

*Approved 2-5-2001  
Board Minutes*

# Subdivision Ordinance

Davis County, Iowa

FINAL APPROVED ORDINANCE

February, 2001

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TABLE OF CONTENTS .....		PAGE
SECTION 1.	SHORT TITLE .....	1
SECTION 2.	PURPOSE .....	1
SECTION 3.	DEFINITIONS .....	1
SECTION 4.	GENERAL REGULATIONS .....	4
SECTION 5.	IMPROVEMENTS .....	4
SECTION 6.	MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS.....	6
SECTION 7.	PLATS OF SURVEY AND ACQUISITION PLATS.....	9
SECTION 8.	SUBDIVISION PLATS .....	11
SECTION 9.	REVIEW AND APPROVAL .....	14
SECTION 10.	APPEAL OF REVIEW OR DISAPPROVAL .....	15
SECTION 11.	BONDS TO SECURE LIENS .....	15
SECTION 12.	AUDITOR'S PLATS AND PLATS OF SURVEY .....	16
SECTION 13.	RECORDING OF PLATS .....	17
SECTION 14.	DEDICATION OF LAND .....	17
SECTION 15.	VACATION OF OFFICIAL PLATS, STREETS, OR OTHER PUBLIC LAND .....	18
SECTION 16.	ERRORS, SURVEYS AND REPLATS, AND CORRECTIONS OR CHANGES.....	19
SECTION 17.	ACTION TO ANNUL PLATS .....	19
SECTION 18.	LIMITATION OF ACTIONS ON OFFICIAL PLATS .....	20
SECTION 19.	VARIANCES .....	20
SECTION 20.	VALIDITY .....	20
SECTION 21.	AMENDMENTS .....	20
SECTION 22.	CONFLICTS .....	20
SECTION 23.	WHEN EFFECTIVE .....	20

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- 3.103 **Aliquot Part.** A fractional part of a section within the United States public land survey system. Only the fractional parts one-half (1/2), one-quarter (1/4), one-half (1/2) of one-quarter (1/4), or one-quarter (1/4) of one-quarter (1/4) shall be considered an aliquot part of a section.
- 3.104 **Assessor.** The Davis County Assessor.
- 3.105 **Auditor.** The Davis County Auditor.
- 3.106 **Auditor's Plat.** A subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the Auditor.
- 3.107 **Block.** An area of land within a subdivision that is entirely bounded by streets, railroad rights of way, rivers, tracts of public land, or the boundary of the subdivision.
- 3.108 **Board.** The Davis County Board of Supervisors.
- 3.109 **Commission.** The Davis County Planning and Zoning Commission.
- 3.110 **Conveyance.** An instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.
- 3.111 **County.** Davis County, Iowa.
- 3.112 **County Attorney.** The Davis County Attorney.
- 3.113 **County Engineer.** The professional engineer registered in the State of Iowa designated as County Engineer by the Davis County Board of Supervisors.
- 3.114 **Comprehensive Plan.** The Davis County Comprehensive Plan.
- 3.115 **Cul-de-Sac.** A street having one end connecting to another street, and the other end terminated by a vehicular turn around.
- 3.116 **Division.** Any separation that creates two (2) lots or parcels of land, or that creates a second lot or parcel from any parcel of land as it existed on the date of adoption of this ordinance, by conveyance or for tax purposes. The conveyance of an easement, shall not be considered a division for the purpose of this Ordinance.
- 3.117 **Easement.** An authorization by a property owner for another to use a designated part of his/her property for a specified purpose.
- 3.118 **Flood Hazard Area.** Any area subject to flooding by one (1) percent probability flood, otherwise referred to as a one-hundred (100) year flood plain; as designated by the Iowa Department of Natural Resources or the Federal Insurance Administration.
- 3.119 **Flood Plain.** The channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.
- 3.120 **Forty-Acre Aliquot Part.** One-quarter (1/4) of one-quarter (1/4) of a section.
- 3.121 **Government Lot.** A tract, within a section, which is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.

# SUBDIVISION ORDINANCE

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## SECTION 1. SHORT TITLE

1.1 This sub-division ordinance shall be known and may be cited and referred to as the "Davis County, Iowa Subdivision Ordinance."

## SECTION 2. PURPOSE

2.1 It is the purpose of this Ordinance to provide for a balance between the review and regulation authority of Davis County, Iowa concerning the division and subdivision of land and the rights of landowners. Therefore, this Ordinance is adopted for the following purposes.

- A. To provide for accurate, clear, and concise legal descriptions of real estate in order to prevent, wherever possible, boundary disputes of real estate title problems.
- B. To provide for a balance between the land use rights of individual landowners and the economic, social, and environmental concerns of the public when developing or enforcing land use regulations.
- C. To provide procedures and standards for the platting of land, and enforce and establish an ordinance regulating the division and use of land, within the scope of, but not limited to, Chapters 331, 335, 364, 354, 355, and 414, Code of Iowa.
- D. To encourage orderly County development and provide for the regulation and control of the extension of public improvements, public services and utilities, the improvement of land, and the design of subdivisions, consistent with the Davis County Comprehensive Plan or other pertinent County plans.
- E. To provide minimum standards for the design, development, and improvement of all new subdivisions and resubdivisions of land, so that existing land uses will be protected, and so that growth occurs in an orderly manner, consistent with the Comprehensive Plan, and to promote the public health, safety, and the general welfare of the citizens of Davis County, Iowa.
- F. To provide procedures, standards, and review process for the division and platting of land.

## SECTION 3. DEFINITIONS

3.1 For the purpose of this Ordinance certain terms and words are herewith defined. The present tense shall include the future tense, the singular number shall include the plural, and the plural number shall include the singular. The word "shall" is mandatory, and the word "may" is permissive. The word "person" shall include an individual, firm, association, organization, partnership, trust, company, or corporation. The words "used" or "occupied" shall include the words intended, designed, or arranged to be used or occupied.

3.101 **Alley.** Public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.

3.102 **Acquisition Plat.** The graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right of way purposes by an agency of the government or other persons having the power of eminent domain.

