

2009 DRAFTING REQUEST

Bill

Received: 11/09/2009

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **David Hansen (608) 266-5670**

By/Representing: **Jay Wadd**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Real Estate - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Changes to platting requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 11/17/2009	kfollett 12/01/2009		_____			Local
/P1			jfrantze 12/01/2009	_____	mbarman 12/01/2009		Local
/P2	pkahler 02/22/2010	kfollett 02/22/2010	mduchek 02/23/2010	_____	sbasford 02/23/2010		
/1	pkahler	csicilia	rschluet	_____	lparisi	cduerst	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	03/02/2010	03/04/2010	03/04/2010	_____	03/04/2010	03/05/2010	

FE Sent For: **NONE**

<END>

2009 DRAFTING REQUEST

Bill

Received: **11/09/2009**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **David Hansen (608) 266-5670**

By/Representing: **Jay Wadd**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Real Estate - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Changes to platting requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 11/17/2009	kfollett 12/01/2009		_____			Local
/P1			jfrantze 12/01/2009	_____	mbarman 12/01/2009		Local
/P2	pkahler 02/22/2010	kfollett 02/22/2010	mduchek 02/23/2010	_____	sbasford 02/23/2010		
/1	pkahler	csicilia	rschluet	_____	lparisi		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	03/02/2010	03/04/2010	03/04/2010	_____	03/04/2010		

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **11/09/2009** Received By: **pkahler**
 Wanted: **As time permits** Identical to LRB:
 For: **David Hansen (608) 266-5670** By/Representing: **Jay Wadd**
 This file may be shown to any legislator: **NO** Drafter: **pkahler**
 May Contact: Addl. Drafters:
 Subject: **Real Estate - miscellaneous** Extra Copies:
 Submit via email: **YES**
 Requester's email: **Sen.Hansen@legis.wisconsin.gov**
 Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Changes to platting requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 11/17/2009	kfollett 12/01/2009		_____			Local
/P1			jfrantze 12/01/2009	_____	mbarman 12/01/2009		Local
/P2	pkahler 02/22/2010	kfollett 02/22/2010	mduchek 02/23/2010	<i>Km 3/4</i> <i>97</i>	sbasford 02/23/2010		

1/4 3/4
10 3970

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **11/09/2009**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **David Hansen (608) 266-5670**

By/Representing: **Jay Wadd**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Real Estate - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

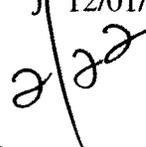
Topic:

Changes to platting requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 11/17/2009	kfollett 12/01/2009					Local
/P1		1P2/gf 2/22	jfrantze 12/01/2009		mbarman 12/01/2009		
FE Sent For:			 2/22		 2/22		<END>

2009 DRAFTING REQUEST

Bill

Received: 11/09/2009

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **David Hansen (608) 266-5670**

By/Representing: **Jay Wadd**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Real Estate - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

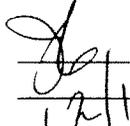
Topic:

Changes to platting requirements

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler	1/11/09 12/11	 12/11	 12/11			

FE Sent For:

<END>

Kahler, Pam

From: Shovers, Marc
Sent: Monday, November 09, 2009 10:03 AM
To: Kahler, Pam
Subject: FW: Land Platting Changes

Attachments: instructions.platting law changes.11.9 09.pdf

Hi Pam:

I think this one is yours.

Marc

From: Wadd, Jay
Sent: Monday, November 09, 2009 9:58 AM
To: Shovers, Marc
Subject: Land Platting Changes

Marc, 

I think this might be your area.

Dave would like to draft a bill based on the attached instructions relating to changes in the laws relating to platting, etc.

Please let me know if you have any questions.

Thanks,

Jay



instructions.platting
law chan...

POTENTIAL CHANGES TO WISCONSIN'S PLATTING REQUIREMENTS
October 15, 2009

Platting consumes procedural resources at the State, County and Municipal level. Platting is a very expensive endeavor, often costing in the hundreds of thousands of dollars. The process, although necessary in order to protect the interests of municipalities and the public, is made unduly repetitive, delays development and improvements, and increases costs. This negatively affects the affordability of workforce housing.

Detailed review of both a preliminary and a final plat by a variety of boards, committees, and agencies results in a great deal of unnecessary duplication of efforts. Furthermore, multiple final plats are occasionally required for a single subdivision that could have been treated with a single plat. Ambiguity exists concerning land ownership after recording of plats depriving owners of the use of the land until ready for development. Municipalities regularly enact their own restrictive ordinances controlling plat approval, under a statute that suggests ordinances may be more restrictive than state law. These restrictions, however, are often inconsistent with purposes and protections specified in state law.

These changes are intended to streamline the platting process without sacrificing state or municipal design standards, clarify property rights, and to make standards uniform. The recommended changes include:

- ✓ Recognizing that developments are frequently done in phases for financial reasons. Modify Wis. Stat. § 236.11(1)(b) to clarify that if a final plat of any portion of the preliminary plat is submitted within 24 months, the 24 month time deadline is met as long as future phases comply with the preliminary plat. Also eliminate the requirement that permission must be obtained from the approving authority to have a final plat that is only a portion of the preliminary plat. *what does that final sentence mean? s/a say a final plat may constitute*
- ✓ Specifying that local governments shall provide an extension of 24 months to the 24-month period contained in Wis. Stat. § 236.11(1)(b) upon request by the subdivider. Also Modifying the recording deadlines contained in Wis. Stat. § 236.25(2)(b) so that a plat may be accepted for recording if the plat is offered within 18 months after the date of the last approval of the plat and within 48 months after the first approval. Providing relief from these mandatory deadlines would be very helpful to developers given the current economic conditions.
- ✓ Adding a provision to Wis. Stat. § 236.11 that the municipal engineer, planner, or other staff charged with reviewing plats, to provide the approving authority with the engineer's or staff's conclusions regarding

whether the final plat conforms substantially with the preliminary plat, and to provide the approving authority with a recommendation for action on the final plat. This would streamline the process by informing the approving authority of its legal obligation approve the final plat if it substantially conforms to the preliminary plat.

