

Chapter 62

LAND DIVISION

* **Cross References:** Buildings and building regulations, ch. 10; environment, ch. 18; floods, ch. 26; streets, sidewalks and other public places, ch. 58; utilities, ch. 74; waterways, ch. 78; zoning, ch. 82.

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ARTICLE I.
IN GENERAL

Sec. 62-1. Title.

This chapter shall be known as the “Calumet County Land Division Ordinance”, hereinafter referred to as “this chapter”.

Sec. 62-2. Authority.

This chapter is adopted pursuant to the authority granted by sections 59.69, 59.692(3), 281.31, 236.45, and 703.115 Wis. Stats.

Sec. 62-3. Purpose.

The purpose of this chapter is to regulate and manage the division of land within the unincorporated areas of Calumet County for the following reasons:

- (a) To guide the future growth and development of Calumet County in accordance with the adopted Calumet County comprehensive plan and other county plans;
- (b) To facilitate the orderly and beneficial development of the county through well planned land divisions consistent with workable design standards;
- (c) To meet demand for rural residential housing while preventing overcrowding of the land and undue congestion of the population through the use of maximum residential density limits.
- (d) To further the orderly layout of land through the establishment of reasonable standards of design and procedures for land divisions;
- (e) To ensure accurate legal descriptions and proper monumenting of subdivided land;
- (f) To assure the provision of needed public open spaces and building sites in land developments through the dedication or reservation of land for recreational, educational and other public purposes.
- (g) To prevent and control erosion, sedimentation, and other pollution of air, streams, and ponds; to ensure the adequacy of drainage facilities; to safeguard potable water supplies; and to encourage the wise use and management of natural resources through the county;
- (h) To preserve the natural beauty, topography and prime agricultural farmland of the county and to encourage appropriate development with regard to these features;
- (i) To ensure adequate provision of efficient transportation, water, sewerage, stormwater drainage, schools, recreation, and other facilities;
- (j) To ensure that the design of the transportation system will not have a negative long-term effect on neighborhood quality, traffic and pedestrian movement, and safety;
- (k) To secure safety from fire, flood, and other dangers; and

(l) To promote the public health, safety, general welfare, and environmental quality of Calumet County.

Sec. 62-4. Applicability, Jurisdiction and Administration.

(a) Applicability. No land division shall be permitted if it results in a subdivision, unless a plat or a certified survey map is submitted and approved in accordance with this chapter and Ch. 236, Wis. Stats.

(b) Jurisdiction.

(1) Unincorporated Areas. The provisions of this chapter shall apply in all unincorporated areas of Calumet County. Plats shall be approved and signed by the Committee and certified survey maps shall be approved and signed by the Land & Water Conservation Department unless deferred by the Land & Water Conservation Department to the Committee for approval.

A. Where the governing body of a town within Calumet County has enacted an ordinance regulating land divisions, compliance must be made with the most restrictive requirements as provided in s. 236.13(4), Wis. Stats.

(2) Incorporated Areas. Preliminary and final plats located in all incorporated municipalities shall be submitted with fees to the Land & Water Conservation Department, as provided by s. 236.12(2)(b), Wis. Stats., for the purpose of determining whether the Land & Water Conservation Department has any objection to the plat. The Land & Water Conservation Department reserves the right to defer its decision-making authority to the Committee. The basis for any objection to any such plat shall be that the plat conflicts with parks, parkways, expressways, major highways, airports, drainage channels, schools or other planned public developments.

(c) Administration. The administration of the provisions of this chapter shall be the responsibility of the Calumet County Land & Water Conservation Department.

Sec. 62-5. Abrogation and Greater Restrictions.

(a) Any amendments, repeals or recreations of the statutes relating to this chapter are incorporated into this chapter by reference as of the effective date of the amendment, repeal or recreation.

(b) Wherever this chapter imposes greater restrictions than other similar regulations, the provisions of this chapter shall govern.

Sec. 62-6. Severability.

It is intended that the provisions of this chapter be severable and should any portion be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the chapter as a whole or portions thereof, which are not specifically declared to be invalid or unconstitutional.

Sec. 62-7. Effective Date.

This chapter shall immediately go into effect on the day following its enactment.

Sec. 62-8. Definitions.

(a) *Word Usage.* In the interpretation of this chapter, the provisions and rules of this chapter shall be observed and applied, except when the context clearly requires otherwise:

- (1) Words used or defined in one tense or form shall include other tenses and derivative forms.
- (2) Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
- (3) The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
- (4) The word “shall” is mandatory.
- (5) The word “may” is permissive.

(b) *Definitions.* When used in this chapter, the following terms shall have the meanings herein assigned to them. Words used in this chapter, but not defined herein, shall carry the meanings as defined in Webster’s Unabridged Third International Dictionary, or a dictionary based on it. For purposes of easy reference within this section, the following terms will appear in italicized print.

Agricultural Use. Utilization of natural resources for the purpose of raising and selling basic food stuffs and goods for conversion to other forms. Examples of an agricultural use include, but are not limited to, beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forestry and/or game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in Federal programs in return for payments in kind; owning land, at least 35 acres of which is in a farmland preservation program or enrolled in the conservation reserve program; participating in the milk production termination program; and vegetable raising. Agricultural use does not include the extensive processing of raw goods.

Block. A parcel, lot, or group of lots existing within well-defined and fixed boundaries bounded on at least one side by a street, bounded on the others sides by streets, natural or manmade barriers, or unplatted land and having an assigned number, letter, or other name through which it may be identified.

Buffer. An area of open space maintained between distinct land uses, which shall not contain houses or any other type of structures.

Building. An enclosed structure, maintained, or intended to be used for the protection, shelter, or enclosure of persons, animals, or property and which is affixed to the ground.

Business Day. A day the Land & Water Conservation Department is routinely and customarily open for business.

Calumet County Coordinate System. The Calumet County Coordinate Reference System follows the Wisconsin Coordinate Reference Systems (WISCRS) as published by the Wisconsin State Cartographer’s Office, 2009:

Projection	transverse mercator
Units	U.S. survey feet
Scale factor on CM	1.0000286569
Origin longitude	
Origin latitude	
False easting	802999.999 U.S. survey feet (244754.8893 meters)
False northing	0.016 U.S. survey feet (0.0049 meters)

Calumet County GreenPrint Map. A web-enabled map showing the relative ecological importance of each parcel of land in the county.

Calumet County Zoning Ordinance. Ch. 82 of the Calumet County Code of Ordinances.

Certified Survey Map. A map of land division prepared in accordance with s. 236.34, Wis. Stats. and in full compliance with the applicable provisions of this chapter.

Cluster or Clustering. A site-planning technique that concentrates buildings and/or lots in specific areas on a lot, parcel or tract of land to allow the remaining land to be used for recreation, agriculture, open space, and/or preservation of features and/or structures with environmental, historical, cultural, or other significance. The techniques used to concentrate buildings and/or lots may include, but shall not be limited to, density regulations, shared access points, and maximum lot size requirements, with the resultant open space being devoted by deed restriction for one or more limited uses.

Cluster Subdivision. A residential development that concentrates buildings and/or lots on a part or parts of the site to allow the remaining land to be used for open space, recreation, protection of environmental features, agriculture or other purposes, where the density regulations are applied to the project as a whole instead of to individual lots.

Combining Parcels. The act of creating a single lot description and tax parcel out of two (2) or more separately described parcels.

Committee. The Calumet County Planning, Zoning, Land and Water Conservation Committee.

Common Ownership. Parcels held in similar title. For example: R. Smith and S. Smith have common ownership with property titled as Ralph Smith and Susie Smith, or Mr. and Mrs. Ralph Smith. However, R. Smith and S. Smith do not have common ownership with R. Smith, L.L.C., or R. Smith Trust.

Condominium. Property subject to a condominium declaration established under Ch. 703, Wis. Stats.

Condominium Instruments. The declaration, plats and plans for a condominium together with any attached exhibits or schedules, and any amendments or addendums that modify a recorded condominium declaration or plat, as defined in Ch. 703, Wis. Stats.

Contiguous Parcels. Two (2) or more parcels that have at least one (1) point in common ownership or which are intended by legal description to abut or adjoin by at least one (1) point in common ownership.

County. Calumet County, Wisconsin, including any employee, agency, department or committee thereof.

County Planner. An authorized representative of the Land & Water Conservation Department hired by Calumet County to carry out the assigned responsibilities of this chapter.

County Plat. A map of a land division prepared in the same manner as required in Ch. 236, Wis. Stats., except that all reviews are completed at the local level, in accordance with the terms of this chapter and where:

- (a) The act of division creates five (5) or more lots, of which no more than four (4) lots are one and one half (1½) acres or less in area; or
- (b) Five (5) or more lots, of which no more than four (4) lots one and one half (1½) acres or less in area are created by successive division within a period of five (5) years.

Dead-end Street. A street having only one outlet for vehicular traffic and no permanent vehicular turnaround.

Declarant. Any individual, firm, association, syndicate, partnership, corporation, guardian, attorney, trust, condominium declarant or any other legal entity commencing proceedings under the provisions of this subchapter to record a condominium instrument with the Calumet County Register of Deeds.

Declaration. The instrument by which a property becomes subject to this chapter, and that declaration as amended from time to time.

Density Management Boundary. Those areas identified where more intensive or higher density land subdivisions will be allowed based on sewer service area planning.

Density Map. A map approved by the Calumet County Board of Supervisors, on file in the Land & Water Conservation Department and incorporated herein by reference, which establishes the maximum residential density for each parcel in Calumet County.

Development. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mine, excavation, landfill or land disturbance; and/or any change in use, or alteration or extension of the use of land.

Easement. A legal or equitable right acquired by the owner of one piece of land (the *dominant* estate) to use another's land (the *servient* estate) for a special purpose.

Expandable Condominium. A condominium to which additional property or units or both may be added in accordance with the provision of a declaration, Ch. 703, Wis. Stats, and this chapter.

Extraterritorial Plat Approval Jurisdiction. The unincorporated area within three (3) miles of the city limits of a city of the first, second or third class if the city has a land division ordinance or official map, or within one and one half (1½) miles of the corporate limits of a city of the fourth class or a village, if the city or village has a land division ordinance or official map. (Note: All incorporated municipalities in Calumet County, except the cities of Appleton, Kaukauna, and Menasha, are in the category of "fourth class city or village." The City of Appleton is in the category of "second class city" and the cities of Kaukauna and Menasha are in the category of "third class city.")

Farmland Preservation Agreement. Any of the following agreements between an owner of land and the State of Wisconsin Department of Agriculture, Trade and Consumer Protection under which the owner agrees to restrict the use of land in return for tax credits:

(a) A farmland preservation or transition area agreement entered into under s. 91.13, 2007, Wis. Stats., or s. 91.14, 2007, Wis. Stats.

(b) An agreement entered into under s. 91.60(1), Wis. Stats.

Farm Residence. Any of the following structures that is located on a farm:

(a) Single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:

(1) An owner or operator of the farm.

(2) A parent or child of an owner or operator of the farm.

(3) An individual who earns more than fifty (50) percent of his or her gross income from the farm.

(b) A migrant labor camp that is certified under s. 103.92, Wis. Stats.

Final Plat. A plat of a subdivision prepared in compliance with Ch. 236, Wis. Stats., and this chapter.

Five Year Period. Sixty (60) successive calendar months.

Frontage. The linear dimension of a lot abutting a road measured along the right-of-way line.

Grade. The slope of a road, street, or other public way specified in percent.

Gross Acreage. The total area of a parcel including the area of all public road right-of-ways.

Growth Management Boundary. Those areas identified where more intensive or higher density land subdivisions will be allowed, based on sewer service area planning.

Growth Management Map. A map approved by the Calumet County Board of Supervisors, on file in the Land & Water Conservation Department and incorporated herein by reference, which establishes long-term and short-term growth areas in Calumet County based on sewer service area planning.

