

## Chapter 360

### SUBDIVISION OF LAND

**[HISTORY: Adopted by the Village Board of the Village of Forestville 1-8-1990 by Ord. No. 1-90 as Ch. 18 of the 1990 Code. Amendments noted where applicable.]**

#### GENERAL REFERENCES

**Building construction and fire prevention** — See Ch. 160.

**Floodplain zoning** — See Ch. 210.

**Mobile homes and mobile home parks** — See Ch. 270.

**Streets and sidewalks** — See Ch.

**Zoning** — See Ch. 395.

#### **§ 360-1. Authority, purpose and interpretation.**

- A. **Authority.** This chapter is enacted pursuant to the authority granted by § 236.45, Wis. Stats.
- B. **Purpose.** The purpose of these regulations is to promote the public health, safety and general welfare of the community; lessen congestion in the streets and highways; further the orderly layout and use of land; secure safety from fire, panic and other dangers; provide adequate light and air; prevent overcrowding of land; avoid undue concentration of population; facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; facilitate the further resubdivision of larger tracts into smaller parcels of land; provide for proper ingress and egress; and promote proper monumenting of land subdivided and conveyancing by accurate legal description.
- C. **Interpretation.** The provisions of this chapter shall be interpreted and applied as minimum requirements, shall be construed in favor of the Village and shall not be deemed a limitation or repeal of any power granted to the Village by the Wisconsin Statutes.
- D. **No repeal of other covenants or restrictions.** It is not the intent of this chapter to repeal, abrogate, annul, impair or interfere with any other law, ordinance, resolution, rule or regulation or any existing easements, covenants, deed restrictions, agreements, rules or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall apply.

#### **§ 360-2. Definitions.**

Whenever used in this chapter, the following terms shall have the respective meanings set forth below unless otherwise expressly provided:

**ALLEY or SERVICE WAY** — A public way which provides secondary access to a lot, block or parcel of land.

**BLOCK** — A group of lots existing within well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name through which it may be identified.

**CROSSWALK** — A public right-of-way traversing a block for the purpose of providing pedestrian access.

**CUL-DE-SAC** — A short minor street having one end open to motor traffic and the other end terminated by a vehicular turnaround.

**DEAD-END STREET** — A street having only one outlet for vehicular traffic and no vehicular turnaround.

**DEDICATION** — The transfer of property from private to public ownership.

**DEVELOPMENT** — The act of constructing buildings or installing site improvements.

**EASEMENT** — Any strip of land reserved by the subdivider for public utilities, drainage, sanitation or other specified uses having limitations, the title to which shall remain in the property owner, subject to the right of use designated in the reservation of the servitude.

**FINAL PLAT** — The map or drawing of a subdivision prepared in compliance with the provisions of Ch. 236, Wis. Stats., and any accompanying materials.

**FRONTAGE** — The length of the front property line of the lot, lots or tract of land abutting a public street, road, highway or rural right-of-way.

**GRADIENT** — The slope of a road, street or other public way specified in percent.

**IMPROVEMENT, PUBLIC** — Any sanitary sewer, storm sewer, drainage ditch, water main, roadway, parkway, sidewalk, pedestrian way, planting strip, off-street parking area or other facility for which the local municipality may ultimately assume the responsibility for maintenance and operation.

**LOT** — A parcel of land on which a principal building and its accessory building are placed, together with the required open spaces, provided that no such parcel shall be bisected by a public street and shall not include any portion of a public right-of-way.

**OFFICIAL MAP** — The map of the Village by law showing thereon streets, highways, parkways, parks and playgrounds and the exterior lines of planned new streets, highways, parkways, parks and playgrounds as provided by § 62.23, Wis. Stats.

**PLAT** — A map of a subdivision.

**PRELIMINARY PLAT** — A map showing the salient features of a proposed subdivision submitted to the Plan Commission for purpose of preliminary consideration.<sup>1</sup>

**REPLAT** — The changing of the boundaries of a recorded subdivision plat or part thereof.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

RESERVE STRIP — Any land or portion of land along an arterial that is held by the developer for purposes of influencing access or building orientation.

RIGHT-OF-WAY — A strip of land occupied or intended to be occupied for a special use. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established. The usage of the term "right-of-way" for land-platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of areas of such lots or parcels.

