

No. 20, S.]

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### CHAPTER 570

AN ACT to amend 66.32, 70.27 (6) and 140.05 (7) ; to repeal and recreate chapter 236 ; and to create 70.325 of the statutes, relating to the platting of lands and the recording and vacating of plats, and providing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 66.32 of the statutes is amended to read:

66.32 The extraterritorial powers granted to cities and villages by statute, including ss. 62.23 (2), 66.052, 146.10 and \* \* \* 236.10, shall not be exercised within the corporate limits of another city or village. Wherever such statutory extraterritorial powers shall overlap, the jurisdiction over said overlapping area shall be \* \* \* divided \* \* \* *on a line all points of which are equidistant from the boundaries of each municipality concerned* so that not more than one municipality shall exercise such power over any area.

SECTION 1a. 70.27 (6) of the statutes is amended to read:

70.27 (6) The provisions of \* \* \* s. 236.15 as to monuments, and the provisions of \* \* \* s. 236.20 as to form and procedure, insofar as they are applicable to the purposes of assessor's plats, shall apply.

SECTION 2. 70.325 of the statutes is created to read:

70.325 VALUATION AND ASSESSMENT OF LOTS IN SUBDIVISION. In determining the market value of lots in a recorded subdivision, the assessor shall take into consideration the time and expense necessary to market the lots.

SECTION 3. 140.05 (7) of the statutes is amended to read:

140.05 (7) The board shall have power to make and enforce \* \* \* rules \* \* \* *relating to lot size and lot elevation necessary for proper sanitary conditions in the development and maintenance of \* \* \* subdivisions not served by a public sewer, where provision for such service has not been made.*

SECTION 4. Chapter 236 of the statutes is repealed and recreated to read:

#### CHAPTER 236

##### PLATTING LANDS AND RECORDING AND VACATING PLATS

- 236.01 Purpose of chapter.
- 236.02 Definitions.
- 236.03 Survey and plat; when required.

##### APPROVAL OF PLAT

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- 236.27 Filing of copy of plat.
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- 236.29 Dedications.
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##### PENALTIES AND REMEDIES

- 236.30 Forfeiture for improper recording.
- 236.31 Penalties and remedies for transfer of lots without recorded plat.
- 236.32 Penalty for disturbing or not placing monuments.
- 236.33 Division of land into small parcels in cities of the first class prohibited, penalty.

##### SUPPLEMENTAL PROVISIONS

- 236.35 Sale of lands abutting on private way outside corporate limits of municipality.

##### VACATING AND ALTERING PLATS

- 236.40 Who may apply for vacation of plat.
- 236.41 How notice given.
- 236.42 Hearing and order.
- 236.43 Vacation of areas dedicated to the public.
- 236.44 Recording order.

##### SUBDIVISION REGULATION AND REGIONAL PLANS

- 236.45 Local subdivision regulation.
- 236.46 County regional plans.

## GENERAL PROVISIONS

236.50 Date chapter applies; curative provision as to plats before that date.

## PRELIMINARY PROVISIONS

236.01 PURPOSE OF CHAPTER. The purpose of this chapter is to regulate the subdivision of land to promote public health, safety and general welfare; to further the orderly layout and use of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light and air; to facilitate adequate provision for water, sewerage and other public requirements; to provide for proper ingress and egress; and to promote proper monumenting of land subdivided and conveyancing by accurate legal description. The approvals to be obtained by the subdivider as required in this chapter shall be based on requirements designed to accomplish the aforesaid purposes.

236.02 DEFINITIONS. In this chapter, unless the context or subject matter clearly requires otherwise:

(1) "County planning agency" means a rural county planning committee authorized by s. 27.015, a county park commission authorized by s. 27.02, a county zoning committee authorized by s. 59.97 or any agency created by the county board and authorized by statute to plan land use.

(2) "Extraterritorial plat approval jurisdiction" means the unincorporated area within 3 miles of the corporate limits of a first, second or third class city, or 1½ miles of a fourth class city or a village.

(3) "Municipality" means an incorporated city or village.

(4) "Plat" is a map of a subdivision.

(5) "Preliminary plat" is a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration.

(6) "Recording a plat" means the filing of the original of the final plat with the register of deeds.

(7) "Subdivision" is a division of a lot, parcel or tract of land by the owner thereof or his agent for the purpose of sale or of building development, where:

(a) The act of division creates 5 or more parcels or building sites of 1½ acres each or less in area; or

(b) Five or more parcels or building sites of 1½ acres each or less in area are created by successive divisions within a period of 5 years.

(8) "Town planning agency" means a town park commission organized under s. 60.181, a town zoning committee appointed under s. 60.74, or any agency created by the town board and authorized by statute to plan land use.

236.03 SURVEY AND PLAT; WHEN REQUIRED. (1) Any division of land which shall result in a subdivision as defined in s. 236.02 (7) (a) shall be, and any other division may be, surveyed and a plat thereof approved and recorded as required by this chapter.

(2) This chapter does not apply to cemetery plats made under s. 157.07 and assessors' plats made under s. 70.27, but such assessors' plats shall, except in counties having a population of 500,000 or more, comply with ss. 236.15 (1) (a) to (g) and 236.20 (1) and (2) (a) to (f).

