

CHAPTER 15
SUBDIVISION AND PLATTING

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15.01 POLICY. It is hereby declared to be the policy of the City of Darlington to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the City pursuant to the official master plan for the orderly, planned, efficient and economical development of the City. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood, or other menace, and land shall not be subdivided until proper provision has been made for drainage, water, sewerage, utilities and capital improvements such as schools, parks, recreation facilities, transportation facilities, and improvements.

15.02 PURPOSE. The purpose of this chapter is to promote the public health, safety, and general welfare of the City, and these regulations are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to insure proper legal description and proper monumenting of subdivided land; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the over-crowding of land and avoid undue concentration of population; to facilitate adequate provisions for transportation, water, sewage, utilities, and other public requirements; to facilitate the further resubdivision of larger tracts into smaller parcels of land. These regulations are made with reasonable consideration, among other things, of character of the City with a view of conserving the value of buildings placed upon land, providing the best environment for human habitation, and for encouraging the most appropriate use of land throughout the City.

15.03 JURISDICTION. Except as otherwise specifically set forth in sec. 15.09 of this chapter, jurisdictional limits of these regulations shall be all lands within the corporate limits of the City and all unincorporated areas within 1-1/2 miles of its corporate limits, subject to the provisions of §66.32, Wis. Stats.

15.04 COMPLIANCE. No person may divide any land located within the jurisdictional limits of these regulations which results in a major subdivision, minor subdivision, or replat, as defined herein, and no such major subdivision, minor subdivision, or replat shall be entitled to be recorded without full compliance with all requirements of this chapter and Ch. 236, Wis. Stats. The provisions of this chapter shall not apply to:

(1) Transfer of interest in land by will or pursuant to court order.

(2) Leases for a term not to exceed ten years, mortgages, or easements.

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(3) Sale or exchange of parcels of land between owners of adjoining properties if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by these regulations, the City Zoning Ordinance, or other applicable ordinances or laws.

15.05 DEFINITIONS. For the purpose of this chapter, the following definitions shall be used:

(1) ASSESSOR. An individual appointed by the Council for the purpose of establishing true values of property for taxation.

(2) BUILDING LINE. A line parallel to and at a given distance from the street right of way. There shall be no building or structure erected in this area.

(3) DIRECTOR. The State Director of Regional Planning and Community Assistance, Wisconsin Department of Local Affairs and Development or such other official as may be delegated by law to approve plats at the state level.

(4) DRAINAGE. A natural or manmade ditch or watercourse in which surface water or high groundwater can be drained from an area.

(5) EXTRATERRITORIAL PLAT APPROVAL JURISDICTION. The unincorporated area within 1-1/2 miles of the corporate limits of the City, as provided in §236.02(2), Wis. Stats., subject to the provisions of §66.32, Wis. Stats.

(6) GREENWAY. A parcel of land containing a natural waterway or drainageway intended to be used in whole or in part for open space, surface drainage, parks, recreation, utilities, streets, or any other purpose deemed by the City to be for the public good or welfare.

(7) MAP. The drawing required for a minor subdivision and the same as the certified survey map provided for in §236.34, Wis. Stats.

(8) OUTLOT. A parcel of land other than a lot or block so designated on a plat.

(9) PLAT. The drawing required for a major subdivision.

(10) REPLAT. The changing of the boundaries of a recorded subdivision or a part thereof.

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(11) ROADWAY. That portion of the street which is used for vehicular traffic.

(12) STREET. A right of way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, drive, lane, place, or however otherwise designated and includes all of the area between the street or right of way lines. All lots shall abut upon a public street. Streets are further designated as follows:

- (a) Alley. A street which is a secondary means of access for vehicular traffic.
- (b) Boundary Street. A street in a subdivision in which part of the right of way is within the subdivision and the rest of the right of way is outside the subdivision.
- (c) Collector Street. A street which carries traffic from local streets to the system of major arterials and includes the principal entrance streets to residential development.
- (d) Cul-de-sac. A local street with only one outlet which terminates in a turn-around for the reversal of traffic.
- (e) Frontage Street. A local street which is parallel with and adjacent to a major arterial street and which provides access to abutting properties and protection from traffic.
- (f) Local Street. A street which is used primarily for access to abutting properties.
- (g) No Through Street. A street that does not connect with a street system opened to traffic.
- (h) Partial Street. A street in a subdivision in which part of the right of way is within the subdivision, but the rest of the right of way is not owned by the City.
- (i) Major Arterial Street. A street which is used primarily for fast or high volume through traffic.

