

## CHAPTER 236.

## PLATTING LANDS, RECORDING AND VACATING PLATS.

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**236.01 Definitions.** In this chapter, unless the contents or subject matter otherwise requires:

(1) "Owner" includes the plural as well as the singular, and may mean either a natural person, firm, association, partnership, private corporation, public or quasi-public corporation, or combination of any of them.

(2) "Governing body" includes a town, county or village board, city council, board or county park commissioners, or any other public body empowered to supervise or administer zoning plans restricting the use of land.

(3) A "land-division" is any change, redivision, or rearrangement in the boundary or division lines of a parcel of land or public thoroughfare.

(4) A "subdivision" is a described tract of land which has been divided into five or more lots of one and one-half acres each or less in area.

(5) A "subdivider" is any person laying out or making a land-division for the purpose of first sale, offering for first sale, or first selling, for himself or others, a subdivision or any part thereof.

(6) A "tentative plat" is a map or chart of a proposed land-division.

(7) A "final plat" is a map or chart of the land-division, which has been accurately surveyed, and such survey marked on the ground so that streets, alleys, blocks, lots and other divisions thereof can be identified.

(8) An "easement" is the quantity of land set aside or over which a liberty, privilege or advantage in land without profit, existing distinct from the ownership of the land, is granted to the public or some particular person or part of the public. [1935 c. 186]

**236.02 Cemeteries excluded.** This chapter applies to all land-divisions except cemeteries and assessors' plats made under the provisions of section 70.27. [1935 c. 186; 1939 c. 21]

**Note:** Plats which subdivide land into lots, blocks and streets for purposes of sale must comply with ch. 236 and may not be filed as assessors' plats under 70.27. 35 Atty. Gen. 437.

**236.03 Surveys; monuments for external and internal boundaries, and lots.** (1) Any owner of land wishing to make a land-division thereof into parcels, lots, or lots and blocks, for the purpose of sale or assessment, or wishing to dedicate streets, alleys, parks or other lands for public use, shall cause the same to be surveyed, and divided in accordance with this chapter.

(2) The external boundaries of any land-division shall be monumented in the field as follows:

(a) By monuments of stone or concrete, not less than thirty inches in length, nor less than five inches in diameter or along the shortest diagonal and marked on the top with a cross, brass plug, iron rod or other durable material securely imbedded; or by iron rods or pipes at least thirty inches long and two inches in diameter.

(b) Such monuments shall be placed flush with the surface not more than 1,400 feet apart in any straight line, at all corners, at each end of all curves, at the point where the curve changes its radius from one length to another, and at all angle points in any line except where such corners or points are less than 100 feet apart, but when such corners or points fall within any street the monuments shall be placed in the side line of such street.

(3) All internal boundaries and those corners and points not required to be marked by subsection (2) shall be monumented in the field as follows:

(a) By like monuments as defined in subsection (2) or iron rods or pipes at least thirty inches long and one inch in diameter.

(b) Such monuments shall be placed flush with the surface at all block corners, at each end of all curves, at the point where the curve changes its radius, and at all angle points in any line.

(4) All lot corners shall be monumented in the field by iron rods or pipes, at least twenty-four inches long and one inch in diameter. Such monuments shall be driven flush with the ground where practicable.

(5) All lake or stream ends of lot lines shall be monumented in the field as follows:

(a) By monuments as described in subsections (2) and (3).

(b) Such monuments shall be placed flush with the ground at the point of intersection of such lake or stream lot line with a meander line which shall be established along the shore not less than twenty feet back from the ordinary high water mark of such lake or the banks of such stream.

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

(7) In counties of 30,000 or more each lot shall have an average minimum width of 40 feet and a minimum area of 4,800 square feet and in counties of less than 30,000 each lot shall have an average minimum width of 50 feet and in each case a minimum area of 6,000 square feet. [1935 c. 186; 1945 c. 556]

**Note:** Plots of land containing five or more lots where each lot has dimensions greater than one and one-half acres are not subject to provisions of chapter 236. 25 Atty. Gen. 520. State board of health under 236.04 (15) and 140.05 (7) may, to insure proper sanitary conditions, require lots abutting on lake to exceed the minimum width and area prescribed by 236.03 (7). 28 Atty. Gen. 349.