- 3.122 **Improvements.** Changes to land necessary to prepare it for building sites including, but not limited to, grading, filling, street paving, curb paving, sidewalks, walkways, water mains, sewers, drainage ways, and other public works and appurtenances.
- 3.123 **Lot.** A tract of land represented and identified by number or letter designation on an official plat.
- 3.124 **Lot, Corner.** A lot situated at the intersection of two (2) streets.
- 3.125 **Lot, Double Frontage.** Any lot which is not a corner lot which abuts two (2) streets.
- 3.126 **Metes and Bounds.** A description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.
- 3.127 **Official Plat.** Either an auditor's plat or a subdivision plat that meets the requirements of this Ordinance and has been filed for record in the offices of the Recorder, Auditor, and Assessor.
- 3.128 **Parcel.** A part of a tract of land.
- 3.129 **Permanent Real Estate Index Number.** A unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29, Code of Iowa.
- 3.130 **Plat of Survey.** The graphical representation of a survey of one (1) or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.
- 3.131 **Proprietor.** A person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement, or lien interest.
- 3.132 **Recorder.** The Davis County Recorder.
- 3.133 **Resubdivision.** Any subdivision of land which has previously been included in a record plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
- 3.134 **Sanitarian, County.** The individual assigned the duty to administer this Ordinance by the Board of Supervisors or other appointing authority.
- 3.134 **Street.** Public property, not an alley, intended for vehicular circulation. In appropriate context it may refer to the right of way bounded by the property lines of such public property, or may refer to the paving installed within such right of way.
- 3.135 **Street, Major.** An arterial street or other street which has, or is planned to have continuity to carry traffic from one section of the County to another.
- 3.136 **Subdivision.** Any division that creates four (4) or more lots or parcels, or that creates a fourth lot or parcel from any parcel of land as it existed on the date of adoption of this ordinance. Divisions that are forty (40) acres or more are exempt from this Ordinance. — RICK LYNCH, SHEILA & PAT AGREED THAT PARCEL MEANS 40 ACRES
- a. **Farm Subdivision:** Transfers of land between family members for the purpose of continuing farm operations shall be exempt from this ordinance. A family member consists of any person related by consanguinity or affinity within the third degree.
- 3.137 **Subdivision Plat.** The graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the County.

3.138 **Surveyor.** A registered land surveyor who engages in the practice of land surveying pursuant to Chapter 114, Code of Iowa.

3.139 **Tract.** An aliquot part of a section, a lot within an official plat, or government lot.

3.140 **Treasurer.** The Davis County Treasurer.

## SECTION 4. GENERAL REGULATIONS

4.1 **Jurisdiction.** This Ordinance shall apply to the unincorporated areas of Davis County, Iowa.

4.2 **Covenant of Warranty.** The duty to file for record a plat as provided in Section 7 and Section 8 attaches a covenant of warranty in all conveyances by a grantor who divides land against all assessments, costs, and damages paid, lost, or incurred by a grantee or person claiming under a grantee, in consequence of the omission on the part of the grantor to file the plat. A conveyance of land is deemed to be a warranty that the description contained in the conveyance is sufficiently certain and accurate for the purposes of assessment, taxation, and entry on the transfer books and plat books required to be kept by the Auditor. The description contained in a conveyance shall be sufficiently certain and accurate for assessment and taxation purposes if it provides sufficient information to allow all the boundaries to be accurately determined and does not overlap with or create a gap between adjoining land descriptions.

A recorded conveyance in violation of this Ordinance may be entered on the transfer books of the Auditor's office. The Auditor shall notify the grantor and the grantee that the conveyance is in violation of this Ordinance and demand compliance as provided for in Section 12.

4.3 **Fees Established.** The Board, from time to time, shall establish by resolution, fees for the review of plats. No plat for any subdivision or resubdivision shall be considered filed with the Board, unless and until said plat is accompanied by the fee, as established by resolution of the Board, and as required by this Ordinance.

4.301 **Preliminary Plat**            \$100.00

4.302 **Final Plat**            \$60.00

4.4 **Penalties.** Any person who shall dispose of or offer for sale or lease any lot or lots within the area of jurisdiction of this Ordinance, before the plat thereof has been approved by the Board, and recorded as required by law, shall forfeit and pay fifty dollars (\$50.00) for each lot or part of lot sold or disposed of, leased, or offered for sale. Nothing contained herein shall in any way limit the County's right to any other remedies available to the County for the enforcement of this Ordinance.

4.5 **Subdivision/Building Permit to be Denied.** No subdivision/building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by this Ordinance, unless and until a plat of such subdivision has been approved and recorded in accordance with this Ordinance, and until the improvements required by this Ordinance have been installed.

## SECTION 5. IMPROVEMENTS

5.1 **Improvements Required.** The subdivider shall, at his/her expense, install and construct all improvements required by this Ordinance. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the County, and as shown on the approved plat.

5.2 **Inspection.** All improvements shall be inspected to insure compliance with the requirements of this Ordinance. The cost of such inspection shall be borne by the subdivider, and shall be the actual cost of the inspection to the County.

**5.3 Minimum Improvements.** The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety, and welfare of the citizens of Davis County. However, if any portion of a proposed subdivision lies within two (2) miles of a municipality which has enacted subdivision regulations, the subdivider shall follow the improvements requirements designated by that municipality's subdivision ordinance.

**5.301 Streets.** The subdivider of land being subdivided shall provide the grading of the entire street right of way, alley, or public place, and provide appropriate surfacing on all streets. Where paving of streets cannot be reasonably accomplished, unpaved streets may be allowed.

**5.302 Sanitary Sewer System.** The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area with due regard being given to present or reasonably foreseeable needs. Where connection to a central sewer system, or the construction of a central sewage collection and treatment system cannot be reasonably accomplished, septic systems may be allowed.

No subdivision to be served by septic systems shall be approved until and unless percolation tests have been performed and the results of such tests have been provided to and reported on by the County Engineer. Such septic systems, if approved, may be installed by the subdivider, or by a subsequent owner at the time development of a lot takes place.

**5.303 Storm Sewer System.** The subdivider of land being platted shall install and construct a storm water drainage and/or storm sewer system adequate to serve the area, including anticipated extension of use to serve additional areas, so as to prevent undue runoff onto adjacent land.