- ✓ • Clarifying that a final plat may be recorded in whole or part, and that the subdivider may improve the plat in separate phases after it is recorded.
- ✓ • Clarifying Wis. Stat. § 236.13 to specify what ordinances apply to a project. Mandate that a plat may only be subject to ordinances as they existed at the time the municipality requires a first submittal. In many instances, this would be when a preliminary plat was first submitted, but some municipalities require submittal of a concept plan prior to submittal of a preliminary plat. This provision would help ensure that when a project goes forward, the municipality will not change the "rules of the game", by, for example, significantly increasing fees during the review process.
- ✓ • Clarifying Wis. Stat. § 236.13(3). Currently, this provision specifies that a municipality may not impose conditions on plat approvals beyond those conditions specified in § 236.13. Under this section, approvals may be conditioned on compliance with ordinances. Clarify this provision by providing a developer and municipality may voluntarily agree to matters outside of or in addition to the ordinance, but to provisions that contradict the ordinance, and not as a condition of approval.
- Minimizing costs by eliminating the need to provide unnecessarily large surety bonds by amending Wis. Stat. § 236.13(2)(a) to allow a municipality to require a surety bond or other security only for improvements to be commenced in the phase of the project that is being constructed. In addition, specify that any security is not due until five days prior to the beginning of installation of the improvements.
- D-note ? • Clarifying Wis. Stat. § 236.29 to reflect that land dedicated for public improvements (et al) shall not be deemed conveyed until that land and those improvements have been officially accepted by the governing body.
(1)+(2) → approval constitutes acceptance
- ✓ • Eliminating the ability of counties to object in extraterritorial plat approval jurisdiction of municipalities, in order to streamline the approval process.
- ✓ • Preventing local governments from usurping protections contained in the platting statutes through local ordinances by clarifying when local subdivision ordinances may be more restrictive than the requirements set forth in state statute. More specifically, Wis. Stat. § 245.45(2) generally provides that local subdivision ordinances may be more restrictive than the requirements contained in Wis. Stat. ch. 236 (platting lands and

what?
how?
NES?
how is recording

236.45(2)

recording and vacating plats). Allowing, for example, a municipality to shorten the 24 month time frame for final plat submittal (Wis. Stat. § 236.11(1)(b)) would be inconsistent with legislative intent and, in essence, render this protection meaningless. Consequently, Wis. Stat. § 245.45(2) ← should be amended to specify that local ordinances cannot be more restrictive than the provisions contained in sections 236.11, 236.12(3),(6) and (8), 236.13 (1), (2), (3) and (5), and 236.25(2)(b). These are generally procedural requirements and not substantive development requirements.

236.45(2)



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note
(11-17)

gen. cat

1 **AN ACT**; relating to: modifications to platting requirements.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
For further information see the **local** fiscal estimate, which will be printed as an appendix to this bill.

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

2 **SECTION 1.** 236.10 (1) (b) 2. of the statutes is amended to read:

3 236.10 (1) (b) 2. The governing body of the municipality if, by July 1, 1958, or
4 thereafter it adopts a subdivision ordinance or an official map under s. 62.23; and.

5 History: 1979 c. 248; 1993 a. 301; 1999 a. 150 s. 672.
SECTION 2. 236.10 (1) (b) 3. of the statutes is repealed.

6 **SECTION 3.** 236.11 (1) (b) of the statutes is amended to read:

7 236.11 (1) (b) If the final plat conforms substantially to the preliminary plat
8 as approved, including any conditions of that approval, and to local plans and
9 ordinances adopted as authorized by law, it is entitled to approval. If the final plat

1 is not submitted within 24 months, or within an extended time authorized under par.
2 (c), after the last required approval of the preliminary plat, any approving authority
3 may refuse to approve the final plat. The final plat may, if permitted by the approving
4 authority, constitute only that portion of the approved preliminary plat which that
5 the subdivider proposes to record at that time, in which case the final plat shall be
6 considered to have been submitted within the time required under this paragraph,
7 or within an extended time authorized under par. (c), if the final plat of the portion
8 of the approved preliminary plat is submitted within that time and any final plat or
9 final plats of the remainder of the approved preliminary plat that are submitted after
10 that time conform substantially to the remainder of the approved preliminary plat.

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

12 **SECTION 4.** 236.11 (1) (c) of the statutes is created to read:

13 236.11 (1) (c) Any approving authority shall, upon the request of the subdivider
14 before the expiration of the 24 months specified in par. (b), authorize an extension
15 to that time of up to 24 months.

16 **SECTION 5.** 236.11 (1) (d) of the statutes is created to read:

17 236.11 (1) (d) A professional engineer, a planner, or another person charged
18 with the responsibility to review plats shall provide the approving authority with his
19 or her conclusions as to whether the final plat conforms substantially to the
20 preliminary plat and with his or her recommendation on approval of the final plat.

21 **SECTION 6.** 236.13 (1) (b) of the statutes is amended to read:

22 236.13 (1) (b) Any municipal, town, or county ordinance that is in effect when
23 the subdivider offers the first required submission, whether that is a preliminary or
24 final plat or a proposal that is required to be submitted before a plat;

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; 2001 a. 30; 2007 a. 44.

24 **SECTION 7.** 236.13 (2) (a) of the statutes is amended to read:

1 236.13 (2) (a) As a further condition of approval, the governing body of the town
2 or municipality within which the subdivision lies may require that the subdivider
3 make and install any public improvements reasonably necessary or that the
4 subdivider execute a surety bond or provide other security to ensure that he or she
5 will make those improvements within a reasonable time. If the subdivider's project
6 will be constructed in phases, the amount of any surety bond or other security
7 required by the governing body may be limited to the phase of the project that is
8 currently being constructed. The governing body may not require that the
9 subdivider provide any security for improvements sooner than 5 days before the
10 commencement of the installation of the improvements.

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; 2001 a. 30; 2007 a. 44.

11 **SECTION 8.** 236.13 (3) of the statutes is amended to read:

12 236.13 (3) No approving authority or agency having the power to approve or
13 object to plats shall condition approval upon compliance with, or base an objection
14 upon, any requirement other than those specified in this section. Notwithstanding
15 sub. (1) (b), an approving authority and a subdivider may voluntarily agree to waive
16 or vary requirements under an ordinance enacted by the approving authority.

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; 2001 a. 30; 2007 a. 44.

17 **SECTION 9.** 236.25 (1) of the statutes is amended to read:

18 236.25 (1) The subdivider shall have the final plat recorded in the office of the
19 register of deeds of the county in which the subdivision is located. The final plat may
20 be recorded in whole or in separate parts at different times.

History: 1979 c. 248 ss. 19, 25 (5); 1983 a. 473; 1997 a. 332; 2001 a. 16; 2005 a. 9, 41.