## APPROVAL OF PLAT

236.10 APPROVALS NECESSARY. (1) To entitle a final plat of a subdivision to be recorded, it shall have the approval of the following in accordance with the provisions of s. 236.12;

(a) If within a municipality, the governing body, but if the plat is within an area, the annexation of which is being legally contested, the governing bodies of both the annexing municipality and the town from which the area has been annexed shall approve.

(b) If within the extraterritorial plat approval jurisdiction of a municipality:

1. The town board; and

2. The governing body of the municipality, except if the county exercises approval under subd. 3. such governing body shall approve only if it either has a planning commission employing on a full-time basis a professional engineer, a planner or other person charged with the duty of administering zoning or other planning legislation, or has adopted an official map under s. 62.23 (6) (d); and

3. The county planning agency if such agency employs on a full-time basis a professional engineer, a planner or other person charged with the duty of administering zoning or other planning legislation.

(c) If outside the extraterritorial plat approval jurisdiction of a municipality, the town board and the county planning agency, if there is one.

(d) If outside a municipality in a county having a population of 500,000 or more, (b) and (c) shall not apply and the plat shall have the approval of the county board, after reference to and recommendation by the county park commission, and of the town board.

(2) If a subdivision lies within the extraterritorial plat approval jurisdiction of more than one municipality, the provisions of s. 66.32 shall apply.

(3) The authority to approve or object to preliminary or final plats under this chapter may be delegated to a planning committee or commission of the approving governing body. Final plats dedicating streets, highways or other lands shall be approved by the governing body of the town or municipality in which such are located.

(4) Any municipality, town or county may pursuant to s. 66.30 agree with any other municipality, town or county for the co-operative exercise of the authority to approve plats.

(5) Any municipality may waive its right to approve plats within any portion of its extraterritorial plat approval jurisdiction by a resolution of the governing body filed with the register of deeds incorporating a map or metes and bonds description of the area outside its corporate boundaries within which it shall approve plats. The municipality may rescind this waiver at any time by resolution of the governing body filed with the register of deeds.

**236.11 SUBMISSION OF PLATS FOR APPROVAL.** (1) (a) Before submitting a final plat for approval, the subdivider may submit, or the approving authority may require that he submit, a preliminary plat. It shall be clearly marked "preliminary plat" and shall be in sufficient detail to determine whether the final plat will meet layout requirements. Within 40 days the approving authority, or its agent authorized to approve preliminary plats, shall take action to approve, approve conditionally, or reject such plat and shall state in writing any conditions of approval or reasons for rejection.

(b) If the final plat conforms substantially to the layout shown in the preliminary plat as approved, including any conditions of that approval, it shall be entitled to approval with respect to such layout. If the final plat is not submitted within 6 months of the last required approval of the preliminary plat, any approving authority may refuse to approve the final plat. The final plat may, if permitted by the approving authority,

constitute only that portion of the approved preliminary plat which the subdivider proposes to record at that time.

(2) The body or bodies having authority to approve plats shall approve or reject the final plat within 60 days of its submission, unless the time is extended by agreement with the subdivider. If a plat is rejected, the reasons therefor shall be stated in the minutes of the meeting and a copy thereof or a written statement of the reasons supplied the subdivider. If the approving authority fails to act within 60 days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the plat shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the plat by the clerk of the authority which has failed to act.

**236.12 PROCEDURE FOR APPROVAL OF PLATS.** (1) This section shall not apply to cities of the first class nor to land outside of municipalities in a county having a population of 500,000 or more.

(2) Within 2 days after a preliminary or final plat is submitted for approval, legible copies, furnished by the subdivider at his expense, shall be sent by the clerk or secretary of the approving authority to which the plat is submitted, together with a list of the approvals required, to the following:

(a) Two copies for each of the state agencies required to review the plat to the director of regional planning who shall examine the plat for compliance with ss. 236.15, 236.16, 236.20 and 236.21 (1) and (2). If the subdivision abuts or adjoins a state trunk highway or connecting street, the director shall transmit 2 copies to the state highway commission so that agency can determine whether it has any objection to the plat on the basis of its rules as provided in s. 236.13. If the subdivision is not served by a public sewer and provision for such service has not been made, the director shall transmit 2 copies to the state board of health so that agency can determine whether it has any objection to the plat on the basis of its rules as provided in s. 236.13. In lieu of this procedure the subdivider or his agent may take his original plat to each of these agencies for examination and, if they have no objection to the plat, they shall so certify in writing; or the agencies may designate local officials to act as their agents in examining the plats for compliance with the statutes or their rules by filing a written delegation of authority with the approving body.

(b) Two copies to the county park commission, if the subdivision abuts a county park or parkway;

(c) Two copies to the governing body of the municipality, if the subdivision lies within its plat approval jurisdiction but it is not required to approve under s. 236.10.

(3) Within 20 days of the date of forwarding the copies of the plat any agency having the authority to object under sub. (2) shall notify the subdivider and all authorities required to approve of any objections based upon failure of the plat to comply with any of the conditions of approval as provided in s. 236.13. The plat shall not be approved or deemed approved until such objections have been satisfied.

