

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Chapter 473

Subdivision of Land

[HISTORY: Adopted by the Common Council of the City of Monona as Title 14, Ch. 1, of the 1994 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Erosion and stormwater control — See Ch. **216**.

Waterways — See Ch. **450**.

Floodplain and shoreland-wetland zoning — See Ch. **466**.

Zoning — See Ch. **480**.

§ 473-1 **Preliminary plat.**

A. Submission and review.

- (1) A subdivider wishing to subdivide land as defined in § 236.02(8), Wis. Stats., shall present the preliminary plat and three copies (one copy being reduced to 11 inches by 17 inches) and one topographic map to the Plan Commission.
 - (2) The Plan Commission shall conduct a preliminary review of the proposed plat. A copy of the proposed plat shall also be forwarded to the Public Works Committee for review and recommendation. The topographic map shall be referred to the City Engineer for review and comment.
 - (3) The Public Works Committee shall, within 30 days of receipt of the proposed plat, return the copy of the plat to the Plan Commission along with its recommendations and suggestions regarding the plat.
 - (4) The Plan Commission shall review the preliminary plat together with all recommendations and shall approve, conditionally approve or reject the preliminary plat and shall recommend its action to the Common Council. The Common Council shall, likewise, approve, conditionally approve or reject the preliminary plat within 90 days of its original submission and shall notify the subdivider in writing of any conditional approval or reasons for rejection.
 - (5) The ninety-day time period set forth in Subsection **A(4)** above may be extended by agreement with the subdivider.
- B. Failure to act. If the Plan Commission or the Common Council fail to act on the preliminary plat within 90 days of its submission or agreed extension thereof, the preliminary plat shall be considered approved.

§ 473-2 **Final plat.**

- A. Within thirty-six months after the Common Council has approved the preliminary plat, the developer shall present the final plat to the Plan Commission for approval. Failure to present the final plat within 36 months of approval of the preliminary plat shall be sufficient grounds for the Plan Commission or the Common Council to refuse to approve the final plat.

- B. Within 60 days after submission of the final plat, the Plan Commission shall review the final plat and determine whether it meets all conditions of the approved or conditionally approved preliminary plat and shall recommend its action to the Common Council. The Council shall, within 60 days of the original submission of the final plat, approve or reject the final plat. If rejected, the subdivider shall be notified in writing of the preliminary plat conditions that have not been complied with. The sixty-day approval period may be extended by agreement with the developer.
- C. If the Council fails to act on the final plat within 60 days of its submission or agreed extension thereof, the plat is approved.
- D. The subdivider shall obtain any necessary approval of state agencies or departments.
- (1) The subdivider shall obtain all required signatures to all required certificates. The City Clerk and City Treasurer shall be the last two signatures to be affixed to the final plat before submission to the county.
- E. The subdivider shall present the plat for recording within 12 months of the date of the last approval of the plat and within 36 months of the first approval, in order to sustain an approved status.
- F. The subdivider shall file two copies of the recorded final plat with the City Clerk.

§ 473-3 **Public improvements.**

- A. Security. Except as provided in Subsection **B**, public improvements in new subdivisions or lot divisions shall be installed and financed as follows:
 - (1) The subdivider shall prepare a design of water, sewer and storm sewer facilities required and shall establish road grade and elevations after the final plat has been recorded. The subdivider shall also prepare cost estimates of water, sewer, storm sewer facilities and cost estimates of grading and graveling of streets. All work performed by the subdivider pursuant to this subsection shall be per applicable City standards and/or additional or other standards set forth by the City Engineer and shall be subject to review and approval by the City Engineer.
 - (2) The subdivider shall deposit in full financial surety with the City Treasurer the costs estimated by the Engineer under Subsection **A(1)**, unless the Common Council has determined that the developer may proceed under Subsection **B** hereof.
- B. Public improvements in tax incremental finance districts. If the Common Council determines that development of a particular project or parcel in a tax incremental finance district is in the best interest of the City and such development is unlikely to proceed due to the cost associated with public improvements, the Common Council may direct that the public improvements be installed by the City at the City's expense. In that event, the City shall levy special assessments against the benefited properties to offset all or part of the cost of the public improvements. Special assessments levied under this subsection shall be deemed special assessments for local improvements under § 66.0701, Wis. Stats. The provisions of § 66.0703, Wis. Stats., relating to notice and waiver of hearing, and of § 66.0701, Wis. Stats., relating to lien and appeals of local special assessments, shall apply to assessments levied pursuant to this section.
- C. Option of developer to install public improvements.
 - (1) In tax incremental finance districts, the Common Council may allow developers the option of assuming responsibility for installation of public improvements described in Subsection **A** as herein provided.
 - (2) Prior to the recording of a final plat or approval of the development, the developer shall furnish the City with financial surety equal to 110% of the estimated constructed costs and a copy of a private contract for installation of public improvements, both approved by the City Engineer in accordance

