

CHAPTER 23

LAND DIVISION AND SUBDIVISION REGULATIONS

23.01 INTRODUCTION

- (1) Authority
- (2) Purpose and Intent
- (3) Severability
- (4) Municipalities and State Agencies Regulated
- (5) Abrogation and Greater Restrictions
- (6) Interpretation
- (7) Title
- (8) Effective Date

23.02 DEFINITIONS

23.03 GENERAL PROVISIONS

- (1) Jurisdiction in Unincorporated Areas
- (2) Jurisdiction in Incorporated Areas
- (3) Compliance with Ordinances, Statutes, Regulations and Plans
- (4) Classification of Land Divisions
- (5) Exceptions
- (6) Access

23.04 PROCEDURE

- (1) Application and Review of Minor Subdivisions and County Subdivisions

23.05 VARIANCES AND FEES

- (1) Variances
- (2) Fees

23.06 VIOLATIONS AND PENALTIES

23.01 INTRODUCTION

- (1) **Authority.** These regulations are adopted under the authority granted by §236.45 Wis. Stats. and pursuant to §59.69(3) and §281.31 Wis. Stats., or the Statutes as amended.
- (2) **Purpose and Intent.** The purpose of this code is to promote the public health, safety and general welfare of the residents and landowners of the County, to further the orderly layout and use of land, and to secure safety from fire, panic and other dangers.
- (3) **Severability.** If any section, provision or portion of this chapter is adjudged invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- (4) **Municipalities and State Agencies Regulated.** Unless specifically exempted by law, all municipalities (local, county, state or federal) are required to comply with this chapter.
- (5) **Abrogation and Greater Restrictions.** The provisions of this chapter supersede all the provisions of any County zoning chapter adopted under §59.69 Wis. Stats. However, where an ordinance adopted under §59.69 Wis. Stats. or an ordinance adopted under a statute other than §59.69 Wis. Stats., is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - (a) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- (6) **Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any powers granted by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in Wisconsin Administrative Code, and where the provision is unclear, the provision shall be interpreted in light of the Wisconsin Administrative Code standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.
- (7) **Title.** This chapter shall be entitled the Land Division and Subdivision Regulations, Marinette County, Wisconsin.
- (8) **Effective Date.** This chapter shall be effective upon adoption of the County Board and publication.

23.02 DEFINITIONS

For the purposes of this chapter, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word shall is mandatory.

- (1) **Administrator.** The Marinette County Land Information Director or any other staff member(s) designated by the Director or Committee to administer the ordinance.

- (2) **Certified Survey Map or CSM.** A map of land division, not a subdivision, prepared in accordance with §236.32 Wis. Stats., and in full compliance with the applicable provisions of this ordinance. A certified survey map has the same legal force and effect as a subdivision plat.
- (3) **Committee.** The Development Committee of the Marinette County Board of Supervisors.
- (4) **County Plat.** A map of a division of land prepared in the same manner as required in Chapter 236, Wis. Stats., except that all reviews are completed at the County level, in accordance with the terms of this chapter and where the land is not served by sanitary sewer.
- (5) **Land Division.** Any division of a lot, parcel or tract of land where the act of division creates a lot, parcel or building site of less than nine (9) contiguous acres.
- (6) **Lot.** A contiguous parcel of land under one (1) ownership, and undivided by street, railroad rights-of-way or navigable waters. All calculations of lot area shall be exclusive of any dedications, right-of-way easements, or reservations.
- (7) **Navigable Waters.** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under §281.31(2m) Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under §56.692 Wis. Stats., and Chapter NR115, Wisconsin Administrative Code, do not apply to lands adjacent to farm drainage ditches if:
 - (a) such lands are not adjacent to a natural navigable stream or river,
 - (b) those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - (c) such lands are maintained in nonstructural agricultural useWisconsin Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis (Muench v. Public Service Commission, 262 Wis. 492 Wis. (1952) and DeGayner and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1974)).
- (8) **Ordinary Highwater Mark.** The point on the bank of shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
- (9) **Parcel.** Contiguous lands under the control of a subdivider(s) not separated by streets, highways or railroad rights-of-way.
- (10) **Private Street.** A strip of land, which provides vehicular ingress and egress to more than one lot, parcel or tract of land which is under private ownership.
- (11) **Public Street.** A strip of land, which provides vehicular ingress and egress to a lot, parcel, or tract of land which has been dedicated to the public or the public has a perpetual easement.