(13) SUBDIVIDER. Any person, firm, corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision.

(14) SUBDIVISION. When used alone, subdivision shall include both major and minor subdivisions. A replat is also a subdivision.

- (a) Subdivision Major Plat. A division of a lot, parcel or tract of land by the owner thereof or his agent for the

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purpose of sale or of building development where:

1. The act of division creates 2 or more parcels or building sites 5 acres each or less in area; or two or more parcels or building sites of 5 acres each or less in area are created by successive divisions within a period of 5 years.

2. The act of division or the creation of any parcels or building sites results in the creation or alteration of any street or alley.

3. The definitions herein shall apply with equal effect to the division or creation of parcels or building sites whether or not said tracts shall at such time be part of a previously platted subdivision.

(b) Subdivision Minor Plat (Certified Survey). In those instances where lots are created but in insufficient numbers to require a plat under the requirements of this subsection, any proposed lot division shall comply with the recorded certified survey provisions of Ch. 236, Wis. Stats., and the standards of Wis. Adm. Code H65 of the State Board of Health; and shall be approved by the Council in accordance with procedure for submitting subdivisions, except that no state agency review is required. Approval shall be required by the City Board of Health of any lot division by a recorded certified survey map if the lot is not to be served by a public water supply or sanitary sewer system.

(15) SURVEYOR. A State of Wisconsin registered land surveyor.

15.06 GENERAL PROVISIONS. (1) SUBDIVISIONS. (a) A major subdivision shall be accomplished by means of a plat in accordance with Ch. 236, Wis. Stats., and this chapter.

(a) A minor subdivision shall be accomplished by means of a certified survey map in accordance with Ch. 236, Wis. Stats., and this chapter.

(b) For both major and minor subdivisions, lot sizes shall conform to the area and width requirements of the Zoning Code within the corporate limits of the City or to any ordinance of the town or county in the extraterritorial plat approval jurisdiction.

(c) All subdivisions within the corporate limits or within the extraterritorial plat approval jurisdiction of the City, as defined herein, must be filed for approval of the Plan

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Commission in accordance with procedures established in this chapter.

(2) REPLAT. Where it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries, the subdivider shall vacate or alter the recorded plat as provided in Ch. 236, Wis. Stats. The subdivider shall then follow the same procedure for the replat as for an original plat as required by this chapter.

(3) LAND SUITABILITY. Where a proposed subdivision contains land deemed by the Plan Commission to be unsuitable for development because of poor drainage, flood conditions, soil conditions, subsurface conditions, topography or any other feature, approval shall be withheld. Conditional approval of the preliminary plat shall be granted if the subdivider shall, at his own expense, prepare and submit to the Commission engineering plans designed to correct the adverse conditions and to carry out the plans or provide the performance bond to insure that the plans will be completed prior to approval of the final plat.

(4) REQUIREMENTS. The proposed subdivision shall conform to:

(a) The provisions of Ch. 236, Wis. Stats.

(b) All applicable provisions of this Code and town or county ordinances, if applicable.

(c) The City Master Plan and Official Map or any portion thereof.

(d) The rules of the Division of Health, State Department of Health and Social Services relating to lot size and lot elevation if the subdivision is not served by a public sewer and provisions for such service have not been made.

(e) The rules of the Division of Highways, State Department of Transportation relating to safety of access and the preservation of the public interest and investment in the street if the subdivision or any lot contained therein abuts on a State Trunk Highway or connecting street.

