

CHAPTER 236.

PLATTING LANDS AND RECORDING AND VACATING PLATS.

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PRELIMINARY PROVISIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) "Director" means the director of the planning function of the department of resource development.

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

History: 1961 c. 214.

Under (6), defining a "preliminary plat" as a map showing the salient features of a proposed subdivision submitted to an approving authority for the purpose of preliminary consideration, a preliminary plat need not meet all the requirements of a final plat, and the preliminary plat involved in the instant case was nonetheless a preliminary plat because of showing a non-existent artificial lake on the plat as a proposed. Lakeshore Development Corp. v. Plan Comm. 12 W (2d) 560, 107 NW (2d) 590.

236.03 Survey and plat; when required. (1) Any division of land which results in a subdivision as defined in s. 236.02 (8) (a) shall be, and any other division may be, surveyed and a plat thereof approved and recorded as required by this chapter. No map or survey purporting to create divisions of land or intending to clarify metes and bounds descriptions may be recorded except as provided by this chapter.

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

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

History: 1961 c. 214.

A lot, consisting of three platted lots, to (1), Scheer v. Weis, 13 W (2d) 408, 108 could be legally divided into two parcels or NW (2d) 523.
building sites without replatting pursuant

APPROVAL OF PLAT

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

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

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

1. The town board; and
2. The governing body of the municipality if, by July 1, 1958, or thereafter it adopts a subdivision ordinance or an official map; and
3. The county planning agency if such agency employs on a full-time basis a professional engineer, a planner or other person charged with the duty of administering zoning or other planning legislation.

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

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

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

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

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

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

236.11 Submission of plats for approval. (1) (a) Before submitting a final plat for approval, the subdivider may submit, or the approving authority may require that he submit, a preliminary plat. It shall be clearly marked "preliminary plat" and shall be in sufficient detail to determine whether the final plat will meet layout requirements. Within 40 days the approving authority, or its agent authorized to approve preliminary plats, shall take action to approve, approve conditionally, or reject such plat and shall state in writing any conditions of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the approving authority or its agent to act within such 40 days, or extension thereof, shall constitute an approval of the preliminary plat.

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

(2) The body or bodies having authority to approve plats shall approve or reject the final plat within 60 days of its submission, unless the time is extended by agreement with the subdivider. When the approving authority is a municipality and determines to approve the plat, it shall give at least 10 days' prior written notice of its intention to the clerk of any municipality whose boundaries are within 1,000 feet of any portion of such proposed plat but failure to give such notice shall not invalidate any such plat. If a plat is rejected, the reasons therefor shall be stated in the minutes of the meeting and a copy thereof or a written statement of the reasons supplied the subdivider. If the approving authority fails to act within 60 days and the time has not been extended by agreement and if no unsatisfied objections have been filed within that period, the plat shall be deemed approved, and, upon demand, a certificate to that effect shall be made on the face of the plat by the clerk of the authority which has failed to act.

History: 1961 c. 324.

See note to 236.13, citing *Lakeshore Development Corp. v. Plan Comm.* 12 W (2d) 560, 107 NW (2d) 590.

236.12 Procedure for approval of plats. (1) This section shall not apply to cities of the first class nor to unincorporated land in a county having a population of 500,000 or more.

(2) Within 2 days after a preliminary or final plat is submitted for approval, legible copies, together with a list of the authorities to which the plat must be submitted for approval under s. 236.10 or objection under this subsection, furnished by the subdivider at his expense, shall be sent, by the clerk or secretary of the approving authority to which the plat is submitted, to the following agencies which have authority to object to the plat:

(a) Two copies for each of the state agencies required to review the plat to the director who shall examine the plat for compliance with ss. 236.15, 236.16, 236.20 and 236.21 (1) and (2). If the subdivision abuts or adjoins a state trunk highway or connecting street, the director shall transmit 2 copies to the state highway commission so that agency may determine whether it has any objection to the plat on the basis of its rules as provided in s. 236.13. If the subdivision is not served by a public sewer and provision for such service has not been made, the director shall transmit 2 copies to the state board of health so that agency may determine whether it has any objection to the plat on the basis of its rules as provided in s. 236.13. In lieu of this procedure the agencies may designate local officials to act as their agents in examining the plats for compliance with the statutes or their rules by filing a written delegation of authority with the approving body.