STREET — Includes all accessways in common use, such as streets, roads, lanes, highways, avenues, boulevards, alleys, parkways, viaducts, circles, courts and culs-de-sac, and includes all of the land lying between the right-of-way lines as delineated on a plat showing such streets, whether improved or unimproved, and whether dedicated for public use or held in trust under the terms of a reservation, but shall not include those accessways, such as easements and rights-of-way intended solely for limited utility purposes, such as for electric powerlines, gas lines, telephone lines, water lines or drainage and sanitary sewers.

STREET, ARTERIAL — A major, high-capacity street designed to carry large volumes of traffic between various areas of the community.

STREET, COLLECTOR — A street which carries traffic from minor streets to the system of major streets and highways, including the principal entrance streets of a residential development and the principal circulating streets within such development.

STREET, MINOR (or LOCAL) — A street of limited continuity used primarily for access to abutting properties and local needs of a neighborhood.

SUBDIVIDER — Any individual, firm, association, syndicate, partnership, corporation, guardian, attorney, trust or any other legal entity commencing proceedings under the regulations of this chapter to effect a subdivision of land hereunder for himself, for another or for others.

SUBDIVISION — Any division of a parcel of land by the owner or his agent for the purpose of sale or building development where the act of division creates two or more parcels of land.

SURVEYOR — A land surveyor duly registered in the State of Wisconsin.

### **§ 360-3. General provisions.**

A. Applicability. The provisions of this chapter shall apply to any division of a parcel of land by the owner or his agent for the purpose of sale or building development where the act of division creates two or more parcels of land; provided, however, that this chapter 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 the owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum size required by this chapter or other applicable laws or ordinances.

B. Compliance.

- (1) No division of land within the Village or within its extraterritorial plat approval jurisdiction shall be permitted if it results in a subdivision unless a plat of the subdivision is submitted and approved in accordance with this chapter, and with Ch. 236, Wis. Stats., if applicable.
- (2) In addition to the provisions of this chapter and Ch. 236, Wis. Stats., all subdivisions shall conform to:
  - (a) Chapter 395, Zoning, of this Code.
  - (b) The Official Map for the Village and its extraterritorial planning area.
  - (c) The rules of the Department of Safety and Professional Services 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.
  - (d) The rules of the Department of Transportation relating to provision for the safety of entrance upon and departure from the abutting trunk highways or connecting streets and for the preservation of the public interest and investment in such highways or streets.<sup>2</sup>

C. Subdivision improvements.

- (1) For all subdivision improvements required to be installed by the subdivider, the subdivider shall provide satisfactory proof that he has contracted to install such improvements or shall file a performance bond ensuring installation of such improvements within the time required by the Plan Commission and Village Board.
- (2) The specifications for all improvements shall be approved by the Plan Commission. Prior to either acceptance of the improvement by the Village Board or release of the subdivider's bond, all improvements shall be inspected and found to have been installed according to the specifications.

**§ 360-4. Procedure for approval of subdivision plat.**

- A. Preapplication procedure. Before filing a preliminary plat, the subdivider is encouraged to consult with the Plan Commission and/or its consulting staff for advice regarding general requirements affecting the proposed development. A sketch of the proposed subdivision drawn on a topographic survey map may be

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

submitted. The subdivider may also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. Subdivider should also consult the utilities serving the area of the proposed subdivision.

B. Preliminary plats.

- (1) Submission of plat. The subdivider shall submit a preliminary plat to the Plan Commission, together with a list of the authorities to which the plat must be submitted under this chapter and §§ 236.10 and 236.12, Wis. Stats., if such sections are applicable to the subdivision. Subdivider shall furnish at his expense sufficient legible copies of the preliminary plat for such submission. The secretary of the Plan Commission shall send copies of the plat to those agencies having authority to approve or object to the plat as provided by § 236.12(2), Wis. Stats., within two days after plat is submitted for approval. The preliminary plat shall be based upon an accurate exterior boundary survey by a registered land surveyor which shall show clearly the proposed subdivision at a scale of not more than one inch per 100 feet having two-inch contour intervals, shall identify the improvements (grading, tree planting, paving, installation of facilities and dedications of land), easements which the subdivider proposes to make and shall indicate by accompanying letter when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be submitted. Such preliminary plat shall also contain the recommendations of each affected public or private utility showing the location and extent of all necessary utility easements.
- (2) Approval, conditional approval or rejection of preliminary plat. Within 90 days of submission of the preliminary plat, the Plan Commission shall take action to approve, approve conditionally or reject such plat and shall state in writing any condition of approval or reasons for rejection, unless the time is extended by agreement with the subdivider. Failure of the Plan Commission to act within such 40 days or extension thereof shall constitute an approval of the preliminary plat.<sup>3</sup>
- (3) Effect of approval of preliminary plat. Approval of the preliminary plat shall entitle the subdivider to final approval of the layout shown by such plat, provided the final plat conforms substantially to such layout and conditions of approval have been met and provided the final plat is submitted within six months of the last required approval of the preliminary plat.