**236.04 Platting requirements to entitle final plat to record.** (1) When the survey and land-division is completed the owner shall cause a final plat thereof to be made, which plat must comply with the requirements of this section.

(2) All plats shall be made on one or more sheets of durable white paper so pasted on muslin that they cannot be detached therefrom. To facilitate the binding of such sheets into volumes, as provided by section 236.11, such sheets shall be of uniform width of 22 inches and length of 30 inches. When more than one sheet is used for any one plat, they shall be numbered consecutively and each sheet shall contain a notation showing the whole number of sheets in the plat, and its relation to the other sheets. Such sheets may be provided by the county through the register of deeds on such terms as the county board shall determine.

(2a) The surveyor shall leave a binding margin of 1½ inches on the left side of the 30-inch length, and a 1-inch margin on all other sides.

(3) All plats shall be drawn with waterproof nonfading black ink on a scale showing not more than 100 feet to an inch, and the scale used shall be indicated on the plat graphically.

(4) All plats shall correctly show on the face thereof:

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

(b) All parcels, lots, blocks, streets, alleys and public grounds into which the land so surveyed is divided.

(c) All monuments erected, corners and other points established in the field in their proper places and the material of which such monuments, corners and other points are composed noted at the representation thereof.

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

(e) All lots in each block consecutively numbered or lettered in alphabetical order.

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

(g) The exact length and bearing of all exterior boundary lines.

(h) The exact length and bearing of boundary lines of all easements, blocks, public grounds, streets and alleys.

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

(j) The exact length and bearing of 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.

(k) The exact length and bearing of the sides of all gores, triangles or other lots which are not parallelograms.

(1) All lake or stream shore meander lines established by the surveyor in accordance with section 236.03 (5) (b), 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.

(m) The center line of all streets.

(n) All written and printed matter relating thereto.

(o) A north point properly located thereon.

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

(5) When a curve is used the main chord thereof shall be drawn as a dotted line in waterproof, nonfading red ink, in its proper place, and either on it or in an adjoining table shall be noted its bearing and length, the radius of the circle of which such curve is a part, the bearing of the radius at the point of curve, the angle between the main chord and the tangent to the curve, the central angle of the curve, the chord length and deflection angles used in staking out the curve.

(6) The plat shall show the location and position of the subdivision in each of the following ways:

(a) Immediately under the name given to the subdivision shall be noted its location by government lot, quarter-quarter section, section, township, range, county and state.

(b) The exact location of the tract being subdivided with reference to a corner or corners established in the United States Public Land Survey, shall be indicated by distances and bearings.

(c) A small scale drawing of the section or government subdivision of the section in which the land-division which the plat represents is situated, and with the location of the land-division indicated thereon, shall appear on the plat.

(7) The name of a plat shall be printed thereon in prominent letters, and such name shall not be a duplicate of the name of any plat theretofore recorded in the same county.

(8) The name of each road or street on the plat shall be printed thereon in prominent letters and shall be the same if possible as the names of connecting streets in adjoining plats.

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

(10) All parks, playgrounds, breathing spots, and other lands dedicated to public use shall be clearly marked thereon "dedicated to the public for use as a park, or playground, etc."

(11) The names of adjoining streets and subdivisions shall be shown in their proper location in waterproof nonfading red ink underscored by a dotted line.

(12) Abutting street lines of adjoining plats shall be shown in waterproof nonfading red ink by dotted lines in their proper location.

(13) Where provisions are made for access from any subdivision to any lake or stream the plat shall show the subdivision on such lake or stream, together with a small scale drawing, of the lake or stream or the portion thereof where the subdivision is located with its location indicated thereon.

(14) Unless topography and ground conditions prevent, lake and stream shore subdivisions shall provide one or more highways not less than fifty feet wide to the low water mark at one-half mile intervals as measured along the lake or stream shore, except, where highways already exist at not more than one-half mile intervals.