****NOTE: I'm not sure what was meant in the drafting instructions by "the subdivider may improve the plat in separate phases after it is recorded." A plat is, by definition, a map of a subdivision. Do you mean that the *subdivision* may be improved/developed in separate phases after the final plat is recorded, or do you mean that the subdivider may record separate parts of the final plat as the subdivision is improved/developed? Is it necessary to specify that, or is it enough to authorize the final plat to be recorded in parts?

1 **SECTION 10.** 236.25 (2) (b) of the statutes is amended to read:

2 236.25 (2) (b) The plat is offered for record within 6 18 months after the date
3 of the last approval of the plat and within 24 48 months after the first approval;

4 History: 1979 c. 248 ss. 19, 25 (5); 1983 a. 473; 1997 a. 332; 2001 a. 16; 2005 a. 9, 41.

4 **SECTION 11.** 236.26 of the statutes is amended to read:

5 **236.26 Notification to approving authorities.** When a final plat, in whole
6 or in part, is recorded, the register of deeds shall notify all authorities required by
7 s. 236.10 to approve or permitted by s. 236.12 to object to the plat by mailing to the
8 clerk of each authority written notice thereof.

9 History: 1981 c. 314.

9 **SECTION 12.** 236.45 (2) (a) (intro.) of the statutes is renumbered 236.45 (2) (ac)
10 and amended to read:

11 236.45 (2) (ac) To accomplish the purposes listed in sub. (1), any municipality,
12 town or county ~~which~~ that has established a planning agency may ~~adopt~~ enact
13 ordinances governing the subdivision or other division of land ~~which~~ that are more
14 restrictive than the provisions of this chapter. ~~Such ordinances, except that no~~
15 ordinance may be more restrictive than s. 236.11, 236.12 (3), (6), or (8), 236.13 (1),
16 (2), (3), or (5), or 236.25 (2) (b).

17 (am) Ordinances under par (ac) may include provisions regulating divisions of
18 land into parcels larger than 1 1/2 acres or divisions of land into less than 5 parcels,
19 and may prohibit the division of land in areas where such prohibition will carry out
20 the purposes of this section. Such ordinances shall make applicable to such divisions
21 all of the provisions of this chapter, or may provide other surveying, monumenting,
22 mapping and approving requirements for such division. The governing body of the
23 municipality, town, or county shall require that a plat of such division be recorded
24 with the register of deeds and kept in a book provided for that purpose. "COUNTY

1 PLAT," "MUNICIPAL PLAT," or "TOWN PLAT" shall be printed on the map in
2 prominent letters with the location of the land by government lot, recorded private
3 claim, quarter-quarter section, section, township, range, and county noted. When
4 so recorded, the lots included in the plat shall be described by reference to "COUNTY
5 PLAT," "MUNICIPAL PLAT," or "TOWN PLAT," the name of the plat and the lot and
6 block in the plat, for all purposes, including those of assessment, taxation, devise,
7 descent, and conveyance as defined in s. 706.01 (4). Such ordinance, insofar as it may
8 apply to divisions of less than 5 parcels, shall not apply to:

History: 1979 c. 221, 248, 355; 1981 c. 354; 1983 a. 189 s. 329 (26); 2001 a. 16; 2005 a. 477; 2007 a. 44.

9 **SECTION 13.** 236.45 (2) (ar) of the statutes is created to read:

10 236.45 (2) (ar) If a municipality, town, or county has in effect on the effective
11 date of this paragraph ... [LRB inserts date], an ordinance that is inconsistent with
12 par. (ac), the ordinance does not apply and may not be enforced.

****NOTE: Do you want this prohibition on any ordinances that are currently in effect?

13 **SECTION 14.** 236.45 (6) (am) of the statutes is amended to read:

14 236.45 (6) (am) Notwithstanding subs. (1) and (2) (a) ~~(intro.)~~ (ac), a
15 municipality, town, or county may not, as a condition of approval under this chapter,
16 impose any fees or other charges to fund the acquisition or improvement of land,
17 infrastructure, or other real or personal property, except that a municipality or town
18 may impose a fee or other charge to fund the acquisition or initial improvement of
19 land for public parks.

History: 1979 c. 221, 248, 355; 1981 c. 354; 1983 a. 189 s. 329 (26); 2001 a. 16; 2005 a. 477; 2007 a. 44.

20 **SECTION 15. Initial applicability.**

21 (1) The treatment of sections 236.10 (1) (b) 3., 236.13 (2) (a), and 236.25 (2) (b)
22 of the statutes first applies to preliminary plats or, in cases in which no preliminary

1 plats are submitted, final plats that are submitted for approval on the effective date
2 of this subsection. ✓

3 (2) The treatment of section 236.13 (1) (b) of the statutes first applies to a first ✓
4 required submission, whether that is a preliminary or final plat or a proposal that ✓
5 is required to be submitted before a plat, that is submitted for approval on the
6 effective date of this subsection. ✓

7 (3) The treatment of section 236.11 (1) (b) (with respect to not requiring ✓
8 permission from the approving authority for the final plat to constitute a portion of
9 the preliminary plat) of the statutes first applies to final plats that are submitted for
10 approval on the effective date of this subsection. ✓

11 (4) The treatment of section 236.11 (1) (b) (with respect to the time within which ✓
12 to submit final plats) and (c) of the statutes first applies to final plats submitted after ✓
13 preliminary plats that are submitted for approval on the effective date of this
14 subsection. ✓

15 (5) The treatment of sections 236.25 (1) and (2) (b) and 236.26 of the statutes ✓
16 first applies to final plats that are submitted for recording on the effective date of this ✓
17 subsection. ✓

18 (6) The treatment of section 236.45 (2) (a) (intro.) of the statutes first applies ✓
19 to ordinances enacted on the effective date of this subsection. ✓

20 (END)

D-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3826/7dn

PJK:...

PI
kf

Date

I wasn't always sure that I understood the requested change, so feel free to suggest modifications to the language I have provided.

The draft contains a few embedded notes. ✓

One suggestion was to provide that, under s. 236.29, land dedicated for public improvements is not deemed conveyed until officially accepted by the governing body. I'm not sure what you have in mind for showing acceptance, a separate resolution or ordinance? Under current law, if the governing body approves a plat that shows land dedicated to the public, that approval constitutes acceptance of the land dedication. Since the statute provides that approval constitutes acceptance, isn't the governing body "officially accepting" the land dedication when they approve the plat? If approval of the plat were separate from acceptance of the dedicated land, what would happen if the governing body approved the plat but did not officially accept the land dedication? What would become of that land? Would the plat then have to be revised after it has been approved? Let me know how you wish a governing body to "officially accept" land dedicated to the public on a plat apart from approving the plat.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3826/P1dn
PJK:kjf:jf

December 1, 2009

I wasn't always sure that I understood the requested change, so feel free to suggest modifications to the language I have provided.

