



**WISCONSIN DEPARTMENT OF
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June 2, 2010

PLATTING LETTER #55 – 2010

**TO: WISCONSIN REGISTERED LAND SURVEYORS
AND LOCAL UNITS OF GOVERNMENT**

SUBJECT: REVISIONS TO CH. 236, WIS. STATS.

2009 Wisconsin Acts 376 and 399, signed by Governor Doyle on May 18, 2010 and published June 1, 2010, make significant revisions to Ch. 236, Wis. Stats. All but one of the revisions takes effect June 2, 2010.

Please refer to the attached:

1. Summary and explanation of the revisions to Ch. 236, Wis. Stats.; and
2. Copies of 2009 Wisconsin Acts 376 and 399 containing the revised statutory language for Ch. 236, Wis. Stats.

This information is available on our website <http://doa.wi.gov/platreview> If you have questions regarding the statutory changes and their impact on subdivision plat and certified survey map requirements, please contact us at (608) 266-3200 or plat.review@wi.gov

Sincerely,

Renée Powers, RLS
Plat Review

***** PLEASE SHARE THIS INFORMATION WITH ALL MEMBERS OF YOUR STAFF *****

SUMMARY OF REVISIONS TO CH. 236, WIS. STATS.

From 2009 Wisconsin Acts 376 and 399

This summary is NOT the Statute. It is a guide to the Statute.

Please refer to 2009 Wisconsin Acts 376 and 399 until the updated Statute is available.

<https://docs.legis.wisconsin.gov/2009/related/acts/376.pdf>

<https://docs.legis.wisconsin.gov/2009/related/acts/399.pdf>

s. 236.11 (1) (b) Submittal time limit for final plat following preliminary plat approval. (Effective 6/2/10)

Final plats must be submitted within **36 months** following preliminary plat approval. A local unit of government may extend the time for submission of the final plat.

s. 236.11 (1) (c) Process for determining if a final plat conforms substantially to the preliminary plat. (Effective 6/2/10)

A professional engineer, planner or other person designated to review plats for a local unit of government shall determine if a final plat "substantially conforms" to the preliminary plat. This determination shall be given to the unit of government along with a recommendation for approval/denial of the final plat. The conclusion and recommendation are not required to be in writing but must be made part of the public record at the proceeding which the final plat is being considered.

s. 236.13 (1) (b) Specify that plats need to comply to the local ordinance as it exists when the plat is submitted. (Effective 6/2/10)

Preliminary plats or final plats, if no preliminary plat was submitted for that development, must comply with the local ordinance which was in effect when the plat was submitted. If an ordinance is revised while the plat is moving through the review process --- the new requirements **can not** be applied to the plat.

s. 236.13 (2) (a) Surety bond or other security required for improvements is limited to the phase being constructed. (Effective 6/2/10)

The plat may be developed in phases as approved by the local unit of government. The amount of surety bond or other security shall be limited to the phase currently being constructed. Local units of government may not require that the security be provided sooner than is reasonably necessary before the installation of improvements begins.

s. 236.25 (2) (b) Time limit for recording subdivision plats. (Effective 6/2/10)

Plats must be recorded within **12 months** after the last approval and **36 months** from the first approval.

NOTE: Recording time limits for CSMs have NOT changed.

s. 236.45 (2) (ac) Ways in which local ordinances MAY NOT be more restrictive than state statutes. (Effective 1/2/11)

Local ordinances may not have more restrictive time limits, deadlines, notice requirements or be more restrictive in other provisions of ch. 236, Wis. Stats. that provide protections for the subdivider.

s. 236.45 (3) (b) Local review of plat or CSM based upon the lands proposed use. (Effective 6/2/10)

Local units of government may not review a plat or CSM, within their extraterritorial plat approval jurisdiction, based upon the lands proposed use, unless the their approval/denial is based upon a plan or regulations adopted under s. 62.23 (7a) (c), Wis. Stats. (extraterritorial zoning).

Nonstatutory provisions of Act 376 related to s. 236.45 (2) (ac)

City, village, town and county ordinances must comply with this change on or after the first day of the 7th month beginning after the effective date of Act 376, which is June 2nd, 2010, or the ordinance can not be enforced.