(15) All plats of land-divisions adjoining any lake or stream, or where provisions are made for access to any lake or stream, shall comply with the rules, regulations and standards of the state board of health enacted to insure proper sanitary conditions in the development and maintenance of lake and stream subdivisions pursuant to section 140.05.

(16) All plats shall show:

(a) All existing permanent buildings.

(b) All watercourses, drainage ditches and other existing features pertinent to proper land-division.

(c) The water elevations of adjoining lakes or streams at the date of the survey and the approximate high and low water elevations of such lake or stream. All elevations shall be referred to some permanent established datum plane. [1935 c. 186; 1943 c. 494; 1947 c. 230]

**Note:** If statutory requirements relating to plats are complied with state director must approve plat. 24 Atty. Gen. 532.

**236.05 Affidavit requirements to entitle final plat to record.** (1) On every final plat offered for record shall appear the affidavit of the surveyor who surveyed, divided and mapped the land, and which shall state and contain:

(a) By whose direction he made the survey, land-division and plat.

(b) A clear and concise description of the land so surveyed, divided and mapped by government lot, quarter-quarter section, section, township, range and county; or if such land is located in a city, or village, or subdivision, or addition thereto, then by the number or other description of the lot, block or other division thereof, otherwise by metes and bounds commencing with some corner marked and established in the United States Public Land Survey.

(c) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and the land-division thereof made.

(d) A statement that he has fully complied with the provisions of chapter 236 of the statutes in surveying, dividing and mapping the same.

(2) Immediately after the affidavit of the surveyor shall appear the certificate of dedication of the owner of the land in substantially the following form: As owner I hereby certify that I caused the land described in the foregoing affidavit of . . . . ., surveyor, to be surveyed, divided, mapped and dedicated as represented on this plat. Such certificate shall be signed, witnessed and acknowledged as conveyances are required by sections 235.19 and 235.22 to entitle them to registration.

(3) The owner's certificate shall be signed or consented to in writing on the plat by all persons holding an interest in the fee of record or by being in possession and if the land is mortgaged by the mortgagee. These signatures shall be signed, witnessed and acknowledged as conveyances are required by sections 235.19 and 235.22 to entitle them to registration. [1935 c. 186; 1943 c. 421]

**Note:** The recording of a plat, with an attached copy of a resolution of the village board accepting the plat with the proviso that the streets shown in the plat were not dedicated to the public but that they were reserved for the sole use in common of the lot owners, and the conveyance of lots by the proprietors with reference to the plat, constituted a dedication of all streets shown in the plat at least for the use in common of all the lot owners, binding on such proprietors and their grantees. *Kennedy v. Barnish, 244 W 137, 11 NW (2d) 682.*

**236.055 Unpaid taxes and assessments.** In addition to other requirements entitling a final plat to be recorded there shall be filed with the register of deeds a certificate of the clerk and treasurer of the municipality wherein the land is situated and a certificate of the treasurer of the county stating that there are no unpaid taxes or unpaid special assessments on any of the lands included in the plat. [1945 c. 50; 1947 c. 314]

**236.06 Approval requirements to entitle final plat to record; when to record; penalty for not complying.** (1) No plat shall be valid or entitled to be recorded until it has been submitted to and approved by the governing bodies as this section provides:

(a) For lands lying in a town the town board.

(b) For lands lying outside the limits of any city or village in any county having a county platting, regional or zoning plan, the governing body empowered to supervise or administer such county plan. In such counties having a population less than two hundred and fifty thousand, the approval of village boards of villages having village plan commissions and common councils of cities of the fourth class having city plan commissions, shall be required when such lands are located within one and one-half miles of the limits of such villages or cities and the approvals of the city councils of cities of the second and third class having city plan commissions shall be required when such lands are located within three miles of the limits of such cities. Such village or city plan commissions shall be the village or city plan commissions as provided by statute.

(c) For lands lying in any county not having a county plan and situated within one and one-half miles of the limits of any city of the fourth class or of any village, the common council of such city or the village board of such village.