The draft contains a few embedded notes.

One suggestion was to provide that, under s. 236.29, land dedicated for public improvements is not deemed conveyed until officially accepted by the governing body. I'm not sure what you have in mind for showing acceptance, a separate resolution or ordinance? Under current law, if the governing body approves a plat that shows land dedicated to the public, that approval constitutes acceptance of the land dedication. Since the statute provides that approval constitutes acceptance, isn't the governing body "officially accepting" the land dedication when they approve the plat? If approval of the plat were separate from acceptance of the dedicated land, what would happen if the governing body approved the plat but did not officially accept the land dedication? What would become of that land? Would the plat then have to be revised after it has been approved? Let me know how you wish a governing body to "officially accept" land dedicated to the public on a plat apart from approving the plat.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

Kahler, Pam

From: Wadd, Jay
Sent: Thursday, February 18, 2010 4:59 PM
To: Kahler, Pam
Subject: Changes to LRB-3826

Attachments: plat changes.2.18.10.doc

Hi, Pam.

Attached are the changes we're looking for at this time. Please let mknow if you have any questions.

Jay



plat
ges.2.18.10.doc (30

6-5670

LRB-3826/P1

Changes:

✓ **Section 2:** Eliminate this section, which eliminated counties as an approving authority in the extraterritorial jurisdiction areas.

✓ **Section 3:** Eliminate the current modifications to this section, and instead specify that if a final plat is not submitted within 36 months after the last required approval of the preliminary plat, any approving authority may refuse to approve the final plat, or may extend the time for approval. In addition, modify this provision so that a subdivider could go forward with a portion of the preliminary plat without seeking approval from the approving authority if the phases were identified as part of the preliminary plat. If the phases were not identified or were going forward in a manner different than what was identified in the preliminary plat, the subdivider would have to obtain permission from the approving authority.

✓ **Section 4:** Eliminate this section, which allowed for a 24 month extension for submitting a final plat that conformed with the preliminary plat.

✓ **Section 5:** Clarify that the conclusions in regard to the "substantially conforms" be placed on the record of the proceeding at which the final plat is being considered. However, the intent of this change is not to mandate a written report be provided.

✓ **Section 6:** Specify that ordinances in effect at the time of submittal of a preliminary plat, or a final plat if no preliminary plat is required, apply.

✓ **Section 7:** Change the word "may" on page 3, line 11 to "shall." Change the 5- day time period contained in the second sentence to 30 days.

✓ **Section 8:** Specify that the agreement to vary ordinances must be entered into "freely and voluntarily". In addition to agreements in regard to existing ordinances, specify that there can be agreements in regard to the application of new ordinances.

✓ **Section 10:** Modify the time frames from 18 months to 12 months and from 48 months to 36 months.

MES **ADD: New Section:** Based on the discussion at the meeting, I would propose providing local governments 6 months after the effective date to modify their ordinances to comply with this bill.

p. 5 Sect 13



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3826/15

PJK:kjf

r m r u m

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*Two am)
please*

request ↓

1 **AN ACT** *to repeal* 236.10 (1) (b) 3.; *to renumber and amend* 236.45 (2) (a)
2 (intro.); *to amend* 236.10 (1) (b) 2., 236.11 (1) (b), 236.13 (1) (b), 236.13 (2) (a),
3 236.13 (3), 236.25 (1), 236.25 (2) (b), 236.26 and 236.45 (6) (am); and *to create*
4 236.11 (1) (c), 236.11 (1) (d) and 236.45 (2) (ar) of the statutes; **relating to:**
5 modifications to platting requirements.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
For further information see the **local** fiscal estimate, which will be printed as
an appendix to this bill.

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

6 **SECTION 1.** 236.10 (1) (b) 2. of the statutes is amended to read:
7 236.10 (1) (b) 2. The governing body of the municipality if, by July 1, 1958, or
8 thereafter it adopts a subdivision ordinance or an official map under s. 62.23; and
9 **SECTION 2.** 236.10 (1) (b) 3. of the statutes is repealed.

SECTION 3. 236.11 (1) (b) of the statutes is amended to read:

236.11 (1) (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, or within an extended time authorized under par. (c), 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 that the subdivider proposes to record at that time, in which case the final plat shall be considered to have been submitted within the time required under this paragraph, or within an extended time authorized under par. (c), if the final plat of the portion of the approved preliminary plat is submitted within that time and any final plat or final plats of the remainder of the approved preliminary plat that are submitted after that time conform substantially to the remainder of the approved preliminary plat.~~

SECTION 4. 236.11 (1) (c) of the statutes is created to read:

236.11 (1) (c) Any approving authority shall, upon the request of the subdivider before the expiration of the 24 months specified in par. (b), authorize an extension to that time of up to 24 months.

SECTION 5. 236.11 (1) (d) of the statutes is created to read:

236.11 (1) (d) A professional engineer, a planner, or another person charged with the responsibility to review plats shall provide the approving authority with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation on approval of the final plat.

SECTION 6. 236.13 (1) (b) of the statutes is amended to read:

Insert 2-18

Insert 2-23

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Insert 3-2

1 236.13 (1) (b) Any municipal, town, or county ordinance that is in effect when
2 the subdivider offers the first required submission, whether that is a preliminary or
3 final plat or a proposal that is required to be submitted before a plat.

4 SECTION 7. 236.13 (2) (a) of the statutes is amended to read:

5 236.13 (2) (a) As a further condition of approval, the governing body of the town
6 or municipality within which the subdivision lies may require that the subdivider
7 make and install any public improvements reasonably necessary or that the
8 subdivider execute a surety bond or provide other security to ensure that he or she
9 will make those improvements within a reasonable time. If the subdivider's project
10 will be constructed in phases, the amount of any surety bond or other security
11 required by the governing body ~~may~~ ^{shall} be limited to the phase of the project that is
12 currently being constructed. The governing body may not require that the
13 subdivider provide any security for improvements sooner than ~~5~~ ³⁰ days before the
14 commencement of the installation of the improvements.