**5.304 Water System.** The subdivider of land being platted shall make appropriate provision for a suitable water supply for each platted lot or parcel. Such water supply shall be appropriate for the character of development proposed. No subdivision shall be approved until and unless the proposed system for providing water has been approved by the County Engineer. Individual wells, if approved, may be installed by the subdivider, or by a subsequent owner at the time development of lot takes place.

**5.305 Other Improvements.** The subdivider of the land being platted shall be responsible for the installation of sidewalks and walkways necessary to secure pedestrian safety, grading and seeding or sodding of all lots, the planting of any required trees, and the installation of street signs and street lighting as required.

#### **5.4 Easements Required.**

**5.401 Utility Easements.** Where required for the placement of present or future utilities, easements of not less than ten (10) feet in width shall be granted by the owner along rear, and where necessary, along side lot lines for public utility requirements. Except where prohibited by topography, such easements shall be centered on lot lines. Easements of greater width may be required along lot lines, or across lots when necessary for the placement and maintenance of utilities. No buildings or structures except as necessary for utilities shall be permitted on such easements.

**5.402 Easements Along Streams and Watercourses.** Whenever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at his/her own expense, make adequate provisions for the proper drainage of surface water and shall also provide and dedicate to the County an easement along said streams and watercourses as necessary for the proper maintenance of the watercourse, and as approved by the County.

**5.5 Maintenance of Improvements.** Unless otherwise approved by the Board, improvements required to be installed shall remain the property and the responsibility of the subdivider, or successors in interest to the lands being subdivided. No subdivision shall be approved until and unless legal covenants, running with the land, sufficient to ensure that the County will not need to assume maintenance responsibility for any such improvements, have been approved by the County Attorney and the Board.

## SECTION 6. MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

**6.1 Standards Prescribed.** The standards set forth in this Ordinance shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

**6.2 Land Suitability.** No land shall be subdivided which is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography, or other conditions likely to be harmful to the public health, safety, or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the County.

If land is found to be unsuitable for subdivision for any of the reasons cited in this Section, the Board shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the Board may reaffirm, modify, or withdraw its determination regarding such unsuitability.

**6.3 Lands Subject to Flooding.** No subdivision containing land located in a flood plain or a flood hazard area shall be approved by the County without the approval of the Iowa Department of Natural Resources. No lot shall be located so as to include land located within a flood plain or flood hazard area unless the lot is of such size and shape that it will contain a buildable area not within the flood plain or flood hazard area, suitable for development.

Land located within a flood hazard area or a flood plain may be included within a plat as follows, subject to the approval of the County.

6.301 Included within individual lots in the subdivision, subject to the limitations of this Section.

6.302 Reserved as open space for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the County, providing for its care and maintenance by such owners.

6.303 If acceptable to the County, dedicated to the County as public open space for recreation or flood control purposes.

**6.4 Plat to Conform to Comprehensive Plan.** The arrangement, character, extent, width, grade, and location of all streets; and the general nature and extent of the lots and uses proposed shall conform to the Comprehensive Plan; and shall conform to such other plans, including, but not limited to, a County Road or Street Plan, a Sanitary Sewer System Plan, a Water System Plan, or a Parks and Open Space Plan, provided such plan has been adopted by the County.

**6.5 Construction Standards for Improvements.** In addition to the standards set forth in this Ordinance, the County Engineer shall from time to time prepare, and the Board shall from time to time adopt by resolution, technical standards for public improvements. Such technical standards or public improvements shall contain the minimum acceptable specifications for the construction of improvements. Such technical standards may vary for classes of improvements, giving due regard to the classification of streets and roads, or other improvements, and the extent and character of the area served by the improvements.

Upon adoption by the Board by resolution, such technical standards for public improvements shall have such force and effect as if they were fully set forth herein.

**6.6 Street Standards.** The following standards shall apply to all streets to be located within the subdivision.



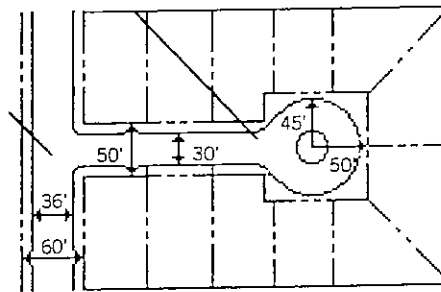
6.601 Streets shall provide for the continuation of major streets from adjoining platted areas, and the extension of major streets into adjoining unplatted areas.

6.602 Street grades shall align to existing streets, and all grades for streets shall be as approved by the County.

6.603 New arterial streets shall be located so as to not require direct access from the arterial street to abutting lots.

6.604 Minimum street right of way and pavement widths shall be as follows:

Type	Pavement Width	Right Of Way Width
Minor Street	30'	50'
Major Street	36'	60'



Typical Subdivision Standards

topography of the site may require wider widths as determined by the county engineer.

6.605 Half-streets are prohibited, except, where an existing platted half-street abuts the subdivision, a platted half-street to complete the street shall be required.

6.606 Minor streets should be designed to discourage through traffic while safely connecting to major streets and roads.

6.607 Street jogs with center line offsets of less than one hundred twenty five (125) feet shall be prohibited, except where topography, or other physical conditions make such jogs unavoidable.

6.608 Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than sixty (60) degrees.

6.609 At intersections of major streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right of way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

6.610 Dead end streets are prohibited, except, where a street is planned to continue past the subdivider's property, a temporary dead end may be allowed.

6.611 Streets which connect with other streets, or loop streets, are preferable, but cul-de-sacs may be permitted. Cul-de-sacs should not exceed five hundred (500) feet in length, unless a greater length is unavoidable. The turnaround of any cul-de-sac shall consist of a minimum pavement diameter of ninety (90) feet and a minimum right of way diameter of one hundred (100) feet.

6.612 In general, alleys shall be prohibited in residential areas and required in commercial areas with normal street frontage. Dead end alleys are prohibited, unless provided with a turn 'around with a minimum right of way diameter of one hundred (100) feet.

6.613 When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening to future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision.

Easements for the future openings and extensions for such streets or utilities may, at the discretion of the Board, be made a requirement of the plat.

6.614 Streets which are, or will become extensions of existing streets, shall be given the same name as the existing streets. Street names shall be approved by the 911 committee.

**6.7 Block and Lot Standards.** The following standards apply to the layout of blocks and lots in all subdivisions, and to the extent possible, in all resubdivisions.