(d) For lands lying in any county not having a county plan and situated within three miles of the limits of any city of the second or third class, the common council of such cities.

(e) For lands lying within three miles of the limits of any city of the first class, the common council of such city.

(f) For lands lying in any city or village the common council or village board.

(g) For lands lying in any subdivision adjoining any lake or stream or where access is provided to any such lake or stream, the state board of health.

(h) For lands lying in towns the state director of regional planning; except that, previous to May 23, 1937, where an unrecorded plat in a town upon which lots have been laid out and monumented, streets have been surveyed, improved and traveled, and within the borders of which parcels have been sold in conformity to the unrecorded plat and upon some of which parcels have been erected buildings for residential purposes, such plat shall be submitted to and approved by the town board. Each such previously unrecorded plat

shall bear a properly authenticated affidavit to the effect that the conditions set forth in this paragraph existed prior to June 28, 1935. After July 1, 1938, such plats shall have the approval of the director of regional planning.

(i) For lands lying in any county having a county planning board or department employing permanently at least one registered civil engineer, the provisions of paragraphs (e), (g) and (h) of this subsection shall not apply, and in lieu thereof, when plats are submitted to the county board, and before approval by said board, a copy of said plat furnished at the owner's expense shall be sent immediately by registered mail to the city clerk of any city of the first class wherever the lands covered by said plat lie within three miles of the limits of said city of the first class, to the state board of health, and to the state director of regional planning. If either such city of the first class, state board of health, or state director of regional planning objects to the plat as submitted, such objector shall within ten days from receipt of such plat file written notice of such objection with the county highway committee of the county in which such plat lies. Said county highway committee shall thereupon set a date for hearing upon said plat, and shall give not less than five days' notice of said hearing to such objector and to the owner by registered mail. Said county highway committee, after said hearing, may require such changes in the plat as the committee may deem necessary as a result of the hearing, and said plat shall then be eligible to be recorded upon approval of the governing body empowered to supervise or administer the county plan as provided in paragraph (b) of this subsection, which body in counties having a population of 500,000 or more shall be the county board of supervisors.

(2) The owner shall cause the final plat to be recorded within thirty days of the date of the last approval thereof, together with the evidence of approvals required, which shall be a certified copy of each ordinance or resolution adopted by the governing body approving the same attached to the final plat.

(3) Any final plat not approved or not accompanied by proper evidence of its approval, or which shall not be offered for record within thirty days after the date of the last required approval, or which shall not be offered for record within ninety days after the date of the first approval, shall not be recorded or received for record and shall have no validity whatever.

(4) Any person causing his final plat to be recorded without submitting such plat for approval as herein required, or who shall fail to present the same for record within the time prescribed after approval, shall forfeit not less than one hundred dollars, nor more than one thousand dollars, to each city, village, town or county wherein such final plat should have been submitted.

(5) Any register of deeds who shall record any final plat without the evidence of its approval attached thereto, as herein provided, or after the time herein prescribed, shall forfeit not less than fifty dollars, nor more than one hundred dollars.

(6) All forfeitures incurred under this section shall be sued for or recovered in the name of such cities, villages, towns and counties and paid into the local school fund.

(7) The owner shall cause a true copy of the final plat to be filed as a public record with the city, town or village clerk of the city, town or village in which the land is located.

(8) The governing body shall have the right to examine plats for the accuracy and closure of survey, proper kind and location of monuments and legibility of drawing, and if such examination discloses an error in the latitude and departure closure of the survey greater than the ratio of one in three thousand, the governing body may reject the plat and in case of rejection because of such error may require the owner to pay the reasonable expense incurred in such examination before the approval of the plat when corrected.