15 SECTION 8. 236.13 (3) of the statutes is amended to read:

16 236.13 (3) No approving authority or agency having the power to approve or
17 object to plats shall condition approval upon compliance with, or base an objection
18 upon, any requirement other than those specified in this section. Notwithstanding
19 sub. (1) (b), an approving authority and a subdivider may ~~voluntarily~~ agree to waive
20 or vary requirements under an ordinance enacted by the approving authority.

Insert 3-20

21 SECTION 9. 236.25 (1) of the statutes is amended to read:

22 236.25 (1) The subdivider shall have the final plat recorded in the office of the
23 register of deeds of the county in which the subdivision is located. The final plat may
24 be recorded in whole or in separate parts at different times.

****NOTE: I'm not sure what was meant in the drafting instructions by "the subdivider may improve the plat in separate phases after it is recorded." A plat is, by definition, a map of a subdivision. Do you mean that the *subdivision* may be improved/developed in separate phases after the final plat is recorded, or do you mean that the subdivider may record separate parts of the final plat as the subdivision is improved/developed? Is it necessary to specify that, or is it enough to authorize the final plat to be recorded in parts?

1 SECTION 10. 236.25 (2) (b) of the statutes is amended to read:

2 236.25 (2) (b) The plat is offered for record within 6 (18) months after the date

3 of the last approval of the plat and within 24 (48) months after the first approval;

4 SECTION 11. 236.26 of the statutes is amended to read:

5 **236.26 Notification to approving authorities.** When a final plat, in whole
 6 or in part, is recorded, the register of deeds shall notify all authorities required by
 7 s. 236.10 to approve or permitted by s. 236.12 to object to the plat by mailing to the
 8 clerk of each authority written notice thereof.

9 SECTION 12. 236.45 (2) (a) (intro.) of the statutes is renumbered 236.45 (2) (ac)
10 and amended to read:

11 236.45 (2) (ac) To accomplish the purposes listed in sub. (1), any municipality,
 12 town or county ~~which~~ that has established a planning agency may ~~adopt~~ enact
 13 ordinances governing the subdivision or other division of land ~~which~~ that are more
 14 restrictive than the provisions of this chapter. ~~Such ordinances, except that no~~
 15 ordinance may be more restrictive than s. 236.11, 236.12 (3), (6), or (8), 236.13 (1),
 16 (2), (3), or (5), or 236.25 (2) (b).

17 (am) Ordinances under par (ac) may include provisions regulating divisions of
 18 land into parcels larger than 1 1/2 acres or divisions of land into less than 5 parcels,
 19 and may prohibit the division of land in areas where such prohibition will carry out
 20 the purposes of this section. Such ordinances shall make applicable to such divisions
 21 all of the provisions of this chapter, or may provide other surveying, monumenting,

1 mapping and approving requirements for such division. The governing body of the
 2 municipality, town, or county shall require that a plat of such division be recorded
 3 with the register of deeds and kept in a book provided for that purpose. "COUNTY
 4 PLAT," "MUNICIPAL PLAT," or "TOWN PLAT" shall be printed on the map in
 5 prominent letters with the location of the land by government lot, recorded private
 6 claim, quarter-quarter section, section, township, range, and county noted. When
 7 so recorded, the lots included in the plat shall be described by reference to "COUNTY
 8 PLAT," "MUNICIPAL PLAT," or "TOWN PLAT," the name of the plat and the lot and
 9 block in the plat, for all purposes, including those of assessment, taxation, devise,
 10 descent, and conveyance as defined in s. 706.01 (4). Such ordinance, insofar as it may
 11 apply to divisions of less than 5 parcels, shall not apply to:

12 **SECTION 13.** 236.45 (2) (ar) of the statutes is created to read:

13 236.45 (2) (ar) If a municipality, town, or county has in effect on the effective
 14 date of this paragraph [LRB inserts date], an ordinance that is inconsistent with
 15 par. (ac), the ordinance does not apply and may not be enforced.

****NOTE: Do you want this prohibition on any ordinances that are currently in effect?

16 **SECTION 14.** 236.45 (6) (am) of the statutes is amended to read:

17 236.45 (6) (am) Notwithstanding subs. (1) and (2) ~~(a) (intro.)~~ (ac), a
 18 municipality, town, or county may not, as a condition of approval under this chapter,
 19 impose any fees or other charges to fund the acquisition or improvement of land,
 20 infrastructure, or other real or personal property, except that a municipality or town
 21 may impose a fee or other charge to fund the acquisition or initial improvement of
 22 land for public parks.

23 **SECTION 15. Initial applicability.**

Insert 5-22

SECTION #. 236.45 (2) (a) 1. to 4. of the
 statutes are renumbered 236.45 (2) (am) 1. to
 4.

(1)(b) and

1 (1) The treatment of sections 236.10 (1) (b) 3., 236.13 (2) (a) and 236.25 (2) (b)
2 of the statutes first applies to preliminary plats or, in cases in which no preliminary
3 plats are submitted, final plats that are submitted for approval on the effective date
4 of this subsection.

5 (2) The treatment of section 236.13 (1) (b) of the statutes first applies to a first
6 required submission, whether that is a preliminary or final plat or a proposal that
7 is required to be submitted before a plat, that is submitted for approval on the
8 effective date of this subsection.

9 (3) The treatment of section 236.11 (1) (b) (with respect to not requiring
10 permission from the approving authority for the final plat to constitute a portion of
11 the preliminary plat) of the statutes first applies to final plats that are submitted for
12 approval on the effective date of this subsection.

13 (4) The treatment of section 236.11 (1) (b) (with respect to the time within which
14 to submit final plats) and (c) of the statutes first applies to final plats submitted after
15 preliminary plats that are submitted for approval on the effective date of this
16 subsection.

17 (5) The treatment of sections 236.25 (1) and (2) (b) and 236.26 of the statutes
18 first applies to final plats that are submitted for recording on the effective date of this
19 subsection.

20 (6) The treatment of section 236.45 (2) (a) (intro.) of the statutes first applies
21 to ordinances enacted on the effective date of this subsection.

Insert 6-12

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3826/P2ins
PJK:.....

INSERT 2-18

1 **SECTION 1.** 236.11 (1) (am) of the statutes is created to read:

2 236.11 (1) (am) If a preliminary plat identifies phases of a project, after
3 approval of the preliminary plat and before submission of the final plat, the
4 subdivider may proceed with any phase of the project identified in the preliminary
5 plat without first obtaining permission from the approving authority unless the
6 phase will not proceed as specified in the preliminary plat.

