

CHAPTER 236

PLATTING LANDS AND RECORDING AND VACATING PLATS

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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.

Discussion of the circumstances under which the statutory platting standards set forth in 236.16 (1), (2) and (3) and 236.20 (4) (d), may be waived or varied, with specific reference to the approval of island subdivision plats. 62 Atty. Gen. 315.

"Outlots" under ch. 236 discussed. 66 Atty. Gen. 238.

Chapter 236 discussed in reference to the platting, replatting and division of lots within a recorded subdivision. 67 Atty. Gen. 121.

236.015 Applicability of chapter. This chapter does not apply to transportation project plats that conform to s. 84.095.

History: 1997 a. 282.

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

(1) "Alley" means a public or private right-of-way shown on a plat, which provides secondary access to a lot, block or parcel of land.

(2) "Copy" means a true and accurate copy of all sheets of the original subdivision plat. Such copy shall be on durable white matte finished paper with legible dark lines and lettering.

(3) "County planning agency" means a rural county planning agency authorized by s. 27.019, a county park commission authorized by s. 27.02 except that in a county with a county executive or county administrator, the county park manager appointed under s. 27.03 (2), a county zoning agency authorized by s. 59.69 or any agency created by the county board and authorized by statute to plan land use.

(4) "Department" means the department of administration.

(5) "Extraterritorial plat approval jurisdiction" means the unincorporated area within 3 miles of the corporate limits of a first, second or third class city, or 1 1/2 miles of a fourth class city or a village.

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

(7) An "outlot" is a parcel of land, other than a lot or block, so designated on the plat.

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

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

(9c) "Record" means, with respect to a final plat or a certified survey map, to record and file the document with the register of deeds.

(9m) "Recorded private claim" means a claim of title to land based on a conveyance from a foreign government made before the land was acquired by the United States.

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

(12) "Subdivision" is a division of a lot, parcel or tract of land by the owner thereof or the owner's 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 1 1/2 acres each or less in area; or

(b) Five or more parcels or building sites of 1 1/2 acres each or less in area are created by successive divisions within a period of 5 years.

(13) "Town planning agency" means a town zoning committee appointed under s. 60.61 (4) (a) or any agency created by the town board and authorized by statute to plan land use.

History: 1979 c. 221; 1979 c. 233 s. 8; 1979 c. 248 ss. 2, 25 (4); 1979 c. 361; 1983 a. 189, 473, 532, 538; 1985 a. 29; 1987 a. 399; 1993 a. 490; 1995 a. 27 ss. 6307m, 6308, 9116 (5); 1995 a. 201; 1997 a. 27; 1999 a. 96.

In determining lot sizes under sub. (8), 1981 stats. [now sub. (12)], such lots may not extend across navigable waters or public easements of passage nor include any

land whose servitude is inconsistent with its integrated functional use and unified ownership. 66 Atty. Gen. 2.

Certified survey maps under s. 236.34 cannot substitute for subdivision surveys under s. 236.02 (8), 1981 stats. [now sub. (12)] Penalties under s. 236.31 apply to improper use of certified surveys. 67 Atty. Gen. 294.

236.03 Survey and plat; when required. (1) Any division of land which results in a subdivision as defined in s. 236.02 (12) (a) shall be, and any other division may be, surveyed and a plat thereof approved and recorded as required by this chapter. No map or survey purporting to create divisions of land or intending to clarify metes and bounds descriptions may be recorded except as provided 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 (e), unless waived under s. 236.20 (2) (L).

(3) Subsection (1) shall not apply to the sale or exchange of parcels of public utility or railroad right-of-way to adjoining property owners if the governing body of the municipality or town in which the property is located and the county planning agency, where such agency exists, approves such sale or exchange on the basis of applicable local ordinances or the provisions of this chapter.

History: 1983 a. 189 s. 329 (23); 1983 a. 473; 1993 a. 490.

The provisions of s. 236.41 relating to vacation of streets are inapplicable to assessors' plats under s. 70.27. Once properly filed and recorded an assessor's plat becomes the operative document of record, and only sections specified in s. 236.03 (2) apply to assessor's plats. *Schaetz v. Town of Scott*, 222 Wis. 2d 90, 585 N.W.2d 889 (Ct. App. 1998).

A replat of a recorded subdivision must comply with the formal platting requirements of ch. 236, relating to new subdivision plats, including those relating to the survey, approval and recording. 63 Atty. Gen. 193.

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 if, by July 1, 1958, or thereafter it adopts a subdivision ordinance or an official map under s. 62.23; 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.

(2) If a subdivision lies within the extraterritorial plat approval jurisdiction of more than one municipality, the provisions of s. 66.0105 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 under s. 66.0301 agree with any other municipality, town or county for the cooperative exercise of the authority to approve or review plats. A municipality, town or county may, under s. 66.0301, agree to have a regional planning commission review plats and submit an advisory recommendation with respect to their approval. A municipi-

ality, town or county may agree with a regional planning commission for the cooperative exercise of the authority to approve or review plats only as provided under s. 66.0309 (11).

(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 recorded with the register of deeds incorporating a map or metes and bounds 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 recorded with the register of deeds.

History: 1979 c. 248; 1993 a. 301; 1999 a. 150 s. 672.

City improperly included lots which were not within its extraterritorial plat approval jurisdiction in city's calculation of fee assessed developer. *Brookhill Development, Ltd. v. City of Waukesha*, 103 Wis. 2d 27, 307 N.W.2d 242 (1981).

Artificial lakes and land subdivisions. *Kusler*, 1971 WLR 369.

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 the subdivider 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 90 days the approving authority, or its agent authorized to approve preliminary plats, shall take action to approve, approve conditionally, or reject the preliminary plat and shall state in writing any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the approving authority or its agent to act within the 90 days, or extension thereof, constitutes an approval of the preliminary plat.