(9) The governing body may require the owner to 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 dedication to the plat. [1935 c. 186; 1937 c. 157; 1939 c. 125; 1939 c. 513 s. 48; 1943 c. 275 s. 57]

**Note:** The mere approval of a plat by city and town officials, without any municipal opening and working of the streets shown thereon or declaration that they were public highways, did not constitute a public acceptance of the platted streets for use as streets, so as to preclude the vacation of the plat as to the streets shown thereon, under 236.13. Stats. 1933, authorizing the circuit court to vacate a plat "except such parts thereof as have been dedicated to and accepted by the public for use as streets or highways." In re Vacation of Plat of Garden City, 221 W 134, 266 NW 202.

Section 236.06, Stats. 1935, requires approval of state director of regional planning of all plats lying within areas subject to town form of government in addition to approval of other governing bodies therein provided for. State director is "governing body" for purpose of this chapter. 24 Atty. Gen. 532.

Answer to second question in 24 Atty. Gen. 532 is discussed and modified to effect that state director of regional planning in approving plats under (1) may exercise reasonable discretion as to matters not specifically covered by statute. 27 Atty. Gen. 638.

Where plat has been recorded by mistake without formal approval by city council as required by (1) (f) recording has no validity whatever by virtue of (3), but plat upon being approved by council may be re-recorded with all the effect of an original recording. Approval of state board of health is not required under (1) (g) where stream flows through plat, if plat does not adjoin stream or provide access to it. Conveyances using descriptions from plat not entitled to record are nevertheless effective. 34 Atty. Gen. 290.

Plat of land lying in a town is not entitled to recording under the provisions of 236.06 (1) unless it has the approval of both the town board and the state director of regional planning and 236.16 does not exempt from the above provisions plats covering lots of more than 1½ acres each. 35 Atty. Gen. 296.

Subdivision adjoins lake within meaning of (1) (g) when lots and intervening parcel running to water's edge are commonly sold as a unit. 36 Atty. Gen. 185.

**236.07 Clerk to submit plat to governing body.** The clerk of any governing body required to approve a plat shall present any plat received by him to the governing body at its next meeting. If no meeting is to be held within two weeks, the clerk shall notify the members of the governing body of the receipt of the plat and a meeting to consider it shall be held within two weeks after such receipt. The governing body shall approve or reject a plat within forty days after it is received by the clerk. [1935 c. 186]

**236.08 Conflict of plans.** No governing body shall require any owner to conform to any town, city or village plan that may conflict with any general plan that has been adopted by the county or the state. [1935 c. 186]

**236.09 Surety bond to insure public improvements.** (1) If any plat shall show streets, alleys and public places which have not in fact been improved the governing body may require a surety bond running to the municipality to insure the performance of any contract with the municipality relative to the improvement of such streets, alleys and public places after the approval of the plat.

(2) If any plat shall show improvements other than streets, alleys and public places, such as lagoons, slips, waterways, lakes, bays or canals which are not actually in existence at the time of consideration by the governing body it may, as a condition precedent for the approval of the plat, require the owner to enter into an agreement providing for the construction of such improvements within a reasonable time and require a surety bond to be given for the faithful performance of the agreement. [1935 c. 186]

**236.10 Tentative plat optional.** (1) The owner of any subdivision may submit to the proper governing body or bodies for approval, a tentative plat in duplicate blue prints, one copy of which shall permanently be kept on file for public examination and the other returned after approval, and which tentative plat shall be in accordance with the requirements of section 236.04 and shall be clearly marked "tentative plat."

(2) Within sixty days after the last required approval of a tentative plat there shall be submitted for approval to the proper governing body or bodies, the final plat, but it shall not be necessary to show topographic features required by subsection (16) of section 236.04, on the final plat after the submission and approval of a tentative plat. [1935 c. 186]

**236.11 Plats, how recorded; filing of field notes.** (1) The register of deeds shall accept and bind as a permanent record into bound volumes, properly indexed, the original of any final plat made, certified, indorsed, acknowledged, approved and presented as prescribed in this chapter. No plat of any addition to an existing plat shall be accepted for record unless the streets and alleys shown thereon shall practically conform in width, location and direction to those of the existing plat. All written or printed matter attached to the plat shall form a part of the recorded document. Any facsimile of the original whole record, made and prepared by the register of deeds or under his direction shall be deemed to be a true copy of the final plat.

