

## CHAPTER 69 - SUBDIVISION

- 69.01 Statutory, Authorization, Purpose and Intent**
- 69.02 General Provisions**
- 69.03 Subdivision Regulations**
- 69.04 Improvements**
- 69.05 Lots**
- 69.06 Administrative Provisions**
- 69.07 Protected Shorelands**
- 69.08 Sketch Review and Approval**
- 69.09 Minor Subdivisions**
- 69.10 Major Subdivisions**
- 69.11 Violations**
- 69.12 Penalties**
- 69.13 Appeals**
- 69.14 Definitions**

### **69.01 Statutory, Authorization, Purpose and Intent.**

**A. Statutory Authorization.** This Chapter is adopted pursuant to the authority granted by Chapter 59 and § 236.45, Wis. Stats.

**B. Statement of Purpose.** The purpose of this Chapter is to promote the public health, safety, and general welfare of the County; to lessen congestion in the streets, roads 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 concentration of population; to facilitate adequate provision for transportation, water, sewerage, schools, parks, playgrounds and other public requirements; and to facilitate the further resubdivision of larger tracts into smaller parcels of land.

**C. Intent.** The general intent of this Chapter is to regulate land division with the view of conserving the value of buildings and other improvements placed upon land, providing the best possible environment for human habitation, for encouraging the most appropriate use of land throughout the County, to further the appropriate use and conservation of land and water resources, and to preserve and promote the beauty of the County. It is further intended to provide for penalties for its violation.

### **69.02 General Provisions.**

**A. Title.** This Chapter shall be known as, referred to, or cited as the County Subdivision Chapter.

**B. Jurisdiction.** The jurisdiction of this Chapter shall include all lands within the County, outside the limits of incorporated cities and villages and outside the limits of extraterritorial jurisdiction for cities and villages where such extraterritorial jurisdiction has been exercised. Its provisions shall apply to the division of land resulting in the creation of one (1) or more parcels or building sites of fifteen (15) acres or less each in area. Except that the jurisdiction of this Chapter shall not include: transfers of interest in land by will or pursuant to court order; leases for a term not to exceed ten (10) years, mortgages or easements; 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 chapters. Nor shall the provisions of this Chapter apply to plats established pursuant to Wisconsin Statutes Chapter 236 except that where the provisions of this Chapter are more restrictive than the requirements and regulations under Chapter 236, Wis. Stats., then the provisions of this Chapter shall prevail, and except that a copy of the preliminary plat shall be submitted to the County Planning and Zoning Committee for its approval relative to land use and location.

**C. Compliance.** Any division of land which comes within the jurisdiction of this Chapter as set forth in Section 69.02(B) shall be in full compliance with the terms of this Chapter and other applicable regulations.

**D. Abrogation and Greater Restriction.** It is not intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, chapters, rules, regulations, or permits previously adopted or issued pursuant to law. However, wherever this Chapter imposes greater restrictions the provisions of this Chapter shall govern.

**E. 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 other powers granted by Wisconsin Statutes.

### **69.03 Subdivision Regulations.**

#### **A. Land Suitability.**

1. **Suitability Generally.** All subdivision layouts shall be developed in proper relation to existing and proposed streets, the topography, surface water, vegetative cover, other natural features, and the most advantageous development of adjoining areas.
2. **Residential Land Suitability.** No land not otherwise excepted from the terms of this Chapter shall be subdivided for the construction of buildings for human habitation which is held unsuitable for such purpose by the County Planning and Zoning Committee by reason of flooding, inadequate drainage, adverse soil rock formation, unfavorable topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the County. The County

Planning and Zoning Committee in applying the provisions of this Section shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for residential use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he so desires. Thereafter, the County Planning and Zoning Committee may affirm, modify or withdraw its determination of unsuitability.

3. **Dedication and Reservation.** Subdivisions abutting on a navigable lake or stream as listed and mapped on the official County Shoreland Zoning map shall conform to the provisions of § 236.16(3), Wis. Stats., except that the Planning Agency may require the access width to be at least sixty-six (66) feet wide to the low water mark so that there will be public access which is connected to existing public road at least at one-half (1/2) mile intervals as measured along the lake or stream shore except where greater intervals and wider access is agreed upon by the County Planning and Zoning Committee and the subdivider.