(b) If the final plat conforms substantially to the preliminary plat as approved, including any conditions of that approval, and to local plans and ordinances adopted as authorized by law, it is entitled to approval. If the final plat is not submitted within 24 months after 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. When the approving authority is a municipality and determines to approve the plat, it shall give at least 10 days' prior written notice of its intention to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of such proposed plat but failure to give such notice shall not invalidate any such plat. 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.

History: 1979 c. 248; 1997 a. 332.

Under s. 236.11 (1) (a), 1967 stats., a village must act within 40 days as to a preliminary plat, even though the plat allegedly violates the official city map. Tabling consideration of the plat within 40 days is not sufficient. *State ex rel. Lozoff v. Board of Trustees*, 55 Wis. 2d 64, 197 N.W.2d 798.

236.12 Procedure for approval of plats. (1) This section shall not apply to cities of the first class nor to unincorporated land 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, together with a list of the authorities to which the plat must be submitted for approval under s. 236.10 or objection under this subsection, furnished by the subdivider at the subdivider's expense, shall be sent, by the clerk or secretary of the approving authority to which the plat is submitted, to the following agencies which have authority to object to the plat:

(a) Two copies for each of the state agencies required to review the plat to the department which 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 highway, the department shall transmit 2 copies to the department of transportation so that agency may 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 that service has not been made, the department shall transmit 2 copies to the department of commerce so that that agency may 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 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) Four copies to the county planning agency, if the agency employs on a full-time basis a professional engineer, a planner, or other person charged with the duty of administering planning legislation and adopts a policy requiring submission so that body may determine if it has any objection to the plat on the basis of conflict with park, parkway, expressway, major highways, airports, drainage channels, schools, or other planned public developments. If no county planning agency exists, then 2 copies to the county park commission except that in a county with a county executive or county administrator, 2 copies to the county park manager, if the subdivision abuts a county park or parkway so that body may determine if it has any objection to the plat on the basis of conflict with the park or parkway development.

(3) Within 20 days of the date of receiving the copies of the plat any agency having authority to object under sub. (2) shall notify the subdivider and all approving or objecting authorities of any objection based upon failure of the plat to comply with the statutes or rules which its examination under sub. (2) is authorized to cover, or, if there is no objection, it shall so certify on the face of a copy of the plat and return that copy to the approving authority from which it was received. The plat shall not be approved or deemed approved until any objections have been satisfied. If the objecting agency fails to act within the 20-day limit it shall be deemed to have no objection to the plat. No approving authority may inscribe its approval on a plat prior to the affixing of the certificates under either sub. (4) or (6).

(4) The clerk or secretary of the approving authority forwarding copies of the plat under sub. (2) shall certify on the face of the plat that the copies were forwarded as required and the date thereof and that no objections to the plat have been filed within the 20-day limit set by sub. (3) 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 lieu of the procedure under subs. (2) to (5), the subdivider or the subdivider's agent may submit the original plat to the department which shall forward 2 copies to each of the agencies authorized by sub. (2) to object. The department shall have the required number of copies made at the subdivider's expense. Within 20 days of the date of receiving the copies of the plat any agency having authority to object under sub. (2) shall notify the subdivider, and all agencies having the authority to object, of any objection based upon failure of the plat to comply with the statutes or rules which its examination under sub. (2) is authorized to cover, or, if there is no objection, it shall so certify on the face of a copy of the plat and return that copy to the department. After each agency and the department have certified that they have no objection or that their objections have been satisfied, the department shall so certify on the face of the plat. If an agency fails to act within 20 days from the date of the receipt of copies of the plat, and the department fails to act within 30 days of receipt of the original plat it shall be deemed that there are no objections to the plat and, upon demand, it shall be so certified on the face of the plat by the department.

(7) The department and the state agencies referred to in s. 236.13 (1) may charge reasonable service fees for all or part of the costs of activities and services provided by the department under this section and s. 70.27. A schedule of such fees shall be established by rule by each such agency.

(8) 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.

History: 1973 c. 90; 1977 c. 29 s. 1654 (3), (8) (c); 1979 c. 221; 1979 c. 248 ss. 5, 25 (6); 1979 c. 355; 1985 a. 29; 1995 a. 27; 1997 a. 27.

"Planned public development" under (2) (b) is one which county board has adopted by ordinance. *Reynolds v. Waukesha County Park & Plan. Comm.* 109 Wis. 2d 56, 324 N.W.2d 897 (Ct. App. 1982).

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) A comprehensive plan under s. 66.0295 [s. 66.1001] or, if the municipality, town or county does not have a comprehensive plan, either of the following:

NOTE: The bracketed language indicates the correct cross-reference. Corrective legislation is pending.

1. With respect to a municipality or town, a master plan under s. 62.23.

2. With respect to a county, a development plan under s. 59.69.

(d) The rules of the department of commerce relating to lot size and lot elevation necessary for proper sanitary conditions in a subdivision not served by a public sewer, where provision for public sewer service has not been made;

(e) The rules of the department of transportation relating to provision for the safety of entrance upon and departure from the abutting state trunk highways or connecting highways and for the preservation of the public interest and investment in such highways.

(2) (a) 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 the subdivider execute a surety bond or provide other security to ensure that he or she will make those improvements within a reasonable time.

(b) Any city or village may require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets, alleys or other public ways to be placed on the official map, that designated facilities shall have been previously provided without cost to the municipality, but which are constructed according to municipal specifications and under municipal inspection, such as, without limitation because of enumeration, sewerage, water mains and laterals, grading and improvement of streets, alleys, sidewalks and other public ways, street lighting or other facilities designated by the governing body, or that a specified portion of such costs shall be paid in advance as provided in s. 66.0709.

(c) Any county, town, city or village may require as a condition of approval that the subdivider be responsible for the cost of any necessary alterations of any existing utilities which, by virtue of the platting or certified survey map, fall within the public right-of-way.

(d) As a further condition of approval, any county, town, city or village may require the dedication of easements by the subdivider for the purpose of assuring the unobstructed flow of solar or wind energy across adjacent lots in the subdivision.