Hamlet. An unincorporated rural community.

Homeowners Association. A community association, incorporated or not incorporated, combining individual home ownership with the shared use or ownership of common property or facilities.

Land Division. The process of creating one (1) or more lots, or parcels from one (1) or more preexisting lots, parcels or tracts of land.

Limited Common Element. A common element identified in a declaration or on a condominium plat as reserved for the exclusive use of one (1) or more but less than all of the unit owners.

Lot. A parcel of land numbered in sequence with other parcels shown on a plat or certified survey map.

Lot Width. The horizontal distance of a line, which connects 2 side lot lines, runs through the building zone of the lot, and is perpendicular to the line bisecting the angle formed by the side lot lines. For lots with parallel side lot lines, the lot width is the perpendicular distance between the side lot lines.

Lowest Building Opening (L.B.O.). The elevation of the lowest window, door or other inlet at which water may enter a building.

Major Subdivision. A subdivision resulting in the creation of five (5) or more lots created by successive divisions from the parent parcel within a period of five (5) years.

Maximum Residential Density. The maximum number of lots allowed per acre on an original tract as prescribed through the Calumet County Zoning Ordinance or the Calumet County Density Map, which ever is applicable.

Minor Subdivision. A subdivision resulting in the creation of four (4) or less lots created by successive divisions from the parent parcel within a period of five (5) years.

Net Lot Area. The total square footage of any lot or parcel, less the square footage of all right-of-ways or easements for roadways.

Non-Prime Farmland. Any of the following:

- (a) An area other than class I or class II land capability classifications as shown by the Natural Resources Conservation Service of the Federal Department of Agriculture in the Calumet County and Manitowoc County Soil Surveys.
- (b) Land, other than land described in par. (a), that is identified as non-prime farmland, as shown on Map C of the Calumet County Farmland Preservation Plan.

Non-Profit Conservation Organization. Any charitable corporation, charitable association or charitable trust (such as a land trust), the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological or cultural aspects of real property.

Official Map. A map indicating the location, width, extent of the existing and proposed streets, highways, parkways, parks and playgrounds adopted by the municipalities in Calumet County, in accordance with s. 62.23(6), Wis. Stats.

Original Tract. Contiguous parent parcels held in common ownership prior to the effective date of this chapter.

Open Space. Land within a subdivision or development retained for use as recreation areas, agriculture, or for natural resource protection in an essentially undeveloped state.

Outlot. A lot remnant or parcel of land within a plat or certified survey map remaining after platting for which no development is intended.

Parent Parcel. A legally created parcel, lot or tract of land that existed prior to the effective date of this chapter which the enclosing boundaries are separately described and are either of record in the Office of

the Calumet County Register of Deeds or defined by an existing tax parcel. A parent parcel completely severed by a public right-of-way shall be construed to comprise two (2) separate parcels.

Parcel. An area of land described in a single description in a deed or lot or outlot on a plat or certified survey map, separately owned or capable of being separately conveyed.

Plat. A map of a major subdivision prepared in accordance with Ch. 236, Wis. Stats. and this chapter.

Planned Development. An area of land controlled by a single owner, corporation, or any other legal entity to be developed as a single entity for a number of buildings, the plan for which is unique in its mixture of land uses and open spaces and not specifically provided for by applying customary road, block and lot requirements of this chapter or applicable Zoning Code.

Preliminary Plat. A map showing the salient features of a proposed plat submitted to the Committee and other approving agencies for purposes of preliminary consideration.

Prime Farmland. Any of the following:

(a) An area with a class I or class II land capability classification as shown by the Natural Resources Conservation Service of the Federal Department of Agriculture in the Calumet County and Manitowoc County Soil Surveys.

(b) Land, other than land described in par. (a), that is identified as prime farmland, or prime if drained/not flooded, as shown on Map C of the Calumet County Farmland Preservation Plan.

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

Residential Dwelling Unit. A building or portion thereof, which provides or is intended to provide living quarters exclusively for one (1) family. A duplex shall be considered one (1) dwelling unit for purposes of determining base development yield.

Land & Water Conservation Department. The Calumet County Land & Water Conservation Department.

Road. A dedicated and accepted right-of-way for vehicular traffic, whether designated as an avenue, boulevard, street, highway, expressway, land, alley, or any other way and for the purpose of this chapter, "roads" are divided into the following categories:

(a) Arterial Road. A road, which connects collector roads within the county. The major purpose of which is to move traffic but may serve secondary purposes.

(b) Collector Road. A road whose primary function is to carry traffic from local roads to arterials. It provides for movement within and between developed areas.

(c) Local Road. A road used primarily for access to abutting properties.

- (d) Private Road. A local roadway serving a minimum of three (3) abutting lots, not publicly dedicated or maintained by the county, town, city or village in which it is located but meeting specific municipal improvement standards, and providing access for service and emergency vehicles.
- (e) Cul-de-sac. A local road with only one (1) outlet sometimes called a dead-end street.

(f) Alley. A public or private right-of-way, which provides secondary access to abutting properties.

Shadow Plat. A conceptual development plan, drawn to the specifications of Sec. 62-29, *Preliminary Plat*, for a major subdivision or drawn to specifications of Sec. 62-31, *Certified Survey Maps*, for a minor subdivision and approved by the Committee, town, and the adjoining city or village having extraterritorial plat approval jurisdiction, that guides the future development of land at full urban densities for which partial development is sought in the short-term. Shadow plats show the lots, blocks and streets necessary to attain future urban residential development at urban densities while allowing the placement of buildings and access in the interim.

Shorelands. Those lands which are located within one-thousand (1,000) feet of the ordinary high water mark of a navigable lake, pond, or flowage; or within three-hundred (300) feet of the ordinary high water mark of a navigable river or stream, or to the landward side of the flood plain of the river or stream, whichever distance is greater.

Site Plan. The development plan for one (1) or more lots on which is shown the existing and/or the proposed conditions of the lot.

State Subdivision. The division of a lot, parcel or tract of land by the owners thereof, or their agents, for the purpose of transfer of ownership or building development where:

- (a) The act of division creates five (5) or more parcels or building sites of one and one half (1½) acres each or less in area; or
- (b) The act of division creates five (5) or more parcels or building sites of one and one half (1½) acres each or less in area by successive division within a period of five (5) years.

Structure. Anything constructed, erected, manufactured, or moved, the use of which requires a more or less permanent location on or in the ground.

Subdivider. The person, firm, or corporation having such a proprietary interest in the land to be subdivided as well as authorize the maintenance of proceedings to subdivide such lands under this chapter, or the authorized agent of such person, firm or corporation for the purpose of proceeding under this chapter.

Subdivision. A division of a lot, parcel or tract of land by the subdivider for the purpose of transfer of ownership or building development. A subdivision can be created by the following means:

- (a) Recording a plat or certified survey map.
- (b) Recording any other document or instrument that creates a parcel not previously created pursuant to this chapter or its predecessor.
- (c) Foreclosure of a mortgage or a land contract if the foreclosure creates and/or conveys a parcel not previously created pursuant to this ordinance or its predecessor. This subsection is not to be

construed as endorsing a policy encouraging rezoning or subdividing of a parcel as a prerequisite to obtaining a mortgage when inconsistent or incompatible with surrounding zoning or uses.

Tax parcel. An existing tract of land as defined by the governing jurisdictional body for the purpose of assessment and taxation.

Tax parcel number. An identification number assigned by the Calumet County Treasurer to real estate in Calumet County for taxation purposes.

Tract. A lot or parcel of land.

Town. Any town in Calumet County, including the Town Board, Town Clerk and any other designated Town Committee.

Unit. A part of a condominium intended for any type of independent use, including one (1) or more cubicles of air at one (1) or more levels of space or one (1) or more rooms or enclosed spaces located on one (1) or more floors, or parts thereof, in a building. A unit may include two (2) or more noncontiguous areas.

Wetlands. Those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions. Wetlands recognized for purposes of this chapter are those two (2) acres or greater as shown on the Wisconsin Department of Natural Resources Wisconsin Wetland Inventory Maps.

Sec. 62-9. Compliance With Ordinances, Statutes, Regulations And Plans.

(a) Any subdivider dividing land, which results in a major subdivision, shall prepare a plat of the subdivision. Any subdivider dividing land, which results in a minor subdivision, shall prepare a certified survey map. Any such plat or certified survey map shall be prepared in accordance with the requirements of this chapter and with any State of Wisconsin Statutes or Administrative Codes, all County Codes and Ordinances, the adopted Calumet County comprehensive plan, and the official map of any town, village, city or governmental unit having jurisdiction.

(b) To the extent that this chapter contains time limits, deadlines, notice requirements, or other provisions that are more restrictive than time limits, deadlines, notice requirements, or other provisions that provide protections for a subdivider contained in Ch. 236, Wis. Stats., the time limits, deadlines, notice requirements or other provisions that provide protections for a subdivider contained in Ch. 236, Wis. Stats. shall apply.

Sec. 62-10. Exemptions.

(a) The following are exempt from this chapter provided the requirements in sub. (b), (c) and (d) are satisfied:

(1) The creation of less than five (5) parcels for purposes of executing terms of a will or court order. The Land & Water Conservation Department shall periodically request local courts to order parties to obtain advisory review of land divisions created by will or court order for compliance with this chapter prior to the issuance of a court order.

(2) Leases creating less than five (5) parcels for a term not to exceed ten (10) years, mortgages or easements.

- (3) The sale or exchange of parcels of land between owners of abutting property is exempt:
- A. If additional lots are not thereby created;
 - B. If the parcels resulting are not reduced below the minimum lot length, width and area dimensions required by this chapter or other applicable laws or regulations;
 - C. If the parcels resulting are not enlarged where a maximum lot area dimension density bonus was claimed under Sec. 62-23(c)(1)(D) or where no other provisions of this chapter have been violated.
- (4) Cemetery plats made under s. 157.02, Wis. Stats.
- (5) Assessors' plats made under s. 70.27, Wis. Stats.
- (b) The recording instrument shall identify the specific exemption claimed. Anyone using an exemption described in this section shall be subject to prosecution under this chapter if the Land & Water Conservation Department subsequently determines that the exemption was not available.
- (c) A parcel or lot created by virtue of any exemption under this section is not exempt from other applicable regulations.
- (d) The resulting recording instrument shall be submitted to the Land & Water Conservation Department for informational purposes, with no county approval action required.

Sec. 62-11 – Sec. 62-13. Reserved.

ARTICLE II.

LAND DEDICATION, LAND SUITABILITY, ENVIRONMENTALLY SENSITIVE AREAS, SEWER AND WATER

Sec. 62-14. Dedication and Reservation of Lands.

- (a) Dedication of Lands for Roads And Public Ways. Whenever a land division contains all or in part, a road, drainage way, trail, other public way, or public access to navigable lakes or streams, which has been designated on duly adopted city, village, town, county, regional or state plans or in an official map adopted under s. 62.23, Wis. Stats., it shall be platted and dedicated in the locations and dimensions indicated in said plan or map and as set forth in this chapter.
- (b) Dedication of Lands for Public Recreation Within Residential Plats. If a town has adopted an ordinance with their own land dedication requirements, the applicant shall comply with the town regulations and shall be exempt from the regulations of sub. (1).
- (1) Dedication as a condition of plat approval. Calumet County requires the dedication of land or monies in lieu of land when such plat is located within the unincorporated areas of the county for public recreation purposes as follows:

A. The subdivider shall designate on every new residential preliminary plat of a major subdivision, a parcel of land equal to a minimum of five (5) percent of the gross area of all property proposed for subdivision. The land shall be suitable for trail, park or playground purposes, and be dedicated to the public as part of the initial final plat. The town within which the major subdivision is located shall have the first option of accepting the land dedication, or shall turn that option over to the county. If both jurisdictional authorities waive the land dedication, the town shall have the first option of accepting the monies in lieu thereof, or shall turn that option over to the county. Where the accepting jurisdictional authority agrees to accept money for trail, park or recreation purposes in lieu of land, the specific amount of money shall be set as a general standard by the accepting jurisdictional authority, but in no case should the minimum amount be less than the last official equalized value of the required public land area. Fifty (50) percent of the fee shall be due at the time of final plat approval and the other fifty (50) percent shall be due prior to recording of the plat.