15.07 PLAT APPROVAL PROCEDURE. (1) PRELIMINARY MEETING. Before filing a preliminary plat, the subdivider is encouraged to consult with the Plan Commission and the Council for advice regarding general requirements affecting the proposed development. A sketch of the proposed subdivision drawn on a topographic survey map should be submitted. The subdivider should also submit a

location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities.

(2) PRELIMINARY PLAT. The subdivider shall file 10 copies of the preliminary plat or map with the Clerk-Treasurer, said copies to be forwarded to appropriate City and state approving authorities. The preliminary plat shall show clearly the existing conditions of the adjoining sites including data on covenants, land characteristics, available community facilities and utilities, easements, street locations, and lot widths and depths. The proposed layout shall be shown on a topographic map at a scale of one inch equals 100 feet having two-foot contour intervals and shall identify the improvements, e.g., grading, tree planting, paving, installation of the facilities, and dedications of land, which the subdivider proposes to make and shall indicate when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be stated. The Council Board shall reject, approve or approve conditionally the preliminary plat within 90 days as provided by statute.

(3) FINAL PLAT. Four copies of the final plat shall be submitted to the Council within six months of preliminary plat acceptance unless this requirement is waived in writing by the Council. 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 for certification of those agencies having the authority to object to the plat as provided by §236.12(2), Wis. Stats. The final plat shall be accompanied by detailed construction plans of all improvements. Final plats shall be presented to the Council at least 10 workdays prior to the meeting at which they are to be considered and shall be accepted or rejected by the Council within 60 days of their submission if all the applicable provisions of this chapter and Ch. 236, Wis. Stats., have been complied with. Approved final plats shall be recorded in accordance with the statutory requirements prior to the time that lots are offered for sale, reference is made to the map for sale purposes, or use is made of lot and block numbers shown on the plat.

15.08 DESIGN STANDARDS. (1) STREETS. (a) The subdivider shall dedicate land for and improve streets as provided herein. Streets shall conform to any applicable official map ordinance in effect in the City. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities, land uses, and public convenience and safety.

(b) All lots shall have access to a public street.

(c) Street locations shall be consistent with any applicable street plan officially adopted by the City. All street right

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of way widths, radii of curvature, and grades shall conform to the following requirements:

Type of Street	R.O.W. Width to be Dedicated	Pavement Width Face of curb to face of curb)
Arterial streets	60 feet	38 feet
Collector streets	60 feet	36 feet
Minor streets	58 feet	34 feet
Cul-de-sac and frontage streets	58 feet	34 feet
Alleys	24 feet	20 feet
Pedestrian ways	10 feet	5 feet

(d) Collector streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit.

(e) Minor streets shall be so laid out as to discourage their use by through traffic.

(f) Where a subdivision abuts or contains an existing or proposed arterial highway, the Council shall require a frontage road, non-access reservation 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.

(g) Reserve strips controlling access to streets shall not be provided except where control of such strip is placed with the appropriate public body.

(h) Streets shall afford maximum visibility and safety and shall intersect at right angles, where practicable.

(i) Dedication of half-width streets shall be prohibited, except where it is essential for the reasonable development of the subdivision in conformity with the other requirements of this chapter. Where a half street has been dedicated adjacent to a subdivision, the remaining half of the street shall be dedicated by the subdivider of the adjoining land.

(j) Permanent "no through streets" or cul-de-sacs shall not be longer than 600 feet, shall have a minimum width of 58 feet, and terminate with a turn-around having a right of way diameter of at least 120 feet, and a minimum surface radius of 40 feet.

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(k) Where possible, lot lines shall be perpendicular to the street line and to the tangent at the lot corner on curved streets.

(1) 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 Council.

(2) BLOCKS AND LOTS. (a) A block is a parcel of land bounded on at least one side by a street and on the other sides by natural or man-made barriers or unplatted land. The lengths, widths, and shapes of blocks shall be determined by the following:

1. Building site needs.
2. Zoning Code lot size and dimensional requirements.
3. Needs for convenient access, circulation, control, and safety of street traffic.
4. Limitations and opportunities of topography.