(b) Four copies to the county planning agency, if such agency employs on a full-time basis a professional engineer, a planner, or other person charged with the duty of administering planning legislation so that body may determine if it has any objection to the plat on the basis of conflict with park, parkway, expressway, major highways, airports, drain-

age channels, schools, or other planned public developments; or where no planning agency exists, then two copies to the county park commission, if the subdivision abuts a county park or parkway so that body may determine if it has any objection to the plat on the basis of conflict with the park or parkway development;

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

(4) The clerk or secretary of the approving authority forwarding copies of the plat under sub. (2) shall certify on the face of the plat that the copies were forwarded as required and the date thereof and that no objections to the plat have been filed within the 20-day limit set by sub. (3) or, if filed, have been met.

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

(6) In lieu of the procedure under subs. (2) to (5), the subdivider or his agent may submit the original plat directly to each of the agencies authorized by sub. (2) to object. Each such agency shall have 20 days from the date of the submission of the original plat in which to examine it for any objections based upon failure of the plat to comply with the statutes or rules which its examination under sub. (2) is authorized to cover. If the agency has no objection or when its objections are satisfied, it shall so certify on the face of the plat. If the agency fails to act within 20 days from the date of the submission of the plat, it shall be deemed to have no objection to the plat and, upon demand, it shall so certify on the face of the plat.

(8) In order to facilitate approval of the final plat where more than one approval is required, the subdivider may file a true copy of the plat with the approving authority or authorities with which the original of the final plat has not been filed. The approval of such authorities may be based on such copy but shall be inscribed on the original of the final plat. Before inscribing its approval, the approving authority shall require the surveyor or the owner to certify the respects in which the original of the final plat differs from the copy. All modifications in the final plat shall be approved before final approval is given.

History: 1961 c. 214.

236.13 Basis for approval. (1) Approval of the preliminary or final plat shall be conditioned upon compliance with:

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

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

(b) Any city or village may require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets, alleys or other public ways to be placed on the official map, that designated facilities shall have been previously provided without cost to the municipality, but which are constructed according to municipal specifications and under municipal inspection, such as, without limitation because of enumeration, sewerage, water mains and laterals, grading and improvement of streets, alleys, sidewalks and other public ways, street lighting or other facilities designated by the governing body, or that a specified portion of such costs shall be paid in advance as provided in s. 66.54 (3).

(3) No approving authority or agency having the power to approve or object to plats

shall condition approval upon compliance with, or base an objection upon, any requirement other than those specified in this section.

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

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

History: 1961 c. 336.

Where the subdivider was the owner of part of the land, and had contracts of purchase and options to purchase the rest, this was sufficient to entitle the subdivider to submit a preliminary plat for consideration of the village plan commission, and the subdivider was a "person aggrieved" by the decision of the commission rejecting the preliminary plat, so as to be entitled to appeal therefrom under (5). *Lakeshore Development Corp. v. Plan Comm.* 12 W (2d) 560, 107 NW (2d) 590.

review a village plan commission's rejection of a preliminary plat of a proposed subdivision, a motion to quash the issued writ, made before the plan commission made a return to the writ, was permissible procedure, where the function of the motion was to raise a question of the jurisdiction of the court. *Lakeshore Development Corp. v. Plan Comm.* 12 W (2d) 560, 107 NW (2d) 590.

Requiring dedication of park lands or payment of fees as a condition precedent to plat approval. 1961 WLR 310.