1. In lieu of public land dedication, the subdivider may provide the required amount of park or open space area through a homeowners' association, condominium association, or similar organization, providing such measures assure the proper and continuing maintenance and use of the area, meet the purposes of this section, and are approved by the applicable town and the Committee.

2. At the time of accepting the land dedication, the maintenance of said land dedication shall be responsibility of the accepting jurisdictional authority. If the accepting jurisdictional authority does not agree by simple motion, resolution, or ordinance to maintain the land dedication or any portions thereof, they shall designate a users group, non-profit organization, individual, family or similar body as the party responsible for its maintenance.

B. The applicable town and the Committee may waive the requirement for dedication of land for parks or open space if it determines that the proposed or available park or open space would be too small, unsuitable, or unnecessary for reasons particular to the land division or the neighborhood in which it is located. In lieu of that public land dedication, the subdivider shall pay a fee as described in sub. (b)(1)(A), at the time of final plat approval.

(2) Exemptions. Cluster subdivisions developed in accordance with Sec. 62-35, *Cluster Subdivisions*, shall be exempt from sub. (b)(1).

(c) Reservation of Lands for Parks, Playgrounds, School Sites or Public Sites. Whenever a parcel to be divided as a subdivision contains all or in part a site which has been designated in a county, regional, or state plan or on an official map as a park, playground, school site or other public site and the area of the site shown in the county plan or the official map is greater than the area, if any, required by sub. (b)(1) the excess area shall be reserved for a period of two (2) years from the date of approval of the final plat or certified survey map for acquisition by the governing body or other appropriate agency having the authority to purchase the property. The owner shall be free to develop said property should acquisition not occur within the prescribed two (2) years.

Sec. 62-15. Land Suitability.

(a) No land shall be divided or subdivided for a developed use if the resulting lots are determined to be unsuitable for development by the Land & Water Conservation Department for reason of flooding or potential flooding, adverse soil or bedrock formations, severe erosion potential, unfavorable topography, inadequate drainage, inadequate water or sewage disposal capabilities, or any other condition likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision. A portion

of a proposed lot may contain such conditions, provided the overall lot is not deemed unsuitable for development. The Land & Water Conservation Department may require restrictions on all lots and/or deeds regarding development where a lot or portion thereof has been deemed unsuitable.

(b) Except as provided in sub. (d), the Land & Water Conservation Department shall determine such unsuitability at the time the preliminary plat or certified survey map is considered for approval.

(c) The Land & Water Conservation Department staff, in applying the provisions of this section, shall consider the various provisions of this chapter and other county, state, or local regulations. The Land & Water Conservation Department shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence to the contrary and/or the means of overcoming such unsuitability, if subdivider so desires at a meeting of the Committee. Thereafter, the Committee may affirm, modify, or withdraw the determination of unsuitability.

(d) The subdivider may, prior to submitting a subdivision plat or certified survey map for review, request a determination of land suitability. The subdivider shall provide all necessary maps, data, and information for such a determination to be made.

Sec. 62-16. Environmentally Sensitive Areas.

(a) Environmentally sensitive areas shall consist of the following features:

(1) Wetlands.

(2) Land within seventy-five (75) feet of wetlands.

(3) Floodways plus seventy-five (75) feet (but not beyond the floodplain boundary) or seventy-five (75) feet beyond the ordinary high water mark, whichever is greater.

(4) Land within seventy-five (75) feet of navigable waters or when averaging is allowed in accordance with the Calumet County Zoning Ordinance.

(5) Steep slopes of twenty (20) percent or greater.

(6) Areas identified as “High” and “Highest (areas of thin soil)” in the Silurian aquifer of the Aquifer-Susceptibility Index shown on the “*Water-Table and Aquifer-Susceptibility Maps of Calumet County, Wisconsin*”- Wisconsin Geological and Natural History Survey, 2006.

(7) Sinkholes.

(8) Exposed bedrock.

(9) Land with less than five (5) feet of soil over bedrock. The Calumet County Land & Water Conservation Department shall decide the best available method for determining soil depth for the land division.

(10) Publicly-owned parks and wildlife areas.

(11) Areas identified in the *Wisconsin Land Legacy Report* and where rare plants, animals, and natural communities are known to be located as identified in *Wisconsin's Natural Heritage Inventory*.

(12) Steep slopes between twelve (12) percent and less than twenty (20) percent that are immediately adjacent to or extend into any of the features listed above.

(b) Environmentally sensitive areas shall be shown and/or noted on all plats and certified survey maps. Restrictions may be required by the Land & Water Conservation Department or Committee on all plats, certified survey maps, and/or deeds regarding development and land-disturbing activities within environmentally sensitive areas. Notes or disclaimers may be included on plats and certified survey maps indicating that the extent of the environmentally sensitive area is subject to change due to the granting of amendments, revisions to the definition of environmentally sensitive areas, or provision of more detailed information, such as flood studies.

(c) When a proposed land division is located wholly or partly in an area where flooding or potential flooding may be a hazard, floodplain lines and, where calculated, floodway lines shall be shown on plats and certified survey maps. Floodplain boundaries as determined by the subdivider shall be reviewed and approved by the Wisconsin Department of Natural Resources.

Sec. 62-17. Land Divisions Not Served By Public Sewer.

(a) Except as provided in sub. (b), for each proposed land division not served by public sewer, a soil test complying with SPS 383 and SPS 385, Wisconsin Administrative Code, shall be submitted for each proposed lot when a final plat or certified survey map is submitted for approval. A soil test waiver may be granted by the Land & Water Conservation Department and/or Committee for lots not intended for development or for lots served by an existing POWTS if there will be no ownership change of the existing dwelling unit(s). The waiver shall be a restrictive covenant stating the development restriction, which shall be signed by the property owner and the County Planner or designee and recorded with the Register of Deeds.

(b) Land divisions for public utilities and certain public facilities involving structures not requiring on-site waste disposal systems (e.g. water towers, pumping stations, power relay stations) and other land divisions where conditions warrant, as determined by the Land & Water Conservation Department, may be approved with the following required notation: "Restriction. The construction of structures which rely upon private on-site wastewater treatment systems for sanitary waste disposal shall be prohibited on this lot until all state and county regulations have been met and a sanitary permit has been issued by the Calumet County Land & Water Conservation Department." A restrictive covenant stating such restriction shall also be signed by the property owner and the County Planner or designee and recorded with the Register of Deeds.

(c) The Land & Water Conservation Department may require that the locations and dimensions of sites for private on-site wastewater treatment systems be identified on all plats and certified survey maps for those lots with limited suitable area.

(d) If the nitrate test results completed in accordance with Sec. 62-18, *Testing of Existing Wells*, exceed the public health groundwater standards of NR 140.10, Wis. Admin. Code, or if the land division is located in the Calumet County Groundwater Protection Area, a nitrate treatment system shall be included with every private on-site wastewater treatment system that is installed or replaced in the subdivision. A restrictive covenant stating such restriction shall be signed by the property owner and the County Planner or designee and recorded with the Register of Deeds.

(e) Existing Private On-Site Wastewater Treatment Systems.

(1) A complete evaluation of any existing private on-site wastewater treatment systems shall be performed in accordance with Sec. 74-41 of the Calumet County Code of Ordinances when an existing private on-site wastewater treatment system is part of a preliminary plat or certified survey map.

(f) Applications for plat or certified survey map approval shall not be considered a complete application until the test results of sub. (a) and the evaluation of sub. (e) are provided to and reviewed by the Land & Water Conservation Department. The results will be reviewed for compliance with Sec. 62-15, *Land Suitability*.

Sec. 62-18. Testing of Existing Wells.

(a) Comprehensive testing is required on any existing private well when said well is part of a plat or certified survey map. Lots created by Sec. 62-32, *Combining Parcels*, shall be exempt from this requirement. Comprehensive tests completed within six (6) months prior to the date the application for land division is received by the Land & Water Conservation Department will be accepted and considered valid.

(b). The comprehensive testing, which includes the taking of the sample and its processing, shall be performed by a certified water testing facility or licensed well and pump installer. The sample shall not be taken from a faucet connected to a water treatment device, water softener excluded.

(c) The comprehensive testing shall include coliform bacteria, nitrates, metals that are hazardous on human health (such as arsenic, lead, and mercury) and other contaminants (such as volatile organic compounds and radium) deemed necessary in specific locations by the Calumet County Land & Water Conservation Department.

(d) The Land & Water Conservation Department shall forward the comprehensive testing results to the Calumet County Land & Water Conservation Department for review. The results will be reviewed for compliance with Sec. 62-15, *Land Suitability*. Land & Water Conservation may recommend restrictions be included with the deed or placed on the face of the plat or certified survey map.

(e) Failure to submit the comprehensive testing results to the Land & Water Conservation Department shall result in denial of the plat or certified survey map.

(f) The comprehensive testing results of the existing well shall be included as a restrictive covenant, signed by the property owner and the County Planner or designee, and recorded with the Register of Deeds to inform the subsequent owner of the conditions of the well that previously serviced the property.

(g) Existing wells shall be in conformance with the Calumet County Private Water Systems Ordinance (Well Abandonment).

Sec. 62-19 – Sec. 62-22. Reserved.

ARTICLE III.

BASE DEVELOPMENT YIELD, DENSITY MANAGEMENT, AND GROWTH MANAGEMENT AREAS

Sec. 62-23. Base Development Yield.

(a) Base Development Yield. The base development yield shall establish the maximum number of lots, which may be created in a given residential subdivision, intended for existing and future residential dwelling units.

(1) Rounding Rule for Calculations. The following rounding rule shall be applied to all calculations of standards and requirements in this section unless otherwise specifically provided herein:

A. For acreages, fractional values of five (5) or greater shall be rounded up to the nearest whole unit, fractional values of four (4) or less shall be rounded down to the nearest whole unit.

B. For base development yield, fractional values shall be rounded down to the nearest whole unit.

(2) For the purpose of computing the base development yield, the number of lots for residential dwelling units on a parcel to be subdivided shall be determined in accordance with the following:

A. For a town, which has adopted the Calumet County Zoning Ordinance, the base development yield shall be determined by dividing the acreage of the original tract by the maximum residential density permitted in the zoning district where the original tract is located. Base development yield shall not be applicable in those districts where no maximum residential density is assigned.

B. For a town, which has not adopted the Calumet County Zoning Ordinance, the base development yield shall be determined by dividing the acreage of the original tract by the maximum residential density identified on the Calumet County Density Map. Land divisions shall be prohibited in a town where no maximum residential densities have been approved by the Calumet County Board of Supervisors and included on the Calumet County Density Map.

C. Where the original tract contains multiple differing maximum residential densities, the base development yield shall be determined by calculating the density for each portion individually with said base development yield applied to its portion.

D. Parcels that have entered into a farmland preservation agreement in compliance with Ch. 91, Wis. Stats., or are located within a farmland preservation zoning district shall not be allowed more nonfarm residential units than permitted by s. 91.46(2), Wis. Stats. For those parcels that have entered into a farmland preservation agreement or are located within a farmland preservation zoning district where 91.42(2), Wis. Stats., is not applicable, the base development yield shall be determined in accordance with sub. (A), (B) or (C). Farm residences shall be limited to the provisions of sub. (A), (B) or (C) for determining the base development yield.

(4) Undeveloped legal lots of record that existed prior to the effective date of this chapter shall be allowed a minimum of one (1) residential dwelling unit provided such use would not violate any other local and/or county zoning regulations or state statutes.