with guidelines established under Subsection C(1). The surety shall guarantee payment of 110% of the final project cost and hold the owner harmless from all claims, including any defects in workmanship or material, for a period of one year after the project improvements are completed and transferred to the City. If approved by the Common Council, an irrevocable letter of credit may be substituted in whole or in part for the financial surety.

- (3) Upon certification by the City Engineer that the construction has been completed and meets all City requirements for public improvements and by the City Clerk that the developer has filed the necessary financial surety and satisfied all outstanding claims for work on the project, the City Engineer shall prepare and recommend to the Common Council a resolution for purchase of the improvements by the City on such terms and conditions as the Council deems in the best interests of the City. Payment in whole or part for the improvements may be made from the City general fund, general obligation or revenue borrowings, tax incremental funds, special assessments against benefited property or any combination thereof.
- (4) Special assessments levied under this section shall be deemed special assessments for local improvements under § 66.0701, Wis. Stats. The provisions of §§ 66.0701 and 66.0703, Wis. Stats., relating to notice and waiver of hearing, and of § 66.0701, Wis. Stats., relating to lien and appeals of local special assessments, shall apply to assessments levied pursuant to this section.
- (5) The City Engineer shall prepare a standard procedure manual implementing the provisions of this section. After review and approval by the Common Council, the Manual of Procedure for Installation of Improvements in Tax Incremental Financing Districts shall be kept on file in the office of the City Engineer and be open to public inspection; compliance with the Manual shall be deemed a condition of approval of subdivisions or developments within tax incremental financing districts in the City.

§ 473-4 **Land divisions.**

A. Definition. As used in this section, the following terms shall have the meanings indicated:

LAND DIVISION

The division of any parcel of land within the City for purposes of sale or building development. It shall not include:

- (1) Transfers of interest 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 owners of adjoining property if additional lots are not thereby created and the parcels resulting are not reduced below the minimum lot sizes required by this chapter or other applicable laws or ordinances.
 - (4) Land division creating four or more lots or building sites within a period of five years.
- B. Certified survey map. A division creating not more than four lots in a period of five years. Any person desiring to accomplish land division by certified survey map shall file with the Plan Commission a certified survey map as defined in § 236.34, Wis. Stats., and eight acceptable copies thereof together with a written application for approval at least five days prior to the meeting of the Plan Commission at which action is desired.
- C. Public hearing. The Plan Commission may schedule a public hearing on the proposed land division before taking action. In such case, the City Clerk shall give notice of the proposed land division to property owners within the area in which the land division is proposed as shall be deemed necessary.
- D. Review of division. The proposed land division shall be reviewed by the Plan Commission and the Public Works Committee for conformity with the provisions of this Code and the Official Map and

Master Plan of the City.

- E. Access to streets required. No proposed land division shall be approved unless the resulting lots front on a dedicated street at least 60 feet in width.
- F. Action on application. The Plan Commission and Council shall, within 90 days of application, approve, approve conditionally, or reject the proposed land division. The applicant shall be notified in writing of any conditions of approval or the reasons for rejection.
- G. Compliance with statutes. The certified survey map shall comply with § 236.34, Wis. Stats., which is adopted by reference as part of this chapter.
- H. Variances. When in the judgment of the Plan Commission or Council, it would be inappropriate to apply literally any of the provisions of this chapter because extraordinary hardship would result, the Council may grant such variance from the provisions hereof so that substantial justice may be done and the public interests secured.