Therefore, local ordinances must be modified in accordance with the act by January 2, 2011.

Nonstatutory provisions of Act 376 related to s.236.13(1)(b) & (2)(a); s.236.11(1)(b) & (c); s.236.25(2)(b) and s. 236.45 (3) (b).

Changes to these sections of the statute apply to all plats as of **June 2, 2010**.

State of Wisconsin



2009 Senate Bill 626

Date of enactment: **May 18, 2010**
Date of publication*: **June 1, 2010**

2009 WISCONSIN ACT 376

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

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

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

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

SECTION 2. 236.11 (1) (c) of the statutes is created to read:

236.11 (1) (c) A professional engineer, a planner, or another person charged with the responsibility to review plats shall provide the approving authority with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation on approval of the final plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the final plat is being

considered and are not required to be submitted in writing.

SECTION 3. 236.13 (1) (b) of the statutes is amended to read:

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

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

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

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 7. 236.25 (2) (b) of the statutes is amended to read:

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

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

236.45 (2) (ac) To accomplish the purposes listed in sub. (1), any municipality, town or county ~~which that~~ has established a planning agency may ~~adopt enact~~ ordinances governing the subdivision or other division of land ~~which that~~ are more restrictive than the provisions of this chapter. ~~Such ordinances, except that no ordinance may modify in a more restrictive way time limits, deadlines, notice requirements, or other provisions of this chapter that provide protections for a subdivider.~~

(am) Ordinances under par (ac) may include provisions regulating divisions of land into parcels larger than 1 1/2 acres or divisions of land into less than 5 parcels, and may prohibit the division of land in areas where such prohibition will carry out the purposes of this section. Such ordinances shall make applicable to such divisions all 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 shall require that a plat of such division be recorded with the register of deeds and kept in a book provided for that purpose. "COUNTY PLAT," "MUNICIPAL PLAT," or "TOWN PLAT" shall be printed on the map in prominent letters with the location of the land by government lot, recorded private claim, quarter-quarter section, section, township, range, and county noted. When so recorded, the lots included in the plat shall be described by reference to "COUNTY PLAT," "MUNICIPAL PLAT," or "TOWN PLAT," the name of the plat and the lot and block in the plat, for all

purposes, including those of assessment, taxation, devise, descent, and conveyance as defined in s. 706.01 (4). Such ordinance, insofar as it may apply to divisions of less than 5 parcels, shall not apply to:

SECTION 10. 236.45 (2) (a) 1. to 4. of the statutes are renumbered 236.45 (2) (am) 1. to 4.

SECTION 11. 236.45 (6) (am) of the statutes is amended to read:

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

SECTION 12. Nonstatutory provisions.

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

SECTION 13. Initial applicability.

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

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

(3) The treatment of section 236.25 (2) (b) of the statutes first applies to final plats that are submitted for recording on the effective date of this subsection.

State of Wisconsin



2009 Assembly Bill 260

Date of enactment: **May 18, 2010**
Date of publication*: **June 1, 2010**

2009 WISCONSIN ACT 399

AN ACT *to renumber* 236.45 (3); and *to create* 236.45 (3) (b) of the statutes; **relating to:** extraterritorial plat approval on basis of land's use.

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

SECTION 1. 236.45 (3) of the statutes is renumbered 236.45 (3) (a).

SECTION 2. 236.45 (3) (b) of the statutes is created to read:

236.45 (3) (b) Notwithstanding par. (a) and subs. (1) and (2), a municipality may not deny approval of a plat or certified survey map under this section or s. 236.10 or

236.13 on the basis of the proposed use of land within the extraterritorial plat approval jurisdiction of the municipality, unless the denial is based on a plan or regulations, or amendments thereto, adopted by the governing body of the municipality under s. 62.23 (7a) (c).

SECTION 3. Initial applicability.

(1) This act first applies to preliminary plats or, in cases in which no preliminary plats are submitted, final plats, and to certified survey maps, that are submitted for approval on the effective date of this subsection.

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].