner to provide such public improvements shall include, without limitation, the furnishing of all necessary surveys, engineering drawings, working drawings, determinations of grade and location, communications with contractors, review and approval of periodic payment estimates and all other services customarily performed by a registered professional engineer providing general supervision of such work, and the Village shall have no liability or responsibility for any such services. At all times during the progress of construction of such public improvements, the Owner shall permit the Community Development Director, the Village Engineer, and their duly authorized representatives, to inspect any portion thereof. If the Village Engineer reasonably determines that such improvements, or any portion thereof, are not being constructed in accordance with the approved final plans and specifications, the Village Engineer shall have the right, with or without notice to the Owner, to stop the work of any contractor. In such event the work shall cease and shall not resume unless and until such contractor shall receive authorization from the Village Engineer for the resumption of such work.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.405. Completion of Public Improvements.**

(a) If the Owner shall fail to complete all public improvements or shall fail to complete such improvements within two years, or within such further time as the Village Engineer may grant, the Village Engineer may withdraw all funds provided as construction security pursuant to this subdivision ordinance and may utilize such funds to cause the performance of any work necessary to complete the public improvements or to bring them into conformance with approved plans and codes or ordinances of the Village. The Owner shall be obligated to reimburse the Village for all costs, including but not limited to attorney fees and court costs, incurred in excess of such funds in order to complete the required public improvements.

(b) Nothing herein shall require the Village to undertake any completion, maintenance, protective or repair work of any public improvement which has not been transferred to and accepted by the Village. It is expressly provided that the Village has the right, but not the obligation, to perform such work at its sole discretion.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.406. Acceptance of Public Improvements.**

(a) Except as provided herein, all public improvements to be transferred to the Village must be properly completed before acceptance by the Village. Where, in the sole discretion of the Village Engineer, it is determined that it is in the best interest of the Village that completion of parkway restoration and/or sidewalks be delayed to prevent damage during subsequent construction activity, the Village may accept all properly completed public improvements, retaining a portion of the construction security to ensure proper completion of the parkway restoration and/or sidewalks.

(b) Upon completion of the public improvements required under the provisions of this subdivision



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ordinance, the Owner shall file with the Village Engineer all of the following:

(1) Certification by an Illinois registered professional engineer, to the effect that all such public improvements have been completed substantially in accordance with the final plans and specifications approved by the Village Engineer; and,

(2) Record (as-built) drawings in a form and in such number approved by the Village Engineer; and,

(3) Appropriate bills of sale and waiver of liens for those required public improvements to be transferred to the Village.

(4) Guarantee security as required under this subdivision ordinance.

(5) Storm sewer cleaning and televising report.

(6) Maintenance and monitoring for wetlands and stormwater best management practices, if required.

(7) Any other documents determined as appropriate by the Village Engineer.

(c) The Village Engineer shall examine the public improvements and documentation submitted by the Owner under this section. If the Village Engineer determines that public improvements are in conformance with engineering documents, the record drawings and applicable ordinances and regulations of the Village, and that the bills of sale and lien waivers are in proper form, the Village Engineer shall forward to the Village Council a recommendation that the public improvements be approved by the Village Council as satisfactory and that those improvements to be transferred to the Village be accepted for public ownership. This transmittal shall include a statement of any extraordinary costs incurred by the Village in connection with the construction of the public improvements, other than the review of plans, specifications and normal and customary inspections of the work. This transmittal shall also report if parkway restoration and/or sidewalks remain to be completed and the recommended amount of construction security to be retained to secure such completion.

(d) Within a reasonable time after receipt of the Village Engineer's recommendation, the Village Council shall consider recommendations of the Village Engineer and:

(1) If the Council determines that the public improvements are in substantial conformance with all requirements, it shall approve and accept ownership and maintenance by the Village; or

(2) If the Council determines that the public improvements are not in substantial conformance with all requirements, it shall reject such public improvements, stating the reasons therefore; or

(3) If the Council determines that the public improvements are not in substantial conformance with all requirements, but may be brought into compliance, it may approve and accept ownership and maintenance by the Village contingent upon conditions to be specified by the Village Council.