(4) The clerk or secretary of the approving authority forwarding copies of the plat under sub. (2) shall certify thereon that the copies were forwarded as required and the date thereof and that no objections to the plat have been filed or, if filed, have been met.

(5) Where more than one approval is required, copies of the plat shall be sent as required by sub. (2) by the approving authority to which the plat is first submitted.

(6) In order to facilitate approval of the final plat where more than one approval is required, the subdivider may file a true copy of the plat

with the approving authority or authorities with which the original of the final plat has not been filed. The approval of such authorities may be based on such copy but shall be inscribed on the original of the final plat. Before inscribing its approval, the approving authority shall require the surveyor or the owner to certify the respects in which the original of the final plat differs from the copy. All modifications in the final plat shall be approved before final approval is given.

236.13 BASIS FOR APPROVAL. (1) Approval of the preliminary or final plat shall be conditioned upon compliance with:

- (a) The provisions of this chapter;
- (b) Any municipal, town or county ordinance;
- (c) Any local master plan or official map;
- (d) The rules of the state board of health relating to lot size and lot elevation necessary for proper sanitary conditions in a subdivision not served by a public sewer, where provision for such service has not been made;
- (e) The rules of the state highway commission relating to provision for the safety of entrance upon and departure from the abutting state trunk highways or connecting streets and for the preservation of the public interest and investment in such highways or streets.

(2) As a further condition of approval, the governing body of the town or municipality within which the subdivision lies may require that the subdivider make and install any public improvements reasonably necessary or that he execute a surety bond to insure that he will make those improvements within a reasonable time.

(3) No approving authority or agency having the power to approve or object to plats shall condition approval upon compliance with, or base an objection upon, any requirement other than those specified in this section.

(4) Where more than one governing body or other agency has authority to approve or to object to a plat and the requirements of such bodies or agencies are conflicting, the plat shall comply with the most restrictive requirements.

(5) Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom as provided in s. 62.23 (7) (e) 10 to 15, within 30 days of notification of the rejection of the plat. For the purpose of such appeal the term "board of appeals" means an "approving authority." Where the failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving authority or objecting agency is arbitrary, unreasonable or discriminatory.

#### LAYOUT REQUIREMENTS

236.15 SURVEYING REQUIREMENTS. For every subdivision of land there shall be a survey meeting the following requirements:

(1) MONUMENTS. All of the monuments required in the following paragraphs shall be placed flush with the ground where practicable.

(a) The external boundaries of a subdivision shall be monumented in the field by monuments of stone or concrete, not less than 30 inches in length, nor less than 4 inches square or 5 inches in diameter, and marked on the top with a cross, brass plug, iron rod, or other durable material securely embedded; or by iron rods or pipes at least 30 inches long and 2 inches in diameter weighing not less than 3.65 pounds per lineal foot. These monuments shall be placed not more than 1,400 feet apart in any

straight line and at all corners, at each end of all curves, at the point where a curve changes its radius and at all angle points in any line when such corners or points are 100 feet or more apart except that when such corners or points fall within a street, the monuments shall be placed in the side line of the street.

(b) All internal boundaries and those corners and points not required to be marked by par. (a) shall be monumented in the field by like monuments as defined in par. (a). These monuments shall be placed at all block corners, at each end of all curves, at the point where a curve changes its radius, and at all angle points in any line.

(c) All lot corners shall be monumented in the field by iron rods or pipes at least 24 inches long and one inch in diameter, weighing not less than 1.13 pounds per lineal foot.

(d) The lines of lots that extend to lakes or streams shall be monumented in the field by iron rods or pipes at least 30 inches long and one inch in diameter weighing not less than 1.13 pounds per lineal foot. These monuments shall be placed at the point of intersection of the lake or stream lot line with a meander line established not less than 20 feet back from the ordinary high water mark of the lake or from the bank of the stream.

(e) Streets and alleys shall be established by the boundaries of adjoining lots, blocks, or public grounds.

(f) Any durable metal, stone, or concrete monuments may be used in lieu of the iron pipes listed in pars. (c) and (d) provided that they are uniform within the platted area and have been approved by the director of regional planning.

(g) In cases where strict compliance with this subsection would be unduly difficult or would not provide adequate monuments, the state director of regional planning may make other reasonable requirements.

(h) The governing body of the municipality, town or county which is required to approve the subdivision under s. 236.10 may waive the placing of monuments under pars. (b), (c), (d) and (e) for a reasonable time on condition that the subdivider executes a surety bond to insure that he will place the monuments within the time required.

(2) **ACCURACY OF SURVEY.** The survey shall be performed by a qualified surveyor or professional engineer and if the error in the latitude and departure closure of the survey shall not be greater than the ratio of 1 in 3,000 the plat may be rejected.

**236.16 LAYOUT REQUIREMENTS.** (1) **MINIMUM LOT WIDTH AND AREA.** In counties having a population of 40,000 or more, each lot in a residential area shall have a minimum average width of 50 feet and a minimum area of 6,000 square feet; in counties of less than 40,000, each lot in a residential area shall have a minimum average width of 60 feet and a minimum area of 7,200 square feet.