#### **69.04 Improvements.**

##### **A. Public Streets.**

1. Public Streets shall be designed and located to take into account:
  - i. Existing and planned streets;
  - ii. Topographic conditions including the bearing capacity and erosion potential of the soil;
  - iii. Public convenience and safety including facilitating fire protection, snow plowing and pedestrian traffic;
  - iv. The proposed uses of land to be served;
  - v. Anticipated traffic volumes, and
  - vi. Further resubdivision possibilities.
2. **Construction.** Town roads shall have at least sixty-six (66) feet right-of-way width, at least twenty (20) feet roadway graded width, and at least sixteen (16) feet surface width. The road shall be surfaced according to Town standards. No Major Subdivision shall be given final approval under this Chapter until such time as the roads are constructed to Town and County specifications. Conditional approval may be granted provided that plans and specifications and a Construction Bond for the total project are submitted to the Approving Authorities.

**B. Survey Monuments.** The subdivider shall install survey monuments in accordance with the requirements of § 236.15, Wis. Stats.

**C. Storm Drainage.** The County Planning and Zoning Committee may require storm drainage facilities, where needed to be designed to permit the unimpeded flow of natural watercourses, insure the drainage of all points along the line of streets and provide positive drainage away from onsite sewage disposal facilities. In designing storm drainage facilities, special consideration shall be given to protection against shoreland erosion and siltation of surface waters and preventing excess runoff on adjacent property. The County Planning and Zoning Committee may require that easements or drainage ways of width sufficient to accommodate anticipated storm water runoff be provided by the subdivider.

## **69.05 Lots.**

**A. Lot Shape and Area.** Lot area of sufficient width and area free of limiting conditions based on percolation characteristics must be maintained. The shape of individual lots may render portions unusable for installing private sewage disposal systems or providing adequate separating distances between them and watercourses or water wells. Therefore, any part of a lot less than thirty (30) feet wide will not be used in computing the minimum lot area. The subdivider shall carry out soil tests in the manner required by SPS 383 and SPS 385, of the Wisconsin Administrative Code. No lot subject to this Chapter shall be less than thirty thousand (30,000) square feet in area and shall have a minimum average width of one hundred (100 feet). The area shall be computed exclusive of public or private right-of-ways. The County Zoning Administrator may require borings and soundings be made in designated areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to the groundwater in his discretion.

**B. Corner Lots.** Corner lots shall be a minimum of one hundred ten (110) feet in width and shall include a vision clearance triangle. Such vision clearance triangle shall be bounded by the highway, street or railroad right-of-way lines and a vision clearance setback line connecting points on each right-of-way line which are located a distance back from the intersection of said right-of-ways equal to twice the setback required on the intersection highway, street or railroad.

**C. Setbacks.** The County Planning and Zoning Committee may require reasonable building setback requirements be placed on the plat.

**D. Access.** Every lot subject to this Chapter shall front or abut on a public street for a distance of at least sixty-six (66) feet. A private road may be used for access purposes provided that:

1. A minimum right-of-way width of sixty-six (66) feet is provided to facilitate the development of a public right-of-way, at the owner's expense.
2. No more than four (4) lots of five (5) acres or less in area, shall be served by any private access.
3. Area of the private access shall not be used to compute the minimum lot size required by this Chapter. Creation of land locked parcels is not allowable under this Chapter.

**E. Protective Covenants.** The County Planning and Zoning Committee may require protective covenants to be placed upon the face of any Certified Survey Map or final plat as it deems necessary to carry out the provisions of this Chapter and other applicable regulations. The County or Town shall not bear the responsibility for enforcement of any covenants not specified on the Plat or Certified Survey Map as being expressly required by the County or Town as a condition of approval.