(e) In accepting public improvements, the Council may authorize the Village Engineer to release or refund to the depositor thereof the construction security, or such part thereof applicable to the accepted public improvements. Provided, the Village Council may authorize retention or deduction therefrom of the following:

(1) An amount equal to any extraordinary costs incurred by the Village; and/or

(2) An amount necessary, as determined by the Village Engineer, to secure completion of any uncompleted parkway restoration or sidewalks; and/or

(3) An amount necessary, as determined by the Village Engineer, to fund the guarantee security as required under this subdivision ordinance.

(Ord. 5443, Amended, 12/16/2014; 4065, Amended, 09/14/1998; 4033, Enacted, 05/18/1998)

### **Section 20.407. Guarantee of Completed Public Improvements.**

(a) The Owner shall guarantee the public improvements for a period of two years from the date the Village Council accepts such improvements. During such two year period, the Owner shall be obligated, upon written notice from the Village as provided herein, to repair or reconstruct any public improvement or portion thereof which may deteriorate, fail or otherwise cease to meet the standard established by the engineer's certificate or record drawings. Provided ordinary maintenance shall not be the obligation of the

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Owner.

(b) The Village shall provide written notice to the Owner of deterioration of public improvements, specifying a time period in which such deterioration is to be remedied and the Owner shall perform the necessary repair or reconstruction at his/her own expense, within the time specified.

(c) In the event that it is determined by the Village Engineer that failure of the Owner to restore existing public improvements will result in imminent hazard to life or property within the subdivision or in areas adjacent thereto the Village may, without prior notice to the Owner, perform or have performed on its behalf any restoration work reasonably necessary to prevent such hazards. Within thirty days thereafter the Owner shall be notified in writing by the Village of the performance of such work and of the cost thereof.

(d) As a condition of, and prior to, acceptance of any public improvement, the Owner shall submit to the office of the Village Engineer, guarantee security to secure the performance of the obligations imposed by this section. The guarantee security shall be in the amount of twenty percent of the total cost of the public improvements, which shall expire no earlier than two years after acceptance of such public improvements by the Village Council. Such guarantee security shall be in one of the following forms:

(1) A cash deposit, together with an agreement for the disposition thereof, in form and substance approved by the Village Engineer, including the conditions set forth in Sec. 20.407(d); or

(2) A commercial bank letter of credit in form and substance approved by the Village Engineer and drawn on a bank located within a fifty (50) mile radius of the Village unless otherwise approved by the Village Engineer; or

(e) In the event that during the two (2) year guarantee period the Owner shall fail to repair, reconstruct or otherwise remedy conditions of deterioration of public improvements in the subdivision within the time specified in the Village's written notice of such conditions, or shall fail to reimburse the Village for the cost of emergency restoration performed by or on behalf of the Village pursuant to this section within thirty days of receiving notice of such costs, the Village may draw on the guarantee security.

(f) In the event the guarantee security is insufficient to fund any charges, costs or expenses described in this section, including collection costs and attorney fees, the Owner shall be responsible for such deficiency. The Owner shall cause such deficiency to be paid to the Village upon thirty (30) days notice. In the event such payment is not timely made, the Village may institute appropriate proceedings to collect such amounts, plus all costs associated with such collection, including attorney fees.

(Ord. 5443, Amended, 12/16/2014; Ord. 4852, Amended, 02/20/2007, his to his/her(s); 4033, Enacted, 05/18/1998)

### **Section 20.408. Recapture.**

In order to provide for the recapture of costs expended by a developer or by the Village on behalf of future benefactors for public improvements of a size and character greater than required to serve the original development, whether it be a single residence or building or a subdivision in order that future development may utilize such facilities, the Village may authorize recapture.

(a) Any improvements required by this Code, including but not limited to those enumerated in Section 20-401, which provide for a direct benefit to future development, users or subdivisions, shall be reimbursable, to the extent of such benefit, to the Village or developer who installed the improvement.