(2) **MINIMUM STREET WIDTH.** All streets shall be of the width specified on the master plan or official map or of a width at least as great as that of the existing streets if there is no master plan or official map, but no full street shall be less than 60 feet wide unless otherwise permitted by local ordinance.

(3) **LAKE AND STREAM SHORE PLATS.** All subdivisions abutting a lake or stream shall provide highways at least 60 feet wide providing access to the lot water mark so that there will be highways at not more than 1/2 mile intervals as measured along the lake or stream shore unless topography and ground conditions do not permit.

## FINAL PLAT AND DATA

236.20 FINAL PLAT. A final plat of subdivided land shall comply with the following requirements:

(1) GENERAL REQUIREMENTS. All plats shall be legibly prepared in the following manner:

(a) On muslin-backed white paper 22 inches wide by 30 inches long. When more than one sheet is used for any plat, each sheet shall be numbered consecutively and shall contain a notation giving the total number of sheets in the plat and showing the relation of that sheet to the other sheets. These sheets may be provided by the county through the register of deeds on such terms as the county board shall determine.

(b) With a binding margin of 1½ inches on the left side of the 30-inch length and a one inch margin on all other sides.

(c) With waterproof nonfading black ink on a scale of not more than 100 feet to an inch. The scale used shall be indicated on the plat graphically.

(2) MAP AND ENGINEERING INFORMATION. The final plat shall show correctly on its face:

(a) The exterior boundaries of the land surveyed and divided.

(b) All monuments erected, corners and other points established in the field in their proper places. The material of which the monuments, corners or other points are made shall be noted at the representation thereof or by legend.

(c) The exact length and bearing of the exterior boundaries, the boundary lines of all easements, blocks, public grounds, streets and alleys, and all lot lines, except that when the lines in any tier of lots are parallel it shall be sufficient to mark the bearings of the outer lines on one tier thereof.

(d) All blocks consecutively numbered, or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively through the several additions.

(e) All lots in each block consecutively numbered.

(f) The area of each lot containing an area of one acre or more.

(g) The exact widths of all easements, streets and alleys.

(h) All lake or stream shore meander lines established by the surveyor in accordance with s. 236.15 (1) (d), the distances and bearings thereof, and the distance between the point of intersection of such meander lines with lot lines and the ordinary high water mark.

(i) The center line of all streets.

(j) A north point properly located thereon.

(k) The number of degrees and minutes in all exterior boundary and block angles.

(L) When a street is on a circular curve, the main chord of the center line shall be drawn as a dotted line in waterproof, nonfading red ink, in its proper place; and either on it, or in an adjoining table, shall be noted its bearing and length, the radius of the circle of which the curve is a part, the central angle subtended, the bearing of the radius at the point of curve, the angle between the main chord and the tangent to the curve, and the chord lengths and deflection angles used in staking out the curve. The lot lines on the street sides may be shown in the same manner or by bearings and distances. When a curve of 200 foot radius or less is used, it shall be sufficient to show in waterproof, nonfading red ink the length and bearing of the main chord, the radius at one end of the curve, and the central angle subtended.

(3) **NAME, LOCATION AND POSITION.** The name of the plat shall be printed thereon in prominent letters, and shall not be a duplicate of the name of any plat previously recorded in the same county. The following information relating to the position and location of the subdivision shall be shown on the plat:

(a) The location of the subdivision by government lot, quarter section, section, township, range, and county noted immediately under the name given the subdivision.

(b) The exact location of the subdivision indicated by distances and bearings with reference to a corner or corners established in the United States public land survey.

(c) A small scale drawing of the section or government subdivision of the section in which the subdivision lies with the location of the subdivision indicated thereon. This drawing shall show a graphic scale and north point and shall be oriented on the sheet in the same direction as the main drawing.

(d) Where provisions are made for access from any subdivision to any lake or stream, the plat shall show the area over which access is provided to the lake or stream together with a small scale drawing clearly indicating the location of the subdivision in relation to the lake or stream and the location of the area over which access is provided.

(e) The names of adjoining streets, state highways, and subdivisions shown in their proper location in waterproof nonfading red ink underscored by a dotted line.

(f) Abutting street and state highway lines of adjoining plats shown in their proper location by dotted lines in waterproof nonfading red ink. The width of these streets and highways shall be given also.

(4) **ROADS AND PUBLIC SPACES.** (a) The name of each road or street in the plat shall be printed thereon in prominent letters.

(b) All lands dedicated to public use except roads and streets shall be clearly marked "Dedicated to the Public";

(c) All roads or streets shown on the plat which are not dedicated to public use shall be clearly marked "Private Road" or "Private Street" or "Private Way."

(5) **SITE CONDITIONS AND TOPOGRAPHY.** The final plat shall show:

(a) All existing permanent buildings;

(b) All watercourses, drainage ditches and other existing features pertinent to proper subdivision;

(c) The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low water elevations of such lakes or streams. All elevations shall be referred to some permanent established datum plane.