- (12) **Shoreland Area.** All lands lying within one thousand (1,000) feet of the ordinary highwater mark of navigable lakes, ponds, or flowages, or within one thousand (1,000) feet of the ordinary highwater mark of glacial potholes; all lands lying within three hundred (300) feet of the ordinary highwater mark of navigable streams, rivers, or within the floodplain thereof, whichever distance is greater. For the purposes of this chapter, the term navigable waters applies to all non-intermittent streams and bodies of water indicated on the 7.5 minute series of the United States Geological Survey Quadrangles and any other rivers, streams, lakes, ponds or flowages designated as navigable by the Wisconsin Department of Natural Resources.
- (13) **Subdivider.** A person, firm, corporation and/or their designated agent initiating the creation of a land division or subdivision.
- (14) **State Subdivision.** The division of lot, parcel, tract of land by the owner thereof or owner's agent for the purpose of sale or building development where:
- (a) The act of division creates five (5) or more lots, parcels or tracts of land of one and one-half (1 ½) acres or less in area: or
 - (b) Five (5) or more lots, parcels, or tracts of land of one and one-half (1½) acres each or less are created by successive divisions within a period of five (5) years.
- (15) **Tax Parcel.** Any parcel which is assessed and taxed as one (1) unit or assigned a single parcel number in a current year.

23.03 GENERAL PROVISIONS

- (1) **Jurisdiction in Unincorporated Areas.** The provisions of this chapter shall apply in all unincorporated areas of Marinette County.
- (2) **Jurisdiction in Incorporated Areas.** The provisions of this chapter shall apply in all incorporated areas which have, under §66.30 Wis. Stats., entered into agreement with Marinette County for the cooperative exercise of the authority to approve land divisions or plats of subdivisions.
- (3) **Compliance with Ordinances, Statutes, Regulations and Plans.** Any person, firm or corporation dividing land which results in a subdivision or a land division shall prepare a subdivision plat of a certified survey map in accordance with the requirements of this chapter and:
- (a) The provisions of Chapter 236, and §80.08 Wis. Stats.
 - (b) The rules of the Division of Highways, Wisconsin State Department of Transportation contained in TRANS 233, Wisconsin Administrative Code for subdivisions, which abut a state trunk highway or connecting street.
 - (c) The rules of the Wisconsin Department of Natural Resources contained in NR116, Wisconsin Administrative Code for floodplain management programs.
 - (d) County codes.
 - (e) Comprehensive Land Use Plan.
 - (f) The rules and by-laws of the State of Wisconsin Department of Regulation and Licensing.

- (4) Classification of Land Divisions.** Any contiguous parcel or tract which is owned, controlled or managed as a single entity shall be treated as a single parcel or tract for the purpose of this ordinance unless it is bisected by an existing dedicated street, existing public road or by navigable water. The Administrator shall determine whether the proposed land division satisfies the above definition and this determination shall be subject to review by the Committee. Land divisions are classified under this chapter as either:
- (a) **MINOR SUBDIVISIONS.** A minor subdivision shall include the creation of any lot, parcel, tax parcel or building site, which is less than nine (9) acres in size. Land divisions, which are classified as a minor subdivision, shall be created by CSM or County Plat.
 - (b) **STATE SUBDIVISIONS.** Land divisions meeting the definition of state subdivisions are subject to mandatory State review under Chapter 236, Wis. Stats.
- (5) Exceptions.** The provisions of this chapter shall not apply to:
- (a) Transfer of interests in land by will or pursuant to court order.
 - (b) Land divisions created by CSM or State Plat which have been reviewed by the local municipality for compliance with the requirements of Chapter 236 of the Wis. Stats. and signed by a representative of the local municipality having jurisdiction.
 - (c) Leases for a term not to exceed ten (10) years, mortgages or easements.
 - (d) The sale or exchange of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum size required by the County Shoreland/Weland Zoning Code or other applicable laws or ordinances.
- (6) Access.** No lot, parcel or tract of land shall be created unless it is accessible to a public or private street. Lot frontage on a privately owned street may be permitted provided the local municipality notifies the Administrator of the approval in writing. Ownership of lots, parcels or tracts of land created on private streets shall extend to the centerline of the private streets.

23.04 PROCEDURE

- (1) Application and Review of Minor Subdivisions and County Subdivisions.**
- (a) Minor subdivisions shall be created by use of a certified survey map (CSM) or County Plat. One (1) copy of an application form provided by the County and a legible copy of the CSM or County Plat shall be submitted to the Administrator.
 - (b) Minor subdivisions shall comply with the requirements of Chapter A-E7 Wisconsin Administrative Code. CSM's shall comply with §236.34 Wis. Stats., and County Plats shall comply with the requirements of §236.20 Wis. Stats., in addition to the following requirements:
 - (1) Date of preparation.
 - (2) Name and address of the owner of the parcel to be divided.
 - (3) Location of existing buildings, adjoining streets, highways, parks, cemeteries and subdivisions.