On a petition for a writ of certiorari to

LAYOUT REQUIREMENTS

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

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

(a) The external boundaries of a subdivision shall be monumented in the field by monuments of stone or concrete, not less than 30 inches in length, not less than 4 inches square or 5 inches in diameter, and marked on the top with a cross, brass plug, iron rod, or other durable material securely embedded; or by iron rods or pipes at least 30 inches long and 2 inches in diameter weighing not less than 3.65 pounds per lineal foot. Solid round or square iron bars of equal or greater length or weight per foot may be used in lieu of pipes wherever pipes are specified in this section. These monuments shall be placed not more than 1,400 feet apart in any straight line and at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line and at all angle points along the meander line, said points to be not less than 20 feet back from the ordinary high water mark of the lake or from the bank of the stream, except that when such corners or points fall within a street, or proposed future street, the monuments shall be placed in the side line of the street.

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

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

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

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

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

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

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

History: 1961 c. 214.

236.16 Layout requirements. (1) MINIMUM LOT WIDTH AND AREA. In counties having a population of 40,000 or more, each lot in a residential area shall have a minimum average width of 50 feet and a minimum area of 6,000 square feet; in counties of less than 40,000, each lot in a residential area shall have a minimum average width of 60 feet and a minimum area of 7,200 square feet. In municipalities, towns and counties adopting subdivision control ordinances under s. 236.45, minimum lot width and area may be reduced to dimensions authorized under such ordinances if the lots are served by public sewers.

(2) MINIMUM STREET WIDTH. All streets shall be of the width specified on the master plan or official map or of a width at least as great as that of the existing streets if there is no master plan or official map, but no full street shall be less than 60 feet wide unless otherwise permitted by local ordinance. Streets or frontage roads auxiliary to and located on the side of a full street for service to the abutting property may be not less than 30 feet wide.

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

History: 1961 c. 214.

FINAL PLAT AND DATA

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

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

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

(b) With a binding margin $1\frac{1}{2}$ inches wide on one side, as designated by the register of deeds of the county in which the land is located, and a one inch margin on all other sides.

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

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

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

(b) All monuments erected, corners and other points established in the field in their proper places. The material of which the monuments, corners or other points are made shall be noted at the representation thereof or by legend, except lot corners need not be shown. The legend for metal monuments shall indicate the kind of metal, the diameter, length and weight per lineal foot of the monuments.

(c) The exact length and bearing of the exterior boundaries, the boundary lines of all blocks, public grounds, streets and alleys, and all lot lines, except that when the lines in any tier of lots are parallel it shall be sufficient to mark the bearings of the outer lines on one tier thereof. Easements shall be shown by center line and width when lines are parallel to a boundary, otherwise boundary bearings and distances shall be shown. Where the exterior boundary lines show bearings or lengths which vary from those recorded in abutting plats or certified surveys there shall be the following note placed along such lines, "recorded as (show recorded bearing or length or both)".

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

(e) All lots in each block consecutively numbered. Outlots shall be lettered in alphabetical order. If blocks are numbered or lettered, outlots shall be lettered in alphabetical order within each block.

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

(g) All lake or stream shore meander lines established by the surveyor in accordance

with s. 236.15 (1) (d), the distances and bearings thereof, and the distance between the point of intersection of such meander lines with lot lines and the ordinary high water mark.

(h) The center line of all streets.

(i) A north point properly located thereon.

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

When such angles are between a curve and its tangent, the angle shown shall be that between the tangent and the main chord of the curve. When between curves of different radii, the angle between the main chords.

(k) When a street is on a circular curve, the main chords of the right-of-way lines shall be drawn as dotted lines in their proper places; and either on them, or in an adjoining table, shall be noted their bearings and lengths, the radius of the circle of which the curve is a part, the central angle subtended and the tangent bearing at either the point of curve or point of tangency. The lot lines may be shown in the same manner or by bearings and distances. When a circular curve of 30-foot radius or less is used to round off the intersection between 2 straight lines, it shall be tangent to both straight lines; it shall be sufficient to show on the plat the radius of the curve and the tangent distances from the points of curvature to the point of intersection of the straight lines.

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

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

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

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

(c) A small drawing of the section or governmental subdivision of the section in which the subdivision lies with the location of the subdivision indicated thereon. This drawing shall be oriented on the sheet in the same direction as the main drawing.