(2m) As a further condition of approval when lands included in the plat lie within 500 feet of the ordinary high–water mark of any navigable stream, lake or other body of navigable water or if land in the proposed plat involves lake or stream shorelands referred to in s. 236.16, the department of natural resources, to prevent pollution of navigable waters, or the department of commerce, to protect the public health and safety, may require assurance of adequate drainage areas for private sewage disposal systems and building setback restrictions, or provisions by the owner for public sewage disposal facilities for waters of the state, as defined in s. 281.01 (18), industrial wastes, as defined in s. 281.01 (5), and other wastes, as defined in s. 281.01 (7). The public sewage disposal facilities may consist of one or more systems as the department of natural resources or the department of commerce determines on the basis of need for prevention of pollution of the waters of the state or protection of public health and safety.

(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., 14. and 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.

(6) An outlot may not be used as a building site unless it is in compliance with restrictions imposed by or under this section with respect to building sites. An outlot may be conveyed regardless of whether it may be used as a building site.

History: 1977 c. 29 ss. 1384, 1654 (8) (c); 1977 c. 162; 1979 c. 221, 248; 1981 c. 289 s. 19; 1981 c. 354; 1993 a. 414; 1995 a. 27 ss. 6310, 6311, 9116 (5); 1995 a. 227; 1997 a. 27; 1999 a. 9; 1999 a. 150 s. 672.

Local units of government may not reject proposed plats under this section unless plat conflicts with existing statutory requirement of this chapter or with existing written ordinance, master plan, official map, or rule under (1). State ex rel. Columbia Corp. v. Pacific Town Board, 92 Wis. 2d 767, 286 N.W.2d 130 (Ct. App. 1979).

Under (2) (a) authority to condition plat approval on public improvements is with governing body of territory in which subdivision is located. Rice v. City of Oshkosh, 148 Wis. 2d 78, 435 N.W.2d 252 (1989).

Municipalities have no authority to impose conditions upon a subdivider that extend beyond its borders. Pedersen v. Town of Windsor, 191 Wis. 2d 664, 530 N.W.2d 427 (Ct. App. 1995).

Sub. (2) (a) does not grant a municipality the power to establish public improvement requirements without an ordinance. Pedersen v. Town of Windsor, 191 Wis. 2d 664, 530 N.W.2d 427 (Ct. App. 1995).

Sub. (1) (d) does not prevent municipalities from enacting more restrictive sewer regulations than the rules cited in that paragraph. Manthe v. Town of Windsor, 204 Wis. 2d 546, 555 N.W.2d 156 (Ct. App. 1996).

So long as any issues addressed in both a master plan and an official map are not contradictory, for purposes of sub. (1) (c), the master plan is consistent with the official map. A master plan is not inconsistent with an official map if the plan contains elements the map does not. Lake City Corp. v. City of Mequon, 207 Wis. 2d 156, 558 N.W.2d 100 (1997).

In the area of minimum lot size regulation, the power of a plan commission authorized to review plats is not limited or detracted by zoning regulations. Lake City Corp. v. City of Mequon, 207 Wis. 2d 156, 558 N.W.2d 100 (1997).

As sub. (5) does not expressly designate the “appealing authority” to whom appeal papers should be directed, the appellant’s service of the appeal on the county Planning and Development Department rather than the Planning and Development Committee, which had made the disputed decision, was not grounds for dismissal when there had been pervasive use of Department personnel and stationery in the process. Weber v. Dodge County Planning and Development Dept. 231 Wis. 2d 222, 604 N.W.2d 297 (Ct. App. 1999).

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 pars. (a) to (h) 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 concrete containing a ferrous rod one–fourth inch in diameter or greater imbedded its full length, not less than 30 inches in length, not 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. Solid round or square iron bars of equal or greater length or weight per foot may be used in lieu of pipes wherever pipes are specified in this section. These monuments shall be placed at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line and at all angle points along the meander line, said points to be not less than 20 feet back from the ordinary high water mark of the lake or from the bank of the stream, except that when such corners or points fall within a street, or proposed future 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, outlot, park and public access corners and the corners of land dedicated to the public shall be monumented in the field by iron pipes at least 24 inches long and one inch in diameter, weighing not less than 1.13 pounds per lineal foot, or by round or square iron bars at least 24 inches long and weighing not less than 1.13 pounds per lineal foot.

(d) The lines of lots, outlots, parks and public access and land dedicated to the public that extend to lakes or streams shall be monumented in the field by iron pipes at least 24 inches long and one inch in diameter weighing not less than 1.13 pounds per lineal foot, or by round or square iron bars at least 24 inches long and 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.

(f) Any durable metal 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 a permanent magnet embedded near the top or bottom or both.

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

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

(2) ACCURACY OF SURVEY. The survey shall be performed by a land surveyor registered in this state and if the error in the latitude and departure closure of the survey or any part thereof is greater than the ratio of one in 3,000, the plat may be rejected.

History: 1979 c. 221, 248; 1979 c. 355 s. 240; 1981 c. 390.

All permanent survey monuments required by 236.15 (1) (a), (b), (c) and (d), Stats. 1969, must be placed in the field prior to submission of a final subdivision plat for state level review; provided, however, that in the event of a waiver under sub. (1) (h), the placement of all permanent monuments other than those required by sub. (1) (a), may be temporarily deferred. 59 Atty. Gen. 262.

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. In municipalities, towns and counties adopting subdivision control ordinances under s. 236.45, minimum lot width and area may be reduced to dimensions authorized under such ordinances if the lots are served by public sewers.

(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. Widths of town roads platted after January 1, 1966, shall, however, comply with minimum standards for town roads prescribed by s. 86.26. Streets or frontage roads auxiliary to and located on the side of a full street for service to the abutting property may not after January 1, 1966, be less than 49.5 feet wide.