§ 473-5 General park and public land dedication requirements.

- A. Dedication requirement. In order that adequate open spaces and sites for public uses may be properly located and reserved and in order that the cost of providing public areas, such as but not limited to parks, recreation areas and public schools ay be equitably apportioned on the basis of additional need created by a certified survey or subdivision development or residential development where a zoning permit is required under § **480-52** to add dwelling units to a previously platted lot or lots, each subdivider or developer shall be required to dedicate land or pay fees in lieu of land for park or other public uses.
- B. General design. In the design of a subdivision, land division, planned unit development or certified survey, provision shall be made for suitable sites of adequate area for schools, parks, playgrounds, open spaces, drainageways and other public purposes. Such sites are to be shown on the preliminary plat and final plat and shall comply with the City Master Plan or components of said Plan. Consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds, ravines and woodlands, prairie and wetlands, and plant and animal communities.
- C. Site reservations required.
 - (1) Where the area proposed to be divided contains a park, playground or other public area which is shown upon the Master Plan of the City, at the Common Council's determination such area shall either be dedicated to the proper public agency or it shall be reserved for acquisition thereby within a three-year period by purchase or other means. If the land is not acquired during this period, it shall be released to the subdivider.
 - (2) Whenever any river, stream or important surface drainagecourse is located in the area being divided, the subdivider of land shall provide an easement along each side of the river, stream or drainagecourse for the purpose of widening, deepening, relocating, improving or protecting the river, stream or drainagecourse for drainage or recreational use.
- D. Land dedication.
 - (1) Dedication of sites. Where feasible and compatible with the comprehensive or master plan of the City, the subdivider shall provide and dedicate to the public adequate land to provide for park, recreation, school and open space needs of the land development within the City of Monona. The location of such land to be dedicated shall be determined by the Common Council. Where the dedication is not compatible with the comprehensive or master plan or for other reasons is not feasible as recommended by the Plan Commission and as approved by the Common Council, the subdivider shall, in lieu thereof, pay to the City a fee as established by this chapter, or a combination

thereof.

- (2) Dedication of parks, playgrounds, recreation and open spaces. The developer shall dedicate sufficient land area to provide adequate park, playground, recreation and open space to meet the needs to be created by and to be provided for the land division, subdivision or comprehensive development. The minimum dedication shall be 2,000 square feet per proposed dwelling unit.
- (3) Unknown number of dwelling units. Where the plat, certified survey or condominium does not specify the number of dwelling units to be constructed, the land dedication shall be based upon the maximum number of units permitted by Chapter **480**, Zoning, and this chapter.
- (4) Minimum size of park and playground dedications.
 - (a) In general, land reserved for recreation purposes shall have an area of at least two acres. Where the amount of land to be dedicated is less than two acres, the Common Council may require that the recreation area be located at a suitable place on the edge of the proposed land division, subdivision or certified survey so that additional land may be added at such time that the adjacent land is subdivided. In no case shall an area of less than one acre be reserved for recreational purposes if it will be impractical or impossible to secure additional lands in order to increase its area.
 - (b) Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, play field or for other recreation purposes and shall be relatively level and dry. A recreation site shall have a total frontage on one or more streets of at least 200 feet, and no other dimension of the site shall be less than 200 feet.
- (5) Fees in lieu of land.
 - (a) Where in the sole discretion of the Common Council there is no land suitable for parks within the proposed land division or the dedication of land would not be compatible with the City's comprehensive development or park plan, the minimum size under Subsection **D(4)** above cannot be met, or City officials determine that a cash contribution would better serve the public interest, the Common Council shall require the subdivider to contribute a park and recreation development fee in lieu of land. The fees collected shall be held in a nonlapsing fund to be used for purchase, development, improvement and maintenance of parks, playgrounds, open spaces and other recreational sites and facilities. A fee shall be paid as set by the Common Council in the City's Fee Schedule prior to issuance of a building permit.
 - (b) The Common Council may in its sole discretion permit the subdivider to satisfy the requirements of this chapter by combining a land dedication with a fee payment. If a land dedication of 25% of the required dedication is made, the subdivider shall also contribute an amount equal to 75% of the required per-unit fee in lieu of land. If a land dedication of 50% of the required dedication is made, the subdivider shall also contribute an amount equal to 50% of the required per-unit fee in lieu of land. If a land dedication of 75% of the required dedication is made, the subdivider shall also contribute an amount equal to 25% of the required per-unit fee in lieu of land.
 - (c) The City shall place any fee collected pursuant to the provisions of this section in a separate account to be used at the discretion of the Common Council in any community park, for developing adequate parks, playgrounds, recreation and open spaces.
- (6) Extraterritorial areas. Where the land division, subdivision or comprehensive development is situated within the extraterritorial jurisdiction of the City and the town operates and maintains a park system, the parkland area dedicated to the town or fees paid to the town in lieu of such dedication shall be credited against any dedication required by or fee imposed pursuant to this section.
- (7) Limitations. A subdivider shall not be required to dedicate more than 1/3 of the total area of the plat to meet the objectives of this section.