→ ****NOTE: Is this the idea you had in mind? I was unsure of your intent from the
 proposed language.

7 **SECTION 2.** 236.11 (1) (b) of the statutes is amended to read:

8 236.11 (1) (b) If the final plat conforms substantially to the preliminary plat
9 as approved, including any conditions of that approval, and to local plans and
10 ordinances adopted as authorized by law, it is entitled to approval. If the final plat
11 is not submitted within 24 36 months after the last required approval of the
12 preliminary plat, any approving authority may refuse to approve the final plat or
13 may extend the time for submission of the final plat. The final plat may, if permitted
14 by the approving authority, constitute only that portion of the approved preliminary
15 plat which the subdivider proposes to record at that time.

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

(END OF INSERT 2-18)

INSERT 2-23



Ins 2-23

wof

1 The conclusions and recommendation shall be made a part of the record of the
2 proceeding at which the final plat is being considered and are not required to be
3 submitted in writing.

(END OF INSERT 2-23)

INSERT 3-2

wof

4 submits a preliminary plat, or a final plat if no preliminary plat is submitted

(END OF INSERT 3-2)

INSERT 3-20

wof

5 specified in sub. (1) (b). Any such agreement shall be entered into freely and
6 voluntarily. An approving authority and a subdivider may also agree as to the
7 application of ordinances enacted by the approving authority after the subdivider
8 has submitted a preliminary plat, or a final plat if no preliminary plat is submitted

(END OF INSERT 3-20)

INSERT 5-22

9 **SECTION 3. Nonstatutory provisions.**

10 (1) INCONSISTENT ORDINANCE. If, on or after the first day of the 7th month
11 beginning after the effective date of this subsection, a city, village, town, or county
12 has in effect an ordinance that is inconsistent with this act, the ordinance does not
13 apply and may not be enforced.

(END OF INSERT 5-22)

INSERT 6-~~12~~¹²



Insert 6-12

1 ~~§~~ The treatment of section 236.11 (1) (am) of the statutes first applies to
2 preliminary plats that are submitted for approval on the effective date of this
3 subsection.

(END OF INSERT 6-~~12~~¹²)

Kahler, Pam

From: Wadd, Jay
Sent: Friday, February 26, 2010 3:12 PM
To: Kahler, Pam

Pam,

→ 3826

Below are what I hope are the final changes to LRB-3862/P2. Please let me know if you have any questions.

Thanks,

jay

✓ **Eliminate Section 1.**

Section 2 236.11 (1) (b)

how is this different from current law?

If you identify phases of development in the preliminary plat and your final plat reflects that (the final plat can be a portion of the preliminary plat) so long as its consistent with what was approved at the preliminary plat the final plat is entitled to approval.

If the final plat does not conform the municipality has the option to approve or not approve.

Section 5.

Change to reflect the following:

"Such ordinances shall not modify time limits, deadlines, notice requirements or other provisions in this chapter intended to protect the subdivider. "

Section 10.

In regard to the security issue, how about:

✓ Change to reflect the following:

"The governing body may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements."

Kahler, Pam

From: Wadd, Jay
Sent: Monday, March 01, 2010 9:38 AM
To: Kahler, Pam
Subject: RE:

Pam,

Yes, I think I got those two switched around. Should be:

Section 5.

In regard to the security issue, how about:

Change to reflect the following:

"The governing body may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements."

Section 10.

Change to reflect the following:

"Such ordinances shall not modify time limits, deadlines, notice requirements or other provisions in this chapter intended to protect the subdivider. "

With respect to your third question I'll have to check on that as it was supposed to be a compromise. Let me get back to you on that.

Thanks,

jay

From: Kahler, Pam
Sent: Friday, February 26, 2010 5:02 PM
To: Wadd, Jay
Subject: RE:

Jay:

For the changes to Section 5. regarding ordinances, are those meant to be changes to replace the specific sections listed in Section 10.?

For the change to Section 10., is that meant to replace "30 days" in Section 5.?

For the change to Section 2., I don't see that it adds anything to current law, which says, "If the final plat conforms substantially to the preliminary plat as approved ... it is entitled to approval."

What are your thoughts?

Pam

From: Wadd, Jay
Sent: Friday, February 26, 2010 3:12 PM
To: Kahler, Pam
Subject:

Pam,

Below are what I hope are the final changes to LRB-3862/P2. Please let me know if you have any questions.

Thanks,

jay

Eliminate Section 1.

Section 2 236.11 (1) (b)

If you identify phases of development in the preliminary plat and your final plat reflects that (the final plat can be a portion of the preliminary plat) so long as its consistent with what was approved at the preliminary plat the final plat is entitled to approval.

If the final plat does not conform the municipality has the option to approve or not approve.

Section 5.

Change to reflect the following:

“Such ordinances shall not modify time limits, deadlines, notice requirements or other provisions in this chapter intended to protect the subdivider. “

Section 10.

In regard to the security issue, how about:

Change to reflect the following:

“The governing body may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.”

Kahler, Pam

From: Wadd, Jay
Sent: Monday, March 01, 2010 9:57 AM
To: Kahler, Pam
Subject: RE:

Pam,

Does this help for Section 2:

On page 2, line 9 and 10, whether to approve a portion of the preliminary plat is at the discretion of the munie. Our intent was that approval would be mandatory if the to phase being approved as a final plat was identified in the preliminary plat and substantially conformed to the preliminary plat. If it did not, the munie would still have the option to approve, but it would not be mandatory.

Thanks,

Jay

From: Kahler, Pam
Sent: Friday, February 26, 2010 5:02 PM
To: Wadd, Jay
Subject: RE:

Jay:

For the changes to Section 5. regarding ordinances, are those meant to be changes to replace the specific sections listed in Section 10.?

For the change to Section 10., is that meant to replace "30 days" in Section 5.?

For the change to Section 2., I don't see that it adds anything to current law, which says, "If the final plat conforms substantially to the preliminary plat as approved ... it is entitled to approval."

What are your thoughts?

Pam

From: Wadd, Jay
Sent: Friday, February 26, 2010 3:12 PM
To: Kahler, Pam
Subject:

Pam,

Below are what I hope are the final changes to LRB-3862/P2. Please let me know if you have any questions.

Thanks,

jay

Eliminate Section 1.