6.701 The size and shape of blocks or lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements for such uses.

6.702 Block and lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses. The minimum lot size for lots without a central sewage system is 2 ½ acres. The minimum size for lots with a central sewage system present is ½ acre.

6.703 The size and shape of all lots shall comply with any requirements regarding the specific use on the lot.

6.704 All lots shall abut a public street, or an approved private street, with a minimum frontage of at least forty-five (45) feet.

6.705 Unless unavoidable, lots shall not front, or have direct access to arterial streets or county roads. Where unavoidable, lots shall be so arranged as to minimize the number of access points.

6.706 All lots shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgement of the Board, a variation to this provision will provide a better street and lot layout.

6.707 Corner lots shall have sufficient extra width to permit any required front yard setbacks as specified, oriented to either street.

6.708 Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting a major street and a minor street, and such lots shall front only on the minor street.

**6.8 Parks and Open Space.** All residential subdivisions should be so designed, as to meet the neighborhood park and open space needs of its residents. Such needs may be met by dedication and acceptance of public park land, and/or by reservation by covenant of private space, provided, there shall exist sufficient covenants, running with the land, to insure adequate maintenance by the property owners benefitting from such open space.

**6.9 Parks and School Sites Reserved.** When a tract being subdivided includes lands proposed to be parks or school sites in an official plan of the County, the subdivider shall indicate such areas on the plat.

6.901 Proposed park sites shall be reserved for ninety (90) days, giving the County or other authorized public agency the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (1/2) of the cost

of grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the public agency. Should the park sites not be purchase within ninety (90) days, the subdivider may then revise the plat.

6.902 Proposed school sites shall be reserved for ninety (90) days, giving the appropriate school district the option to purchase the land at the appraised raw land value prior to the subdivision as established by a certified land appraiser. The purchase price shall also include one-half (1/2) of the cost for grading and paving, including curbs, of the portion of any streets that are contiguous to the site and any taxes and interest incurred by the subdivider between the date of reservation and date of purchase by the school district. Should the school sites not be purchased within ninety (90) days, the subdivider may then revise the plat.

## SECTION 7. PLATS OF SURVEY AND ACQUISITION PLATS

**7.1 Divisions Requiring a Plat of Survey.** The grantor of land which has been divided using a metes and bounds description shall have a plat of survey made of the division, except as provided for in Section 7.2. The grantor or the surveyor shall contact the County Auditor who, for the purpose of assessment and taxation, shall review the division to determine whether the survey shall include only the parcel being conveyed or both the parcel being conveyed and the remaining parcel. The plat of survey shall be prepared in compliance with Chapter 114A, Code of Iowa, and shall be recorded. The plat shall be clearly marked by the surveyor as a plat of survey and shall include the following information for each parcel included in the survey:

- A. A parcel letter designation approved by the Auditor.
- B. The names of the proprietors.
- C. An accurate description of each parcel.
- D. The total acreage of each parcel.
- E. The acreage of any portion lying within a public right of way.

The Auditor may note a permanent real estate index number upon each parcel shown on a plat of survey according to Section 441.29, Code of Iowa, for real estate tax administration purposes. The surveyor shall not assign parcel letters or prepare a metes and bounds description for any parcel shown on a plat of survey unless the parcel was surveyed by the surveyor in compliance with Chapter 114A, Code of Iowa.

**7.2 Divisions Requiring an Acquisition Plat.** When land or rights in land are divided for right of way purposes by an agency of the government or other person having the power of eminent domain and the description of the land or rights acquired is a metes and bounds description then an acquisition plat shall be made and attached to the description when the acquisition instrument is recorded. Acquisition plats shall be clearly marked as an acquisition plat and shall conform to the following:

- A. Acquisition plats shall not be required to conform to the provisions of Chapter 114A, Code of Iowa.
- B. The information shown on the plat shall be developed from instruments of record together with information developed by field measurements. The unadjusted error of field measurements shall not be greater than one (1) in five thousand (5,000).
- C. The plat shall be signed and dated by a surveyor, bear the surveyor's Iowa registration number and legible seal, and shall show a north arrow and bar scale.

D. The original drawing shall remain the property of the surveyor or the surveyor's agency and shall not be less than eight and one half inches by eleven inches (8-1/2" x 11") in size.

E. If the right of way on an acquisition plat is a portion of lots within an official plat, reference shall be made to both the lots and plat name. If the right of way acquisition plat is not within an official plat, reference shall be made to the government lot or quarter-quarter section and to the section, township, range, and county.

F. The plat shall indicate whether the monuments shown are existing monuments or monuments to be established. Monuments shall be established as necessary to construct or maintain the right of way project.

G. The acquisition plat shall identify the project for which the right of way was acquired and a parcel designation shall be assigned to each right of way parcel.

**7.3 Plat Requirements.** The acreage shown for each parcel included in a plat of survey or acquisition plat shall be to the nearest one-hundredth (1/100) acre. If a parcel described as part of the United States public land survey system and not entirely within an official plat, lies within more than one forty-acre aliquot part of a section, the acreage shall be shown only for assessment and taxation purposes for each portion of the parcel that lies within each forty-acre aliquot part. The surveyor shall not be required to establish the location of the forty-acre aliquot line by survey but is required to use reasonable assumptions in determining its approximate location for assessment and taxation purposes.

Governmental agencies shall not be required to survey a remaining parcel when land is divided for right of way purposes and shall not be required to contact the Auditor for approval of parcel designations shown on an acquisition plat.

**7.4 Descriptions and Conveyance According to Plat of Survey.** A conveyance of a parcel shown on a recorded plat of survey shall describe the parcel by using the description provided on the plat of survey or by reference to the plat of survey, which reference shall include all of the following:

- A. The parcel letter of designation.
- B. The book and page number of the recorded plat of survey.
- C. The lot number or letter and name of the official plat, if the parcel lies within an official plat.
- D. The section, township, and range number and reference to the aliquot part of the section, if the parcel lies outside an official plat.