(5) Except for parcels that have entered into a farmland preservation agreement or are in a farmland preservation zoning district, the base development yield may be increased in accordance with sub. (b), *Cluster Subdivision Density Bonuses*.

(b) Cluster Subdivision Density Bonuses.

(1) Cluster subdivision density bonuses shall apply exclusively to those subdivisions developed in accordance with Sec. 62-35, *Cluster Subdivisions*. The following cluster subdivision density bonuses may be implemented in all towns except the Town of Woodville.

A. Where all lots of the subdivision are not located on prime farmland, a density bonus of two (2) points shall be granted.

B. Where the open space, if used for agriculture, has developed and is implementing a Nutrient Management Plan that meets the United States Department of Agriculture technical standards and where such implementation of the plan is found to be in compliance by the Calumet County Land & Water Conservation Department, a density bonus of two (2) points shall be granted.

C. Where the requirements of Sec. 62-14(b), *Dedication of Lands for Public Recreation Within Residential Plats*, are implemented, a density bonus of two (2) points shall be granted.

D. Where no lot in the subdivision exceeds a maximum lot size, exclusive of road right-of-ways, of:

1. One (1) acre, a density bonus of three (3) points shall be granted.

2. One and one half (1 ½) acres, a density bonus of two (2) points shall be granted.

3. Two (2) acres, a density bonus of one (1) point shall be granted.

E. Where a deed restriction is provided on each lot requiring the installation of shared sanitary sewage and water facilities for all the lots together within the subdivision, a density bonus of four (4) points shall be granted.

F. Where a new, public road servicing all lots of the subdivision is included on the plat or certified survey map, a density bonus of four (4) points shall be granted.

(2) Every four (4) points earned with the density bonuses listed in sub. (c)(1) shall equal one (1) additional lot (density bonus) to the base development yield. In no case, shall the total number of density bonuses exceed the base development yield allowed in sub. (a).

(3) The number of density bonus lots included on a plat or certified survey map shall not exceed the number of non-bonus lots on said plat or certified survey map.

Sec. 62-24. Density Management.

(a) Minor or major subdivisions where state approved public sanitary sewerage facilities are provided for all lots of the subdivision shall be permitted subject to the following conditions:

(1) The applicant must secure approvals of the subdivision from the applicable town, incorporated community having extraterritorial plat approval jurisdiction, and the servicing sewer district.

(b) Major subdivisions where state approved public sanitary sewerage facilities are not provided for all lots of the proposed new subdivision may be permitted within, but not beyond, any Density Management Boundary, as shown on the Density Map subject to the following conditions:

- (1) No more than nine (9) lots have been created from the parent parcel.
- (2) The applicant must secure approvals of the subdivision from the applicable town, incorporated community having extraterritorial plat approval jurisdiction, and any applicable servicing sewer district.

(c) Major subdivisions may be permitted beyond any Density Management Boundary, as shown on the Density Map, where state approved public sanitary sewerage facilities are not provided for all lots of the subdivision subject to all of the following:

- (1) The permitted base development yield of Sec. 62-23(a), *Base Development Yield*, was four (4) or less lots;
- (2) The subdivision plat has been designed in accordance with Sec. 62-35, *Cluster Subdivisions*;
- (3) The base development yield is increased to five (5) or more lots because of bonus lots claimed in Sec. 62-23(c), *Cluster Subdivision Density Bonuses*; and
- (4) The applicant secured approvals of the subdivision from the applicable town and the incorporated community having extraterritorial plat approval jurisdiction.

(d) Minor subdivisions where state approved public sanitary sewerage facilities are not provided for all lots of the proposed new subdivision may be permitted subject to either of the following conditions:

- (1) The subdivision is developed in accordance with Sec. 62-35, *Cluster Subdivisions*.
 - A. The applicant must secure approvals of the subdivision from the applicable town, incorporated community having extraterritorial plat approval jurisdiction, and any applicable servicing sewer district.

- (2) The subdivision creates no more than three (3) lots from the parent parcel in a five (5) year period provided the subdivision is in compliance with the base development yield.

(e) Where agreeable by the subdivider, approving agencies, and objecting authorities, a shadow plat may be created for minor and major subdivisions located within a Density Management Boundary, as shown on the Density Map, where state approved public sanitary sewerage facilities are not provided for all lots of the subdivision. A shadow plat shall include the following:

- (1) Lot design and size consistent with the comprehensive plan of the area.
- (2) The layout of future roads. Local roads shall be planned to provide road connections to adjoining parcels, neighborhoods, or future development open spaces as a means of discouraging the reliance on county and state roads for local trips.
- (3) Easement locations for utilities and stormwater drainage.

(4) Locations of buildings or structures on the lots to accommodate future subdivision.

(5) Information demonstrating how public utilities may be extended to the subdivision to accommodate future urban development.

Sec. 62-25. Growth Management Areas.

In an effort to preserve farmland and ensure the proper planning in the unincorporated areas of Calumet County, land divisions are encouraged to occur in areas identified as 'Short Term Town Growth Areas' on the Growth Management Map prior to areas identified as 'Long Term Sewer Service Areas,' unless the proposed land division in the 'Long Term Sewer Service Area' is served by a public sanitary sewer facility.

Sec. 62-26 – Sec. 62-27. Reserved.

ARTICLE IV.

LAND DIVISION PROCEDURES

Sec. 62-28. Replats.

When a replat of a recorded subdivision or part thereof is proposed so as to alter areas dedicated to the public, the subdivider shall initiate action to vacate or alter the recorded plat or certified survey map as provided by s. 236.36, Wis. Stats. The replat shall then be prepared and submitted as provided in Sec. 62-29, *Preliminary Plat*, and Sec. 62-30, *Final Plat*, of this chapter. Both the title of the replat and the title of the original plat shall appear in the surveyor's certificate.

Sec. 62-29. Preliminary Plats.

(a) Pre-Application Procedure. Whenever a major subdivision within Calumet County is proposed, the subdivider shall consult early and informally with the Land & Water Conservation Department for advice regarding general requirements affecting the proposed development. A sketch plan of the proposed major subdivision drawn on a topographic survey map shall be submitted. The sketch plan shall identify proposed roads; lots and any proposed dedications; environmentally sensitive areas; abandoned landfills; existing trees; soil classifications; and any proposed grading, filling, lagooning, or dredging. The subdivider shall also submit a location map showing the relationship of the proposed subdivision to existing and officially mapped traffic arteries and trails and existing and planned community facilities.

(b) Procedure.

(1) Application. Prior to submitting a final plat for approval, the subdivider shall prepare a preliminary plat and file a written application for its approval with the Committee.

(2) Land & Water Conservation Department Plat Distribution. Ten (10) clearly legible copies of the preliminary plat shall be submitted with the application required in sub. (b)(1) to the Land & Water Conservation Department. The Land & Water Conservation Department within two (2) days after receipt of the preliminary plat shall distribute copies of the plat as follows:

A. One (1) copy to the applicable Town Clerk.

- B. One (1) copy to the clerk of an adjoining city or village if the subdivision lies within the extraterritorial plat approval jurisdiction of the city or village.
- C. One (1) copy to the appropriate utility company(s).
- D. One (1) copy to the Calumet County Land & Water Conservation Department.
- E. One (1) copy to the Calumet County Highway Department.
- F. One (1) copy to the County Surveyor.
- G. One (1) copy to the Calumet County Sheriff's Department.
- H. One (1) copy to the Calumet County Emergency Management Department.
- I. One (1) copy to the Calumet County GIS Administrator.

(3) Subdivider Plat Distribution. The subdivider shall submit the original plat to the Wisconsin Department of Administration-Plat Review for distribution to agencies authorized to object in accordance with s. 236.12 (6), Wis. Stats.

(5) Review of Preliminary Plat.

A. The Land & Water Conservation Department shall notify, in writing, each agency listed in sub. (b)(2) that it has no more than forty-five (45) days from receipt of the plat to submit comments to the Land & Water Conservation Department.

B. The Land & Water Conservation Department shall review the plat for conformance with this chapter and all other chapters, Ordinances, Codes, and adopted components of the Calumet County comprehensive plan or any other county plans, which affect the plat.

C. All comments received shall be forwarded, in writing, by the Land & Water Conservation Department to the applicant at the completion of the forty-five (45) day review period.

D. The Land & Water Conservation Department shall inform, in writing, the applicant, applicable Town Clerk and municipal clerk not less than five (5) days in advance of the date, time and place of the Committee meeting at which the plat will be reviewed.

E. Should the provisions of this chapter be amended while the plat is moving through the review procedures of sub. (b), the requirements in effect when the plat was submitted shall apply.

(5) Committee Decision.

A. The Committee shall, within ninety (90) days from the date a complete application and fee is received, approve, approve conditionally or reject the preliminary plat based on a determination of the content included on the plat as to its conformance with the provisions of this chapter. Failure of the Committee to act within said ninety (90) day period shall constitute an approval unless the time period is extended by agreement with the subdivider.

B. Department of Administration approvals may be required prior to plat approval.

C. The Land & Water Conservation Department shall notify the applicant and the applicable town and municipal clerks, in writing, of the Committee's decision.

(c) Preliminary Plat Content. The content required by this section shall assist the Committee with making a decision in accordance with sub. (b)(5). Each preliminary plat shall be based upon a survey by a registered land surveyor at a scale of not more than 100 feet to one inch, utilize the Calumet County Coordinate System, and cover the entire contiguous areas owned or controlled by the subdivider even if only a portion is proposed for development and show the data identified below on the face of the preliminary plat:

- (1) The exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a minimum of two corners established in the Calumet County Coordinate System, and the total acreage encompassed thereby.
- (2) The exterior boundaries and base development yield of the original tract.
- (3) The date, graphic scale and north point.
- (4) The name of the proposed plat, prominently labeled. The proposed subdivision name shall not duplicate the name of any plat previously recorded in Calumet County. A subtitle of "County Plat" shall be required for all county plats and a subtitle of "State Plat" shall be required for all state plats.
- (5) The location of the plat by government lot, quarter-quarter section, section, township and range and the town, County and state of jurisdiction, noted immediately under the name of the subdivision
- (6) The name and contact information of the subdivider, subdivider's agent, engineers, surveyors, and other contractors/subcontractors.
- (7) The owner of record and the identity of any proposed contract purchaser.
- (8) The names, locations and right-of-way widths of any existing or officially mapped roads, trails or other public or private ways, easements, railroad or utility right-of-ways included within or adjacent to the proposed plat.
- (9) Existing road access restrictions and any existing access control limitations. These shall be explained within the application material and noted on the face of the plat.
- (10) All proposed road names and access to the newly created lot(s).
- (11) The location of existing property lines, buildings, drives, streams and watercourses, ponds, lakes, rivers, environmentally sensitive areas, prime farmland, wooded areas, historic and archeological features, effigy mounds, native prairie remnant and any other significant limiting features or characteristics within the proposed subdivision.
- (12) All floodplain boundaries.
- (13) Private and municipal landfills, existing and/or abandoned underground fuel or petroleum storage tanks, areas of known groundwater contamination, location of all existing, abandoned and unused wells, including advisory wells, and any WDNR Designated Special Deep Casing Well Depth Requirement Areas.

