

## CHAPTER 9 SUBDIVISION REGULATIONS

### Part 7: Enforcement

#### **Sec. 13-9-90 Variations and Exceptions.**

- (a) Where, in the judgment of the Plan Commission, it would be inappropriate to apply literally the provisions of this Chapter because exceptional or undue hardship would result, the Plan Commission may waive or modify any requirements to the extent deemed just and proper. Application for any such variance shall be made in writing by the subdivider at the time when the Preliminary Plat is filed for consideration, stating fully all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Plan Commission in the analysis of the proposed project.
- (b) The Plan Commission shall not grant variations or exceptions to the regulations of this Chapter unless it shall make findings based upon the evidence presented to it in each specific case that:
  - (1) The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
  - (2) The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property;
  - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, financial hardship or self-imposed hardship, if the strict letter of the regulations were carried out.
- (c) The Plan Commission, if it approves of the variance, shall do so by motion or resolution and instruct the City Clerk to notify the subdivider.
- (d) Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Chapter or the desirable general development of the City in accordance with any City Comprehensive Plan or component thereof, this Chapter, or the City Zoning Code. A majority vote of the entire membership of the Plan Commission shall be required to grant any modification of this Chapter, and the reasons shall be entered in the minutes of the Plan Commission.
- (e) The Plan Commission may waive the placing of monuments, required under Sec. 236.15(b), (c) and (d), Wis. Stats., for a reasonable time on condition that the subdivider execute a surety bond to insure the placing of such monuments within the time required.

#### **Sec. 13-9-91 Enforcement, Penalties and Remedies.**

- (a) **Violations.** It shall be unlawful to build upon, divide, convey, record or monument any land in violation of this Chapter or the Wis. Stats.

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and no person shall be issued a building permit by the City authorizing the building on, or improvement of, any subdivision, land division or replat with the jurisdiction of this Chapter not of record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been fully met. The City may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wis. Stats.

#### **(b) Penalties.**

- (1) Any person, firm or corporation who fails to comply with the provisions of this Chapter shall, upon conviction thereof, forfeit no less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) and the costs of prosecution for each violation, and in default of payment of such forfeiture costs shall be imprisoned in the county jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.
- (2) Recordation improperly made has penalties provided in Sec. 236.30, Wis. Stats.
- (3) Conveyance of lots in unrecorded plats has penalties provided for in Sec. 236.31, Wis. Stats.
- (4) Monuments disturbed or not placed have penalties as provided for in Sec. 236.32, Wis. Stats.
- (5) Assessor's plat made under Sec. 70.27 of the Wis. Stats. may be ordered by the City at the expense of the subdivider when a subdivision is created by successive divisions.

#### **(c) Revocation of Permits and/or Approvals.**

- (1) The City Engineer may revoke or suspend any permit or approval issued under the regulations of this Chapter and may stop construction or use of approved materials, equipment, methods of construction, devices or appliances for any of the following reasons:
  - a. Whenever the City Engineer shall find at any time that applicable Ordinances, laws, orders, plans and specifications are not being complied with and that the subdivider or his contractor has refused to conform after written warning or instruction has been issued to him.
  - b. Whenever the continuance of any construction becomes dangerous to life or property.
  - c. Whenever there is any violation of any condition or provisions of the application for permit, or of the permit or of any approval.
  - d. Whenever, in the opinion of the City Engineer, the subdivider has provided inadequate management of the project.
  - e. Whenever any false statement or misrepresentation has been made in the application for permit, plans, drawings, data specifications or certified lot or plot plan on which the issuance of the permit or approval was based.
  - f. Whenever there is a violation of any of the conditions of an approval or occupancy given by the City Engineer for the use of all materials, equipment, methods of construction, devices or appliances.
- (2) The notice revoking a permit or approval shall be in writing and may be served upon the applicant of the permit, owner of the premises and his agent, if any, and/or on the person having charge of construction.

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- (3) A revocation placard shall also be posted upon the premises in question by the City Engineer.
  - (4) After the notice is served upon the persons as aforesaid and posted, it shall be unlawful for any person to proceed thereafter with any construction operation whatsoever on the premises, and the permit which has been so revoked shall be null and void, and before any construction or operation is again resumed, a new permit, as required by this Chapter, shall be procured and fees paid therefore, and thereafter the resumption of any construction or operation shall be in compliance with the regulation of this Chapter. However, such work as the City Engineer may order as a condition precedent to the reissuance of the building permit may be performed, or such work as he may require for the preservation of life and safety.
  - (5) Any appeals of such revocations or suspensions must be made in writing and within seven (7) calendar days to the City Clerk for consideration by the Common Council at its next regularly scheduled meeting, provided the appeal is filed not less than seven (7) days prior to the meeting date.
  - (6) The City Building Inspector is hereby directed to withhold the issuance of building permits within the land division until compliance with the provisions of this Chapter is obtained.
  - (7) The City Building Inspector is hereby directed to withhold the issuance of occupancy permits within the land division if violations of this Chapter may result in health or safety problems for the occupants.
- (d) **Appeals.** Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in Sec. 236.13(5) and 62.23(7)(e) 10, 14 and 15 of the Wis. Stats., within thirty (30) days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable or discriminatory.