(b) The cost shall be determined on the basis of the existing costs attributable to the benefit and the number of benefactors. The requirements of this section shall be implemented by separate ordinance or agreement with the Village.

(c) Any recapture ordinance or agreement may provide for a reasonable annual interest rate not to exceed three percent (3%), as determined by the Village Council. Further, the Village Council may authorize collection of a reasonable collection fee from any developer. Finally, any recapture ordinance or agreement shall be recorded against any future benefitting parcel.

(Ord. 5443, Amended, 12/16/2014; Ord. 4757, Amended, 03/07/2006; 4033, Enacted, 05/18/1998)

### **Section 20.408.01 Repealed.**

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(Ord. 5443, Amended, 12/16/2014; Ord. 4757, Add, 03/07/2006)

### Section 20.500ART. Article V. Plats

Table 5-1

Procedure	Community Development Director	Plan Commission	Village Council
Preliminary Plat	R	<R>	DM
Final Plat			
With preliminary plat approval	R	-	DM
Without preliminary plat approval	R	<R>	
County Plats	R	<R>	DM
Lot Consolidations		-	DM
Meets Sec. 20.507(d) standards	DM	-	-
Does not meet Sec. 20.507(d) standards	R	<R>	DM
Lot Reconfiguration	-	-	-
Meets Section 20.301 standards	DM	-	-
Does not meet Sec. 20.301 standards	R	<DM>	A
Appeals of Administrative Decisions	-	<DM>	-

R= Review body (responsible for review and recommendation)

DM = Decision-making body (responsible for final decision to approve or deny)

A= Appellate decision-making body responsible for final decision only upon appeal of administrative decision

<> = Public hearing required

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### Section 20.500SEC. Pre-Filing Consultation Required.

Prior to the filing for preliminary plat approval, or prior to filing for final plat approval if no preliminary plat approval has or will be sought, the Owner shall make a preliminary presentation thereof to the Community Development Director or designee for the purpose of making available to the Owner, before completion of the preliminary plat, advice and assistance from the Community Development Department. The purpose of such preliminary presentation is to determine whether the proposed subdivision appears, in general, to be in compliance with the provisions of this subdivision ordinance and other applicable ordinances; whether any exceptions are required from the provisions of this subdivision ordinance; and such other matters as may be relevant to the proposed subdivision. The Community Development Director or designee and other Village officials may advise and assist such Owner, as appropriate, in the consultation process. Provided, the Community Development Director shall have no power to approve or disapprove any preliminary or final plat, to impose any special requirements with respect to any Owner's right to file the same, or to make formal petition for the approval thereof.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### Section 20.501. Standards.

(a) A preliminary plat shall be approved if the information provided indicates that the subdivision will be in conformance with applicable requirements of this subdivision ordinance.

(b) A final plat shall be approved if it is in conformance with applicable requirements of this subdivision ordinance. Provided, a final plat in substantial conformance with an approved and timely

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preliminary plat shall be presumed to be in conformance with applicable requirements of this subdivision ordinance. Provided further, such presumption shall not apply if there is a material and significant change in conditions since the preliminary plat was approved, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the preliminary plat approval, and which is of such decisive nature that the preliminary plat would not have been approved had such conditions or evidence been known.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.502. Preliminary Plat - Petition.**

(a) An owner may seek preliminary plat approval as provided herein. This shall generally involve the configuration of streets and lots, as well as conceptual engineering documents. The purpose of a preliminary plat review is to allow an Owner to determine the appropriateness of a proposed subdivision design before preparing and finalizing the plat and associated plans, including the final engineering documents.

(b) A petition for preliminary plat approval may be initiated by the Owner in conformance with regulations established pursuant to Section 20-200.

(Ord. 5443, Amended, 12/16/2014)

### **Section 20.503. Preliminary Plat - Procedures.**

(a) The preliminary plat and such supporting documents as may be required or appropriate, shall be transmitted by the Community Development Director, or designee, to the Plan Commission, along with staff analysis and recommendation, if any.