(3) **LAKE AND STREAM SHORE PLATS.** (a) All subdivisions abutting on a navigable lake or stream shall provide public access at least 60 feet wide providing access to the low watermark so that there will be public access, which is connected to existing public roads, at not more than one-half mile intervals as measured along the lake or stream shore except where greater intervals and wider access is agreed upon by the department of natural resources and the department, and excluding shore areas where public parks or open-space streets or roads on either side of a stream are provided.

(b) No public access established under this chapter may be vacated except by circuit court action as provided in s. 236.43.

(c) Except as provided in par. (d), this subsection does not require any local unit of government to improve land provided for public access.

(d) All of the owners of all of the land adjacent to a public access established under par. (a) to an inland lake, as defined in s. 30.92 (1) (bk), may petition the city, village, town or county that owns the public access to construct shoreline erosion control measures. Subject to par. (e), the city, village, town or county shall construct the requested shoreline erosion control measures or request the department of natural resources to determine the need for shoreline erosion control measures. Upon receipt of a request under this paragraph from a city, village, town or county, the department of natural resources shall follow the procedures in s. 30.02 (3) and (4). Subject to par. (e), the city, village, town or county shall construct shoreline erosion control measures as required by the department of natural resources if the department of natural resources determines all of the following:

1. Erosion is evident along the shoreline in the vicinity of the public access.

2. The shoreline erosion control measures proposed by the owners of the property adjacent to the public access are designed according to accepted engineering practices.

3. Sufficient property owners, in addition to the owners of all property adjacent to the public access, have agreed to construct shoreline erosion control measures so that the shoreline erosion control project is likely to be effective in controlling erosion at the location of the public access and its vicinity.

4. The shoreline erosion control project is not likely to be effective in controlling erosion at the location of the public access and its vicinity if the city, village, town or county does not construct shoreline erosion control measures on the land provided for public access.

(e) A city, village, town or county may not be required to construct shoreline erosion control measures under par. (d) on land other than land provided for public access.

(f) Paragraphs (b) to (e) apply to public access that exists on, or that is established after, May 7, 1998.

(4) **LAKE AND STREAM SHORE PLATS.** The lands lying between the meander line, established in accordance with s. 236.20 (2) (g), and the water's edge, and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be included as part of lots, outlots or public dedications in any plat abutting a lake or stream. This subsection applies not only to lands proposed to be subdivided but also to all lands under option to the

subdivider or in which the subdivider holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream.

History: 1971 c. 164; 1979 c. 221; 1979 c. 248 ss. 9, 25 (2); 1997 a. 172.

Each of 2 adjacent platted lots may not be divided for the purpose of sale or building development if such division will result in lots or parcels which do not comply with minimum lot width and area requirements established under (1). Section 236.335 discussed. 63 Atty. Gen. 122.

Sub. (3) does not apply to navigable lakes created by artificially enlarging a previously nonnavigable watercourse. 64 Atty. Gen. 146.

The extent to which local governments may vary the terms of 236.16 (1) and (2) and 236.20 (4) (d) by ordinance, discussed. 64 Atty. Gen. 175.

Sub. (4) aims at preventing subdividers from creating narrow, unplatted buffer zones between platted lands and water's edge, thus avoiding public access requirement. 66 Atty. Gen. 85.

236.18 Wisconsin coordinate system. (1) REQUIREMENT FOR RECORDING. (a) No plat that is referenced to a Wisconsin coordinate system under sub. (2) may be recorded unless it is based on a datum that the approving authority under s. 236.10 of the jurisdiction in which the land is located has selected by ordinance.

(b) An approving authority under s. 236.10 may select a Wisconsin coordinate system under sub. (2). If it does so, it shall notify the department, on a form provided by the department, of the selection.

(c) An approving authority may, by ordinance, select a different Wisconsin coordinate system under sub. (2) than the one previously selected under par. (b). If it does so, the approving authority shall notify the department on a form provided by the department.

(2) **ALLOWABLE SYSTEMS.** An approving authority under s. 236.10 may select any one of the following systems:

(a) The Wisconsin coordinate system of 1927, which is based on the North American datum of 1927.

(b) The Wisconsin coordinate system of 1983 (1986), which is based on the North American datum of 1983 (adjustment of 1986).

(c) The Wisconsin coordinate system of 1983 (1991), which is based on the North American datum of 1983 (adjustment of 1991).

(3) **ZONES.** Each of the systems under sub. (2) includes the following zones:

(a) A north zone composed of the following counties: Ashland, Bayfield, Burnett, Douglas, Florence, Forest, Iron, Oneida, Price, Sawyer, Vilas and Washburn.

(b) A central zone composed of the following counties: Barron, Brown, Buffalo, Chippewa, Clark, Door, Dunn, Eau Claire, Jackson, Kewaunee, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Outagamie, Pepin, Pierce, Polk, Portage, Rusk, St. Croix, Shawano, Taylor, Trempealeau, Waupaca and Wood.

(c) A south zone composed of the following counties: Adams, Calumet, Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Manitowoc, Marquette, Milwaukee, Monroe, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waushara and Winnebago.

(4) **APPLICABLE DEFINITIONS AND SURVEY CONNECTIONS.** (a) The following definitions apply to the systems under sub. (2):

1. For the Wisconsin coordinate system of 1927, the definitions provided by the national geodetic survey in U.S. coastal and geodetic survey special publication 235 (1974 edition).

2. For the Wisconsin coordinate system of 1983 (1986) and the Wisconsin coordinate system of 1983 (1991), the definitions provided by the national geodetic survey in the national oceanic and atmospheric administration manual national ocean service, national geodetic survey 5 (1989 edition).

(b) Existing positions of the systems under sub. (2) that are marked on the ground by monuments established in conformity with standards adopted by the national geodetic survey for 3rd-order work and above and the geodetic positions of which have been rigidly adjusted on the North American datum of 1927, the

North American datum of 1983 (adjustment of 1986), the North American datum of 1983 (adjustment of 1991) or any later adjustment of the North American datum of 1983 may be used to establish a survey connection to the systems under sub. (2).