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

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

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

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

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

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

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

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

(a) All existing buildings;

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

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

History: 1961 c. 214.

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

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

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

(b) A clear and concise description of the land surveyed, divided and mapped by government lot, recorded private claim, quarter-quarter section, section, township, range and county; and by metes and bounds commencing with some corner marked and established by the U. S. public land survey; or if such land is located in a recorded subdivision or recorded addition thereto, then by the number or other description of the lot, block or subdivision thereof, which has previously been tied to a corner marked and established by the U. S. public land survey.

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

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

(2) **OWNER'S CERTIFICATE.** (a) A certificate by the owner of the land in substantially the following form: "As owner I hereby certify that I caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on the plat. I also certify that this plat is required by s. 236.10 or 236.12 to be submitted to the following for approval or objection: (list of governing bodies required to approve or allowed to object to the plat)." This certificate shall be signed by the owner, his wife, and all persons holding an interest in the fee of record or by being in possession and, if the land is mortgaged, by the mortgagee of record. These signatures shall be acknowledged in accordance with s. 235.19.

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

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

History: 1961 c. 214.

RECORDING OF PLATS

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

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

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

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

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

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

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

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

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

236.26 Notification to approving authorities. When a final plat is recorded the register of deeds shall notify all authorities required by s. 236.10 to approve or permitted by s. 236.12 to object to the plat by mailing to the clerk of each authority written notice thereof.

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

236.28 Description of lots in recorded plat. When a subdivision plat has been recorded in accordance with s. 236.25, the lots in that plat shall be described by the name of

the plat and the lot and block in the plat for all purposes, including those of assessment, taxation, devise, descent and conveyance as defined in s. 235.50. Any conveyance containing such a description shall be construed to convey to the grantee all portions of vacated streets and alleys abutting such lots and belonging to the grantor unless the grantor by appropriate language indicates an intention to reserve or except them from the conveyance.

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

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

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

236.295 Correction instruments. (1) Correction instruments may be recorded in the office of the register of deeds in the county in which the plat is recorded and may include:

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

(b) Ratifications of a recorded plat signed and acknowledged in accordance with s. 235.19.

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

Correction instruments may not be used to change boundaries of lots in a subdivision, but are to be used for correcting errors in distances, angles, etc., when the recorded plat does not conform to the plat vision, as it exists on the ground. 49 Atty. Gen. 113.

PENALTIES AND REMEDIES

236.30 Forfeiture for improper recording. Any person causing his final plat to be recorded without submitting such plat for approval as herein required, or who shall fail to present the same for record within the time prescribed after approval, shall forfeit not less than \$100, nor more than \$1,000 to each municipality, town or county wherein such final plat should have been submitted.

236.31 Penalties and remedies for transfer of lots without recorded plat. (1) Any subdivider or his agent who offers or contracts to convey, or conveys, any subdivision as defined in s. 236.02 (8) or lot or parcel which lies in a subdivision as defined in s. 236.02 (8) knowing that the final plat thereof has not been recorded may be fined not more than \$500 or imprisoned not more than 6 months or both; except where the preliminary or final plat of the subdivision has been filed for approval with the town or municipality in which the subdivision lies, an offer or contract to convey may be made if that offer or contract states on its face that it is contingent upon approval of the final plat and shall be void if such plat is not approved.

(2) Any municipality, town, county or state agency with subdivision review authority may institute injunction or other appropriate action or proceeding to enjoin a violation of any provision of this chapter, ordinance or rule adopted pursuant to this chapter. Any such municipality, town or county may impose a forfeiture for violation of any such ordinance, and order an assessor's plat to be made under s. 70.27 at the expense of the subdivider or his agent when a subdivision is created under s. 236.02 (8) (b) by successive divisions.