(b) Within ninety (90) days of receipt of a complete petition notice shall be given and the Plan Commission shall commence a public hearing to be held as provided in Section 20-202. Within forty-five (45) days after conclusion of the public hearing, the Plan Commission shall transmit to the Owner and the Village Council its recommendations regarding the preliminary plat. The Plan Commission may recommend approval or disapproval of all, or any portion of the petition, including any modifications thereto or exceptions, and may condition such recommendation on restrictions and requirements as the Plan Commission determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance.

(c) Within ninety (90) days of receipt of the findings and recommendations of the Plan Commission, the Village Council shall approve, approve as modified, or deny the petition, or any part thereof. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto or exceptions, and may condition any approval on restrictions and requirements as the Village Council determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance. A violation of such conditions shall be deemed a violation of this subdivision ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the Plan Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the Plan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the Plan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the Plan Commission will be limited to such items. The Plan Commission will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

(d) If the Village Council approves the preliminary plat, notice of such approval shall be affixed thereto by the Village. One copy of the approved preliminary plat shall thereupon be returned to the Owner,

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one copy shall be delivered to the Village Engineer, and the other copies shall be retained by the Community Development Director or designee.

(e) The preliminary plat shall be valid for one year following date of approval. Provided, at the request of the Owner, this one year limit may be extended at the sole discretion of the Village Council.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.504. Final Plat - Petition.**

(a) A petition for final plat approval may be filed by an Owner at any time. Provided, if a preliminary plat has been approved, and the Owner intends to rely upon such preliminary approval, the final plat shall be in substantial compliance with the approved preliminary plat and the petition for final plat approval shall be filed within one year from the date of such preliminary plat approval.

(b) A petition for final plat approval may be initiated by the Owner in conformance with regulations established pursuant to Section 20-200. The final plat shall be prepared and certified by a registered Illinois land surveyor in conformance with the all applicable provisions of Illinois law, this Code and rules adopted by the Community Development Director and Village Engineer respecting the subdivision of the land. This shall include, but is not limited to, the following:

(1) *In General.* The final plat, prepared by a certified Illinois land surveyor, shall be drawn to a scale of not more than one hundred feet to one inch.

(2) *Name.* The name of the proposed subdivision shall be shown.

(3) *Date of preparation and north arrow.* The date of preparation and proper north arrow shall be shown.

(4) *Legal description.* The legal description of the property shall be given, which description shall include references to the section, township and range. Government section lines, corners, half-section lines, the location and dimensions of all streets, with their names, and all other lands to be dedicated to public use, and the lines and dimensions of abutting roads and streets, with their names, shall be shown.

(5) *Lot lines.* All lot lines shall be shown. Lots and blocks shall be numbered or lettered and easements shall be shown and determined by measurements.

(6) *Dimensions.* All necessary dimensions, both linear and angular, shall be shown in feet and decimals of a foot (or metric equivalent), and all deflection angles, radii, arcs and central angles of all corners along the property line of each street shall be shown.

(7) *Monuments.* References must be made upon the plat to known and permanent monuments from which future surveys may be made and the surveyor must, at the time of making the survey, set the monuments in conformance with the Plat Act and in conformance with then current surveyor and engineering standards.

(8) *Use restrictions.* The final plat shall show on its face a summary of all restrictions to be imposed by deed upon any part of the subdivision.

(9) *Certificates.* All such plats shall include such restrictive covenants and certifications as may be required by law, the Community Development Director or the Village Engineer to ensure compliance with this subdivision ordinance.

(10) *Parcel numbers.* The final plat shall show thereon the permanent parcel number or numbers assigned by the county as identifiers of the property included in the subdivision.

(11) *Setback lines.* Setback lines shall be shown conforming with the minimum requirements of the zoning ordinance if the property is within the corporate limits of the Village. Outside the corporate limits, setback lines shall be shown and shall conform to the requirements of the County zoning regulations. Provided, the plat may indicate that these are zoning restrictions and subject to change in conformance with the Downers Grove Zoning Ordinance.