(5) **OVERLAPPING LAND.** If portions of any tract of land that is to be defined by one description in a plat are in different zones under sub. (3), the positions of all of the points on its boundaries may be referred to either of the zones but the zone to which those positions are referred and the system under sub. (2) that is used shall be named in the description and noted on the face of all maps and plats of the land.

(6) **COORDINATES.** (a) The plane coordinates of a point that are to be used to express the position or location of a point shall consist of 2 distances that are expressed in U.S. survey feet or meters and decimals of those feet or meters. The definitions of survey foot and meter in letter circular 1071 July 1976 national institute of standards and technology shall be used for conversion between feet and meters.

(b) For the Wisconsin coordinate system of 1927, the distances under par. (a) are the x-coordinate, which shall give the position in an east-and-west direction, and the y-coordinate, which shall give the position in a north-and-south direction.

(c) For the Wisconsin coordinate system of 1983 (1986) and the Wisconsin coordinate system of 1983 (1991), the distances are the northing, which shall give the position in a north-and-south direction and the easting, which shall give the position in an east-and-west direction.

(d) Coordinates in all of the systems under sub. (2) shall depend upon and conform to the plane rectangular coordinate values for the monumented points of the national geodetic reference system horizontal control network that are published by the national geodetic survey or by that agency's successor if those values have been computed on the basis of a system under sub. (2).

(7) **USE OF TERM RESTRICTED.** No person may use the term "Wisconsin coordinate system" on any map, report of a survey or other document unless the coordinates on the document are based on a system under sub. (2).

(8) **DESIGNATION.** Any person who prepares a plat under this section shall designate on that plat which of the systems under sub. (2) and which of the zones under sub. (3) that person has referenced.

(9) **MULTIPLE DESCRIPTIONS.** If a document describes a tract of land by means of the coordinates of a system under sub. (2) and by means of a reference to a subdivision, line or corner of the U.S. public land surveys, the description by means of coordinates supplements and is subordinate to the other description.

(10) **RIGHT OF LENDERS AND PURCHASERS.** A lender or purchaser may require a borrower or seller to provide the description required under s. 236.20.

History: 1979 c. 248 ss. 10, 25 (1); 1993 a. 16, 490.

FINAL PLAT AND DATA

236.20 Final plat. A final plat of subdivided land shall comply with all of the following requirements:

(1) **GENERAL REQUIREMENTS.** All plats shall be legibly prepared and meet all of the following requirements:

(a) The plat shall have a binding margin 1 1/2 inches wide on the left side, and a one-inch margin on all other sides. A graphic scale of not more than 100 feet to one inch shall be shown on each sheet showing layout features. 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 and each sheet shall bear the subdivision and county name.

(b) For processing under s. 236.12 (6) the original shall be on muslin-backed white paper 22 inches wide by 30 inches long prepared with nonfading black image. These sheets may be provided

by the county through the register of deeds on such terms as the county board determines.

(c) For processing under s. 236.12 (2), the original copy of the final plat may be of any size and on any material that is capable of clearly legible reproduction.

(2) **MAP AND ENGINEERING INFORMATION.** The final plat shall show correctly on its face all of the following:

(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, except lot, outlot and meander corners need not be shown. The legend for metal monuments shall indicate the kind of metal, the diameter, length and weight per lineal foot of the monuments.

(c) The length and bearing of the exterior boundaries, the boundary lines of all 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. Easements not parallel to a boundary or lot line shall be shown by centerline distance, bearing and width or by easement boundary bearings and distances. Where easement lines are parallel to boundary or lot lines, the boundary or lot line distances and bearings are controlling. Where the exterior boundary lines show bearings or lengths which vary from those recorded in abutting plats or certified surveys there shall be the following note placed along such lines, "recorded as (show recorded bearing or length or both)".

(d) Blocks, if designated, shall be 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 and outlots in each block consecutively numbered.

(f) The exact width of all easements, streets and alleys.

(g) 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.

(h) The center line of all streets.

(i) A north point properly located thereon identified as referenced to a magnetic, true or other identifiable direction and related to a boundary line of a quarter section, recorded private claim or federal reservation in which the subdivision is located.

(j) The area in square feet of each lot and outlot.

(k) When a street is on a circular curve, the main chords of the right-of-way lines shall be drawn as dotted or dashed lines in their proper places. All curved lines shall show, either on the lines or in an adjoining table, the radius of the circle, the central angle subtended, the chord bearing, the chord length and the arc length for each segment. The tangent bearing shall be shown for each end of the main chord for all circular lines. When a circular curve of 30-foot radius or less is used to round off the intersection between 2 straight lines, it shall be tangent to both straight lines. It is sufficient to show on the plat the radius of the curve and the tangent distances from the points of curvature to the point of intersection of the straight lines.

(L) When strict compliance with a provision of this section will entail undue or unnecessary difficulty or tend to render the plat or certified survey map more difficult to read, and when the information on the plat or certified survey map is sufficient for the exact retracement of the measurements and bearings or other necessary dimensions, the department or, in 1st class cities, the city engineer may waive such strict compliance.

(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 or

municipality. All of 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, recorded private claim, quarter–quarter section, section, township, range and county noted immediately under the name given the subdivision.

(b) The location of the subdivision shall be indicated by bearing and distance from a boundary line of a quarter section, recorded private claim or federal reservation in which the subdivision is located. The monumentation at the ends of the boundary line shall be described and the bearing and distance between them shown.

(c) A small drawing of the section or governmental subdivision of the section in which the subdivision lies with the location of the subdivision indicated thereon or, if approved by the department, a location sketch showing the relationship of the subdivision to existing streets. The drawing or sketch shall be oriented on the sheet in the same direction as the main drawing.

(d) The names of adjoining streets, state highways and subdivisions shown in their proper location underscored by a dotted or dashed line.

(e) Abutting street and state highway lines of adjoining plats shown in their proper location by dotted or dashed lines. 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 on the plat.