- (8) Suitability of lands. The Common Council shall have sole authority to determine the suitability and adequacy of parklands proposed for dedication. Drainageways, wetlands or areas reserved for streets shall not be considered as satisfying land dedication requirements.
 - (9) Access to dedicated land. All dedicated land shall have frontage on a public street and shall have unrestricted public access.
 - (10) Utility extensions. The subdivider shall install or provide for installation of water and sanitary sewer lines to the property line of all dedicated land where such services are to be provided to the adjacent properties.
- E. Reservation of additional land. When public parks and sites for other public areas as shown on the Master Plan or Master Plan component lie within the proposed area for development and are greater in area than required by Subsection **D**, the owner shall reserve for acquisition by the City, through agreement, purchase or condemnation, the remaining greater public area for a period of one year of final plat approval unless extended by mutual agreement.
- F. Development of park area.
- (1) When parklands are dedicated to the City, the subdivider is required to:
 - (a) Properly grade and contour for proper drainage;
 - (b) Provide surface contour suitable for anticipated use of area as approved by the City Engineer; and
 - (c) Cover areas to be seeded with a minimum of four inches of quality topsoil, seed as specified by the City Engineer, fertilized with 16-6-6 at a rate of seven pounds per 1,000 square feet, and mulched as specified in the standard "Specifications for Road and Bridge Construction, Sections 627 and 629." The topsoil furnished for the park site shall consist of the natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life, and such topsoil shall be neither excessively acid nor excessively alkaline. Fine grading and seeding must occur within one year following issuance of the first building permit within that land division unless otherwise authorized by the Common Council. The improved area shall not be deemed officially accepted until a uniform grass cover to a two-inch height has been established. It shall be the responsibility of the subdivider to maintain the area until the City accepts the dedication.
 - (2) It shall be the responsibility of the City to maintain the dedicated areas upon their dedication and acceptance by the City.
 - (3) A neighborhood park area shall be provided by the subdivider with a standard residential water service unless located directly adjacent to a fire hydrant. A community park area shall be provided by the developer with a minimum six-inch water service or at least one fire hydrant and at least one four-inch sanitary sewer lateral, all located at the street property line.
 - (4) The Common Council may require certification of compliance by the subdivider with this chapter. The cost of such report shall be paid by the subdivider.
 - (5) If the subdivider fails to satisfy the requirements of this section, the Common Council may contract said completion and bill such costs to the subdivider following a public hearing and written notice to the subdivider of noncompliance. Failure to pay such costs may result in the immediate withholding of all building permits until such costs are paid.
 - (6) The subdivider shall pay all costs of public improvements in the public streets adjacent to or within all public and/or park lands.