(c) *Engineering documents.* Concurrently with the filing of the final plat, the Owner shall file proposed final engineering documents. These proposed final engineering documents shall consist of proposed final drawings and other material and information as required by the Village Engineer to establish

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conformance with the all applicable provisions of Illinois law, this Code and rules adopted by the Community Development Director and Village Engineer.  
(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.505. Final Plat - Procedures.**

(a) The final plat and such supporting documents as may be required or appropriate, shall be transmitted by the Community Development Director to the Plan Commission or Village Council, along with staff analysis and recommendation, if any. If the Village Council granted approval of a preliminary plat of subdivision, and the Community Development Director determines that the final plat of subdivision is in substantial compliance with the approved preliminary plat, the final plat of subdivision may be presented directly to the Village Council for approval. Should the Community Development Director determine that the final plat of subdivision is not in substantial compliance with the preliminary plat, the final plat of subdivision shall be transmitted to the Plan Commission for a public hearing as detailed below.

(b) Within ninety (90) days of receipt of a complete petition notice shall be given and the Plan Commission shall commence a public hearing to be held as provided in Section 20-202. Within forty-five (45) days after conclusion of the public hearing, the Plan Commission shall transmit to the Owner and the Village Council its recommendations regarding the final plat. The Plan Commission may recommend approval or disapproval of all, or any portion of the petition, including any modifications thereto or exceptions, and may condition such recommendation on restrictions and requirements as the Plan Commission determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance.

(c) Within ninety (90) days of receipt of the findings and recommendations of the Plan Commission, the Village Council shall approve, approve as modified, or deny the petition, or any part thereof. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto or exceptions, and may condition any approval on restrictions and requirements as the Village Council determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance. A violation of such conditions shall be deemed a violation of this subdivision ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the Plan Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the Plan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the Plan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the Plan Commission will be limited to such items. The Plan Commission will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

(d) Upon approval of the final plat and acceptance of the letter of credit for public improvements, the Village Council shall authorize the Mayor and Village Clerk respectively to sign such plat on behalf of the Village and to attest the same with the corporate seal of the Village on a proper certificate affixed to such plat.

(e) The Owner shall cause the approved final plat to be filed in the Office of the DuPage County Recorder of Deeds within ninety (90) days of Council approval. Copies of the recorded plat shall be returned to the Community Development Director before any building permits may be issued by the Village of Downers Grove.

(f) Approval of a final plat by the Village Council shall not constitute acceptance of any public improvement. The Village shall have no ownership or maintenance responsibility for such public improvement until formally accepted by the Village Council pursuant to Section 20.406.

(Ord. 5443, Amended, 12/16/2014; 4065, Amended, 09/14/1998; 4033, Enacted, 05/18/1998)

**Section 20.506. County Plats.**

(a) County plats shall be subject to review and approval by the Village as provided herein. A petition for approval of a County plat shall be initiated by the Owner in conformance with regulations established pursuant to Section 20-200.

(b) The county plat and such supporting documents as may be required or appropriate, shall be transmitted by the Community Development Director to the Plan Commission, along with staff analysis and recommendation, if any.

(c) Except as otherwise provided in this this subdivision ordinance, a County plat shall conform to the requirements of the applicable County standards. Provided, such County plat shall conform to the requirements of this subdivision ordinance to the extent the Village Council determines that such Village standards are necessary or appropriate to protect the public health safety and welfare.

(d) Within ninety (90) days of receipt of a complete petition notice shall be given and the Plan Commission shall commence a public hearing to be held as provided in Section 20-202. Within forty-five (45) days after conclusion of the public hearing, the Plan Commission shall transmit to the Village Council their recommendations regarding the County plat. The Plan Commission may recommend approval or disapproval of all, or any portion of the petition, including any modifications thereto, and may condition such recommendation on restrictions and requirements as the Plan Commission determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance.