(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”.

(d) Each lot within the plat must have access to a public street unless otherwise provided by local ordinance.

(5) SITE CONDITIONS AND TOPOGRAPHY. The final plat shall show all of the following:

(a) All existing 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 those lakes or streams. All elevations shall be referred to some permanent established datum plane.

History: 1979 c. 221, 248; 1983 a. 473; 1999 a. 85.

236.21 Certificates to accompany plat. To entitle a final plat to be recorded, the following certificates lettered or printed legibly with a black durable image or typed legibly with black ribbon shall appear on it:

(1) SURVEYOR’S CERTIFICATE OF COMPLIANCE WITH STATUTE. The certificate of the surveyor who surveyed, divided and mapped the land giving all of the following information, which shall have the same force and effect as an affidavit:

(a) By whose direction the surveyor 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, recorded private claim, quarter–quarter section, section, township, range and county and by metes and bounds commencing with a monument at a section or quarter section corner of the quarter section and not at the center of the section, or at the end of a boundary line of a recorded private claim or federal reservation in which the subdivision is located. If the land is located in a recorded subdivision or recorded addition thereto, the land shall be described by the number or other description of the lot, block or subdivision thereof, that has previously been tied to a corner marked and established by 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 the surveyor 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 or 236.12 to be submitted to the following for approval or objection: (list of governing bodies required to approve or allowed to object to the plat).” This certificate shall be signed by the owner, the owner’s spouse, and all persons holding an interest in the fee of record or by being in possession and, if the land is mortgaged, by the mortgagee of record. These signatures shall be acknowledged in accordance with s. 706.07.

(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.

History: 1971 c. 41 s. 11; 1975 c. 94 s. 91 (3); 1975 c. 199; 1979 c. 248 ss. 18, 25 (3); 1983 a. 473; 1999 a. 85.

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 on muslin–backed white paper 22 inches wide by 30 inches long and bears a department certification of no objection or it is reproduced with photographic silver haloid image on double matt polyester film of not less than 4 mil thickness, 22 inches wide by 30 inches long. Seals or signatures reproduced on images complying with this paragraph shall be given the force and effect of original signatures and seals;

(b) The plat is offered for record within 30 days after the date of the last approval of the plat and within 24 months after 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) 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 or her direction shall be deemed to be a true copy of the final plat.

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

History: 1979 c. 248 ss. 19, 25 (5); 1983 a. 473; 1997 a. 332.

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 or permitted by s. 236.12 to object to the plat by mailing to the clerk of each authority written notice thereof.

History: 1981 c. 314.

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 shall 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. 706.01 (4). 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.

History: 1971 c. 41 s. 11; 1983 a. 189 s. 329 (26).

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.

(3) MUNICIPALITY MAY LEASE TO A SUBDIVISION ASSOCIATION LAND ACCEPTED FOR PARK. The municipality or town in which the accepted subdivision is located may lease to a subdivision association any part of the subdivision intended for park purposes where such part has never been improved nor work done thereon nor funds expended therefor by the governing body, but such lease shall not exceed 10 years and shall only be for park improvement purposes.

A complaint against plat subdividers for damages allegedly sustained by a city in the relocation of an electric utility tower situated in the center of a street dedicated as part of a subdivision plat which did not show the existence, location, or easement of a power company's transmission line located in the area platted as a street set forth a cause of action with respect to costs incurred by the city in moving the tower and acquiring a right-of-way for its relocation in order to eliminate a hazard to traffic before the street could be developed. *Kenosha v. Ghysels*, 46 Wis. 2d 418, 175 N.W.2d 223.

236.292 Certain restrictions void. (1) All restrictions on platted land that interfere with the development of the ice age trail under s. 23.17 are void.

(2) All restrictions on platted land that prevent or unduly restrict the construction and operation of solar energy systems, as defined in s. 13.48 (2) (h) 1. g., or a wind energy system, as defined in s. 66.0403 (1) (m), are void.

History: 1991 a. 39; 1993 a. 414; 1999 a. 150 s. 672.

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 or public utility as grantee, promisee or beneficiary, vests in the public body or public utility 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. The restriction may be released or waived in writing by the public body or public utility having the right of enforcement.

History: 1979 c. 248.

The hidden dangers of placing easements on plats. *Ishikawa*. WBB Apr. 1988.

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 or certified survey map is recorded and may include any of the following:

(a) Affidavits to correct distances, angles, directions, bearings, chords, block or lot numbers, street names or other details shown on a recorded plat or certified survey map.

(b) Ratifications of a recorded plat or certified survey map signed and acknowledged in accordance with s. 706.07.

(c) Certificates of owners and mortgagees of record at time of recording.

(2) Each affidavit in sub. (1) (a) correcting a plat 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 or certified survey map a reference to the page and volume in which the affidavit or instrument is recorded. The record of the affidavit or instrument, or a certified copy of the record, is prima facie evidence of the facts stated in the affidavit or instrument.

History: 1971 c. 41 s. 11; 1979 c. 248; 1999 a. 85.

Section 236.295 does not apply to assessors' plats. 61 Atty. Gen. 25.

PENALTIES AND REMEDIES

236.30 Forfeiture for improper recording. Any person causing his or her 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 \$1,000 to each municipality, town or county wherein such final plat should have been submitted.

History: 1979 c. 248 s. 25 (5).

236.31 Penalties and remedies for transfer of lots without recorded plat. (1) Any subdivider or the subdivider's agent who offers or contracts to convey, or conveys, any subdivision as defined in s. 236.02 (12) or lot or parcel which lies in a subdivision as defined in s. 236.02 (12) 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, county or state agency with subdivision review authority may institute injunction or other appropriate action or proceeding to enjoin a violation of any provision of this chapter, ordinance or rule adopted pursuant to this chapter. Any such municipality, town or county may impose a forfeiture for violation of any such ordinance, and order an assessor's plat to be made under s. 70.27 at the expense of the subdivider or the subdivider's agent when a subdivision is created under s. 236.02 (12) (b) by successive divisions.