#### **69.06 Administrative Provisions.**

##### **A. Administration.**

1. **Initial Procedure.** Prior to submission of a preliminary plat or Certified Survey Map, the subdivider shall submit a sketch plan filing fee of ten dollars (\$10.00) and a sketch to the County Zoning Administrator of sufficient scale and accuracy so the following information is indicated:
  - i. The names and post office address of land owners and subdivider;
  - ii. The boundaries of the property being considered for subdivision and North arrow;
  - iii. Proposed roads, easements and public access to navigable waters;
  - iv. General lot layout, showing proposed lot width, depth and proposed building setbacks; section corners to be used and scale of sketch;
  - v. Proposed filling, grading, lagooning or dredging;
  - vi. Delineation of any areas, periodically flooded and Protected Shoreland;
  - vii. Present anticipated and future uses of the land adjacent to the proposed subdivision;
  - viii. A draft of protective covenants whereby the subdivider intends to regulate land use in the proposed subdivision and otherwise protect the proposed development.
  - ix. Any or all of the above data may be required to be shown on the face of the Final Plat or Certified Survey Map.

#### **69.07 Protected Shorelands.**

In areas designated as "*Protected Shorelands*" as defined in this Chapter, the County Zoning Administrator shall subsequent to the submitting of a sketch review with the County Forester and the Soil Conservation Service the area to be developed. A copy of the recommendation of these departments shall be made available to the County Planning and Zoning Committee; such recommendation shall include the minimum amount of tree cutting and other Conservation practices necessary to control erosion and reduce effluent and nutrient flow from the Shorelands.

### **69.08 Sketch Review and Approval.**

The County Zoning Administrator shall review the sketch plan as it relates to this or any other applicable Chapter. The developer shall submit copies to the appropriate Township for their review, provided the Township has a land use plan in effect (i.e. this Chapter, Zoning, etc.). Within forty (40) days after submission the Township and the Zoning Administrator shall submit their findings to the County Planning and Zoning Committee for review. At this review or within fifteen (15) days thereafter, the Planning Agency shall inform the subdivider of its approval, objection or conditional approval to the proposed division and any additions, changes or corrections necessary for approval. Failure of the County Planning and Zoning Committee to act within the above specified time period shall constitute approval.

### **69.09 Minor Subdivisions.**

Within six (6) months of the sketch plan approval, the subdivider shall submit a Certified Survey Map of the division, prepared in accordance with § 236.34, Wis. Stats., to the Zoning Administrator along with a review fee of ten dollars (\$10.00) plus ten dollars (\$10.00) per Lot contained on said Certified Survey Map. The Zoning Administrator and the County Surveyor shall review the submitted survey to assure its compliance with this Chapter, Wisconsin Statutes and Administrative Codes and any other requirements under this Chapter or the appropriate Township Chapter. The Zoning Administrator and the County Surveyor shall reject or approve said survey within fifteen (15) days of submission. If rejected, the subdivider shall be informed of the reasons for said rejection. If approved, the Zoning Administrator shall place a certification on the face of said survey attesting to such approval. Failure to act within the above time period shall constitute approval.

### **69.10 Major Subdivisions.**

**A. Preliminary Plat.** Within six (6) months after the sketch plan approval has been granted the Subdivider shall furnish the Zoning Administrator six (6) copies of the preliminary plat prepared in accordance with Chapter 236, Wis. Stats., along with a review fee of twenty dollars (\$20.00) plus ten dollars (\$10.00) per lot or outlet contained on said preliminary plat. The Zoning Administrator shall furnish a copy to the appropriate Township for their review. The Zoning Administrator and the County Surveyor shall review said preliminary plat for compliance with Wisconsin Statutes and Administrative Codes and requirements of this Chapter and submit their findings along with those of the township, to the County Planning and Zoning Committee. The County Planning and Zoning Committee shall approve, approve conditionally or reject said preliminary plat within sixty (60) days of submission to the Zoning Administrator. Failure of the County Planning and Zoning Committee to act within the specified time period shall constitute approval.