(e) Within ninety (90) days of the findings and recommendations of the Plan Commission, the Village Council shall approve, approve as modified, or deny the petition, or any part thereof. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto, and may condition any approval on restrictions and requirements as the Village Council determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance. A violation of such conditions shall be deemed a violation of this subdivision ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the Plan Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the Plan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the Plan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the Plan Commission will be limited to such items. The Plan Commission will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

(f) If the Village Council approves the County plat, notice of such approval shall be affixed thereto by the Village.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

**Section 20.507. Lot Consolidations.**

(a) A plat of subdivision to consolidate lots or portions thereof into one new lot shall be required. In addition, approval of the Community Development Director shall be required before a lot consolidation is recorded in the Office of the DuPage County Recorder of Deeds. Provided, where an exception from the minimum lot dimensions is requested as part of the lot consolidation, or an appeal filed pursuant to this section, a hearing before the Plan Commission and approval of the Village Council shall be required before such lot consolidation is recorded. A petition for lot consolidation approval shall be filed by the Owner, or authorized representative, in conformance with regulations established pursuant to Section 20.200.

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(b) If the Community Development Director determines that the lot resulting from the lot consolidation will be in conformance with the minimum lot dimension requirements set forth herein and in conformance with sound planning principles, the Director may approve such lot consolidation within thirty (30) days from the date of the completed petition. In the event the Community Development Director denies or does not approve the lot consolidation within thirty (30) days, the applicant may request that the petition be forwarded to the Plan Commission for a hearing and be processed as provided herein, provided that all applicable fees are paid.

(c) Upon administrative approval of a plat of consolidation, the Community Development Director and the Village Clerk shall be authorized to sign such plat on behalf of the Village and to attest the same with the corporate seal of the Village on a proper certificate affixed to such plat.

(d) Lot Dimensions:

(1) Except as provided herein, lot dimensions shall conform to the requirements of the underlying zoning district.

(2) Consolidation of legal nonconforming lots shall be permitted provided such consolidation does not increase the degree of nonconformity or create any new nonconformity.

(3) In no case shall the properties being consolidated have a common lot line that is shared for less than one hundred (100) feet or fifty percent (50%) of the lot line, whichever is greater.

(4) Lot consolidations shall not result in the creation of new flag lots or through lots.

(e) Public improvements:

Public improvements required by 20.401 of this subdivision ordinance may not be required for lot consolidations. Provided, public improvements may be required where such lot consolidation is requested as part of a special use or planned unit development.

(f) If any lot resulting from the lot consolidation will not be in conformance with the standards contained in 20.507(d), or if the applicant wishes to appeal the decision, the petition shall be forwarded to the Plan Commission for a hearing. Within ninety (90) days of receipt of a complete petition notice shall be given and the Plan Commission shall commence a public hearing to be held as provided in Section 20-202. Within forty-five (45) days after conclusion of the public hearing, the Plan Commission shall transmit to the Owner and the Village Council its recommendations regarding the plat of consolidation. The Plan Commission may recommend approval or disapproval of all, or any portion of the petition, including any modifications thereto or exceptions, and may condition such recommendation on restrictions and requirements as the Plan Commission determines appropriate or necessary.

(g) Within ninety (90) days of receipt of the findings and recommendations of the Plan Commission, the Village Council shall approve, approve as modified, or deny the petition, or any part thereof. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto or exceptions, and may condition any approval on restrictions and requirements as the Village Council determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance. A violation of such conditions shall be deemed a violation of this subdivision ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the Plan Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the Plan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the Plan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the Plan Commission will be limited to such items. The Plan Commission will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days



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of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

(h) Upon approval of the plat of consolidation by the Village Council, the Mayor and Village Clerk shall be authorized to sign such plat on behalf of the Village and to attest the same with the corporate seal of the Village on a proper certificate affixed to such plat.

(i) A lot consolidation grants the right, but not the obligation, to consolidate parcels. Any approval provided herein shall expire one year after issuance unless, within that time, a conveyance affecting the lot consolidation has occurred.