(2) The register of deeds upon the recording of any final plat shall notify each governing body required to approve the same of such recording by mailing to the clerk or secretary of such body written notice thereof.

(3) At the time of the recording of any plat of any subdivision adjoining any lake or stream a certified copy of the original field survey notes pertaining thereto shall be filed as a public record in the office of the register of deeds of the county in which such subdivision is located. The filing of such copy of the original field survey notes shall be a condition precedent to entitle the plat to be recorded. [1935 c. 186; 1943 c. 494]

**236.12 Title to land marked as donated.** When any plat shall have been certified, signed, acknowledged and recorded as in this chapter prescribed every donation, or grant to the public or any person, or 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. [1935 c. 186]

**236.13 Penalty for disturbing monuments.** Any owner, surveyor or subdivider, who fails to place monuments as prescribed in this chapter or any person who wilfully disturbs or removes any such monument without permission from the proper governing body, and who fails to report such disturbance or removal to such governing body or who fails to replace properly the monuments so disturbed or removed when so ordered by such governing body, shall be punished by a fine not less than ten dollars, and not more than two hundred and fifty dollars or by imprisonment in the county jail for not more than one year. [1935 c. 186]

**236.14 Regional plans in Milwaukee county.** (1) In any county having a population of five hundred thousand or more, the county park commission may prepare regional plans, in such units as it may determine, for the future platting of lands within said county, but without the limits of any city or village, or for the future location of streets or highways or parkways, and the extension or widening of existing streets and highways. Before completion of such plans the county park commission shall fix the time and place it will hear all persons who desire to be heard upon such proposed plans, and shall cause a notice of such hearing to be published in the official newspaper of the county at least ten days before the date thereof. After such hearings the county park commission shall certify such plans to the county board, who may after having submitted the same to the town boards of the several towns in which said lands are located and obtained the approval of said town boards, adopt by ordinance such proposed regional plans for future platting or for such street or highway or parkway location in towns which may have approved the same, and upon like approval of said towns may amend said ordinance. Before said ordinance or any amendments thereto shall be adopted by the county board, at least ten days' notice shall be given by publication in the official newspaper, or if there be none such in a newspaper of general circulation in said county, of a hearing at which all persons interested shall be given an opportunity to be heard at a time and place to be specified in the notice. Said ordinance with such amendments as may from time to time be made, shall, until repealed, govern the platting of all lands within the area to which it applies.

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

- (a) A system of arterial thoroughfares complete for each town.
- (b) A system of minor streets for the complete area surrounded by any such main arterial thoroughfares and connecting therewith.
- (c) The platting of lots for any area surrounded completely by any such arterial thoroughfares or any such minor streets or both.

(3) Such system of arterial thoroughfares and such system of minor streets within such system of arterial thoroughfares and such platting of lots within any such system of minor streets may be adopted by the same proceeding. For the purpose of this section any parkway may be considered either an arterial thoroughfare or a minor street, according as it shall perform 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 be, where necessary, the boundary of any regional plans instead of a street or highway or parkway. [1935 c. 186]

**236.143 Subdivision control; in populous counties.** (1) **DECLARATION OF LEGISLATIVE INTENT.** The purpose of this section is to promote the public health, safety and the general welfare of the community and the regulations authorized to be made are designed to lessen congestion in the streets and highways and further the orderly layout and use of land; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; to facilitate the further resubdivision of larger tracts into smaller parcels of land. The regulations provided for by this section shall be made with reasonable consideration, among other things, of the character of the county with a view of conserving the value of buildings placed upon land, providing the best possible environment for human habitation, and for encouraging the most appropriate use of land throughout the county.

(2) **GRANT OF POWER.** The county board of any county having a population of 500,000 or more may by ordinance regulate, restrict, and in specific areas prohibit the division or subdivision of land within the county outside the limits of incorporated cities or villages. This section, and any ordinance, resolution or regulation hereafter enacted or adopted pursuant thereto, shall be liberally construed in favor of the county and as minimum requirements adopted for the purposes stated in subsection (1). It shall not be deemed a limitation or repeal of any power elsewhere granted or appearing in chapter 236 relating

to the platting of lands, except where the regulations adopted pursuant to authority contained in this section are more restrictive than such other provisions of chapter 236.