**7.5 Descriptions and Conveyance According to Acquisition Plat.** A conveyance of a parcel shown on a recorded acquisition plat shall describe the parcel by using the description provided on the acquisition instrument or by reference to the acquisition plat, which reference shall include all of the following:

- A. The parcel designation and reference to the project for which the right of way was acquired.
- B. The book and page number of the recorded acquisition plat.
- C. The lot number or letter and name of the official plat, if the parcel lies within an official plat.
- D. The section, township, and range number and reference to the aliquot part of the section, if the parcel lies outside an official plat.

**7.6 Validity of Descriptions.**

7.601 A description by reference to the recorded plat of survey, in compliance with Section 7.4, is valid.

7.602 A description by reference to the recorded acquisition plat, in compliance with Section 7.5, is valid.

## **SECTION 8. SUBDIVISION PLATS**

**8.1 Divisions Requiring a Subdivision Plat.** A subdivision plat shall be made when a tract of land is subdivided by repeated divisions or simultaneous division into four (4) or more parcels. A subdivision plat is not required when land is divided by conveyance to a governmental agency for public improvements.

### **8.2 Procedures and Submission Requirements for Subdivision Plats.**

**8.201 Pre-Application Conference.** Whenever a subdivision located in the County is proposed, the owner and subdivider shall schedule a Pre-Application Conference with the County Sanitarian. The conference should be attended by the County Sanitarian and such other County or utility representatives as is deemed desirable; and by the owner and his/her engineer, and/or planner, as deemed desirable. If any portion of the land to be subdivided lies within two (2) miles of any City within the County which has adopted subdivision regulations, the County Sanitarian shall notify the City in writing, and shall invite the appropriate City representatives to attend the Pre-Application Conference.

The purpose of such conference shall be to acquaint the County with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and special problems relating to the proposed subdivision.

**8.202 Sketch Plan Required.** For the Pre-Application Conference, the subdivider shall provide a map or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area.

**8.3 Plat Requirements.** A subdivision plat must conform to the following requirements upon submittal:

8.301 Title, scale, north arrow, and date on each sheet.

8.302 Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the County, as approved by the Auditor.

8.303 The name and address of the owner and the name, address, and profession of the person preparing the plat.

8.304 A key map showing the general location of the proposed subdivision in relation to surrounding lands.

8.305 The names and location of adjacent subdivisions and the names of record owners and location of adjoining parcels of land. A list of all owners of record of property located within two hundred (200) feet of the subdivision boundary shall be attached.

8.306 The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.

8.307 Existing and proposed zoning of the proposed subdivision and adjoining property.

8.308 Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10%) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10%) percent or greater.

8.309 The plat shall include an accurate description of the land included in the subdivision and shall give reference to two (2) section corners within the United States public land survey system in which the plat lies or, if the plat is a subdivision of any portion of an official plat, two (2) established monuments within the official plat. The plat shall also include sufficient information, including dimensions and angles or bearings, to accurately establish the boundaries of each lot, street, and easement. The Boundary of the land being platted shall be shown as a dark line.

8.310 Each lot within the plat shall be assigned a progressive number. Streets, alleys, parks, open areas, school property, other areas of public use, or areas within the plat that are set aside for future development shall be assigned a progressive letter and shall have the proposed use clearly designated. Progressive block numbers or letters may be assigned to groups of lots separated from other lots by streets or other physical features of the land. The surveyor shall not assign lot numbers or letters to a lot shown within a subdivision plat unless the lot has been surveyed by a surveyor in compliance with Chapter 114A, Code of Iowa. The plat shall also detail the layout and approximate dimensions of proposed lots.

The Auditor may note a permanent real estate index number upon each lot within a subdivision plat.

8.311 The plat shall include the proposed names, location, width, and dimensions of all streets being platted.

8.312 A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of practical use or service as determined by the Board.

8.313 Easements necessary for the orderly development of the land within the plat shall be shown and the location, widths, limitations, and the purpose of the easement shall be clearly stated. The plat shall contain all easements pertaining to public utilities including gas, power, telephone, cable television, water, and sewer; easements for ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.

8.314 The plat shall include accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for, such as, but not limited to, schools, parks, or playgrounds.

8.315 A general summary description of any protective covenants or private restrictions to be incorporated in the plat shall be attached, as well as all monuments to be of record.

8.316 All interior excluded parcels shall be clearly indicated and labeled, "Not a Part of this Plat".

8.317 Any other pertinent information, as deemed necessary.

If a subdivision plat, described as part of the United States public land survey system and not entirely within an official plat, lies within more than one forty-acre aliquot part of a section, the acreage shall be shown only for assessment and taxation purposes for the portion of the subdivision that lies within each forty-acre aliquot part of the section. The area of the irregular lots within the plat shall be shown and may be expressed in either acres, to the nearest one-hundredth (1/100) acre, or square feet, to the nearest ten (10) square feet. The surveyor shall not be required to establish the location of a forty-acre aliquot line by survey, but is required to use reasonable assumptions in determining its approximate location for assessment and taxation purposes.

**8.4 Conveyances by Reference to Official Plat.** A description of land by reference to lot number or letter designation and block, if block designations are shown on the plat, and the title or name of the official plat, is valid.

**8.5 Attachments to Subdivision Plats.** A subdivision plat, other than an auditor's plat, that is presented to the Recorder for recording shall conform to Section 8, and shall not be accepted for recording unless accompanied by the following documents:

8.501 A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgement of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Board.

8.502 A statement from the mortgage holders or lien holders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 11, may be recorded in lieu of the consent of the mortgage or lien holder. When a mortgage or lien holder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the Board or dedicated to the public.

8.503 An opinion by an Attorney after examining the abstract of title of land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens, or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this Section.

8.504 A certified resolution, by the County and each applicable City pursuant to Section 9.8, either approving the subdivision or waiving the right to review.

8.505 A certificate of the Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 11.

8.506 A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor, and bearing the surveyor's Iowa registration number or seal; a sealed certification of the accuracy of the plat by the registered land surveyor who prepared the plat; and a certification by the surveyor that the parcel was surveyed in compliance with Chapter 114A, Code of Iowa.

8.507 A certificate from the Clerk of the District Court that the subdivision land is free from all judgments, attachments, or mechanics or other liens of record in his/her office.