§ 473-6 **Administrative and other fees.**

- A. General. The subdivider shall pay the City of Monona all fees as hereinafter required and at the times specified before being entitled to recording of a plat or certified survey map. At the time of submission of a plat or certified survey, the Plan Commission, at its sole discretion, may require the subdivider to make a good faith deposit with the City Clerk to cover, in all or part, the expenses anticipated to be incurred by the City because of the land division. Unused portions of such fund may be refunded to the subdivider.
- B. Engineering fee. The subdivider shall pay a fee equal to the actual cost to the City for all engineering work incurred by the City in connection with the plat or certified survey map, including inspections required by the City. The subdivider shall pay a fee equal to the actual cost to the City for such engineering work and inspection as the Common Council and/or City Engineer deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the City or any other governmental authority. Engineering work shall include the preparation of construction plans, standard specifications and administration of the engineering work.
- C. Administrative fee. The subdivider shall pay a fee to the City equal to the cost of any legal, administrative or fiscal work which may be undertaken by the City in connection with the plat or certified survey map.
- D. Concept plan. There shall be no fee for the City's review of a concept or sketch plan of a proposed land division. However, such reviews shall be conducted only as staff time permits.
- E. Preliminary plat.
 - (1) A subdivider who submits a preliminary plat for the Plan Commission and the Common Council shall file said preliminary plat with the City Clerk and shall deposit with the City Clerk a fee as set forth in the City's Fee Schedule to cover the costs of reviewing said application. If the plat is rejected, no part of the fee shall be returned to the petitioner.
 - (2) A reapplication fee as set in the City's Fee Schedule shall be paid to the City Clerk at the time of reapplication for approval or amendment of any preliminary plat which has previously been reviewed.
- F. Final plat review fee.
 - (1) The subdivider shall pay a fee as set forth in the City's Fee Schedule for every lot within the final plat.
 - (2) A reapplication fee as set forth in the City's Fee Schedule shall be paid to the City Clerk at the time of a reapplication for approval or amendment of any final plat which has previously been reviewed.
- G. Certified survey.
 - (1) The subdivider shall pay an application fee plus a fee per lot as set forth in the City's Fee Schedule for each lot in a certified survey map submitted for Plan Commission and Common Council review.
 - (2) Should the subdivider submit an amended or revised certified survey, the resubmittal fee shall be as set forth in the City's Fee Schedule for each amended or revised certified survey.
- H. Objecting agency review fees. The subdivider shall transmit all fees required for state agency review to the City Clerk at the time of application. Said review fees shall be retransmitted to the proper state review agency by the City Clerk. Said fees shall be applicable, where appropriate, to review fees required by the Wisconsin Department of Development, Wisconsin Department of Transportation, Wisconsin Department of Safety and Professional Services and the Wisconsin Department of

Natural Resources.

- I. Public site fee. If the subdivision does not contain lands to be dedicated as required in this chapter, the City Clerk shall require a fee pursuant to § 473-5 for the acquisition and development of public sites to serve the future inhabitants of the proposed subdivision.
- J. Assessments. All outstanding assessments due to the City shall be due prior to the signing of the final plat or certified survey by the City.
- K. Cost determination. The subdivider of land divisions within the City shall reimburse the City for its actual cost of design, inspection, testing, construction and associated legal and real estate fees incurred in connection with the preliminary plat, final plat, replat or certified survey. The City's costs shall be determined as follows:
 - (1) The cost of City employees' time engaged in any way with the land division, based on the hourly rate paid to the employee multiplied by a factor determined by the City Clerk to represent the City's cost for expenses, benefits, insurance, sick leave, holidays, vacation and similar benefits.
 - (2) The cost of City equipment employed.
 - (3) The cost of mileage reimbursed to City employees which is attributed to the land division.
 - (4) The actual costs of City materials incorporated into the work, including transportation costs plus a restocking and/or handling fee not to exceed 10% of the cost of the materials.
 - (5) All consultant fees, including but not limited to legal and engineering, at the invoiced amount plus administrative costs. Unless the amount totals less than \$50, the City shall bill the subdivider monthly for expenses incurred by the City. Statements outstanding for more than 30 days shall accrue interest at the rate of 1 1/2% per month. Bills outstanding for more than 90 days shall be forwarded to the subdivider's surety agency for payment. Amounts less than \$50 shall be held for billing by the City until amounts total more than \$50 or until the conclusion of project activities.

§ 473-7 **Violations and penalties.**

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in § 1-4 of the Code of the City of Monona. Sections 236.30 and 236.31, Wis. Stats., shall also be available

r
e
m
e
d
i
e
s

f
o
r

v
i
o
l
a
t
i
o
n
s