- (14) The contours, on an established datum, at vertical intervals of not more than two (2) feet.
- (15) The identification, location and dimensions, including acreage, of all parks, parkways, playgrounds, drainage ways, stormwater ponds or other common areas whether proposed for dedication to the public or remaining privately owned.
- (16) Dimensions and size of all lots, and proposed lot and block numbers. Where applicable, size shall be indicated with inclusion and exclusion of right-of-ways and areas below the ordinary high water mark of navigable waters.
- (17) A list or depiction showing the following information for each proposed lot:
- A. Existing and intended land use.
 - B. Existing and intended zoning, including overlay districts, if applicable.
 - C. Required minimum lot area and lot widths under intended zoning.
 - D. All required easements.
 - E. All required setbacks, if applicable.
 - F. Lowest Building Opening (LBO), if known, for lots adjacent to an ordinary high water mark, drainage easement or floodplain.
- (18) Identification of all proposed outlots.
- A. Indicate proposed purpose and proposed ownership and control of each outlet.
 - B. All outlots that have deed restrictions, covenants and/or conservation easements shall be referenced on the plat and copies of such draft documents shall be provided.
- (19) Special restrictions or notes such as, but not limited to, undevelopable farm remnant lots, lands unsuitable for development, prohibition of future land divisions required by the Committee, Land & Water Conservation Department and/or any other approving or objecting agency.
- (20) Additional submittals. The following additional submittals shall be submitted as part of the preliminary plat application:
- A. Preliminary construction plans and specifications for any proposed roads, which shall be forwarded by the Land & Water Conservation Department to the applicable town for review and approval.
 - B. A location on each lot that will accommodate an on-site wastewater treatment system and its replacement as indicated by soil borings for subdivisions not served by public sanitary sewerage facilities.
 - 1. When private on-site wastewater treatment systems serving single lots are intended, at a minimum, one (1) boring for every three (3) acres throughout the plat is required to demonstrate soil suitability.

C. When a common wastewater treatment system is proposed, a complete site and design evaluation for suitability of state approved common on-site wastewater treatment systems that serve more than one (1) dwelling shall be provided. When a common water system is proposed, a complete site and design evaluation approved by the state shall be provided. A sewer and/or water supply management plan shall be provided; which estimates service contract needs, insurance requirements, replacement and other associated costs and defines the means for funding and enforcing the same on an on-going basis. Common wastewater treatment systems and/or common water systems not approved by the state shall not be allowed to service the lots in the plat.

D. Preliminary grading, construction site erosion control and post-construction stormwater management plans.

1. Areas proposed for filling and grading within shorelands and in close proximity to wetlands and floodplains shall be differentially shaded.

E. Ownership, management and maintenance plans for parks, parkways, playgrounds, drainage ways, stormwater ponds or other common areas whether proposed for dedication to the public or remaining privately owned.

F. Required or proposed deed restrictions, restrictive covenants or conservation easements for lots and outlots, if any to be imposed.

G. Any proposed conservation easement for common open space protection.

1. The Land & Water Conservation Department may consider non-profit private conservation organizations, and/or the town, to be a joint holder of or have third-party enforcement rights in all conservation easements.

2. Such conservation easements are intended to obligate Calumet County to enforce the stated development restriction on the common open space.

(21) Where the Land & Water Conservation Department and/or Committee finds that it requires additional information relative to a particular problem presented by a proposed development to review the preliminary plat, it shall have the authority to request such information from the subdivider.

Sec. 62-30. Final Plats.

(a) Procedure.

(1) Preliminary Plat Term Limits. Final plats shall be submitted to the Committee within thirty-six (36) months of the approval of the preliminary plat. If the final plat is not submitted within thirty-six (36) months of the approval of the preliminary plat, the Committee shall choose to accept the final plat application or refuse to accept the final plat based on major land use changes affecting the plat, significant ordinance revisions or legal implications.

(2) Application. If the preliminary plat has been approved or has been approved conditionally and is in compliance with sub. (a)(1), the subdivider may submit copies of the final plat and file a written application for its approval with the Committee.

(3) Land & Water Conservation Department Plat Distribution. Ten (10) clearly legible copies of the final plat shall be submitted with the application required in sub. (a)(2) to the Land & Water Conservation Department. The Land & Water Conservation Department within two (2) days after receipt of the final plat shall distribute copies of the plat as follows:

- A. One (1) copy to the applicable Town Clerk.
- B. One (1) copy to the clerk of an adjoining city or village if the subdivision lies within the extraterritorial plat approval jurisdiction of the city or village.
- C. One (1) copy to the appropriate utility company(s).
- D. One (1) copy to the Calumet County Land & Water Conservation Department.
- E. One (1) copy to the Calumet County Highway Commission.
- F. One (1) copy to the County Surveyor.
- G. One (1) copy to the Calumet County Sheriff's Department.
- H. One (1) copy to the Calumet County Emergency Management Department.

(4) Subdivider Plat Distribution. The subdivider shall submit the original plat to the Wisconsin Department of Administration-Plat Review for distribution to agencies authorized to object in accordance with s. 236.12 (6), Wis. Stats.

(5) Review of Final Plat.

- A. The Land & Water Conservation Department shall notify, in writing, each agency listed in sub. (a)(3) when the copies are sent that it has no more than forty-five (45) days from receipt of the plat to submit comments to the Land & Water Conservation Department.
- B. The Land & Water Conservation Department shall review the plat for conformance with the subdivision's approved preliminary plat, this chapter and all other chapters, Ordinances, Codes, and adopted components of the Calumet County comprehensive plan or any other county plans, which affect the plat. The County Planner shall provide the Committee with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation on approval of the final plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the final plat is being considered and are not required to be submitted in writing.
- C. All comments received shall be forwarded, in writing, by the Land & Water Conservation Department to the applicant at the completion of the forty-five (45) day review period.
- D. The Land & Water Conservation Department shall inform, in writing, the applicant, applicable Town Clerk and municipal clerk not less than five (5) days in advance of the date, time and place of the Committee meeting at which the plat will be reviewed.

(6) Committee Decision.

A. The Committee shall, within sixty (60) days from the date a complete application and fee is received, approve, approve conditionally or reject the final plat based on a determination as to its conformance with the provisions of this chapter. Failure of the Committee to act within said sixty (60) day period shall constitute an approval unless the time period is extended by agreement with the subdivider.

B. Applicable state agency approvals may be required prior to plat approval.

C. The applicant and the applicable town and municipal clerks shall be notified, in writing, by the Land & Water Conservation Department of the Committee's decision.

(b) Final Plat Content. The content required by this section shall assist the Committee with making a decision in accordance with sub. (a)(6).

(1) The final plat shall conform to and meet the specifications set forth in sections. 236.20 and 236.21, Wis. Stats.

(2) The final plat shall conform to all conditions placed on the preliminary plat.

(3) Final plat layout features shall substantially conform to the approved preliminary plat.

(4) Identification of environmentally sensitive areas.

(5) A complete soils evaluation shall be done on each lot to determine suitability for an on-site wastewater treatment system for a dwelling on a single lot, or a complete site and design evaluation for suitability of state approved common on-site wastewater treatment systems that serve more than one (1) dwelling as required in Sec. 62-17, *Land Divisions Not Served By Public Sewer*.

(6) Soil boring locations shall be identified on a separate, scaled map with cross-reference to test results as reported on a current State soil evaluation form.

(7) The subdivider shall submit final construction plans and specifications for any proposed roads, which shall be forwarded by the Land & Water Conservation Department to the applicable town for review and approval.

(8) The subdivider shall submit final erosion control and post-construction stormwater management plans.

(9) The subdivider shall submit final versions of all proposed restrictive covenants, conservation easements or deed restrictions with the final plat.

(10) Special restrictions or notes such as, but not limited to, undevelopable farm remnant lots, lands unsuitable for development, prohibition of future land divisions required by the Committee, Land & Water Conservation Department and/or any other approving or objecting agency.

(11) Where the Land & Water Conservation Department and/or Committee finds that it requires additional information relative to a particular problem presented by a proposed development to review the final plat, it shall have the authority to request such information from the subdivider.

(c) Recording. Approved plats shall be recorded in accordance with s. 236.25, Wis. Stats., before lots may be sold.

Sec. 62-31. Certified Survey Maps.

(a) Pre-Application Procedure. Whenever a minor subdivision within Calumet County is proposed, the subdivider shall consult early and informally with the Land & Water Conservation Department for advice regarding general requirements affecting the proposed development. A sketch plan of the proposed minor subdivision shall be submitted. The sketch plan shall identify proposed roads; lots and any proposed dedications; environmentally sensitive areas; abandoned landfills; and any proposed grading, filling, lagooning, or dredging.

(b) Procedure.

(1) Application. Any subdivider who divides land as a minor subdivision, dedicates a road, and/or dedicates other public areas in an unincorporated area of Calumet County shall prepare a certified survey map in accordance with s. 236.34, Wis. Stats. and all of the requirements in this chapter which may apply. All certified survey maps, along with a written application, shall be submitted to the Land & Water Conservation Department for approval. Prior to submitting an application for certified survey map approval with the Land & Water Conservation Department, the subdivider shall have received approval of the certified survey map from the town when said town has an adopted land division ordinance on file with the Land & Water Conservation Department and any city or village if the minor subdivision lies within the extraterritorial plat approval jurisdiction of the city or village.

A. The application for a minor subdivision shall show or identify the original tract and the parent parcel(s), which the proposed subdivision was part of, five (5) years prior to the date of application.

B. The fact that a proposed division creates four (4) or fewer parcels does not automatically create eligibility to employ the minor subdivision procedure if prior or concurrent division of the parent parcel(s), that existed five (5) years prior to the date of application, precludes additional divisions through the minor subdivision procedure.

C. Complete certified survey map applications will not be accepted until one (1) day after the date of eligibility, which is five (5) years after the recording of an applicable minor subdivision. For example: A parent parcel has a minor subdivision recorded January 1, 2010 and is eligible for subsequent minor subdivision application on January 2, 2015.

(2) Land & Water Conservation Department Map Distribution. The original certified survey map and ten (10) clearly legible copies of the certified survey map shall be submitted with the application required in sub. (b)(1) to the Land & Water Conservation Department. The Land & Water Conservation Department within two (2) days after receipt of the certified survey map shall distribute copies of the map as follows:

A. One (1) copy to the applicable Town Clerk.

B. One (1) copy to the clerk of an adjoining city or village if the minor subdivision lies within the extraterritorial plat approval jurisdiction of the city or village.

C. One (1) copy to the County Surveyor.

D. One (1) copy to the Calumet County Real Property Lister.

- E. One (1) copy to the Calumet County GIS Administrator.
- F. One (1) copy to the Land & Water Conservation Department
- G. One (1) copy to the Calumet Highway Department.
- H. One (1) copy to the Calumet County Sheriff's Department.
- I. One (1) copy to the Calumet County Emergency Management Department.

(3) Review of Certified Survey Map.

A. The Land & Water Conservation Department shall notify, in writing, each agency listed in sub. (b)(2) when the copies are sent that it has no more than forty-five (45) days from receipt to submit comments to the Land & Water Conservation Department.

B. The Land & Water Conservation Department shall review the certified survey map for conformance with this chapter and all other chapters, Ordinances, Codes, and adopted components of the Calumet County comprehensive plan or any other county plans, which affect the map.

C. All comments received shall be forwarded, in writing, by the Land & Water Conservation Department to the applicant at the completion of the forty-five (45) day review period.

(4) Land & Water Conservation Department Decision.

A. The Land & Water Conservation Department, unless a decision has been deferred by the Land & Water Conservation Department to the Committee, shall, within sixty (60) days after a complete application and fee is received unless the time limit is extended by agreement with the subdivider, approve, approve conditionally, or reject the certified survey map based on a determination as to its conformance with the provisions of this chapter. If the certified survey map is rejected, a letter stating the reason(s) for rejection shall accompany the plat. If action is not taken within sixty (60) days and an agreement of extension is not made, the map shall be deemed approved and a certificate of approval shall be issued on demand.

B. In the event of rejection or conditional approval by the Land & Water Conservation Department, the subdivider may appeal the decision of the Land & Water Conservation Department to the Committee. The subdivider shall be notified, in writing, of any conditions of approval or the reasons for rejection.

(c) Certified Survey Map Content. The content required by this section shall assist the Land & Water Conservation Department or the Committee with making a decision in accordance with sub. (b)(4).

(1) Certified survey maps shall comply in all respects with the requirements of s. 236.34, Wis. Stats.