Section 2 236.11 (1) (b)

If you identify phases of development in the preliminary plat and your final plat reflects that (the final plat can be a portion of the preliminary plat) so long as its consistent with what was approved at the preliminary plat the final plat is entitled to approval.

If the final plat does not conform the municipality has the option to approve or not approve.

Section 5.

Change to reflect the following:

“Such ordinances shall not modify time limits, deadlines, notice requirements or other provisions in this chapter intended to protect the subdivider. “

Section 10.

In regard to the security issue, how about:

Change to reflect the following:

“The governing body may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.”



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3826/LS

PJK:kjft

rmirum

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

#cjs

*(in 3-2)
Thurs if possible
(Fri if not)*

regenerate ↓

st

1 AN ACT *to renumber* 236.45 (2) (a) 1. to 4.; *to renumber and amend* 236.45 (2)
2 (a) (intro.); *to amend* 236.11 (1) (b), 236.13 (1) (b), 236.13 (2) (a), 236.13 (3),
3 236.25 (1), 236.25 (2) (b), 236.26 and 236.45 (6) (am); and *to create* 236.11 (1)
4 (am) and 236.11 (1) (c) of the statutes; **relating to:** modifications to platting
5 requirements.

Insert A

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
For further information see the **local** fiscal estimate, which will be printed as
an appendix to this bill.

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

6 **SECTION 1.** 236.11 (1) (am) of the statutes is created to read:
7 236.11 (1) (am) If a preliminary plat identifies phases of a project, after
8 approval of the preliminary plat and before submission of the final plat, the
9 subdivider may proceed with any phase of the project identified in the preliminary

X

1 plat without first obtaining permission from the approving authority unless the
2 phase will not proceed as specified in the preliminary plat.

****NOTE: Is this the idea you had in mind? I was unsure of your intent from the proposed language.

3 SECTION 2. 236.11 (1) (b) of the statutes is amended to read:

4 236.11 (1) (b) If the final plat conforms substantially to the preliminary plat
5 as approved, including any conditions of that approval, and to local plans and
6 ordinances adopted as authorized by law, it is entitled to approval. If the final plat
7 is not submitted within 24 36 months after the last required approval of the
8 preliminary plat, any approving authority may refuse to approve the final plat or
9 may extend the time for submission of the final plat. The final plat may, if permitted

10 by the approving authority, constitute only that portion of the approved preliminary
11 plat ~~which~~ [↓] ^{→ that} the subdivider proposes to record at that time ^{→ insert 2-11} ✓

12 SECTION 3. 236.11 (1) (c) of the statutes is created to read:

13 236.11 (1) (c) A professional engineer, a planner, or another person charged
14 with the responsibility to review plats shall provide the approving authority with his
15 or her conclusions as to whether the final plat conforms substantially to the
16 preliminary plat and with his or her recommendation on approval of the final plat.
17 The conclusions and recommendation shall be made a part of the record of the
18 proceeding at which the final plat is being considered and are not required to be
19 submitted in writing.

20 SECTION 4. 236.13 (1) (b) of the statutes is amended to read:

21 236.13 (1) (b) Any municipal, town, or county ordinance that is in effect when
22 the subdivider submits a preliminary plat, or a final plat if no preliminary plat is
23 submitted;

1 SECTION 5. 236.13 (2) (a) of the statutes is amended to read:

2 236.13 (2) (a) As a further condition of approval, the governing body of the town
3 or municipality within which the subdivision lies may require that the subdivider
4 make and install any public improvements reasonably necessary or that the
5 subdivider execute a surety bond or provide other security to ensure that he or she
6 will make those improvements within a reasonable time. If the subdivider's project
7 will be constructed in phases, the amount of any surety bond or other security
8 required by the governing body shall be limited to the phase of the project that is
9 currently being constructed. The governing body may not require that the
10 subdivider provide any security for improvements sooner than 30 days before the
11 commencement of the installation of the improvements.

*is reasonably
or reasonably
necessary*

12 SECTION 6. 236.13 (3) of the statutes is amended to read:

13 236.13 (3) No approving authority or agency having the power to approve or
14 object to plats shall condition approval upon compliance with, or base an objection
15 upon, any requirement other than those specified in this section. Notwithstanding
16 sub. (1) (b), an approving authority and a subdivider may agree to waive or vary
17 requirements under an ordinance specified in sub. (1) (b). Any such agreement shall
18 be entered into freely and voluntarily. An approving authority and a subdivider may
19 also agree as to the application of ordinances enacted by the approving authority
20 after the subdivider has submitted a preliminary plat, or a final plat if no
21 preliminary plat is submitted.

22 SECTION 7. 236.25 (1) of the statutes is amended to read:

23 236.25 (1) The subdivider shall have the final plat recorded in the office of the
24 register of deeds of the county in which the subdivision is located. The final plat may
25 be recorded in whole or in separate parts at different times.

1 SECTION 8. 236.25 (2) (b) of the statutes is amended to read:

2 236.25 (2) (b) The plat is offered for record within 6 12 months after the date
3 of the last approval of the plat and within 24 36 months after the first approval;

4 SECTION 9. 236.26 of the statutes is amended to read:

5 **236.26 Notification to approving authorities.** When a final plat, in whole
6 or in part, is recorded, the register of deeds shall notify all authorities required by
7 s. 236.10 to approve or permitted by s. 236.12 to object to the plat by mailing to the
8 clerk of each authority written notice thereof.

9 SECTION 10. 236.45 (2) (a) (intro.) of the statutes is renumbered 236.45 (2) (ac)
10 and amended to read:

11 236.45 (2) (ac) To accomplish the purposes listed in sub. (1), any municipality,
12 town or county ~~which~~ that has established a planning agency may ~~adopt~~ enact
13 ordinances governing the subdivision or other division of land ~~which~~ that are more
14 restrictive than the provisions of this chapter. ~~Such ordinances, except that no~~

15 ordinance may be more restrictive than s. 236.11, 236.12 (3), (6), or (8), 236.13 (1),
16 (2), (3), or (5), or 236.25 (2) (b). → Insert 4-16 ✓

17 (am) Ordinances under par (ac) may include provisions regulating divisions of
18 land into parcels larger than 1 1/2 acres or divisions of land into less than 5 parcels,
19 and may prohibit the division of land in areas where such prohibition will carry out
20 the purposes of this section. Such ordinances shall make applicable to such divisions
21 all of the provisions of this chapter, or may provide other surveying, monumenting,
22 mapping and approving requirements for such division. The governing body of the
23 municipality, town, or county shall require that a plat of such division be recorded
24 with the register of deeds and kept in a book provided for that purpose. "COUNTY
25 PLAT," "MUNICIPAL PLAT," or "TOWN PLAT" shall be printed on the map in

1 prominent letters with the location of the land by government lot, recorded private
2 claim, quarter-quarter section, section, township, range, and county noted. When
3 so recorded, the lots included in the plat shall be described by reference to "COUNTY
4 PLAT," "MUNICIPAL PLAT," or "TOWN PLAT," the name of the plat and the lot and
5 block in the plat, for all purposes, including those of assessment, taxation, devise,
6 descent, and conveyance as defined in s. 706.01 (4). Such ordinance, insofar as it may
7 apply to divisions of less than 5 parcels, shall not apply to:

8 **SECTION 11.** 236.45 (2) (a) 1. to 4. of the statutes are renumbered 236.45 (2) (am)

9 1. to 4. 