**B. Final Plat.** Within six (6) months after the preliminary plat approval or conditional approval has been granted by the County Planning and Zoning Committee, the subdivider shall furnish to the County Planning and Zoning Committee a final plat prepared in accordance with § 236.20, Wis. Stats., together with a number of copies as required by the County Zoning Administrator. The final plat shall be submitted for certification to those agencies having authority to object to the plat as provided in § 236.10, Wis. Stats. The final plat shall be approved or rejected by the Planning Agency within forty (40) days of its submission. Failure of the Planning agency to act within forty (40) days shall constitute approval. After final plat approval has been granted, the County Planning and Zoning Committee shall place a certificate upon said Final Plat attesting to such approval. A final plat review fee of fifty dollars (\$50.00) shall accompany the final plat submission.

### **69.11 Violations.**

It shall be unlawful to divide, convey, record or monument any land in violation of this Chapter or the Wisconsin Statutes, and no person, firm or corporation shall be issued a County Sanitary Permit or a County Zoning Permit authorizing the building on or improvements of any subdivision or replat within the jurisdiction of this Chapter and not of record as of the effective date of this Chapter until the provisions and requirements of this Chapter have been fully met. The County may institute appropriate action or proceedings to enjoin violations of this Chapter or the applicable Wisconsin Statutes.

### **69.12 Penalties.**

Any person, firm or corporation that fails to comply with the provisions of this Chapter shall upon conviction thereof forfeit not more than one hundred dollars (\$100.00) and the cost of prosecution for each violation, and each day a violation exists or continues, shall constitute a separate offense. This Chapter may be prosecuted by citation under Chapter 100.

### **69.13 Appeals.**

Any person, firm or corporation aggrieved by any decision of the County Planning and Zoning Committee may present to a Court of Record a petition, duly verified setting forth his reasons therefore. Such petition shall be presented to the Court within thirty (30) days after the rendering of the decision. The court shall direct that the plat be approved if it finds that the action of the County Planning and Zoning Committee is arbitrary, unreasonable, or discriminatory.

### **69.14 Definitions.**

For the purposes of this Chapter, certain terms or words used herein shall be interpreted as follows: words in the present tense include the future; words in the singular number include the plural number, and words in the plural number include the singular number. The word "*shall*" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

**A. Building.** Any structure built for the support, shelter, or enclosure of person, animals, chattels, or movable property of any kind and which is permanently affixed to the land.

**B. Building Line.** The shortest straight line joining the sides of a lot and touching the building at its point nearest the water or street line.

**C. County.** Reference to the County shall mean Marquette County, including any agency, department or committee thereof.

**D. County Planning and Zoning Committee.** The County Officers and Zoning Committee as authorized by Chapter 59 and § 236.02(3), Wis. Stats.

**E. County Zoning Administrator.** The County Zoning Administrator holding office pursuant to Section 70.01.

**F. Extraterritorial Jurisdiction.** The unincorporated area within one and one half (1-1/2) miles of a fourth class city or village and within three (3) miles of all other cities over which city and villages may exercise plat approval provided they have enacted an official map chapter or subdivision control chapter in accordance with § 236.10, Wis. Stats.

**G. Grade.** The slope of a road, street or other public way specified in percentage.

**H. Major Subdivision.** Means the division of land in an unplatted area thereby creating five (5) or more parcels or building sites of five (5) acres or less, each within a five (5) year period.

**I. Minor Subdivision.** Means the division of land creating no more than four (4) parcels or building sites of five (5) acres or less, each, within a five (5) year period; or the creation of one (1) or more parcels or building sites each greater than five (5) acres but less than or equal to fifteen (15) acres in area within a ten (10) year period.

**J. Municipality.** Means any incorporated city or village.

**K. Protected Shorelands.** Those lands defined as "*shoreland*" in Section 70.69.

**L. Subdivision.** The division of a lot, parcel, or tract of land by the owner thereof or his agent for the purpose of transfer of ownership or building development where the act of division creates one (1) or more parcels or building sites of fifteen (15) acres or less, each. All divisions under the jurisdiction of this Chapter, excepting those subject to Section 69.02(A), shall be created by means of a Certified Survey Map.

**M. Town.** Reference to Town shall mean any town of the County including the Town Board, Town Clerk, or any other designated Town committee.