(2) Required Information. The certified survey map shall be prepared by a registered land surveyor at a scale of not more than four hundred (400) feet to one inch, utilize the Calumet County Coordinate System, and shall show correctly on its face, in addition to the information required by s. 236.34 Wis. Stats., the following where applicable:

- A. The exact length and bearing of the exterior boundaries of the proposed subdivision referenced to a minimum of two corners established in the Calumet County Coordinate System, and the total acreage encompassed thereby.
 - B. The date, graphic scale and north point.
 - C. The name and address of the owner, subdivider, subdivider's agent, and the surveyor, including registration number.
 - D. The names, locations, and right-of-way widths of any existing or officially mapped roads, trails or other public or private ways easements, railroad or utility right-of-ways included within or adjacent to the proposed subdivision.
 - E. Existing road access restrictions and any existing access control limitations. These shall be explained within the application material and noted on the face of the plat.
 - F. All proposed road names and access to the newly created lot(s).
 - G. The location of existing property lines, buildings, drives, streams and watercourses, ponds, lakes, rivers, environmentally sensitive areas, prime farmland, wooded areas, historic and archeological features, effigy mounds, native prairie remnant and any other significant limiting features or characteristics within the proposed subdivision.
 - H. All floodplain boundaries.
 - I. Necessary utility and drainage easements.
 - J. Special restrictions or notes such as, but not limited to, undevelopable farm remnant lots, lands unsuitable for development, prohibition of future land divisions required by the Land & Water Conservation Department and/or any other approving or objecting agency.
 - K. All necessary certificates as required in s. 236.21, Wis. Stats., and certificates for the Calumet County Land & Water Conservation Department, Town Clerk and, where applicable, the municipal clerk of a municipality having extraterritorial plat review jurisdiction.
 - L. Where the Land & Water Conservation Department finds that it requires additional information relative to a particular problem presented by a proposed development to review the map, it shall have the authority to request such information from the subdivider.
- (3) Data to accompany the certified survey map.
- A. The exterior boundaries and base development yield of the original tract.
 - B. Final construction plans and specifications for any proposed roads, which shall be forwarded by the Land & Water Conservation Department to the applicable town for review and approval.
 - C. A location on each lot that will accommodate an on-site wastewater treatment system and its replacement as indicated by soil borings as required in Sec. 62-17, *Land Divisions Not Served By Public Sewer*.

D. When a common wastewater treatment system is proposed, a complete site and design evaluation for suitability of state approved common on-site wastewater treatment systems that serve more than one (1) dwelling shall be provided. When a common water system is proposed, a complete site and design evaluation approved by the state shall be provided. A sewer and/or water supply management plan shall be provided; which estimates service contract needs, insurance requirements, replacement and other associated costs and defines the means for funding and enforcing the same on an on-going basis. Common wastewater treatment systems and/or common water systems not approved by the state shall not be allowed to service the lots in the plat.

E. Where applicable, the subdivider shall submit final erosion control and post-construction stormwater management plans.

F. Required or proposed deed restrictions, restrictive covenants or conservation easements for lots and outlots.

(d) Recording. The subdivider shall record the certified survey map with the Calumet County Register of Deeds within thirty (30) days of its approval. Failure to do so will necessitate re-approval of the map. An additional fee shall be required.

Sec. 62-32. Combining Parcels.

A certified survey map shall be required for the combining of two (2) or more existing tax parcels or existing parcels of record into a single lot. Certified survey maps used to combine existing tax parcels or existing parcels of record must meet the following requirements:

(a) The map shall be prepared in accordance with s. 236.34, Wisconsin Statutes.

(b) The map shall be headed "Certified Survey Map" and subheaded "Combining of Parcels Described in [list recorded documents]."

(c) The surveyor's certificate shall include the statement that "this certified survey map is not a division of property but a combining of and depiction of the parcels recorded in [list recorded documents from Calumet County records] into a single parcel and description."

(d) The parcels being combined must meet the following standards:

(1) They shall be contiguous.

(2) They shall be under identical ownership.

(3) They shall be within the same municipality.

(e) The approved procedure for such certified survey maps shall be in accordance with Sec. 62-31, *Certified Survey Maps*. The Calumet County Real Property Lister shall have objecting authority in the certified survey map approval process.

(f) The certified survey map shall be filed for recording with the Calumet County Register of Deeds within thirty (30) days of the date of the certified survey map's approval and shall include the signed certificates of the surveyor, property owner, the Calumet County Land & Water Conservation Department, the Town Clerk, and, where applicable, the municipal clerk of a municipality having

extraterritorial plat review jurisdiction. The recording data, including the CSM number, volume and page number, shall be noted on the final approved map, and four (4) copies shall be forwarded to the Land & Water Conservation Department for distribution to the appropriate review agencies and municipalities. Local municipalities shall be notified by Calumet County of all parcel combinations recorded under this section for the purpose of transferring any unpaid taxes or special assessments to the new lot created by the combined parcels.

(g) Parcels, which have been combined under this section, shall not be subsequently reestablished or separately conveyed unless a new certified survey map or plat is submitted and approved in accordance with this chapter.

Sec. 62-33. Condominium Plats.

(a) **Applicability and Jurisdiction.** The provisions of this section shall be applicable to all condominium instruments to be recorded in Calumet County, excluding those involving lands within a city or village.

(b) **Procedure.**

(1) **Application.** Any declarant who proposes a condominium shall prepare condominium instruments and shall submit the necessary copies of the final condominium instruments along with the required fee and application to the Land & Water Conservation Department. The application must include:

A. The name of the condominium.

B. The parcel number(s) of property being subjected to the condominium.

C. The name, address and telephone number of the property owner(s).

D. The name, address, and telephone number of the person to be contacted regarding the condominium.

E. A statement as to whether this is an expandable condominium and, if so, a description of all lands subject to expansion and the total number of units planned.

F. A statement as to whether limited common elements such as garages, parking spaces, storage units, boat slips, and anything else other than the actual unit will be available for separate conveyance.

G. A list of proposed private road names, if any.

H. Any amendments and/or addendums must include a statement that clearly defines the proposed amendment.

(2) **Land & Water Conservation Department Condominium Instrument Distribution.** Two (2) clearly legible copies of the condominium declaration, plat, and plan, together with any attached exhibits or schedules shall be submitted with the application required in sub. (b)(1) to the Land & Water Conservation Department. The Land & Water Conservation Department within two (2) business days after receipt of the condominium instruments shall distribute a copy of the condominium instruments to the County Surveyor.

(3) Review of Condominium Instruments.

A. The Land & Water Conservation Department shall notify the County Surveyor when the copy is sent that it has five (5) business days from receipt to submit comments to the Land & Water Conservation Department.

B. The Land & Water Conservation Department shall review the condominium instruments for conformance with s. 703.115, Wis. Stats., and this chapter and all other chapters, Ordinances, Codes, and adopted components of the Calumet County comprehensive plan or any other County Plans, which affect the condominium.

C. All comments received shall be forwarded by the Land & Water Conservation Department to the applicant at the completion of the five (5) day review period.

(4) Land & Water Conservation Department Decision.

A. The Land & Water Conservation Department shall, within ten (10) business days after a complete application and fee is received shall approve or reject the condominium instruments as provided by s. 703.115(1)(b), Wis. Stats. The applicant shall be notified in writing of any condition of approval as well as staff recommendations, or all specific reasons for rejection. Any conditional approval shall be valid for one (1) year from the date of written notification unless the condominium instruments have been recorded within the one year (1) time frame with the Calumet County Register of Deeds. Approval of the condominium will be indicated by signing and sealing a county certificate on the condominium instruments.

B. If the Land & Water Conservation Department rejects a condominium instrument, the declarant may resubmit the condominium instruments in conformance with this chapter. The resubmitted condominium instrument shall be reviewed following the procedures set forth in this section. An additional fee shall not be required unless the changes in the condominium instruments, in the opinion of the Land & Water Conservation Department, constitute a new full review. If the declarant's resubmission resolves the reason for rejection of the condominium instrument and does not create new reasons for rejection, the Land & Water Conservation Department shall approve the resubmitted condominium instrument.

(c) Condominium Instrument Content. The content required by this section shall assist the Land & Water Conservation Department with making a decision in accordance with sub. (b)(4).

(1) Condominium instruments shall comply in all respects with the requirements of Chapter 703, Wis. Stats.

(2) Required Information. The condominium instruments shall include the following, where applicable:

A. The expansion area, clearly defined on both the condominium plat and in the condominium declaration.

B. Any existing easements affecting the condominium, clearly labeled on the condominium plat.

C. The location of all limited common elements and the unit owner, to which they are assigned, clearly defined and labeled.

D. The location of all limited common elements that may be sold to parties other than the unit owner, to which they are assigned, clearly defined and labeled.

E. A list of proposed private road names and their locations.

(d) Recording. Condominium instruments shall be recorded with the Calumet County Register of Deeds if:

(1) The condominium instruments bear certificates of approval by the Land & Water Conservation Department pursuant to sub. (b)(4); or

(2) The condominium instruments were submitted to the Land & Water Conservation Department for approval and more than ten (10) business days have elapsed since submission and the condominium instruments have not been rejected under sub. (b)(4).

Sec. 62-34. Planned Developments.

The requirements and standards of this chapter may be waived by the Committee for planned developments providing such proposed developments shall be planned as a whole, shall be appropriate to the site's characteristics and location, shall be of sufficient size to permit the unified development of the area, shall not exceed the permitted base development yield and shall not conflict with other laws or requirements or with the purpose or intent of this chapter. In addition, continued provision, maintenance and use of open space, recreation areas, services and amenities shall be assured in a manner acceptable to the Committee. Nothing in this section shall be construed to supersede the applicable county or town Zoning Code and any state statutes.

Sec. 62-35. Cluster Subdivisions.

(a) Applicability. A cluster subdivision is a residential land division creating three (3) or more lots within a five (5) year period from the parent parcel. Clustering shall be prohibited in environmentally sensitive areas as defined in Sec. 62-16, *Environmentally Sensitive Areas*.

(b) Size and Open Space.

(1) No more than twenty-five (25) percent of the gross acreage of the subdivision shall be in a cluster development where the density is equal to or lower than one (1) residential dwelling unit per twenty (20) acres. The remaining acreage shall be owned and maintained as open space in accordance with sub. (d)(1).

(2) No more than fifty (50) percent of the gross acreage of the subdivision shall be in a cluster development where the density is equal to or higher than one (1) residential dwelling unit per (10) acres. The remaining acreage shall be owned and maintained as open space in accordance with sub. (d)(1).

(c) Siting Standards.

(1) The clustering parcels shall be contiguous to one other.

(2) Cluster subdivisions shall avoid encroaching on significant natural resources, including rare plant communities, or endangered species, as identified by the Wisconsin Department of Natural Resources.

(3) Whenever possible, open space shall connect with existing or potential open space lands on adjoining parcels and local and regional recreational trails.

(4) Cluster subdivisions shall be exempt from Sec. 62-14(b), *Dedication of Lands for Public Recreation Within Residential Plats*.

(5) Lots in a cluster subdivision shall be sited to achieve the following goals to the best extent practicable:

A. Minimize impact to prime farmland and large tracts of land in agricultural use, and avoid interference with normal agricultural practices. This restriction is waived if the lot is in a hamlet or Density Management Boundary established on the Calumet County Density Map.

B. Prevent negative impacts to groundwater.

C. Minimize disturbance to woodlands, wetlands, grasslands, and mature trees.

D. Protect archaeological sites and existing historic buildings or incorporate them through adaptive reuse.

E. Protect scenic views.

F. Prevent negative downstream impacts due to runoff by using adequate on-site stormwater management practices.

(d) Open Space Design.