(b) Block lengths shall normally not exceed 1,500 feet or be less than 400 feet in length.

(c) To provide adequate access and circulation to playgrounds, schools, shopping centers, or other community facilities, the Council may require that walkways be provided, either along streets or through the center of blocks.

(d) Double frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome particular topographic and side disadvantages.

(e) The Council may require that natural features including trees be preserved and that appropriate landscaping be provided.

(3) EASEMENTS. Easements shall be provided where required by the Plan Commission, Board of Public Works, and utility companies for storm and sanitary sewers, gas, water, power, telephone, television cable, etc. They shall be at least 10 feet in width. Where a subdivision is traversed by a watercourse, channel, or stream, an easement shall be provided for an adequate drainage conforming substantially with the lines and area of such watercourse, channel, or stream. The location, width, alignment, and any proposed improvement of such drainageway shall be subject

to approval by the Plan Commission and the Board of Public Works. Wherever possible, stormwater drainage shall be maintained by landscaped, open channel of adequate width and grade to hydraulically achieve maximum potential volumes of flow. Sizes and design details shall be subject to review and approval by the Council.

(4) LAND SUITABILITY. No land shall be subdivided which is held unsuitable for the proposed use by the Plan Commission for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, 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 community. The Council, 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 the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing.

15.09 REQUIRED IMPROVEMENTS. (1) GENERAL PROVISIONS. (a) Installation of Improvements. Before final plat approval of any subdivision within the City is granted, the subdivider shall either install the improvements required under this section or shall furnish the Clerk-Treasurer with a satisfactory surety performance bond or other form of satisfactory surety to the City to cover the subdivider's cost of such required improvements as estimated by the City Engineer. The purpose of said surety is to secure the actual construction and installation of such improvements immediately after final plat approval or at a time in accordance with the requirements of the Council.

(b) Surety Bond. If a surety performance bond is furnished as provided in par. (a) above, all required improvements must be completed within one year from approval of the final plat. If not so completed and unless good cause can be shown for granting an extension of time, the Council, at its option, may cause all the uncompleted work to be constructed and the parties executing the bond shall be firmly bound for the payment of all necessary costs thereof. The Clerk-Treasurer shall return the bond to the subdivider upon the completion and acceptance of the required improvements, at which time a one-year maintenance guarantee bond must be filed guaranteeing the timely repair of any defects that may occur in the ensuing one year.

(c) Plans and Specifications. At the option of the Council, the plans and specifications for any or all of the required

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(d) improvements may be prepared by the City Engineer or consultants of the City. If the subdivider is required by the Council to furnish plans and specifications, they shall be prepared by a registered engineer and approved by the City Engineer or consultants of the City and any state agency having jurisdiction over such plans. In either case, the subdivider shall be responsible for the cost of plan preparation and any surveys needed to prepare the plans.

(e) Construction. The Council may undertake construction of any improvement at the request of the subdivider. Construction must be approved by the Public Works Committee and the subdivider must deposit a check or cash with the Clerk-Treasurer in the amount of the estimated cost of the work prior to the start of construction. Payment in full shall be made to the City, or reimbursement to the subdivider, upon completion of the work and determination of the total cost of the project. The construction of any improvements not undertaken by the City shall be the responsibility of the subdivider.

(f) Inspection. All construction shall be subject to inspection, as designated by the Council. The cost of such inspection on construction undertaken by the City will be included in the cost of construction. The cost of inspection on construction undertaken by the subdivider shall be charged to the subdivider.

(g) Dedication of Facilities and Improvements. All facilities and improvements installed prior to the final approval of the plat shall be dedicated to the City along with streets and other public areas upon approval of the plat. Facilities and improvements completed under bond or other financial guarantee, after approval of the plat, shall be considered dedicated to the City upon their approval and acceptance and release of the bond or other guarantee. Prior to the release of the bond or other guarantee, the subdivider shall file a one-year maintenance guarantee bond guaranteeing the timely repair of any defects that may occur in the ensuing year.

(2) SURVEY MONUMENTS. The subdivider shall install survey monuments placed in accordance with the requirements of §236.15, Wis. Stats., and as may be required by the City Engineer.