10 **SECTION 12.** 236.45 (6) (am) of the statutes is amended to read:

11 236.45 (6) (am) Notwithstanding subs. (1) and (2) ~~(a)~~ ~~(intro.)~~ (ac), a
12 municipality, town, or county may not, as a condition of approval under this chapter,
13 impose any fees or other charges to fund the acquisition or improvement of land,
14 infrastructure, or other real or personal property, except that a municipality or town
15 may impose a fee or other charge to fund the acquisition or initial improvement of
16 land for public parks.

17 **SECTION 13. Nonstatutory provisions.**

18 (1) INCONSISTENT ORDINANCE. If, on or after the first day of the 7th month
19 beginning after the effective date of this subsection, a city, village, town, or county
20 has in effect an ordinance that is inconsistent with this act, the ordinance does not
21 apply and may not be enforced.

22 **SECTION 14. Initial applicability.**

23 (1) The treatment of section 236.13 (1) (b) and (2) (a) of the statutes first applies
24 to preliminary plats or, in cases in which no preliminary plats are submitted, final
25 plats that are submitted for approval on the effective date of this subsection.

1 (2) The treatment of section 236.11 (1) (am) of the statutes first applies to
2 preliminary plats that are submitted for approval on the effective date of this
3 subsection.

4 (3) The treatment of section 236.11 (1) (b) and (c) of the statutes first applies
5 to final plats submitted after preliminary plats that are submitted for approval on
6 the effective date of this subsection.

7 (4) The treatment of sections 236.25 (1) and (2) (b) and 236.26 of the statutes
8 first applies to final plats that are submitted for recording on the effective date of this
9 subsection.

10 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3826/lins
PJK:.....

INSERT A

Under current law, a county, town, city, or village (approving authority) has the right to approve or object to a plat (the map of a subdivision). Generally, the location of the subdivision determines which approving authority or authorities have the right to approve the plat. Approval of a plat is conditioned, among other things, on the plat's compliance with the local ordinances and comprehensive, master, or development plan of the approving authority or authorities that have the right to approve the plat.

This bill specifies that the local ordinances with which a plat must comply are those in effect when the preliminary plat is submitted, or when the final plat is submitted if a preliminary is not. The bill allows an approving authority and a subdivider to agree to waive or vary requirements under an ordinance that is in effect when the preliminary plat, or final plat if no preliminary plat, is submitted and to agree as to the application of ordinances that are enacted by the approving authority after the preliminary plat, or final plat if no preliminary plat, is submitted. Current law allows an approving authority to enact ordinances governing the subdivision of land that are more restrictive than the provisions in the statutes. The bill provides that local ordinances may not be enacted that are more restrictive than the provisions in the statutes with respect to time limits, deadlines, notice requirements, or other provisions that provide protections for subdividers.

Current law provides that if a preliminary plat is submitted, an approving authority may refuse to approve the final plat if it is not submitted within 24 months after the last required approval of the preliminary plat. The bill increases the time for submitting the final plat to 36 months after the last required approval of the preliminary plat and provides that any approving authority may extend this time. Under current law, a subdivider may with the permission of the approving authority submit a final plat that is only the portion of the approved preliminary plat that the subdivider intends to record at that time. The bill provides that a subdivider does not need permission to submit a final plat that is only a portion of the preliminary plat if the preliminary plat identified phases of the development and the portion of the final plat that is being submitted substantially conforms to the preliminary plat.

Current law provides that if a preliminary plat is submitted and approved, the final plat is entitled to approval if it substantially conforms to the preliminary plat. The bill requires a professional engineer, planner, or other person charged with the responsibility to review plats to provide the approving authority with his or her conclusions as to whether the final plat substantially conforms to the preliminary plat and with his or her recommendation on approval of the final plat.

Under current law, as a condition of approval, an approving authority may require a subdivider to execute a surety bond or provide other security to ensure that certain improvements will be made. The bill provides that the approving authority may not require any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements and that, if the project will be constructed in phases, the amount of the security must be limited to the phase of the project that is being constructed.



Ins A contd

Current law requires a subdivider to record the final plat in the office of the register of deeds in the county where the subdivision is located. The register of deeds may not accept the final plat for recording unless it is offered for recording within six months after the last approval and within 24 months after the first approval. The bill specifically provides that a subdivider may record the final plat in separate parts at different times. In addition, the bill extends the times for recording to within 12 months after the last approval and within 36 months after the first approval.

✓
✓

(END OF INSERT A)

INSERT 2-11

wgt

1 , except that a final plat that is only a portion of an approved preliminary plat
2 may be submitted without the permission of the approving authority and is entitled
3 to approval if the preliminary plat identified phases of the development and the
4 portion of the final plat being submitted substantially conforms to the preliminary
5 plat or portion of the preliminary plat as approved

✓

(END OF INSERT 2-11)

INSERT 4-16

wgt

6 modify in a more restrictive way time limits, deadlines, notice requirements, or
7 other provisions of this chapter that provide protections for a subdivider

(END OF INSERT 4-16)

Kahler, Pam

From: Wadd, Jay
Sent: Friday, March 05, 2010 4:52 PM
To: Kahler, Pam
Subject: RE: Here's the draft

Wow, great work, Pam! We are officially a "go."

Would you please have this jacketed for introduction in the Senate?

Thanks!

From: Kahler, Pam
Sent: Friday, March 05, 2010 11:35 AM
To: Wadd, Jay
Subject: Here's the draft

<< File: 09-3826/1 >>

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
608-266-2682