8.508 A statement of all restrictions that run with the land and become covenants in the deeds of lots.

8.509 A certificate by the County Engineer that all required improvements have been satisfactorily completed in accordance with the construction plans as approved. Prior to such certification, "as built" plans for all improvements to become property of the County, shall have been provided to the County Engineer. In lieu thereof, the County Auditor may certify that a bond guaranteeing completion has been approved by the County Attorney and filed with the Auditor.

8.510 Where any improvements are to become the property of the County, a resolution accepting and approving such improvements, along with the maintenance bond required by the County.

8.511 The application fee, if any.

A subdivision plat which includes no land set apart for streets, alleys, parks, open areas, school property, or public use other than utility easements, shall be accompanied by the documents listed in Sections 8.501-8.504 and 8.506-8.511, and a certificate of the Treasurer that the land is free from certified taxes other than certified special assessments.

## SECTION 9. REVIEW AND APPROVAL

9.1 The subdivider shall file with the County Auditor, twelve (12) copies of the plat, drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. The plat shall be no smaller than eight and one half inches by eleven inches (8-1/2" x 11") in size. Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin.

9.2 The County Auditor shall provide copies of the subdivision plat to the County Engineer, the County Sanitarian, the applicable City pursuant to Section 9.8, and such other persons as are necessary to review the plat; and shall schedule the plat for review by the Board. The County Auditor shall maintain one (1) copy for public inspection.

9.3 The County Engineer shall examine the plat as to its compliance with the requirements of the ordinances and standards of the County and good engineering practice, and shall report his/her findings regarding the plat to the Board.

9.4 The Board shall examine the plat and the report of the County Engineer, and such other information as it deems necessary or desirable, to ascertain whether the plat conforms to the ordinances of the County, and conforms to the Comprehensive Plan and other duly adopted plans of the County. The Board shall, within forty five (45) days of the filing of the plat with the County Sanitarian, forward a report and recommendation regarding the plat. If such recommendation is to disapprove or modify the plat, the reasons therefore shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the applicant.

9.5 The Board shall examine the plat, the report of the County Engineer, and such other information as it deems necessary or desirable. Upon such examination, the Board shall ascertain whether the plat conforms to the ordinances and standards of the County, conforms to the Comprehensive Plan and other duly adopted plans of the County, in order to protect the public health, safety, and general welfare. Following such examination, the Board may approve, approve subject to conditions, or disapprove the plat. If the decision of the Board is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefore shall be set forth in writing in the official records of the Board, and such decision shall be provided to the applicant. Action on the plat by the Board shall be taken within sixty (60) days of the filing of the plat with the County Sanitarian.

9.6 If the subdivision plat and all matters related to final approval of the subdivision plat conform to the standards and ordinances of the County, and conforms to this Ordinance and Chapter 114A, Code of Iowa, the Board, by resolution, shall approve the plat and certify the resolution which shall be recorded with the plat. The Recorder shall refuse to accept a subdivision plat presented for recording without a resolution from the County and each applicable City pursuant to Section 9.8, approving the subdivision plat or waiving the right to review.

9.7 The Board shall not issue final approval of a subdivision plat unless the subdivision plat conforms to Section 8 and Chapter 114A.9, Code of Iowa.

9.8 **Review of Subdivision Plats within Two Miles of a City.** If a subdivision plat lies within the area of review established by a City, which has adopted subdivision regulations, pursuant to this Section, then the subdivision shall be submitted to both the City and County for approval. The standards and conditions applied by a City for review and approval of the subdivision shall be the same standards and conditions used for review and approval of subdivisions within the City limits or shall be the standards and conditions of review and approval established by agreement of the City and County pursuant to Chapter 28E, Code of Iowa. Either the City or County may, by resolution, waive its right to review the subdivision or waive the requirements of any of its standards or conditions for approval of subdivisions, and certify the resolution which shall be recorded with the plat. Action on the plat by the applicable City shall be taken within sixty (60) days of the filing of the plat with the County Sanitarian.



## **SECTION 10. APPEAL OF REVIEW OR DISAPPROVAL**

**10.1** When application is made to the Board for approval of a subdivision plat, the applicant or a second governing body, which also has jurisdiction for review, may be aggrieved by any of the following:

10.101 The requirements imposed by the Board as a condition of approval.

10.102 The denial of the application.

10.103 Failure of the Board to approve or reject a subdivision plat within sixty (60) days of the filing of the plat with the County Sanitarian.

**10.2** If the plat is disapproved by the Board, such disapproval shall state how the proposed plat is objectionable. The applicant has the right to appeal, within twenty (20) days, the failure of the Board to issue final approval of the plat as provided in this Section.

**10.3** The applicant or an aggrieved governing body has the right to appeal to the district court within twenty (20) days after the receipt by the applicant of the requirements for approval of the subdivision. Notice of appeal shall be served on the Board in the manner provided for the service of original notice pursuant to the rules of civil procedure. The appeal shall be tried de novo as an equitable proceeding and accorded a preference in assignment so as to assure its prompt disposition.

## **SECTION 11. BONDS TO SECURE LIENS**

**11.1** A bond in double the amount of the lien shall be secured and recorded if a lien exists on the land included in a subdivision plat, and the required consent of the lien holder is not attached for one of the following reasons:

11.101 The lien holder cannot be found, in which case an affidavit by the proprietor stating that the lien holder could not be found shall be recorded with the bond.

11.102 A lien holder will not accept payment or cannot, because of the nature of the lien, accept payment in full of the lien, in which case an affidavit by the lien holder stating that payment of the lien was offered but refused shall be recorded with the bond.

**11.2** The bond shall run to the County and be for the benefit of purchasers of lots within the plat and shall be conditioned for the payment and cancellation of the debt as soon as practicable and to hold harmless purchasers or their assigns and the Board from the lien.

## SECTION 12. AUDITOR'S PLATS AND PLATS OF SURVEY

**12.1 Notice of Required Plat.** If a tract is divided or subdivided in violation of Section 7 or Section 8, or the descriptions of one (1) or more parcels within a tract are not sufficiently certain and accurate for the purpose of assessment and taxation under the guidelines of Section 4.2, the Auditor shall notify the proprietors of the parcels within the tract for which no plat has been recorded as required by this Ordinance and demand that a plat of survey or a subdivision plat be recorded as required by this Ordinance. Notice shall be served by mail and a certified copy of the notice shall be recorded. The Auditor shall mail a copy of the notice to the County and each applicable City pursuant to Section 9.8. If the proprietors fail, within thirty (30) days of the notice, to comply with the notice or file with the Auditor a statement of intent to comply, the Auditor shall contract with a surveyor to have a survey made of the property and have a plat of survey or an auditor's plat recorded as necessary to comply with this Ordinance. Upon receipt of a statement of intent to comply, the Auditor may extend the time period for compliance.