- (4) Location of the ordinary highwater mark (OHWM) of navigable water and water elevation (one (1) elevation for every four (4) lots, parcels or tracts of land) on the date of survey of any navigable water. Water elevation may be provided in assumed datum provided the benchmark is identified on the face of the CSM or County Plat. Any minor subdivision submitted for county approval shall show the ordinary highwater mark wherever the OHWM is within seventy-five (75) feet of the subject parcel.
 - (5) Location of existing wells, drainfield vents, septic, pump and holding tanks. The approximate outline of the base of any mound or above grade drainfield.
 - (6) Apparent easements or private rights-of-way which adjoin or cross the property.
 - (7) Adjoining property information (vol., pg., Doc. #, CSM #, Plat, etc.).
 - (8) A statement by the surveyor certifying that the requirements of this Chapter and Chapter 236 of the Wis. Stats. have been fully complied with.
 - (9) The area of the surveyed parcel shall be shown as square feet and acres.
 - (10) An Owners Certificate in substantially the following form: “As owner I hereby certify that I caused the land described on this map to be surveyed, divided, mapped and dedicated as represented on this map.”
 - (11) A County’s Certificate in substantially the following form: “This certified survey map has been reviewed and approved by the Marinette County Development Committee or the Administrator this _____ day of _____ 20__.”
- (c) The application for any proposed Minor Subdivision with lots, parcels, or new streets requiring direct access onto a County, State, U.S. or Federal Highway shall be reviewed by the Highway Commissioner or WI Department of Transportation (DOT) as appropriate. When access is being requested onto a County Highway, a copy of the application shall be forwarded to the Highway Commissioner by the Administrator at the time of application. If, within five (5) workdays, the application has not been approved or denied by the Highway Commissioner, the survey may be reviewed and approved. When access is being requested onto a State, U.S. or Federal Highway, the provisions of Wisconsin Administrative Code TRANS 233 shall be complied with. A copy of the decision of the DOT shall be submitted with the request for review of a survey map.
- (d) The Administrator shall transmit a copy of the application and map to the County Surveyor and the Town Chairperson of the town where the property is located for review. Within ten (10) working days of the date a complete application is received, the Administrator or designees shall approve, conditionally approve or disapprove a minor subdivision. Failure

to act within ten (10) working days shall constitute approval of the application.

- (e) The conditional approval or disapproval of a Subdivision application may be appealed to the Committee upon written request. The Administrator shall place the minor subdivision application on the Committee's agenda and submit a copy of the agenda to any governments, agencies or other parties who may have an interest.
- (f) The Committee shall, within forty-five (45) calendar days of receipt of written request, review the application, map and reasons for denial against the applicable standards of this chapter, and approve, approve conditionally, or disapprove the application and map based upon a determination of conformity or nonconformity with the standards.
- (g) The action of the Committee on the application shall be stated in writing in the minutes of the Committee meeting and those minutes or an extract thereof shall be mailed to the applicant. Failure of the Committee to act within forty-five (45) calendar days of the date of receipt of written request or within a time as extended by agreement with the subdivider shall constitute an approval.
- (h) Correction of errors on a recorded CSM or Plat, or the replatting of a lot(s) on a recorded CSM or plat shall indicate on the face of the new document (Affidavit, CSM or Plat), the volume, page, document number, CSM # or Plat Name of the previously recorded document which is being corrected or replatted.

23.05 VARIANCES AND FEES

- (1) **Variances.** In the event the Committee finds that unnecessary hardship may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done; provided that public interest is secured and that such variation will not have the effect of nullifying the intent and purpose of this chapter.
 - (a) Any modification or variance thus granted shall be entered in the minutes of the Committee, setting forth the reasons, which, in the judgement of the Committee, justified the modification or variance.
- (2) **Fees.** The subdivide shall pay such fees as shall be periodically established by the Committee and approval by the Marinette County Board of Supervisors.
 - (a) A reduction of twenty-five (25) percent of the fees established for review and approval of land divisions and subdivisions will be given if the subdivider or agent provides a complete digital copy on diskette or CD Rom which is compatible to the mapping software being used by the County.

23.06 VIOLATIONS AND PENALTIES

- (1) Any person, firm or corporation who fails to comply with the provisions of these regulations shall, upon conviction thereof, be subject to penalties and forfeitures as provided in §236.30, 236.31, 236.32, 236.335 and 236.35 of the Wis. Stats., as well as Chapter 25 of the Marinette County Code of

Ordinances. Each day, which the violation exists, shall constitute a separate offense.
(Ord #265 6/24/03)