C. Final plats.

- (1) Submission. Final plats shall be submitted by the subdivider to the Plan Commission within six months of preliminary plat acceptance unless this requirement is waived in writing by the Plan Commission. Subdivider shall also submit a list of the authorities to which the plat must be submitted for approval or objection under this chapter and §§ 236.10 and 236.12, Wis. Stats., if such sections are applicable to the subdivision, together with

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

sufficient legible copies of the final plat for such submission. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted by the secretary of the Plan Commission for certification of those agencies having the authority to object to the plat as provided by § 236.12, Wis. Stats., and to each affected public or private utility within two days after plat is submitted for approval. The final plat shall be accompanied by detailed construction plans of all improvements. The final plat shall be submitted to the Plan Commission at least 10 working days prior to the meeting at which it is to be considered and shall be accepted or rejected by the Plan Commission and the Village Board within 60 days of its submission, unless the time is extended by an agreement with the subdivider. Reasons for rejection shall be stated in the minutes of the Village Board meeting and a copy thereof or a written statement of such reasons shall be recorded in accordance with the statutory requirements.

- (2) Copy in lieu of the original. If the original of the final plat has been filed with another approving authority, the subdivider may file a true copy of such plat in lieu of the original. Before approval of the Plan Commission and the Village Board will be inscribed on the original of the final plat, the surveyor or subdivider shall certify the respects in which the original of the final plat differs from the copy and all modifications must first be approved.

**§ 360-5. Subdivision design standards.**

A. Streets and lots.

- (1) The subdivider shall dedicate land for and improve streets as approved herein. Streets shall conform to the official map of the Village. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities, land uses and public convenience and safety.
- (2) All lots shall have sufficient frontage on a public street to allow vehicular access.
- (3) Street locations shall be consistent with the official map. The minimum right-of-way and roadway width of all proposed streets and alleys shall be the width specified therein. The minimum widths shall be as follows:

<b>Street Type</b>	<b>Right-of-Way Width to be Reserved (feet)</b>	<b>Right-of-Way Width to be Dedicated (feet)</b>	<b>Pavement Width (face of curb to face of curb) (feet)</b>
Arterial			
4-lane divided	120	100	Dual 34 (20 median)
Undivided	70	70	48

Collector	70	70	45
Minor	60	60	40

- (4) Unless necessitated by exceptional topography subject to the approval of the Plan Commission, the maximum center-line grade of any street or public way shall not exceed the following:
  - (a) Arterial streets: 6%.
  - (b) Collector streets: 8%.
  - (c) Minor streets, alleys and frontage streets: 10%.
  - (d) Pedestrianways: 12%, unless steps of acceptable design are provided.
    - [1] The grade of any street shall be in no case exceed 12% or be less than 1/2 of 1%.
    - [2] Street grades shall be established wherever practicable so as to avoid excessive grading, the promiscuous removal of ground cover and tree growth and general leveling of the topography.
- (5) When a continuous street center line deflects at any one point by more than 10°, a circular curve shall be introduced having a radius or curvature on such center line of not less than the following:
  - (a) Arterial streets and highways: 500 feet.
  - (b) Collector streets: 300 feet.
  - (c) Minor streets: 100 feet.
- (6) Streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit.
- (7) Minor streets shall be so laid out so as to discourage their use by through traffic.
- (8) The number of intersections of minor streets with major streets shall be reduced to the practical minimum consistent with circulation needs and safety requirements.
- (9) Where a subdivision abuts or contains an existing or proposed arterial highway, the Plan Commission shall require a frontage road with limited access along the rear of the property contiguous to such highway or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.
- (10) Reserve strips controlling access to streets shall be prohibited.
- (11) A tangent at least 100 feet long shall be required between reverse curves on arterial and collector streets.