(3) Any conveyance or contract to convey made by the subdivider or his agent con-

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

236.32 Penalty for disturbing or not placing monuments. Any of the following may be fined not more than \$250 or imprisoned not more than one year in county jail:

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

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

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

236.33 Division of land into small parcels in cities of the first class prohibited; penalty. It shall be unlawful to divide or subdivide and convey by deed or otherwise any lot in any recorded plat or any parcel or tract of unplatted land in any city of the first class so as to create a lot or parcel of land which does not have street or public highway frontage of at least 4 feet or an easement to a street or public highway of a minimum width of 4 feet but this section shall not apply to conveyances by tax deed or through the exercise of eminent domain or to such reductions in size or area as are caused by the taking of property for public purposes. This section shall not prohibit the dividing or subdividing of any lot or parcel of land in any such city where the divided or subdivided parts thereof which become joined in ownership with any other lot or parcel of land comply with the requirements of this section, if the remaining portion of such lot or parcel so divided or subdivided complies. Any person who shall make such conveyance or procure such a sale or act as agent in procuring such sale or conveyance shall be fined not less than \$100 or more than \$500 or imprisoned not more than 6 months or both.

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

236.34 Recording of certified survey map; use in conveyancing. (1) **PREPARATION.** A certified survey map of not more than 4 parcels of land may be recorded in the office of the register of deeds of the county in which such land is situated if such certified survey meets the following requirements:

(a) The survey shall be performed and the map prepared by a registered land surveyor.

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

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

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

(2) **RECORDING.** Certified survey maps prepared in accordance with sub. (1) shall be numbered consecutively by the register of deeds and shall be recorded in a bound volume to be kept in the register of deeds' office, known as the "Certified Survey Maps of . . . County". In lieu of the above procedure, the map may be prepared on tracing cloth or paper, and a true scale photostat copy thereof may be recorded.

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

SUPPLEMENTAL PROVISIONS

236.35 Sale of lands abutting on private way outside corporate limits of municipality. (1) No person shall sell any parcel of land of one acre or less in size, located outside the corporate limits of a municipality, if it abuts on a road which has not been accepted as a public road unless the seller informs the purchaser in writing of the fact that the road is not a public road and is not required to be maintained by the town or county.

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

236.36 Replats. A replat of all or any part of a recorded subdivision may not be made or recorded except after proper court action has been taken to vacate the original plat or the specific part thereof; provided that such replat may be made and recorded without taking court action to vacate the original plat or the specific part thereof when all the parties in interest in writing agree thereto.

History: 1961 c. 214.

VACATING AND ALTERING PLATS

236.40 Who may apply for vacation of plat. Any of the following may apply to the circuit court for the county in which a subdivision is located for the vacation or alteration of all or part of the recorded plat of that subdivision:

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

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

In view of this section, plats cannot be by means of a replat or a certified survey altered so as to change boundaries of lots map. 49 Atty. Gen. 113.

236.41 How notice given. Notice of the application for the vacation or alteration of the plat shall be given at least 3 weeks before the application:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The court may vacate land, in a town, platted as a public playground upon the application of the town board where the land has never been used as a playground and is too small for such use.

(4) When the plat is being vacated or altered in any city of the second, third or fourth class or in any incorporated village or town which includes a street, alley or public walkway, said street, alley or public walkway may be vacated or altered by the circuit court proceeding under ss. 236.41 and 236.42 upon the following conditions:

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

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

History: 1961 c. 216.

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

236.445 Discontinuance of streets by county board. Any county board may alter or discontinue any street, slip or alley in any recorded plat in any town in such county, not within any city or village, in the same manner and with like effect as provided in s. 66.296.

SUBDIVISION REGULATION AND REGIONAL PLANS

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

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

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

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

(3) **AREAS IN WHICH SUBDIVISION ORDINANCES APPLY.** An ordinance adopted here-

under by a municipality may regulate the division or subdivision of land within the extra-territorial plat approval jurisdiction of the municipality as well as land within the corporate limits of the municipality if it has the right to approve or object to plats within that area under s. 236.10 (1) (b) 2 and (2).

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

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

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

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

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

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

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

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

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

GENERAL PROVISIONS

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

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

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

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

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