(3) SANITARY SEWER AND WATER. (a) A public sanitary sewer system and water system adequate to serve the subdivision and compatible with the City-wide sanitary sewer and water development plans shall be provided and include a lateral connection for each

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system to each lot and a satisfactory connection to the City sanitary sewer system and water system. Each lateral shall be marked in the field.

(b) If it is necessary to traverse on unimproved land with sanitary sewer to serve the subdivision, the City shall install such sanitary main and the subdivider shall pay the cost of such construction. The Council shall reimburse the subdivider to the extent that special assessments are levied for such construction. In the event such special assessments are deferred, the subdivider shall be reimbursed when the special assessments are paid or when installment payments commence.

(c) The Council may authorize the subdivider to construct any sanitary sewer facility as herein before provided. However, in the event such construction benefits land outside the subdivision, authorization will be granted only if the subdivider waives in writing any and all rights to reimbursement from the City.

(4) STREETS. After the installation of temporary block corner monuments and all underground facilities by the subdivider, and after the street grades have been established by the subdivider and submitted to the Board of Public Works for approval, streets shall be constructed by the subdivider in accordance with the following standards:

(a) Grading and Graveling. The subdivider shall grade the full width of the right of way of all streets to be dedicated in accordance with plans and standard specifications approved by the Director of Public Works. The subdivider shall grade the pavement width to subgrade and surface with 6 inches of crushed stone.

(b) Blacktopping. The year after the installation of the crushed stone in the roadway, the subdivider, at his expense, shall apply a standard 6-inch curb and 18-inch gutter, and a full-width bituminous surface at a completed depth of at least 2-1/2 inches, all in accordance with plans and specifications as approved by the Director of Public Works. In the event the pavement width of any street exceeds 38 feet, except for cul-de-sac turn arounds, the expense of installing the crushed rock and blacktopping for the additional width shall be paid by the City.

(c) Curb and Gutter. Prior to blacktopping, the subdivider shall install the standard 6-inch curb and 18-inch gutter in accordance with plans and specifications approved by the

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Director of Public Works. The subdivider shall pay 3/4 of the cost and 1/4 shall be borne by the City.

(5) STORM SEWER. Storm sewer facilities shall be constructed within the subdivision boundaries in the locations and sizes needed to accommodate the design flow volumes. Such facilities shall include mains, channels, inlets, catch basins, and laterals as required. If the City is required to construct storm sewer facilities outside of the boundaries of the subdivision to serve the subdivision facilities, the subdivider shall share in the cost of such facilities in the same ratio that the area of the subdivision bears to the total area served by the outside construction.

(6) UTILITIES. The subdivider shall cause gas, electrical power, CATV, and telephone facilities to be installed in such a manner as to make service available to each lot. The subdivider shall have written statements from all the utilities stating that the easements as shown on the final plat are acceptable to them.

15.10 INTERPRETATION. In the interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin statutes.

15.11 VARIANCES. (1) GENERAL. Where the Council finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided that the Council shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case as follows:

(a) The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to other property as located.

(b) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, and not applicable to other property.

(c) Because of the particular physical surroundings, shape, or topographical conditions of the specific property

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involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.

(d) The variance will not in any manner vary the provisions of the Zoning Code, Master Plan, or Official Map.

(2) CONDITIONS. In approving variances, the Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of the regulations.

(3) PROCEDURES. A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Plan Commission and the Council. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

15.12 PENALTIES AND REMEDIES. Any person convicted of failure to comply with the provisions of this chapter shall forfeit not less than \$25 nor more than \$200 and the costs of prosecution for each violation, and in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until payment is made, but such imprisonment shall not exceed 30 days. Each day a violation exists or continues shall constitute a separate offense. Also, failure to comply with the requirements of this chapter invalidates purported transfers of titles at the option of the purchaser, in accordance with the provisions of Ch. 236, Wis. Stats. In addition, the remedies provided by Ch. 236, Wis. Stats., shall be available to the City.