- (12) Streets shall afford maximum visibility and safety and shall intersect at right angles, where practicable.
- (13) Dedication of half-width streets shall be prohibited.
- (14) A minimum offset of 300 feet shall be maintained between center lines of parallel streets.
- (15) Permanent dead-end streets or culs-de-sac shall not be longer than 1,000 feet, shall have a minimum width of 50 feet and terminate with a turnaround having an outside roadway diameter of at least 80 feet and a street property line of 100 feet.
- (16) Where possible, lot lines shall be perpendicular to the street line and to the tangent at the lot corner or curved streets.
- (17) Lots shall follow, rather than cross, municipal boundary lines whenever practicable.
- (18) No street names shall be used which will duplicate or may be confused with the names of existing streets. Street names shall be subject to the approval of the Plan Commission.

B. Block design.

- (1) The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated.
- (2) To provide access and circulation to community facilities, sidewalks shall be provided by the subdivider, and where a block exceeds 1,000 feet in length, a crosswalk through the center of blocks shall be provided. Center crosswalks shall not be less than 10 feet wide.
- (3) The Plan Commission may require that certain species of trees be planted on both sides of all streets.
- (4) Subdivision lots in the Village shall be in conformity with the area and width requirements of Chapter 395, Zoning, of this Code. Area and width requirements of subdivision lots in the extraterritorial plat approval jurisdiction shall conform to any town zoning ordinances or extraterritorial Village zoning regulations which may be in effect and Ch. SPS 385, Wis. Adm. Code.

**§ 360-6. Improvements.**

- A. Adequate sewer and water facilities, street base preparation, paving and curb and gutter and surface water drainage facilities shall be provided by the subdivider for each lot in accordance with specifications approved by the Village Plan Commission.
- B. The Plan Commission shall have the power to delay requirements for installation of curb and gutter, but only for the purpose of assisting in the staging of curb and

gutter for an area. Gas, electric and communication facilities shall be installed in the subdivision as it becomes necessary to serve the qualifying customers located within the subdivision and in compliance with the service and extension rules filed with the Public Service Commission by the affected utility. No such electrical or telephone service shall be located on overhead poles in a residential subdivision unless otherwise allowed because of exceptional topography or other physical barrier.

- C. In a newly platted area, the subdivider shall designate the location of all streetlights within the area being developed upon consultation with the electric utility serving the subdivision and as approved by the Plan Commission. In areas where underground facilities are to be installed, poles for streetlights shall be of ornamental type.

#### **§ 360-7. Easements.**

- A. Sewer, water and walkway easements. The Plan Commission may require easements of adequate width for storm and sanitary sewers, water and head mains and public walkways as deemed necessary.
- B. Drainage easements. The Plan Commission may require that easements or drainageways be provided in accordance with § 360-8 where a subdivision includes a segment or segments of watercourses, drainageways, channels or streams.
- C. Utility easements.
  - (1) Adequate easements shall be provided and dedicated on each side of all rear lot lines and on side lot lines, across lots or along front lot lines, where necessary, for the installation of electric and communications facilities. Such easements shall be noted as "utility easements" on the final plat or certified survey map. Prior approval of the final plat or certified survey map, the concurrence of the electric and communications companies serving the area as to the location and width of the utility easements shall be noted on the final plat or certified survey map.
  - (2) Where the electric and communications facilities are to be installed underground, the utility easements shall be graded to within six inches of final grade by the subdivider prior to the installation of such facilities. Earth fill, piles or mounds of dirt or construction material shall not be stored on such easement areas.
  - (3) Where the electric and/or communications facilities are to be installed underground, a note shall be placed on the final plat stating that the final grade established by the subdivider on the utility easements shall not be altered by more than six inches by the subdivider, his agent or by subsequent owners of the lots on which such utility easements are located, except with written consent of the utility or utilities affected. Such note shall be in substantially the following form: "The grade on the utility easements shown on this plat

shall not be altered by more than six inches except with written consent of the utility or utilities affected."