**236.21 AFFIDAVITS AND CERTIFICATES TO ACCOMPANY PLAT.** To entitle a final plat to be recorded, the following affidavits and certificates lettered or printed legibly with black durable ink or typed legibly with black ribbon shall appear on it:

(1) **SURVEYOR'S AFFIDAVIT OF COMPLIANCE WITH STATUTE.** An affidavit of the surveyor who surveyed, divided and mapped the land giving:

(a) By whose direction he made the survey, subdivision and plat of the land described on the plat;

(b) A clear and concise description of the land surveyed, divided and mapped by government lot, quarter-quarter section, section, township, range and county; or if such land is located in a municipality, or subdivision, or addition thereto, then by the number or other description of the lot, block or other division thereof, otherwise by metes and bounds

commencing with some corner marked and established in the U. S. Public land survey;

(c) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and the subdivision of it;

(d) A statement that he has fully complied with the provisions of this chapter in surveying, dividing, and mapping the land.

(2) OWNER'S CERTIFICATE. (a) A certificate by the owner of the land in substantially the following form: "As owner I hereby certify that I caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on the plat. I also certify that this plat is required by s. 236.10 to be approved by the following: (list of governing bodies required to approve)." This certificate shall be executed as a conveyance is executed.

(b) As a condition to approval of the plat, the municipal, town or county body required by s. 236.12 to approve the plat may require that the owner furnish an abstract of title certified to date of submission for approval or, at the option of the owner, a policy of title insurance or certificate of title from an abstract company for examination in order to ascertain whether all parties in interest have signed the owner's certificate on the plat.

(3) CERTIFICATE OF TAXES PAID. A certificate of the clerk or treasurer of the municipality or town in which the subdivision lies and a certificate of the treasurer of the county in which the subdivision lies stating that there are no unpaid taxes or unpaid special assessments on any of the lands included in the plat.

#### RECORDING OF PLATS

236.25 RECORDING A PLAT. (1) The subdivider shall have the final plat recorded in the office of the register of deeds of the county in which the subdivision is located.

(2) The register of deeds shall not accept a plat for record unless:

(a) It is drawn on muslin backed white paper 22 inches wide by 30 inches long;

(b) The plat is offered for record within 30 days of the date of the last approval of the plat and within 6 months of the first approval;

(c) The plat shows on its face all the certificates and affidavits required by ss. 236.21 and 236.12 (4);

(d) The plat shows on its face the approval of all bodies required by s. 236.10 to approve or the certificate of the clerk that the plat is deemed approved under s. 236.11 (2).

(3) The recording of a plat which is not entitled to be recorded under sub. (2) shall not of itself affect the title of a purchaser of a lot covered by the plat, the donation or dedication of land made by the plat, or the validity of a description of land by reference to the plat, but it allows the purchaser a right to rescind the sale under s. 236.31.

(4) The original of every final plat entitled to be recorded under this section shall be bound or filed by the register of deeds into properly indexed volumes. Any facsimile of the original whole record, made and prepared by the register of deeds or under his direction shall be deemed to be a true copy of the final plat.

(5) The register of deeds may furnish certified photostatic copies or other accurate reproductions of any plat on record in his office to surveyors, engineers, or other interested parties at cost.

236.26 NOTIFICATION TO APPROVING AUTHORITIES. When a final plat is recorded the register of deeds shall notify all authorities

required by s. 236.10 to approve the plat by mailing to the clerk of that authority written notice thereof.

**236.27 FILING OF COPY OF PLAT.** The subdivider shall file a true copy of the final plat as a public record with the clerk of the municipality or town in which the subdivision is located.

**236.28 DESCRIPTION OF LOTS IN RECORDED PLAT.** When a subdivision plat has been recorded in accordance with s. 236.25, the lots in that plat may be described by the name of the plat and the lot and block in the plat for all purposes, including those of assessment, taxation, devise, descent and conveyance as defined in s. 235.50. Any conveyance containing such a description shall be construed to convey to the grantee all portions of vacated streets and alleys abutting such lots and belonging to the grantor unless the grantor by appropriate language indicates an intention to reserve or except them from the conveyance.

**236.29 DEDICATIONS. (1) EFFECT OF RECORDING ON DEDICATIONS.** When any plat is certified, signed, acknowledged and recorded as prescribed in this chapter, every donation or grant to the public or any person, society or corporation marked or noted as such on said plat shall be deemed a sufficient conveyance to vest the fee simple of all parcels of land so marked or noted, and shall be considered a general warranty against such donors, their heirs and assigns to the said donees for their use for the purposes therein expressed and no other; and the land intended for the streets, alleys, ways, commons or other public uses as designated on said plat shall be held by the town, city or village in which such plat is situated in trust to and for such uses and purposes.

**(2) DEDICATIONS TO PUBLIC ACCEPTED BY APPROVAL.** When a final plat of a subdivision has been approved by the governing body of the municipality or town in which the subdivision is located and all other required approvals are obtained and the plat is recorded, that approval constitutes acceptance for the purpose designated on the plat of all lands shown on the plat as dedicated to the public including street dedications.

**236.293 RESTRICTIONS FOR PUBLIC BENEFIT.** Any restriction placed on platted land by covenant, grant of easement or in any other manner, which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in such public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction. Such restriction may be released or waived in writing by the public body having the right of enforcement.