(3) **PROCEDURE.** The rural planning board or county park commission of such county shall prepare a draft of suitable rules, regulations or ordinances, hold public hearings on such tentative draft, and thereafter submit a final draft thereof to the county board which shall proceed to consider the draft and which may adopt rules, regulations or ordinances with respect thereto, provided that the county board shall, before it adopts such ordinances, rules or regulations, submit the same to the town board of the town in which any lands which may be affected by any ordinance are situated and thereupon obtain the approval of the town board of such ordinance, rule or regulation so far as the same affects the land in such town, which ordinance may thereafter be adopted by the county board and be in effect in the town or towns whose town boards shall have given their approval thereto. At any time thereafter, the county board may amend such rules, regulations or ordinances after submitting the proposed amendments to the rural planning board or park commission for its recommendation and report thereon and after the proposed ordinance, rule or regulation embodying such amendment shall have been submitted to the town board of the town in which lands to be affected thereby are located and the approval thereof by the town board obtained. Before adopting any original or amendatory ordinance, rule or regulation, the county board shall hold a public hearing. Notice of the public hearing shall be given by publication in such manner as the county board shall determine. [1945 c. 218]

**236.15 Sale of lands abutting on private way.** (1) It shall be unlawful for any person to sell any lot or parcel of land of one acre or less in size if it shall abut on a private street, alley, way or common which has not been dedicated on a duly approved and recorded plat, or which is not required to be maintained as such by either the town or the county, unless the town or county boards, or their authorized officer or agent shall first determine that the said highway, street, way or common, and the lot or parcel, does not conflict with the plans of the town or county in which said lot or parcel is located for the development of the surrounding area and unless the owner before or at the time of such sale, shall have informed the purchaser in writing that the lot or parcel of land to be sold abuts on a private street, alley, way or common that has not been dedicated on a duly approved and recorded plat, or is not required to be maintained by either the town or the county.

(2) Any person violating any of the provisions of this section shall be punished by a fine not exceeding two hundred dollars, or by imprisonment in the county jail not less than ten days or not more than thirty days. [1935 c. 186]

**236.16 Sale of unplatted lands; sale by metes and bounds prohibited.** (1) Whenever any owner, subdivider or his agent has divided land into five or more lots of one and one-half acres each or less in area, or shall in any calendar year have divided any tract of land into five or more parts of one and one-half acres each or less in area, for the purpose of sale, such owner, subdivider or his agent shall cause to be recorded in the office of the register of deeds of the county in which any portion of said land is located, a final plat thereof in all respects in full compliance with this chapter.

(2) It shall be unlawful for any subdivider or any other person to contract for the sale, to sell, or offer to sell any such subdivision or part thereof, until a final plat thereof in compliance with the provisions of this chapter has been duly recorded in the office of the register of deeds of the county in which said subdivision is located.

(3) It shall be unlawful for any person to sell, contract to sell, or offer for sale any such subdivision, or any part thereof, by reference to any map or plat, unless such map or plat has been recorded as provided in this chapter.

(4) Any sale contrary to the provisions of this section shall be punishable by a fine of not less than twenty-five dollars, and not more than five hundred dollars, or by imprisonment in the county jail not more than six months, or by both such fine and imprisonment. Nothing herein contained shall be deemed to bar any remedy to which any aggrieved municipality, or other political subdivision, or person may otherwise be entitled. Any sale, or contract to sell contrary to the provisions of this section shall be voidable at the option of the buyer or person contracting to purchase, his heirs, personal representative or trustee in insolvency or bankruptcy within one year after the execution of the document of sale or contract but such document shall be binding upon the vendor, his assignee, heir or devisee.