(3) Any conveyance or contract to convey made by the subdivider or the subdivider's 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 contract-

ing to purchase, his or her 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, the subdivider's assignee, heir or devisee.

History: 1979 c. 248 s. 25 (6); 1979 c. 355, 357; 1983 a. 189 s. 329 (23).

Sub. (3) does not allow a purchaser to force a seller to violate sub. (1) and become subject to criminal penalties by doing so. *Gordie Boucher Lincoln–Mercury v. J & H Landfill*, 172 Wis. 2d 333, 493 N.W.2d 375 (Ct. App. 1992).

Certified survey maps under s. 236.34 cannot substitute for subdivision surveys under s. 236.02 (8), 1981 stats. [now sub. (12)] Penalties under s. 236.31 apply to improper use of certified surveys. 67 Atty. Gen. 294.

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.

236.335 Prohibited subdividing; forfeit. No lot or parcel in a recorded plat may be divided, or used if so divided, for purposes of sale or building development if the resulting lots or parcels do not conform to this chapter, to any applicable ordinance of the approving authority or to the rules of the department of workforce development under s. 236.13. Any person making or causing such a division to be made shall forfeit not less than \$100 nor more than \$500 to the approving authority, or to the state if there is a violation of this chapter or the rules of the department of workforce development.

History: 1979 c. 221; 1995 a. 27 s. 9130 (4); 1997 a. 3.

Discussion of circumstances under which lots in a recorded subdivision may be legally divided without replatting. 64 Atty. Gen. 80.

236.34 Recording of certified survey map; use in changing boundaries; use in conveyancing. (1) **PREPARATION.** A certified survey map of not more than 4 parcels of land may be recorded in the office of the register of deeds of the county in which the land is situated. A certified survey map may be used to change the boundaries of lots and outlots within a recorded plat, recorded assessor's plat under s. 70.27 or recorded, certified survey map if the redivision does not result in a subdivision or violate a local subdivision regulation. A certified survey map may not alter the exterior boundary of a recorded plat, a recorded assessor's plat, areas previously dedicated to the public or a restriction placed on the platted land by covenant, by grant of an easement

or by any other manner. A certified survey must meet the following requirements:

(a) The survey shall be performed and the map prepared by a land surveyor registered in this state. The error in the latitude and departure closure of the survey may not exceed the ratio of one in 3,000.

(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), (i), (j), (k) and (L) and (3) (b) on a scale of not more than 500 feet to the inch. The map shall be prepared with a binding margin 1.5 inches wide and a 0.5 inch margin on all other sides on durable white paper 8 1/2 inches wide by 14 inches long with nonfading black image or reproduced with photographic silver haloid image on double matt polyester film of not less than 4 mil thickness which is 8 1/2 inches wide by 14 inches long. When more than one sheet is used for any map, each sheet shall be numbered consecutively and shall contain a notation giving the total number of sheets in the map and showing the relationship of that sheet to the other sheets. "CERTIFIED SURVEY MAP" shall be printed on the map in prominent letters with the location of the land by government lot, recorded private claim, quarter-quarter section, section, township, range and county noted. Seals or signatures reproduced on images complying with this paragraph shall be given the force and effect of original signatures and seals.

(d) The map shall include a certificate of the surveyor who surveyed, divided and mapped the land which has the same force and effect as an affidavit and which gives all of the following information:

1. By whose direction the surveyor made the survey, division and map of the land described on the certified survey map.

2. A clear and concise description of the land surveyed, divided and mapped by government lot, recorded private claim, quarter-quarter section, section, township, range and county; and by metes and bounds commencing with a monument at a section or quarter section corner of the quarter section or at the end of a boundary line of a recorded private claim or federal reservation in which the certified map is located; or if the land is located in a recorded subdivision or recorded addition to a recorded subdivision, then by the number or other description of the lot, block or subdivision, which has previously been tied to a corner marked and established by the U.S. public land survey.

3. A statement that the map is a correct representation of all of the exterior boundaries of the land surveyed and the division of that land.

4. A statement that the surveyor has fully complied with the provisions of this section in surveying, dividing and mapping the land.

(e) A certified survey map may be used for dedication of streets and other public areas when owners' certificates and mortgagees' certificates which are in substantially the same form as required by s. 236.21 (2) (a) have been executed and the city council or village or town board involved have approved such dedication. Approval and recording of such certified surveys shall have the force and effect provided by s. 236.29.

(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 shall be, for all purposes, including assessment, taxation, devise, descent and conveyance, as defined in s. 706.01 (4), described by reference to the number of the survey, lot or outlot

number, the volume and page where recorded, and the name of the county.

History: 1979 c. 248 ss. 22, 25 (3); 1983 a. 189 s. 329 (26); 1983 a. 473; 1987 a. 390; 1997 a. 99; 1999 a. 96.

Sub. (2) requires that certified survey maps be numbered consecutively without dependent reference to ownership, developer or surveyor. 61 Atty. Gen. 34.

Certified survey maps are corrected by recording corrected survey maps. 66 Atty. Gen. 90.

Certified survey maps under s. 236.34 cannot substitute for subdivision surveys under s. 236.02 (8), 1981 stats. [now sub. (12)] Penalties under s. 236.31 apply to improper use of certified surveys. 67 Atty. Gen. 294.

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

236.36 Replats. Except as provided in s. 70.27 (1), replat of all or any part of a recorded subdivision, if it alters areas dedicated to the public, may not be made or recorded except after proper court action, in the county in which the subdivision is located, has been taken to vacate the original plat or the specific part thereof.

A recorded subdivision may be replatted under 236.36 without undertaking the court proceedings set forth in 236.40, 236.41 and 236.42, where the replat complies with the requirements of ch. 236 applicable to original plats and does not alter areas dedicated to the public. 58 Atty. Gen. 145.