(Ord. 5443, Amended, 12/16/2014; Ord. 5285, Amended, 11/06/2012; 4033, Enacted, 05/18/1998)

### **Section 20.600ART. Article VI. Miscellaneous Proceedings**

(Ord. 5443, Amended, 12/16/2014; 4033, Renumbered, 05/18/1998; 4033, Enacted, 05/18/1998)

### **Section 20.600SEC. Reserved.**

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.601. Lot Reconfiguration.**

(a) No subdivision plat shall be required, but approval of the Plan Commission or the Community Development Director shall be required before a lot reconfiguration is recorded in the Office of the DuPage County Recorder of Deeds. A petition for lot reconfiguration approval shall be filed by the Owner in conformance with regulations established pursuant to Section 20-200.

(b) If the Community Development Director determines that all the lots resulting from the lot reconfiguration will be in conformance with sound planning principles and will either (i) be in conformance with the lot dimension requirements set forth in Section 20.301; or (ii) will not increase the degree of nonconformity or create any new nonconformity. The Community Development Director may approve such lot reconfiguration within thirty days from the date of the completed petition. In the event the Community Development Director denies or does not approve the lot reconfiguration within 30 days, the request for lot reconfiguration shall be forwarded to the Plan Commission and processed as provided in subsection 20-601(c).

(c) If any lot resulting from the lot reconfiguration will not be in conformance with the standards for lots within the zoning district in which the property is located, or if the Director denies or does not approve the lot reconfiguration within thirty (30) days of submittal, the Community Development Director shall forward the matter to the Plan Commission for their consideration. Within ninety (90) days of receipt of a complete petition notice shall be given and the Plan Commission shall commence a public hearing to be held as provided in Section 20-202. Within forty-five (45) days after conclusion of the public hearing, the Plan Commission shall approve or deny the lot reconfiguration as provided herein. The Plan Commission may approve or disapprove all, or any portion of the petition, including any modifications thereto, and may condition such recommendation on restrictions and requirements as the Plan Commission determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance. If no exceptions are sought and the Plan Commission determines that such lot reconfiguration does not increase the net non-conformity of the parcels involved, or increase an existing non-conformity on any individual parcel, the decision of the Plan Commission shall be final unless appealed by the Owner to the Village Council within ninety (90) days of a findings and decision of the Plan Commission. If exceptions are sought or the Plan Commission determines that such lot reconfiguration does

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increase the net non-conformity of the parcels involved, or increases an existing non-conformity on any individual parcel, the decision of the Plan Commission shall be a recommendation which shall be forwarded to the Village Council for final action.

(d) Where an appeal has been filed as provided in this section, or an exception is sought, or such lot reconfiguration is determined to increase the net non-conformity of the parcels involved, or increase an existing non-conformity on any individual parcel, the Village Council, shall consider and approve, disapprove or approve as modified the lot reconfiguration, including recommended exceptions within ninety (90) days of the findings and decision of the Plan Commission. The Village Council may approve or disapprove all, or any portion of the petition, including any modifications thereto, and may condition any approval on restrictions and requirements as the Village Council determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance. A violation of such conditions shall be deemed a violation of this subdivision ordinance. In the alternative, the Village Council may remand the petition, in whole or in part, back to the Plan Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the Plan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the Plan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the Plan Commission will be limited to such items. The Plan Commission will conduct such further proceedings as may be appropriate and represent the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such representation.

(e) A lot reconfiguration grants the right, but not the obligation, to change the boundaries of existing parcels of land. Any approval provided herein shall expire one year after issuance unless, within that time, a conveyance effecting the lot reconfiguration has occurred.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.602. Exceptions.**

(a) In conjunction with considering any subdivision, lot reconfiguration or other approval under this subdivision ordinance, the Plan Commission may consider and recommend, and the Council may grant, exceptions from the requirements of this subdivision ordinance as set forth herein. A petition for an exception shall be filed by the Owner in conjunction with such other proceedings and in conformance with regulations established pursuant to Section 20-200.