**§ 360-8. Public sites and open spaces.**

- A. Dedication and reservation of lands. Whenever a tract of land to be subdivided embraces all or any part of a street, drainageway or other public way which has been designated in the Master Plan, Comprehensive Plan component or on the Official Map of the Village, such public way shall be made part of the plat and dedicated or reserved by the subdivider in the locations and dimensions indicated on such plan or maps and in accordance with this section.
- B. Determination.
  - (1) Dedication. Whenever a proposed school site, park, playground, greenway, open space or other public land, other than streets or drainageways, designated in the Master Plan, Comprehensive Plan component or on the Official Map of the Village is embraced, all or in part, in a tract of land to be subdivided, these proposed public lands shall be made a part of the plat and shall be dedicated to the public at the rate of one acre for each 15 proposed dwelling units.
  - (2) Reservation. Any proposed public lands designated above other than streets or drainageways in excess of the rate of one acre for each 15 proposed dwelling units shall be reserved for a period not to exceed one year from the date of the final plat approval unless extended by mutual agreement for purchase by the public agency having jurisdiction or unless extended by mutual agreement for acquisition by the Village. The purchase price shall be the present fair market value of such lands in an undeveloped state as indicated by impartial appraisal. Costs for such appraisal are to be shared equally between developer and Village.
- C. Proportionate payment in lieu of dedication.
  - (1) Payment. If the amount of land required to be dedicated, other than for streets and drainageways as indicated on the Master Plan, Comprehensive Plan component or Official Map of the Village, totals less than the ratio of one acre for each 15 proposed dwelling units, the subdivider shall pay to the Village a fee equivalent to the fair market value of the amount of land representing the difference between the amount of land required to be dedicated, other than the streets and drainageways as indicated on such plans or maps and the rate of dedication established herein. Such fees required in lieu of dedication shall be paid to the Village Treasurer at the time of first application for approval of a final plat of such subdivision. If the final plat is not approved, such fees shall be returned.
  - (2) Special fund. All funds so collected by the Village shall be deposited as "Special Fund for the Acquisition and Development of Public Sites, Recreation Areas, Open Spaces and Greenways" and such funds so levied and collected shall be used for such purposes at such places and in such manner as

shall be approved, ordered and directed by the Village Board upon recommendation by the Plan Commission and which shall be consistent with this chapter, the Master Plan, Comprehensive Plan component or Official Map of the Village and authorization for creation of such fund is hereby granted. Any and all interest accumulated upon such funds shall be added to the special fund and be used only for acquisition and developments for such purposes.

- D. Development of dedicated area. The Village shall properly develop and maintain the dedicated areas and the owner who dedicated such land shall in no way be responsible for its development, maintenance or liability thereof, except that such owner shall not develop the surrounding area in a manner which would unduly depreciate the purpose, use or value of the dedicated property and except if such owner shall reside on one of the subdivided parcels, in which case he shall be responsible for the maintenance of adjacent public property as may be required by other laws of the Village.

#### **§ 360-9. Variances.**

Where extraordinary hardships or particular difficulties may result from strict compliance with these regulations, the Village Board, upon recommendation of the Plan Commission, may grant variances or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variance or exception shall not have the effect of nullifying the intent and purpose of this chapter and further provided that the Plan Commission shall not recommend variances or exceptions to the regulations of this chapter unless it shall make findings based upon the evidence presented to it in each specific case that:

- A. The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- B. The conditions upon which the request for a variance is based are unique to the property for a variance is sought and are not applicable, generally, to other property.
- C. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

#### **§ 360-10. Replats.**

When it is proposed to replat a recorded subdivision or part thereof so as to change the boundaries of a recorded subdivision or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in §§ 236.40 through 236.44, Wis. Stats. The subdivider or person wishing to replat shall then proceed as specified in § 360-4 for a new subdivision plat.

#### **§ 360-11. Enforcement; violations and penalties.**

- A. Enforcement. The Village Building Inspector shall have primary responsibility for enforcing this chapter. No building permit shall be issued for construction on any lot until the final plat for the subdivision has been recorded.
- B. Penalties. Except as otherwise provided, any person found to be in violation of any provision of this chapter shall be subject to a penalty as provided in § 1-4 of this Code. In addition, the penalties and remedies provided by §§ 236.30 and 236.31, Wis. Stats., shall be available to the Village.