**236.295 CORRECTION INSTRUMENTS. (1) Correction instruments** may be recorded in the office of the register of deeds in the county in which the plat is recorded and may include: (a) affidavits to correct distances, angles, directions, bearings, chords, block or lot numbers, street names or other details shown on a recorded plat; and (b) ratifications of a recorded plat signed and acknowledged in accordance with s. 235.19.

**(2) Each affidavit in sub. (1) (a) shall be approved prior to recording** by the governing body of the municipality or town in which the subdivision is located. The register of deeds shall note on the plat a reference to the page and volume in which the affidavit or instrument is recorded. The record of such affidavit or instrument, or a certified copy thereof, shall be prima facie evidence of the facts stated therein.

## PENALTIES AND REMEDIES

**236.30 FORFEITURE FOR IMPROPER RECORDING.** Any person causing his final plat to be recorded without submitting such plat for approval as herein required, or who shall fail to present the same for

record within the time prescribed after approval, shall forfeit not less than \$100, nor more than \$1000 to each municipality, town or county wherein such final plat should have been submitted.

**236.31 PENALTIES AND REMEDIES FOR TRANSFER OF LOTS WITHOUT RECORDED PLAT.** (1) Any subdivider or his agent who offers or contracts to convey, or conveys, any subdivision as defined s. 236.02 (7) or lot or parcel which lies in a subdivision as defined in s. 236.02 (7) knowing that the final plat thereof has not been recorded may be fined not more than \$500 or imprisoned not more than 6 months or both; except where the preliminary or final plat of the subdivision has been filed for approval with the town or municipality in which the subdivision lies, an offer or contract to convey may be made if that offer or contract states on its face that it is contingent upon approval of the final plat and shall be void if such plat is not approved.

(2) Any municipality, town or county may (a) institute injunction or other appropriate action or proceeding to enjoin a violation of any provision of this chapter or ordinance adopted pursuant to s. 236.45 and may impose a forfeiture for violation of any such ordinance; and (b) order an assessor's plat to be made under s. 70.27 at the expense of the subdivider or his agent when a subdivision is created under s. 236.02 (7) (b) by successive divisions.

(3) Any conveyance or contract to convey made by the subdivider or his agent contrary to this section or involving a plat which was not entitled to be recorded under s. 236.25 (2) shall be voidable at the option of the purchaser or person contracting to purchase, his heirs, personal representative or trustee in insolvency or bankruptcy within one year after the execution of the document or contract; but such document or contract shall be binding on the vendor, his assignee, heir or devisee.

**236.32 PENALTY FOR DISTURBING OR NOT PLACING MONUMENTS.** Any of the following may be fined not more than \$250 or imprisoned not more than one year in county jail:

(1) Any owner, surveyor or subdivider who fails to place monuments as prescribed in this chapter when subdividing land.

(2) Any person who knowingly removes or disturbs any such monument without the permission of the governing body of the municipality or county in which the subdivision is located or fails to report such disturbance or removal to it.

(3) Fails to replace properly any monuments which have been removed or disturbed when ordered to do so by the governing body of the municipality or county in which the subdivision is located.

**236.33 DIVISION OF LAND INTO SMALL PARCELS IN CITIES OF THE FIRST CLASS PROHIBITED; PENALTY.** It shall be unlawful to divide or subdivide and convey by deed or otherwise any lot in any recorded plat or any parcel or tract of unplatted land in any city of the first class so as to create a lot or parcel of land which does not have street or public highway frontage of at least 4 feet or an easement to a street or public highway of a minimum width of 4 feet but this section shall not apply to conveyances by tax deed or through the exercise of eminent domain or to such reductions in size or area as are caused by the taking of property for public purposes. This section shall not prohibit the dividing or subdividing of any lot or parcel of land in any such city where the divided or subdivided parts thereof which become joined in ownership with any other lot or parcel of land comply with the requirements of this section, if the remaining portion of such lot or parcel so divided or subdivided complies. Any person who shall make such conveyance or procure such a sale or act as agent in procuring such sale or conveyance shall be fined not

less than \$100 or more than \$500 or imprisoned not more than 6 months or both.

**236.34 RECORDING OF CERTIFIED SURVEY MAP; USE IN CONVEYANCING.** (1) **PREPARATION.** A certified survey map of not more than 2 parcels of land may be recorded in the office of the register of deeds of the county in which such land is situated if such certified survey meets the following requirements:

(a) The survey shall be performed and the map prepared by a qualified surveyor or professional engineer.

(b) All corners shall be monumented in accordance with s. 236.15 (1) (c) and (d).

(c) The map shall be prepared in accordance with s. 236.20 (2) (a), (b), (c), (e), (f), (g), (h), (j), (k) and (l) on durable white paper 8½ inches wide by 14 inches long. All lines shall be made with nonfading black ink on a scale of not more than 500 feet to an inch.

(d) The map shall include the affidavit of the surveyor who surveyed and mapped the parcel, typed, lettered or reproduced legibly with non-fading black ink, giving a clear and concise description of the land surveyed by bearings and distances, commencing with some corner marked and established in the U. S. public land survey or some corner providing reference to a corner marked and established in the U. S. public land survey. Such affidavit shall include the certificate of the surveyor to the effect that he has fully complied with the requirements of this section.