(1) In minor subdivisions, the open space required in sub. (b) may be individually owned by the owner of the parent parcel. In major subdivisions, the minimum open space required in sub. (b) shall be owned and maintained under one of the alternatives listed in Section 62-40, *Ownership of Open Space and Common Facilities*, as approved by the Committee.

A. The open space shall be accessible to the residents of the development except if the open space is individually owned by the owner of the parent parcel.

B. The open space may also be available to the general public providing the proper approvals are received by the land owners and/or association.

C. The required open space shall be undivided and restricted in perpetuity from future development and maintained as specified in Sec. 62-41, *Maintenance Plan*. If the open space is located within a Density Management Boundary, as shown on the Density Map, the subdivider may include the following or similar language on the face of the plat and in the deeds of the lots subject to the open space requirements of this section:

“Should at anytime [Lot #, Name of Plat] be provided with public sewer and water, the easement prohibiting development on, and the dividing of the open space described as [Legal Description], can be removed at the discretion of the jurisdictional authority.”

(2) Open Space Conservation Ranking (in order of significance). The areas to be preserved shall be identified on a case-by-case basis in an effort to conserve and provide the best opportunities to restore and enhance the natural features of each particular site.

A. First priority shall be given to intact natural communities, habitat and areas for rare and endangered species, environmental corridors, wetlands, and natural and restored prairies, significant historic and archaeological properties, prime farmland and slopes greater than twenty (20) percent.

B. Second priority shall be given to land identified for preservation on the adopted Calumet County GreenPrint Map.

C. Third priority shall be given to areas providing little to no habitat but providing view shed, recreation, or open space.

D. Fourth priority shall be given to areas providing some plant and wildlife habitat and open space.

(3) The following uses or structures may be located within the open space area and shall be counted toward the overall open space percentage required in sub. (b).

A. Parking areas for public access to the open space.

B. Privately held buildings or structures provided they are accessory to the use of the open space. Privately held agricultural buildings and structures associated with the continued agricultural use of the parent parcel shall be allowed on the open space provided they are setback a minimum of thirty (30) feet from any cluster subdivision lot line.

C. Shared septic systems and shared potable water systems.

(4) Public road right-of-ways shall not count towards the minimum open space required in sub. (b).

(5) The portion of open space designated to provide plant and/or animal habitat shall be kept as intact as possible. Trails shall be designed to avoid fragmenting these areas.

(6) The areas of the open space designed for recreational uses such as, but not limited to, trails, play fields, or community gardens should be designed in a manner, acceptable to the Committee that avoids damaging the historic or archaeological integrity of the site.

(7) A pathway system may be included to connect existing or potential open space lands on adjoining parcels and shall connect these areas to neighborhood streets and to planned or developed trails.

Sec. 62-36 – Sec. 62-39. Reserved.

ARTICLE V.

OWNERSHIP AND MAINTENANCE OF OPEN SPACE AND COMMON FACILITIES

Sec. 62-40. Ownership of Open Space and Common Facilities.

(a) Applicability. The provisions of this section shall apply only to Sec. 62-35, *Cluster Subdivisions*, of this chapter.

(b) Alternatives. The designated open space, as defined in Sec. 62-35(b) of this chapter, and common facilities shall be owned and managed by one (1) or more of the following combinations, except for minor subdivisions as stated in Sec. 62-35(d)(1):

(1) Homeowners Association. If the open space is proposed to be owned by a homeowners association, the instrument shall indicate that membership in the association is mandatory for all purchasers of homes in the development and their successors. It shall also include the homeowners' association bylaws, guaranteeing continuing maintenance of the open space and other common facilities, and the declaration of covenant, conditions and restriction of the homeowners association. Such instrument shall be submitted for approval as part of the information required for the plat, certified survey map or condominium plat. The homeowners' association bylaws or the declaration of covenants, conditions and restrictions shall contain the following information:

A. The legal description of the common land.

B. A description of the common facilities.

C. The restrictions placed upon the use and enjoyment of the lands or facilities.

D. Persons or entities entitled to enforce the restriction.

E. A mechanism to assess and enforce the common expenses for the land or facilities including upkeep and maintenance expenses, real estate taxes and insurance premiums.

F. A mechanism for resolving dispute among the owners or association members.

G. The conditions and timing of the transfer of ownership and control of land or facilities to the association.

H. Any other covenants, restrictions and conditions the developer deems appropriate.

(2) Condominium Association. If the common open space and facilities are to be held under the Condominium Ownership Act, Ch. 703, Wis. Stats., the condominium instruments shall identify the restriction placed upon the use and enjoyment of the common open space. All open space shall be held as a limited common element. Such instrument shall be submitted for approval as part of the information required for the plat, certified survey map, or condominium plat.

(3) Non-Profit Conservation Organization. If the open space is to be held by a nonprofit conservation organization, the organization shall be acceptable to the Committee or the Land & Water Conservation Department. The conveyance to the non-profit conservation organization shall contain appropriate provisions for reversion in the event that the organization becomes unwilling or unable to uphold the terms of the conveyance. Such instrument shall be submitted for approval as part of the information required for the plat, certified survey map, or condominium plat.

(4) Public Dedication of Open Space. The applicable town within which the subdivision is located may accept the dedication of fee title or dedication of a conservation easement to the open space or turn that option over to the county. Such instrument shall be submitted for approval to the accepting

jurisdictional authority as part of the information required for the plat, certified survey map or condominium plat. The designated jurisdictional authority may accept the open space provided:

- A. The open space is accessible to the public.
- B. The designated jurisdictional authority agrees to and has access to maintain the open space.

Sec. 62-41. Maintenance Plan.

Every cluster subdivision, where applicable, shall include a plan that provides evidence of a means to properly manage the open space in perpetuity and evidence of the long-term means to properly manage and maintain all common facilities, including any stormwater facilities. Such instrument shall be submitted for approval as part of the information required for the plat, certified survey map or condominium plat.

(a) The maintenance plan shall be designed to accomplish all the following:

(1) Designate the ownership of the open space and common facilities in accordance with Sec. 62-40, *Ownership of Open Space and Common Facilities*.

(2) Establish necessary regular and periodic operation and maintenance responsibilities.

(3) If agricultural uses abut the land division at the time of recording, the subdivider shall create a buffer strip in the land division immediately adjoining said agricultural uses which strip shall be a minimum of thirty (30) feet in width and which shall be devoted to open space land uses only.

(4) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.

(5) Include a land stewardship plan specifically focusing on the long-term management of common open space lands. The stewardship plan shall include a narrative describing:

A. Existing conditions including all natural, cultural, historic and scenic elements in the landscape.

B. The proposed end state for each common element and the measures proposed to achieve the end state.

C. Proposed restoration measures, including: measures for correcting increasingly destructive conditions, such as erosion, and measures for restoring historic features and habitats.

D. The operations needed to maintain the stability of the conservation or agricultural resources, including mowing schedules, weed control, planting schedules, clearing and clean up. At the Committee's discretion, the applicant may be required to escrow sufficient funds for the operation and maintenance costs of common facilities for one year.

E. In the event that the organization established to own and maintain the open space and common facilities, or any other successor organization, fails to maintain all or any portion of the common facilities in reasonable order and condition in accordance with the maintenance plan and all applicable laws, rules and regulations, the county may serve written notice upon such organization and the residents and owners of the open space and common facilities, setting forth

the manner in which the organization has failed to maintain the common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply with the time specified, the organization, or any successor organization, shall be considered in violation of this ordinance, in which case the bond if any may be forfeited, and any permits may be revoked or suspended. Representatives of the county may enter the premises and take corrective action.

F. The costs of the corrective action by the county may be assessed by the applicable town, in accordance with tax assessments, against the properties that have the right to enjoyment of the common facilities and may become a lien on said properties as stated in s. 66.0627, Wis. Stats. The applicable town, at the time of county representatives entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien at the office of the Calumet County Register of Deeds upon the properties affected by such lien.

G. Management plans can be amended by the owner identified in Sec. 62-40, *Ownership of Open Space and Common Facilities*, with the approval of the Committee.

Sec. 62-42 – Sec. 62-43. Reserved.

ARTICLE VI.

DESIGN REQUIREMENTS

Sec. 62-44. Design Requirements.

Except for those plats and certified survey maps created in a town with their own ordinance addressing the design requirements of this article, all plats and certified survey maps, unless granted a waiver under Sec. 62-34, *Planned Developments*, shall comply with the design requirements of this article. However, the lot dimension requirements of Sec. 62-46(b)(4) are not exempt from county regulation and shall apply even where a town has adopted an ordinance with lot dimension requirements.

Sec. 62-45. Road Design Standards.

The subdivider shall dedicate land for and improve roads as provided herein. The road authority may defer to the road design standards described in the latest versions of the Wisconsin Department of Transportation Facilities Development Manual and the Wisconsin Standard Specifications Manual. Roads shall be located with due regard for topographical conditions, natural features, utilities, land uses, and public convenience and safety; and shall conform to the following standards:

- (a) Existing roads shall be continued at the same or greater width, but in no case, less than the required width stated in sub. (j).
- (b) Road names shall require the approval of the Land & Water Conservation Department. Roads that are obviously in alignment with roads already existing and named shall be given the name of the existing road. Names of new roads shall not duplicate or closely approximate those of existing roads.
- (c) Road jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted.
- (d) The use of cul-de-sac roads shall be prohibited within any Density Management Boundary, as shown on the Density Map, unless limited to portions of development, which, due to unusual

topographical, environmental, or other particular conditions, may better be served by cul-de-sacs than by continuous roads.

(e) Cul-de-sac roads designed as permanent installations shall not exceed one thousand (1,000) feet in length. All permanent cul-de-sac roads shall terminate with a full (360 degrees) circular turnaround having a minimum right-of-way diameter of one hundred twenty (120) feet and a minimum pavement diameter of eighty (80) feet. When topographical, environmental, or other particular conditions warrant, the length may be extended and/or the radii reduced at the discretion of the Committee. However, whenever a deviation is authorized by the Committee, the subdivider shall place a restriction on the face of the plat or certified survey map stating,

“The subdivider and future assignees who acquire ownership of this (these) land parcel(s) hold Calumet County and the town harmless for problems of access to and from the public road and the building site(s).”

(f) Alleys may be required at the rear of all lots used for multi-family, commercial, or industrial developments, but shall not be provided in one-family and two-family residential developments unless the subdivider provides evidence satisfactory to the Committee of the need for alleys.

(g) Reserve strips controlling access to roads, alleys, and public grounds shall not be permitted.

(h) Easements having a minimum width of ten (10) feet shall be made available for each lot as required for utility lines, underground mains, cables and other such infrastructure.

(i) All road right-of-ways shall be of the width specified by the adopted Calumet County comprehensive plan, any other county plan, or official map, if any, of the county, town, or city or village having extra-territorial jurisdiction, or, if not specified therein, they shall not be less than the width specified in sub.

(j). The right-of-way widths of local roads may be reduced pursuant to s. 236.16(2), Wis. Stats.

(j)

Road Type	Minimum ROW Width	Minimum Radius of Curvature	Maximum Grade	Sight Distance
Arterial Road	120 feet	500 feet	6%	475 feet
Collector Road	80 feet	200 feet	7%	350 feet
Local Road	66 feet	100 feet	11%	100 feet
Alley	30 feet	100 feet	11%	100 feet

(k) No road grade shall be less than ½ of one percent.

(l) The subdivider shall provide finished grading on publicly dedicated roads and shall grade the roadways to sub-grade to the width prescribed by the Land & Water Conservation Department, but in no case shall the roadway width be less than twenty (20) feet nor more than forty-four (44) feet. Such grading shall be provided pursuant to specifications approved by the applicable town. Development of roads beyond the local road specifications shall be the responsibility of the State of Wisconsin, Calumet County, and/or the applicable town having jurisdictional authority of the road.

(m) Street intersections shall be designed at right angles wherever possible. No street intersections shall be an angle of less than sixty (60) degrees, unless required by unusual circumstances and approved by the Committee.