**12.2 Appeal of Notice.** A proprietor aggrieved by a notice to plat by the Auditor may appeal to the district court within twenty (20) days after service of notice. Upon appeal, the Auditor shall take no further action pending a decision of the district court. The appeal shall be tried de novo as an equitable proceeding.

**12.3 Review of Auditor's Plat.** A proposed auditor's plat shall be filed with the County and each applicable City pursuant to Section 9.8, who shall review the plat within the time specified by this Ordinance, and if it conforms to Chapter 114A, Code of Iowa, the Board shall by resolution approve the plat and certify the resolution to be recorded with the plat. The Board may state in the resolution whether the lots within the auditor's plat meet the standards and conditions for subdivision lots as established by this Ordinance. The lots within a recorded auditor's plat and parcels with a recorded plat of survey prepared under Section 12.1 are individually subject to the ordinances and standards of the County. Approval of an auditor's plat shall not impose any liability on the Board to install or maintain public improvements or utilities within the plat. Approval of an auditor's plat by the Board shall not waive any section of this Ordinance requiring a subdivision plat.

### 12.4 Attachments to Auditor's Plats and Plats of Survey.

**12.401 Plat of Survey.** A plat of survey prepared pursuant to Section 12.1 shall be accompanied by a certificate of the Auditor that the plat of survey was prepared at the direction of the Auditor because the proprietors failed to file a plat.

**12.402 Auditor's Plat.** An auditor's plat shall conform to Section 8, but is exempt from Section 8.5. An auditor's plat presented to the Recorder for recording shall be accompanied by the following documents:

A. A certificate of the Auditor that the auditor's plat was prepared at the direction of the Auditor because the proprietor's failed to file a plat, that the plat was prepared for assessment and taxation purposes, and that the recording of the plat does not constitute a dedication or impose any liability upon the State or County.

B. A certified resolution by the County and each applicable City pursuant to Section 9.8, approving the plat or waiving the right to review.

C. A list for each lot within the plat of the proprietor's names, the area, expressed in acreage or square feet, the book and page number of the recorded conveyance to the proprietors, and the permanent real estate index number, where established.

D. A certificate of the Auditor that no search was made at the time of the recording of the plat to determine the existence of any liens, mortgages delinquent taxes, or special assessments, that no search was made, other than the records of the Auditor's office, to establish title to the property within the plat, and that the lots within the plat are subject individually to the regulations and ordinances of the Board.

**12.5 Costs and Collection of Costs.** The surveyor shall present to the Auditor a statement of the total cost of the surveying, platting, and recording of a plat prepared pursuant to Section 12.1. The surveyor shall also present a statement of the part of the total cost to be assessed to each parcel included in the plat based on the time involved in establishing the boundaries of each parcel. The Auditor shall certify to the Treasurer an assessment for the platting costs against the lots within the plat which shall be collected in the same manner as general taxes, except that the Board, by resolution, may establish not more than ten (10) equal annual installments and provide for interest on unpaid installments at a rate not to exceed that permitted by Chapter 74A, Code of Iowa.

## **SECTION 13. RECORDING OF PLATS**

**13.1** A plat of survey prepared pursuant to this Ordinance and a subdivision plat, with attachments, shall be recorded in the office of the County Recorder, and an exact copy of the plat shall be filed in the offices of the County Auditor and Assessor. A replat of any part of an official plat pursuant to Section 16, or a recorded subdivision plat of any part of an existing official plat shall supersede that part of the original official plat, including unused public utility easements.

**13.2** The Recorder shall examine each plat of survey and subdivision plat to determine whether the plat is clearly legible and whether the approval by the County and each applicable City pursuant to Section 9.8, and the other attachments required by this Ordinance are presented with the plat. The Recorder shall also keep a reproducible copy of the plat from which legible copies can be made. The Recorder may specify the material and the size of the plat, not less than eight and one-half inches by eleven inches (8-1/2 x 11), that will be accepted for recording in order to comply with this Ordinance. The Recorder shall not record a subdivision plat that violates this Ordinance.

## **SECTION 14. DEDICATION OF LAND**

**14.1** An official plat which conforms to this Ordinance and has attached to the plat a dedication by the proprietors to the public and approval of the dedication by the Board is equivalent to a deed in fee simple from the proprietors to the public of any land within the plat that is dedicated for street, alley, walkway, park, open area, school property, or other public use. An approved dedication of land for street purposes by the proprietors establishes an easement for public access at the time of recording for public safety reasons. The recording of a subdivision plat shall dedicate to the public any utility, sewer, drainage, access, walkway, or other public easement shown on the plat.

**14.2** The recording of an auditor's plat shall not serve to dedicate streets, alleys, parks, open areas, school property, existence of an easement or any public interest on the auditor's plat and shall not remove or otherwise affect the interest.

**14.3** The subdivider shall prepare a resolution of acceptance regarding the dedication of all road rights-of-way to the County.

## SECTION 15. VACATION OF OFFICIAL PLATS, STREETS, OR OTHER PUBLIC LAND

**15.1 Vacation of Official Plat.** The proprietors of lots within an official plat who wish to vacate any portion of the official plat shall file a petition for vacation with the Board. After the petition has been filed, the Board shall fix the time and place for public hearing on the petition. Written notice of the proposed vacation shall be served in the manner of original notices as provided in Iowa rules of civil procedure and be served upon proprietors and mortgagees within the official plat that are within three hundred (300) feet of the area to be vacated. If a portion of the official plat adjoins a river or state-owned lake, the Iowa Department of Natural Resources shall be served written notice of the proposed vacation. Notice of the proposed vacation shall be published twice, with ten (10) days between publications stating the date, time, and place of the hearing.

The official plat or portion of the official plat shall be vacated upon recording of all of the following documents.