(2) **RECORDING.** Certified survey maps prepared in accordance with sub. (1) shall be numbered consecutively by the register of deeds and shall be recorded in a bound volume to be kept in the register of deeds office, known as the "Certified Survey Maps of ----- County".

(3) **USE IN CONVEYANCING.** When a certified survey map has been recorded in accordance with this section, the parcels of land in the map may be described by reference to the number of the survey, the volume and page where recorded, and the name of the county, for all purposes, including assessment, taxation, devise, descent and conveyance as defined in s. 235.50.

#### SUPPLEMENTAL PROVISIONS

**236.35 SALE OF LANDS ABUTTING ON PRIVATE WAY OUTSIDE CORPORATE LIMITS OF MUNICIPALITY.** (1) No person shall sell any parcel of land of one acre or less in size, located outside the corporate limits of a municipality, if it abuts on a road which has not been accepted as a public road unless the seller informs the purchaser in writing of the fact that the road is not a public road and is not required to be maintained by the town or county.

(2) Any person violating this section may be fined not more than \$200 or imprisoned not more than 30 days or both.

#### VACATING AND ALTERING PLATS

**236.40 WHO MAY APPLY FOR VACATION OF PLAT.** Any of the following may apply to the circuit court for the county in which a subdivision is located for the vacation or alteration of all or part of the recorded plat of that subdivision:

(1) The owner of the subdivision or of any lot in the subdivision.

(2) The county board if the county has acquired an interest in the subdivision or in any lot in the subdivision by tax deed.

**236.41 HOW NOTICE GIVEN.** Notice of the application for the vacation or alteration of the plat shall be given at least 3 weeks before the application:

(1) By posting a written notice thereof in at least 2 of the most public places in the county; and

(2) By publishing a copy of the notice once each week for 3 weeks in a newspaper published or circulated in the county; and

(3) By service of the notice in the manner required for service of a summons in the circuit court on the municipality or town in which the subdivision is located, and if it is located in a county having a population of 500,000 or over, on the county; and

(4) By mailing a copy of the notice to the owners of record of all the lots in the subdivision or the part of the subdivision proposed to be vacated or altered at their last known address.

**236.42 HEARING AND ORDER.** (1) After requiring proof that the notices required by s. 236.41 have been given and after hearing all interested parties, the court may in its discretion grant an order vacating or altering the plat or any part thereof except:

(a) The court shall not vacate any alleys immediately in the rear of lots fronting on county trunk highways without the prior approval of the county board or on state trunk highways without the prior approval of the state highway commission.

(b) The court shall not vacate any parts of the plat which have been dedicated to and accepted by the public for public use except as provided in s. 236.43.

(2) The vacation or alteration of a plat shall not affect:

(a) Any restriction under s. 236.293, unless the public body having the right to enforce the restriction has in writing released or waived such restriction.

(b) Any restrictive covenant applying to any of the platted land.

**236.43 VACATION OF AREAS DEDICATED TO THE PUBLIC.** Parts of a plat dedicated to and accepted by the public for public use may be vacated as follows:

(1) The court may vacate the streets on a plat if:

(a) The plat was recorded more than 40 years previous to the filing of the application for vacation or alteration; and

(b) During all that period the areas dedicated for streets were not improved as streets; and

(c) Those areas are not necessary to reach other platted property; and

(d) All the owners of all the land in the plat or part thereof sought to be vacated have joined in the application for vacation.

(2) The court may vacate land platted as a public square upon the application of the municipality or town to which the land was conveyed if:

(a) The land was conveyed to the municipality or town prior to January 1, 1853; and

(b) The land was never in fact utilized by the municipality as a public square.

**236.44 RECORDING ORDER.** The applicant for the vacation or alteration shall record in the office of the register of deeds the order vacating or altering the plat together with the plat showing the part vacated if only part of the plat is vacated or the altered plat if the plat is altered.

## SUBDIVISION REGULATION AND REGIONAL PLANS

**236.45 LOCAL SUBDIVISION REGULATON.** (1) **DECLARATION OF LEGISLATIVE INTENT.** The purpose of this section is to promote the public health, safety, and general welfare of the community and the regulations

authorized to be made are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds, and other public requirements; to facilitate the further resubdivision of larger tracts into smaller parcels of land. The regulations provided for by this section shall be made with reasonable consideration, among other things, of the character of the municipality, town or county with a view of conserving the value of the buildings placed upon land, providing the best possible environment for human habitation, and for encouraging the most appropriate use of land throughout the municipality, town or county.

(2) DELEGATION OF POWER. (a) To accomplish the purposes listed in sub. (1), any municipality, town or county which has established a planning agency may adopt ordinances governing the subdivision or other division of land which are more restrictive than the provisions of this chapter. Such ordinances may include provisions regulating divisions of land into parcels larger than 1½ acres or divisions of land into less than 5 parcels, and may prohibit the division of land in areas where such prohibition will carry out the purposes of this section. Such ordinances may make applicable to such divisions any of the provisions of this chapter, or may provide other surveying, monumenting, mapping, and approving requirements for such division. The governing body of the municipality, town or county may require that a map, plat or sketch of such division be recorded with the register of deeds and kept in a book provided for that purpose. When so recorded, the lots included in the map, plat or sketch may be described by reference to it by lot number and by volume and page of the book provided for that use, for all purposes, including those of assessment, taxation, devise, descent and conveyance as defined in s. 235.50. Such ordinance, in so far as it may apply to divisions of less than 5 parcels, shall not apply to:

1. Transfers of interests in land by will or pursuant to court order;
2. Leases for a term not to exceed 10 years, mortgages or easements;
3. The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this chapter or other applicable laws or ordinances;
4. Such other divisions exempted by such ordinances.