(n) Between reverse curves, there shall be a tangent having a length of not less than one hundred (100) feet.

(o) Under no circumstances shall any new roads (right-of-ways) be allowed which are not located entirely within the external boundaries of the proposed subdivision.

(p) Dead-end roads shall only be permitted if authorized by the Committee or when the continuation of said road appears on the official map, if any, of the county, town, or city or village having extra-territorial jurisdiction authority.

(q) Unless further restricted or allowed by the jurisdictional authority, access to a subdivision off county and state highways shall require the installation of a deceleration lane and access from a subdivision onto county and state highways shall require the installation of an acceleration lane.

Sec. 62-46. Block and Lot Design.

The design and layout of blocks and lots shall conform to the following standards:

(a) Blocks shall be not greater than one thousand five hundred (1500) feet in length nor less than six hundred (600) feet in length, except where necessary in case of:

(1) Cul-de-sacs and permanent dead-end roads.

(2) The connection of a new road with an existing road or other unusual circumstances, when approved by the Committee.

(b) Lot Design.

(1) The lot size, width, depth, shape and orientation shall be sufficient to provide reasonable developable area that is not restricted by easements, building setbacks, zoning requirements, environmentally sensitive areas, or other constraints.

(2) The minimum lot area required under this chapter or applicable zoning ordinances shall not include land that is dedicated or reserved for public right-of-ways.

(3) Lots shall follow, rather than cross, municipal boundary lines.

(4) Lot Dimensions.

A. In those towns having adopted the Calumet County Zoning Ordinance, the lot dimensions specified in the Calumet County Zoning Ordinance shall be applicable. In all towns having not adopted the Calumet County Zoning Ordinance, where any such lot area/width requirements are less restrictive than below, the following lot area and width standards shall be applicable for unsewered lots:

Net Lot Area (minimum)	1.0 acre
Lot Width (minimum)	150 feet

Provided State approved public sanitary sewerage facilities have been installed for the proposed lot(s), the minimum net lot area shall be reduced to seven thousand five hundred (7,500) square

feet, and the minimum lot width be reduced to sixty (60) feet for lots not located within shoreland areas. For lots located within shoreland areas, the minimum net lot area shall be reduced to twenty thousand (20,000) square feet, and the minimum lot width reduced to one hundred (100) feet.

B. In all towns, zoned or unzoned, the width of lots served by public sewer located on the outer radius of a curved road or a cul-de sac turnaround shall be measured at the building setback line. However, in no case shall the lot width measured at the right-of-way line be less than thirty-five (35) feet. The minimum lot frontage of all other lot designs shall equal the required lot width.

C. In all towns, zoned or unzoned, the width of lots not served by public sewerage disposal facilities located on the outer radius of a curved street or a cul-de-sac turnaround shall be measured at the required building setback line. However, the lot width measured at the right-of-way line shall not be less than seventy (70) feet. The minimum frontage of all other lot designs shall, at a minimum, equal the required lot width. Except under circumstances where a new lot is being created on a local road and there are existing building(s) located at least three hundred (300) feet from the local road or a proposed building site that is at least six hundred and sixty (660) feet from the local road, the minimum frontage may be reduced to no less than thirty-three (33) feet. This access strip shall not be included as part of the net lot area and no more than two such lots shall be allowed per original tract. This exception shall not apply to new lots on county and/or state roads.

D. Residential lots located within zero side-yard setback, or “zero lot line,” zoning areas will be allowed. These zero lot line lots shall conform to all the requirements of the applicable zoning district in which they are located. Zero lot line lot dimensions shall be allowed only in those municipalities that have adopted such a zero lot line ordinance and in those lots, which have access to municipal sewer.

E. Except in those towns exercising town zoning jurisdiction where there are equal or more restrictive highway setbacks in effect, all highway setbacks specified in the Calumet County Zoning Ordinance shall be herein adopted, by reference, and henceforth considered as requirements of these regulations. The most restrictive applicable setbacks shall be indicated (drawn to scale) on the face of the plat or certified survey map.

(5) Every lot shall abut on a public road. This requirement may be waived by the Committee if the applicable town, by resolution, approves said private road and includes in the resolution that the county shall not be liable or responsible for said private road. In addition to abutting on a public road, every lot shall have access to the public road network either through direct access to an abutting road, through a contiguous parcel under the same ownership with direct access to an abutting road, or through a recorded alternative access, such as an easement or shared driveway easement.

(6) To provide adequate access and circulation to playgrounds, schools, shopping centers, or other community facilities, the Land & Water Conservation Department and/or the Committee may require upon written request by the applicable town that walkways or sidewalks be provided in locations specified by the Land & Water Conservation Department and/or the Committee, either along streets or through the center of blocks.

(7) Double frontage and reverse frontage lots shall be avoided, except where approved by the Committee, to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. An easement of at least ten (10) feet, which

there shall be no right of access, shall be reserved for a vegetated buffer along the line of lots abutting such a traffic artery or other incompatible use. Said easement shall not be used as a drainage easement.

(8) All lot lines shall be perpendicular or radial to road lines, unless approved by the Committee because of topography or other natural features.

Sec. 62-47. Easements.

(a) The Land & Water Conservation Department and/or Committee may require easements for things such as, but not limited to, electric power and communications facilities, storm and sanitary sewers, tree planting, drainage, gas, water, cable television lines, or other utility lines. Such easements shall be placed so as not to interfere with the unreasonable use and enjoyment of the property for residential or other purposes.

(b) Utility easements and drainage easements shall be separately located, unless specifically approved by the Land & Water Conservation Department and/or the Committee.

(c) Whenever an easement is created for specific public improvements or otherwise conveys an interest to a specific individual, entity, or public body, the recipient or beneficiary of such easement shall be clearly noted on the plat or certified survey map. For drainage easements, in the absence of a stated beneficiary, the easement shall be a restriction on the affected property and not a conveyance of interest.

(d) Information regarding the rights and responsibilities of the easement holder, terminating or relocating the easement and other information regarding the easement may be included on the plat or certified survey map.

(e) Designated drainage easements shall be free and clear of any obstruction including but not limited to, fences, plantings, playground equipment, or sand boxes. It shall be the responsibility of the subdivider to convey on the deed the drainage easement restrictions.

Sec. 62-48. Public Access to Navigable Waters.

Access to navigable waters shall be in compliance with s. 236.16(3), Wis. Stats.

Sec. 62-49. Improvements.

(a) All improvements that are associated with a land division (i.e. roads, grading, construction site erosion control, post-construction stormwater management, public sewer and water facilities, road signage) shall be constructed in accordance with construction specifications approved by the applicable town, the Land & Water Conservation Department or the Committee. The required improvements are to be furnished and installed at the sole expense of the subdivider.

(b) The improvements specified in the approved construction specifications shall be installed and approval of a final plat or certified survey map shall be given only after the work has been completed or there shall have been filed with the appropriate town, the Land & Water Conservation Department or the Committee, one of the following:

(1) A duly completed and executed continuing surety bond in an amount sufficient to complete the work with surety satisfaction to the appropriate town, the Land & Water Conservation Department or the Committee.

(2) A certified check, in an amount sufficient to complete the work, drawn on an approved bank and available to the appropriate town, the Land & Water Conservation Department or the Committee. As the work progresses, the governmental jurisdiction, the Land & Water Conservation Department or the Committee may permit the exchange of said check for another check of sufficient amount to complete the remaining improvement agreed upon. If the improvements are not completed within the specified time, the town, the Land & Water Conservation Department or the Committee may use the bond or the certified check to complete the remaining work.

(3) Other collateral satisfactory to the appropriate town, the Land & Water Conservation Department or the Committee in an amount sufficient to complete the work.

(c) The subdivider may provide for the installation of facilities for distribution of electric, cable, telephone and/or gas utility service located within a subdivision underground. Transformers, junction boxes, meter points, or similar equipment may be installed upon the ground surface at finished grade level.

(d) The Land & Water Conservation Department and/or Committee may require that natural features, including trees, be preserved or protected.

Sec. 62-50 – Sec. 62-51. Reserved.

ARTICLE VII.

VARIANCES AND APPEALS

Sec. 62-52. Variances and Appeals.

(a) Variances. Where the Planning, Zoning, Land and Water Conservation Committee finds that “extraordinary hardship” or “practical difficulties” may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternate proposal, it may approve variances to these land division regulations provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations. The Committee shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other properties.

(2) The conditions upon which the request is based are unique to the property for which the variance is sought and are not applicable generally to other property.

(3) Because of the particular physical surrounding, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.

(4) The variance will not in any manner vary the provision of the other county ordinances and is not contrary to the adopted Calumet County comprehensive plan or other county plans.

(b) Conditions. In approving variances, the Committee may require such conditions as will, in its judgment, secure substantially the objectives of these regulations.

(c) Procedure. After consulting with the Land & Water Conservation Department and prior to an application for a land division is submitted, a petition for any such variance shall be submitted in writing by the subdivider to the Land & Water Conservation Department. All petitions shall be on forms provided by the Land & Water Conservation Department and include a fee as established in Sec. 62-53, *Fee Schedule*. The Committee may grant variances from the provisions of this chapter after holding a public hearing, with ten (10) days written notice prior to the hearing to the Town Board Chairperson of each affected town, to the applicant and/or subdivider, and all owners of lands located within three hundred (300) feet of any part of the parcel or parcels included in the application, and upon publishing of a Class 2 Notice, in accordance with Ch. 985, Wis. Stats., in the official newspaper of Calumet County.

(d) In no case shall a decision of the Committee nullify or alter the requirement for filing and recording a plat, certified survey map, or condominium plat.

(e) For all approved variances, a notation shall be placed on the plat, certified survey map, or condominium plat stating the nature of the variance granted and the date of approval by the Committee.

(f) Appeals. The Calumet County Circuit Court shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Planning, Zoning, Land and Water Conservation Committee. Any appeals arising from a decision of the Land & Water Conservation Department shall be made in accordance with Wis. Stat. §59.694(6).

Sec. 62-53. Fee Schedule.

The fees referred to in this chapter shall be established by the Planning, Zoning, Land and Water Conservation Committee. A schedule of the fees established shall be available for review in the Land & Water Conservation Department.

Sec. 62-54. Enforcement.

The Land & Water Conservation Department shall be responsible for the enforcement of this chapter. No sanitary or land use permit shall be issued for any lot until the final plat, certified survey map, or other required recording instrument for the land division has been duly recorded. No transfer of property shall be finalized and the Calumet County Register of Deeds shall not record the transfer of any lot, which by this chapter requires a plat, certified survey map, or other required recording instrument until the final plat, certified survey map, or other recording instrument for the subdivision has been duly recorded. Any person who violates this chapter shall be subject to a fine of not more than two hundred dollars (\$200.00) plus the costs of prosecution for each violation. Each day that a violation is permitted to exist shall constitute a separate offense.

Sec. 62-55. Amendments.

(a) This chapter may be amended from time to time by the Calumet County Board of Supervisors.

(b) Before submitting a proposed amendment to this chapter to the County Board of Supervisors, the Committee shall hold a public hearing thereon. Notice of such public hearing shall be given by publication of a Class 2 notice, in accordance with Ch. 985, Wis. Stats., in the official newspaper of Calumet County.

(c) Certain clerical changes made necessary by changes in the Wisconsin Statutes, which do not alter the purpose or intent of this chapter, shall be made by the Committee without the need for a public hearing.

(d) Typographical or other corrective amendments, which do not alter the purpose or intent of this chapter, shall be made by the Committee without the need for a public hearing.

Sec. 62-56. Reserved.

(History: Ordinance 2009-14, February 16, 2010; 2010-02, May 18, 2010; Ordinance 2010-17, December 21, 2010; Ordinance 2011-08, November 1, 2011; Ordinance 2013-5, §§4, 17, 18, 46, November 4, 2013)