This section permits the replat of a part of a previously recorded subdivision plat, without circuit court action, where the only areas dedicated to the public in that portion of the original subdivision being replatted, were discontinued streets fully and properly vacated under 66.296. 63 Atty. Gen. 210.

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 publication of a copy of the notice as a class 3 notice, under ch. 985; 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.

The provisions of s. 236.41 relating to vacation of streets are inapplicable to assessor's plats under s. 70.27. Once properly filed and recorded an assessor's plat becomes the operative document of record, and only sections specified in s. 236.03 (2) apply to assessor's plats. *Schaetz v. Town of Scott*, 222 Wis. 2d 90, 585 N.W.2d 889 (Ct. App. 1998).

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 department of transportation.

(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.

History: 1977 c. 29 s. 1654 (8) (c).

236.43 Vacation or alteration of areas dedicated to the public. Parts of a plat dedicated to and accepted by the public for public use may be vacated or altered as follows:

(1) The court may vacate streets, roads or other public ways 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, roads or other public ways were not improved as streets, roads or other public ways; 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 and the governing body of the city, village or town in which the street, road or other public way is located 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 in which the dedicated land is located if:

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

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

(3) The court may vacate land, in a city, village or town, platted as a public park or playground upon the application of the local legislative body of such city, village or town where the land has never been developed or used by said city, village or town as a public park or playground.

(4) When the plat is being vacated or altered in any 2nd, 3rd or 4th class city or in any village or town which includes a street, road, alley or public walkway, said street, road, alley or public walkway may be vacated or altered by the circuit court proceeding under ss. 236.41 and 236.42 upon the following conditions:

(a) A resolution is passed by the governing body requesting such vacation or alteration.

(b) The owners of all frontage of the lots and lands abutting on the portion sought to be vacated or altered request in writing that such action be taken.

History: 1993 a. 246; 1997 a. 172.

Cross-reference: See s. 66.296 for other provisions for vacating streets.

Though dedicated as a street, improvement of land as another public way meets the requirements of sub. (1) (b). A walkway cleared and improved to be conducive to pedestrian traffic is a public way improved in accordance with sub. (1) (b). Application of *K.G.R. Partnership*, 187 Wis. 2d 375, 523 N.W.2d 120 (Ct. App. 1994).

A municipality is not an owner under sub. (1) (d). *Closser v. Town of Harding*, 212 Wis. 2d 561, 569 N.W.2d 338 (Ct. App. 1997).

Isolated improvements to provide for a scenic outlook were not improvements as a street, road or public way under sub. (1). *Closser v. Town of Harding*, 212 Wis. 2d 561, 569 N.W.2d 338 (Ct. App. 1997).

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.

236.445 Discontinuance of streets by county board.

Any county board may alter or discontinue any street, slip or alley in any recorded plat in any town in such county, not within any city or village, in the same manner and with like effect as provided in s. 66.1003.

History: 1999 a. 150 s. 672.

SUBDIVISION REGULATION AND REGIONAL PLANS

236.45 Local subdivision regulation. (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, including access to sunlight for solar collectors and to wind for wind energy systems; 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 1 1/2 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. 706.01 (4). Such ordinance, insofar 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) 2. and (2).

(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 the hearing shall be given by publication of a class 2 notice, under ch. 985. Any ordinance adopted shall be published in form suitable for public distribution.

(5) REGULATION OF FEDERAL SURPLUS LAND. With respect to any surplus lands in excess of 500 acres in area, except the Bong air base in Kenosha County, sold in this state by the federal government for private development, the department, in accordance with the procedure specified in ch. 227, may regulate the subdivision or other division of such federal surplus land in any of the ways and with the same powers authorized hereunder for municipalities, towns or counties. Before promulgating such rules, the department shall first receive the recommendations of any committee appointed for that purpose by the governor.

History: 1979 c. 221, 248, 355; 1981 c. 354; 1983 a. 189 s. 329 (26).

This section authorizes towns to regulate minimum lot size. *Town of Sun Prairie v. Storms*, 110 Wis. 2d 58, 327 N.W.2d 642 (1983).

Assessment of school and park land dedication fees as condition for rezoning and issuance of building permit was authorized. *Black v. City of Waukesha*, 125 Wis. 2d 254, 371 N.W.2d 389 (Ct. App. 1985).

Authority under this section relates to the quality of land division and not to the use to which the lots in the subdivision may be put; use may only be controlled through zoning. *Boucher Lincoln–Mercury v. Madison Plan Commission*, 178 Wis. 2d 74, 503 N.W.2d 265 (Ct. App. 1993).

This section does not prevent municipalities from adopting and enforcing more than one ordinance that relates to subdivisions. *Manthe v. Town of Windsor*, 204 Wis. 2d 546, 555 N.W.2d 156 (Ct. App. 1996).

A city may not condition extraterritorial plat approval on annexation. *Hoepker v. City of Madison Plan Commission*, 209 Wis. 2d 633, 563 N.W.2d 145 (1997).

A subdivision plat prepared in compliance with a local ordinance enacted under authority of 236.45, Stats. 1969, is not required by statutes to be submitted for state level review unless such land division results in a "subdivision" as defined in 236.02 (8). 59 Atty. Gen. 262.

Where subdivision regulations, adopted under 236.45, conflict, a plat must comply with the most restrictive requirement. 61 Atty. Gen. 289.

Application of municipal and county subdivision control ordinances within the municipality's extraterritorial plat approval jurisdiction discussed. 66 Atty. Gen. 103.

236.46 County plans. (1) (a) The county planning agency may prepare 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 the 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 plans for future platting or for street or highway or parkway location in towns which may have approved the same, and upon approval of those towns may amend the ordinance. Before the ordinance or any amendments to the ordinance are adopted by the county board, notice shall be given by publication of a class 2 notice, under ch. 985, 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 plan adopted under this section does 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) A plan adopted under this section 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 a plan adopted under this section instead of a street or highway or parkway.

History: 1979 c. 248.

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, 1953 stats. 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 non-compliance 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.