(b) This section and any ordinance adopted pursuant thereto, shall be liberally construed in favor of the municipality, town or county and shall not be deemed a limitation or repeal of any requirement or power granted or appearing in this chapter or elsewhere, relating to the subdivision of lands.

(3) AREAS IN WHICH SUBDIVISION ORDINANCES APPLY. An ordinance adopted hereunder by a municipality may regulate the division or subdivision of land within the extraterritorial plat approval jurisdiction of the municipality as well as land within the corporate limits of the municipality if it has the right to approve or object to plats within that area under s. 236.10 (1) (b) a. and (2) and s. 236.12 (2) (c).

(4) PROCEDURE. Before adoption of a subdivision ordinance or any amendments thereto the governing body shall receive the recommendation of its planning agency and shall hold a public hearing thereon. Notice of this public hearing shall be given by publication in the official paper or if there is none in a paper of general circulation in the municipality, once a week for the 3 weeks preceding the hearing. Any ordinance adopted shall be published in form suitable for public distribution.

236.46 COUNTY REGIONAL PLANS. (1) (a) The county planning agency may prepare regional plans, in such units as it may determine, for the future platting of lands within the county, but without the limits of any municipality, or for the future location of streets or highways or parkways, and the extension or widening of existing streets and highways. Before completion of these plans, the county planning agency shall fix the time and place it will hear all persons who desire to be heard upon such proposed plans, and shall give notice of that hearing as required below for the passage of the ordinance by the county board. After these hearings the county planning agency shall certify the plans to the county board, who may, after having submitted the same to the town boards of the several towns in which the lands are located and obtained the approval of the town boards, adopt by ordinance the proposed regional plans for future platting or for street or highway or parkway location in towns which may have approved the same, and upon approval of said towns may amend the ordinance. Before the ordinance or any amendments thereto shall be adopted by the county board, at least 10 days' notice shall be given by publication in the official newspaper, or if there is none, in a newspaper of general circulation in the county, of a hearing at which all persons interested shall be given an opportunity to be heard at a time and place to be specified in the notice. The ordinance with any amendments as may be made shall govern the platting of all lands within the area to which it applies.

(b) In counties having a population of less than 500,000 any regional plan adopted hereunder shall not apply in the extraterritorial plat approval jurisdiction of any municipality unless that municipality by ordinance approves the same. This approval may be rescinded by ordinance.

(2) Such regional plans may be any of the following:

(a) A system of arterial thoroughfares complete for each town.

(b) A system of minor streets for the complete area surrounded by any such main arterial thoroughfares and connecting therewith.

(c) The platting of lots for any area surrounded completely by any such arterial thoroughfares or any such minor streets or both.

(3) Such system of arterial thoroughfares and such system of minor streets within such system of arterial thoroughfares and such platting of lots within any such system of minor streets may be adopted by the same proceeding. For the purpose of this section a parkway may be considered either an arterial thoroughfare or a minor street if it performs the function of an arterial thoroughfare or minor street. A natural obstacle like a lake or river or an artificial obstacle like a railroad or town line may, where necessary, be the boundary of any regional plans instead of a street or highway or parkway.

## GENERAL PROVISIONS

236.50. DATE CHAPTER APPLIES; CURATIVE PROVISIONS AS TO PLATS BEFORE THAT DATE. (1) (a) This chapter shall take effect upon July 1, 1956, but any plat recorded prior to December 31, 1956, may be approved and recorded in accordance with this chapter or ch. 236, statutes of 1953. This chapter shall not require that any subdivision made prior to July 1, 1956, which was platted under the laws in force at that time or which did not constitute a subdivision under the laws in force at that time, be platted and the plat approved and recorded as provided in this chapter.

(b) This chapter shall not require the preparation and recording of a plat of any subdivision which has been staked out and in which sales or contracts of sales have actually been made prior to June 28, 1935, and

nothing herein contained shall require the recording of a plat showing property sold or contracted for sale by metes and bounds or by reference to an unrecorded plat prior to June 28, 1935, as a condition precedent to the sale or contract of sale of the whole or part thereof.

(2) No plat which was recorded in the office of any register of deeds prior to July 1, 1956, shall be held invalid by reason of noncompliance with any statute regulating the platting of lands, in force at the time of such recording. Any unaccepted offer of donation or dedication of land attempted to be made in any such plat shall be as effectual as though all statutory requirements had been complied with unless an action to set aside such offer of donation or dedication is commenced prior to July 1, 1958.

SECTION 5. This act shall take effect upon July 1, 1956, provided that any plat recorded prior to October 1, 1956, may be approved and recorded in accordance with the provisions of this act or of chapter 236, Stats. 1953.

Approved August 4, 1955.

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