(5) This section shall not be construed to require the preparation and recording of a final plat of any subdivision which has been staked out and in which sales or contracts of sale have actually been made prior to the effective date of this section, 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 the effective date

of this section as a condition precedent to the sale or contract of sale of the whole or part thereof. [1935 c. 186]

**Note:** Sale in one year of more than 4 extent in an unplatted subdivision violates parcels of land each less than 1½ acres in this section. 36 Atty. Gen. 185.

**236.17 Vacating plats.** Upon the application of the proprietors of any recorded plat of land, or upon the application of the proprietors of any part of any such plat or of any lot therein, the circuit court for the county may alter or vacate such plat or any part thereof except such parts thereof as have been dedicated to and accepted by the public for public use. Notice of such application shall be given by posting a written notice thereof in at least 2 of the most public places in the county and by publishing a copy of the same in a newspaper published or circulated in said county once in each week, at least 3 weeks prior to the time the application is to be made, and by the service of such notice in the manner required for the service of a summons in the circuit court on the town, city or village in which such plat or part thereof is situated and also upon the county in all cases provided for in section 236.06 (1) (i), at least 3 weeks previous to the time fixed by the notice for making such application. [1935 c. 186; 1939 c. 513 s. 49; 1945 c. 484; 1947 c. 506]

**Note:** Sections 236.13, 236.14, Stats. 1933, relating to the vacation of plats, in effect when land was platted and when a purchaser purchased a lot, are imported into his contract of purchase, making his rights subject to the statutes cited in the absence of any provision in his contract to the contrary; and under such statutes the joinder of all other owners of land in a plat is unnecessary in a petition by one owner for the vacation of the plat. The circuit court has authority to vacate a plat without the consent of the municipalities whose officials have approved the platting of the land. In re Vacation of Plat of Garden City, 221 W 134, 266 NW 202. The vacation of a plat under 236.17 and 236.18 merely frees the land from certain easements, and the title to the land remains where it was before, as against a contention that the vacation of a plat should be denied because it would adversely affect restrictive covenants contained in deeds of lots. Whether a plat shall be vacated rests in the sound discretion of the trial court. In re Henry S. Cooper, Inc., 240 W 377, 2 NW (2d) 866.

**236.18 Hearing; judgment.** Upon producing satisfactory evidence that such notices have been given and served the court shall hear all parties in interest and determine such petition, and may vacate such plat or any part thereof and enter judgment accordingly; and when it shall appear that such plat has been recorded for more than forty years preceding the filing of the application for vacation and that the streets within that part of the plat sought to be vacated have during all of said period remained in their natural conditions and have not been improved as streets and that such streets are not necessary as a means of reaching other platted property, and that all of the owners of all of the land within the part of the plat sought to be vacated have joined in the petition, the court shall vacate such plat or part thereof and enter judgment accordingly. The judgment so made, together with the plat, if only a part of the plat is vacated, showing the part vacated, shall be recorded in the office of the register of deeds. [1935 c. 186]

**236.19 Application by county board.** The circuit court of the proper county may, in like manner and upon like notice, vacate any such plat or part thereof, upon the application of the county board of the county in which the same is situated, whenever the county has acquired an interest therein by tax deeds or tax certificates. [1935 c. 186]

**Note:** District attorney, while he need handle only such applications to vacate plats as county may legally prosecute, has duty to represent county board in such proceedings and is not entitled to extra compensation therefor. 29 Atty. Gen. 245.

**236.20 Description by lot and block authorized.** Whenever any plat shall have been properly recorded the several lots designated on said plat may, for all purposes of assessment, taxation, conveyance, devise and descent, be known and described by the numbers given to the lots and block on said plat with the addition of the title of the plat. [1935 c. 186]

**236.21 Construction of deeds of conveyance under section 236.20.** Any deed which conveys lands described according to a recorded plat pursuant to section 236.20 shall be held and construed to convey to the grantee all portions of vacated streets and alleys abutting such lots and belonging to the grantor, unless the grantor shall by appropriate language indicate an intention to reserve or except such portions of such vacated streets and vacated alleys from the conveyance. [1945 c. 186]