**15.101** An instrument signed, executed, and acknowledged by all the proprietors and mortgagees within the area of the official plat to be vacated, declaring the plat to be vacated. The instrument shall state the existing lot description for each proprietor along with an accurate description to be used to describe the land after the lots are vacated.

**15.102** A resolution by the Board approving the vacation and providing for the conveyance of those areas included in the vacation which were previously set aside or dedicated for public use.

**15.103** A certificate of the Auditor that the vacated part of the plat can be adequately described for assessment and taxation purposes without reference to the vacated lots.

No part of this Section authorizes the closing or obstructing of public highways.

The vacation of a portion of an official plat shall not remove or otherwise affect a recorded restrictive covenant, protective covenant, building restriction, or use restriction. Recorded restrictions on the use of property within an official plat shall be modified or revoked by recording a consent to the modification or removal, signed and acknowledged by the proprietors and mortgagees with the official plat.

**15.2 Vacation of Streets or Other Public Land.** The County may vacate part of an official plat that had been conveyed to the County or dedicated to the public which is deemed by the Board to be of no benefit to the public.

The County shall vacate by resolution following a public hearing or by ordinance and the vacating instrument shall be recorded. The County may convey the vacated property by deed or may convey the property to adjoining proprietors through the vacation instrument. If the vacating instrument is used to convey property then the instrument shall include a list of adjoining proprietors to whom the vacated property is being conveyed along with the corresponding description of each parcel being conveyed. A recorded vacation instrument which conforms to this Section is equivalent to a deed of conveyance and the instrument shall be filed and indexed as a conveyance by the Recorder and Auditor.

A vacation instrument recorded pursuant to this Section shall not operate to annul any part of an official plat except as provided for in Section 15.1.

## **SECTION 16. ERRORS, SURVEYS AND REPLATS, AND CORRECTIONS OR CHANGES**

**16.1 Errors on Recorded Plats.** If an error or omission in the data shown on a recorded plat is detected by subsequent examinations or revealed by retracting the lines shown on the plat, the original surveyor or two (2) surveyors confirming the error through independent surveys shall record an affidavit confirming that the error or omission was made. The affidavit shall describe the nature and extent of the error or omission and also describe the corrections or additions to be made to the plat and note the book and page number of the recorded plat. The Recorder shall write across that part of the plat so corrected the word "corrected", and note the book and page number of the recorded affidavit. A copy of the recorded affidavit shall be filed with the Auditor and Assessor. The affidavit shall raise a presumption from the date of recording that the purported facts stated in the affidavit are true, and after the lapse of three (3) years from the date of recording the presumption shall be conclusive.

**16.2 Survey and Replat of Official Plats.** A survey of an official plat shall conform as nearly as possible to the original lot lines shown on the official plat. The surveyor may summon witnesses, administer oaths, and prepare affidavits and boundary line agreements as necessary in order to establish the location of property lines or lot lines. If a substantial error is discovered in an official plat or if it is found to be materially defective, a proprietor may petition the Board which would have jurisdiction to approve the plat at the time the petition is filed for a replat of any part of the official plat. Notice of the proposed replat shall be served, in the manner of original notice as provided in Iowa rules of civil procedure, to the proprietors of record and holders of easements specifically recorded within the area to be replatted. The Board has jurisdiction of the matter upon proof of publication of notice of the petition once each week for two (2) weeks in a newspaper of general circulation within the area of the replat.

A replat of an official plat ordered by the Board:

16.201 Shall be prepared by a surveyor pursuant to Chapter 114A, Code of Iowa, and recorded.

16.202 Shall be exempt from the provisions of Section 8.5.

16.203 Shall have attached to the plat a statement by the surveyor that the replat is prepared at the direction of the Board. The costs of the replat shall be presented to the Auditor and assessed against the property included in the replat as provided for in Section 12.5.

**16.3 Corrections or Changes to Plats.** A vacation, correction, or replatting as provided for in this Ordinance, shall be recorded and an exact copy shall be filed with the Auditor and Assessor. If the County or any applicable City pursuant to Section 9.8, changes the addresses or street names shown on an official plat, notice of the change shall note the name or other designation of each official plat affected and shall be filed with the Recorder, Auditor, and Assessor. The Recorder shall note the vacation, correction, or replatting on the margin of the official plat or upon an attachment to the official plat for that purpose. The Auditor shall make the proper changes on the plats required to be kept by the Auditor.

## **SECTION 17. ACTION TO ANNUL PLATS**

**17.1** If a plat is filed and recorded in violation of this Ordinance, a proprietor or governing body aggrieved by the violation, after filing written notice with the proprietors who joined in the acknowledgement of the plat or their successors in interest may institute a suit in equity in the district court. The court may order the plat annulled except as provided in Section 18.

## **SECTION 18. LIMITATION OF ACTIONS ON OFFICIAL PLATS**

18.1 An action shall not be maintained, at law or in equity, in any court, against a proprietor, based upon an omission of data shown on an official plat or upon an omission, error, or inconsistency in any of the documents required by this Ordinance unless the action is commenced within ten (10) years after the date of recording of the official plat. Limitation of actions based on claims other than those provided for in this Section shall be consistent with Chapter 614, Code of Iowa.

## **SECTION 19. VARIANCES**

19.1 Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this Ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the Board may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured. Provided, however, that such variance, modification, or waiver will not have the effect of nullifying the intent and purpose of this Ordinance. In no case shall a variance or modification be more than minimal easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Board may impose such additional conditions as are necessary to secure substantially the objective of the requirements so varied, modified, or waived.

## **SECTION 20. VALIDITY**

20.1 If any section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this Ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

## **SECTION 21. AMENDMENTS**

21.1 This Ordinance or any provision of this Ordinance may be changed or amended from time to time by the Board; provided, however, that such changes or amendments shall not become effective until after a public hearing has been held following due public notice as required by law.

## **SECTION 22. CONFLICTS**

22.1 Nothing contained herein shall serve to abrogate, limit, repeal or otherwise modify any other ordinance or regulation except as expressly set forth herein. If any provisions of this Ordinance conflicts with the provisions of any other ordinance, regulation, or statute, the most restrictive shall govern.

## **SECTION 23. WHEN EFFECTIVE**

23.1 This Ordinance shall be in full force and effect in Davis County, Iowa after its passage, approval, and publication as provided by law.