(b) Exceptions may be granted only in specific cases where such exceptions do not alter the general plan and intent of this subdivision ordinance and where the Council determines that a requested exception does not adversely impact the public health, safety and welfare. Provided:

(1) With respect to the requirements of this subdivision ordinance for the construction of sidewalks, the Plan Commission shall only have the authority to recommend whether sidewalks are to be constructed or whether a fee is to be paid in lieu of construction, based on the recommendation of the Village Engineer in administering Village Council policy, as provided in this Code. The Plan Commission shall not have the authority to grant exceptions to such requirements or to waive the requirement for sidewalk construction without requiring payment in lieu of construction.

(2) No exception may be granted from the minimum provisions of Section 20-302 regarding flag lots and front lots.

(c) An exception shall be recommended by the Plan Commission only if it finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the provisions of this subdivision ordinance. In its consideration of the standards of practical difficulties or particular hardships, the Commission may consider, but is not limited to, the following:

(1) The extent to which the proposed exception impacts on the value or reasonable use of surrounding properties;

(2) Whether the exception is consistent with the trend of development in the area and the

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surrounding uses;

(3) The characteristics of the property which support or mitigate against the granting of the exception;

(4) Whether the exception is in conformance with the general plan and spirit of this subdivision ordinance;

(5) Whether the exception will alter, or be consistent with, the essential character of the locality.

(d) Exceptions shall be processed and considered in conjunction with such other petitions for approval submitted by the Owner. The Plan Commission may recommend approval or disapproval of all, or any portion of the exception request, including any modifications thereto, and may condition such recommendation on restrictions and requirements as the Plan Commission determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance. The Village Council may approve or disapprove all, or any portion of the exception, including any modifications thereto, and may condition any approval on restrictions and requirements as the Village Council determines appropriate or necessary to ensure that the petition, as approved, will conform to the provisions of this subdivision ordinance. A violation of such conditions shall be deemed a violation of this subdivision ordinance. In the alternative, the Village Council may remand the exception petition, in whole or in part, back to the Plan Commission if the Village Council determines that it is necessary or appropriate to provide a fair and complete consideration of the petition because there is a material and significant change in conditions since the Plan Commission hearing, or there is new or additional information which is material to the petition and which was not reasonably available at the time of the Plan Commission hearing. The Village Council will specify the reasons and scope of such remand and further proceedings before the Plan Commission will be limited to such items. The Plan Commission will conduct such further proceedings as may be appropriate and re-present the petition, with appropriate recommendations, to the Village Council within sixty (60) days of referral. Thereafter, the Village Council shall render a final decision within sixty (60) days of such re-presentation.

(Ord. 5443, Amended, 12/16/2014; 4033, Enacted, 05/18/1998)

### **Section 20.603. Appeals from Administrative Decisions.**

(a) The Plan Commission shall hear and decide appeals from Owners who have pending petitions for approval under this subdivision ordinance regarding any order, requirement, decision, or determination made by the Community Development Director or Village Engineer in the enforcement of this subdivision ordinance. This includes, but is not limited to interpretative rulings of this subdivision ordinance and petition submittal requirements.

(b) Appeals may be initiated by the Owner by filing a notice of appeal in conformance with Section 20-200. Such appeal shall be filed within forty-five (45) days of the order, requirement, decision, or determination at issue, but not later than ten days before commencement of a public hearing before the Plan Commission on the pending petition of the Owner. The Community Development Director shall forthwith transmit to the Plan Commission all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal stays all proceedings in furtherance of the action appealed from, unless the Community Development Director certifies to the Plan Commission that by reason of facts stated in the certificate a stay would, in the Community Development Director's opinion, cause imminent peril to life or property. In this event, the proceedings shall not be stayed other than by an order of the Plan Commission on due cause being shown.

(d) Appeals shall be processed and considered in conjunction with such other petitions for approval submitted by the Owner. The Plan Commission may reverse, or affirm wholly or in part, or may modify any order, requirement, decision, or determination appealed from, and may make such order or finding as it deems warranted and to be in compliance with this subdivision ordinance. To this end, the Plan Commission shall have the powers of the Community Development Director or Village Engineer from whom the appeal is

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taken.

(Ord. 5443, Amended, 12/16/2014; 4065, Amended, 09/14/1998; 4033, Enacted, 05/18/1998)