

PLATTING AND SUBDIVISION ORDINANCE OF MARSHALL COUNTY, IOWA

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ARTICLE I. TITLE AND PURPOSE

This Ordinance shall be known and may be cited and referred to as the Platting and Subdivision Ordinance of Marshall County, Iowa. The purposes of this Ordinance are:

1. To provide for accurate, clear, and concise legal descriptions of real estate in order to accurately identify property boundaries for taxation purposes and minimize or prevent, wherever possible, land boundary disputes or real estate title problems;
2. To provide for a balance between the land use right of individual landowners and the economic, social, and environmental concerns of the public when enforcing land use regulations;
3. To provide for county-wide, uniform procedures and standards for the platting of land while allowing the widest possible latitude for cities to establish and enforce ordinances regulating the use of land, within the scope of, but not limited to, Chapters 331, 335, 354, 364, and 414, of the current Code of Iowa;
4. To encourage orderly community 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 an approved comprehensive plan or other specific community plan, if any.

ARTICLE II. DEFINITIONS

For the purpose of this Ordinance, certain terms and words are hereby defined; words used in the present tense shall include the future; words in the singular number shall include the plural and words in the plural shall include the singular; the word “shall” is always mandatory, and the word “may” is permissive.

1. **ACQUISITION PLAT.** A graphical representative 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.
2. **ALIQUOT PART.** A fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.
3. **AGRICULTURE.** The use of land for an agricultural purpose, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, silvaculture, and animal or poultry husbandry, and the necessary accessory operation of any such accessory uses shall be secondary to that of normal agricultural activity carried on upon the premise and provided further that the above use shall not include commercial storage of grain, nor commercial animal or poultry slaughtering or packing, nor the commercial feeding of garbage or offal to any animals.
4. **ALLEY.** A public or private way affording secondary means of access to abutting property.
5. **AUDITOR’S PLAT.** A subdivision plat required by either the Auditor or Assessor, prepared by a registered professional land surveyor under the direction of the Auditor.

6. **BLOCK.** An area of land within a subdivision that is entirely bounded by streets, railroad right-of-way, rivers, tracts of public land, or the boundary of the subdivision.
7. **BOARD.** The Board of Supervisors of Marshall County, Iowa.
8. **BOUNDARY ADJUSTMENT.** A change in an existing boundary line between two tracts of land wherein the new parcel is not meant for independent development and is only meant to enhance the size and/or shape of the neighboring parcel.
9. **BUILDING.** Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals, or property, but not including signs or billboards. When a structure is divided in separate parts by unpierced walls extending from the ground up, each part is deemed a separate building.
10. **COMMISSION.** The Marshall County Zoning Commission.
11. **COMPREHENSIVE PLAN.** The general plan for the development of the county, which has been adopted by the Board and shall include any part of such plan separately adopted and any amendments to such plan or parts thereof.
12. **CONVEYANCE.** An instrument filed with the County Recorder, including any form of deed, contract or change of title certificate.
13. **COUNTY ENGINEER.** The professional engineer registered in the State of Iowa designated as County Engineer by the Board.
14. **COVENANT OF NON-SEVERABILITY.** A document that clearly defines the legal descriptions of two adjacent parcels in which one of the parcels has been, or will be created as an enhancement to the size and/or shape of the other parcel, and states that those parcels will be treated as one parcel under this Ordinance.
15. **DIVISION.** The act of dividing a tract or parcel of land into two or more parcels of land by conveyance. The conveyance of an easement shall not be considered a division for the purposes of this Ordinance.
16. **EASEMENT.** A legally recorded authorization by a property owner for another to use a designated part of property for a specified purpose.
17. **FLOOD.** A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams of rivers, or from the unusual and rapid runoff of surface waters from any source.
18. **FLOOD HAZARD AREA.** Any land area subject to flooding by a one (1) percent probability flood, otherwise referred to as a one hundred (100) year flood as designated by the Iowa Department of Natural Resources (IDNR) or as shown as "Zone A" on the Flood Insurance Rate Maps, or on the Flood Hazard Boundary Maps from the Federal Emergency Management Agency (FEMA) as part of the National Flood Insurance Program; however, flood hazard areas may exist in Marshall County which have not been mapped by IDNR or FEMA.
19. **FLOOD PLAIN.** Any land area susceptible to being inundated by water as a result of a flood.
20. **FLOODWAY.** The channel of a river, stream, or other watercourse and the adjacent lands that are reasonably required to carry and discharge flood waters or

flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot as designated by the Iowa Department of Natural Resources (IDNR) or as shown as "Zone A" on the Flood Insurance Rate Maps, or on the Flood Hazard Boundary Maps from the Federal Emergency Management Agency (FEMA) as part of the National Flood Insurance Program; however, flood hazard areas may exist in Marshall County which have not been mapped by IDNR or FEMA.

21. **GOVERNING BODY.** The Board or a City Council within whose jurisdiction the land is located, which has adopted ordinances regulating the division of land.
22. **GOVERNMENT LOT.** A tract, within a section, which is normally described by lot number as represented and identified on the township plat of the United States public land survey system.
23. **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.
24. **LOT.** A tract of land represented and identified by a number designation on a subdivision plat.
25. **LOT AREA.** Total horizontal area within lot lines, excluding that portion devoted to a road or street, or easements therefore.
26. **LOT OF RECORD.** A lot of parcel of land that the contract or deed to which has been recorded in the Office of the Recorder of Marshall County, Iowa.
27. **METES AND BOUNDS DESCRIPTION.** 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.
28. **NON-RESIDENTIAL AGRICULTURAL USE.** The use of land for an agricultural use without any building or other structure which is used, or could be used for the purpose of human habitation.
29. **OFFICIAL PLAT.** A plat of survey, acquisition plat, retracement plat, Auditor's plat, or subdivision plat which has been completed, reviewed, approved, and recorded in accordance with the requirements of this Ordinance.
30. **ORDINANCE.** Wherever the word "Ordinance" is used in this Ordinance it shall refer to the Platting and Subdivision Ordinance of Marshall County, Iowa.
31. **OWNER.** The legal entity holding the title to the property being divided, or such representative or agent as is fully empowered to act on its behalf. When the property has separate legal and equity title holders, concurrence of both shall be necessary.
32. **PARCEL.** A part of a tract of land.
33. **PERMANENT REAL ESTATE INDEX NUMBER.** A unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29, of the current Code of Iowa.

- 34. **PLAT OF SURVEY.** A graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered professional land surveyor.
- 35. **PUBLIC WATER SUPPLY SYSTEM AND PUBLIC SANITARY SEWER SYSTEM.** A water supply system or sanitary sewer system that is owned and maintained by a government agency for the use of the general public or a privately owned and maintained system for the general use of a specific area, which shall have been approved by the Marshall County Sanitarian.
- 36. **RETRACEMENT PLAT OF SURVEY.** A graphical representation of an existing parcel or parcels including a complete and accurate previously recorded description of each parcel within the plat, prepared by a registered professional land surveyor, not involving a division.
- 37. **RE-SUBDIVISION.** Any subdivision of land which has previously been included in a recorded official plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.
- 38. **ROAD OR STREET.** All property, other than an alley, dedicated or intended for public or private road, street, highway, freeway or roadway purposes, or to the public easement thereof.
- 39. **ROAD OR STREET LINE.** The dividing line between a lot, tract or parcel of land and a contiguous road, street, alley or any public easement thereof.
- 40. **SET BACK.** The required distance between a road or street line, or a lot line and the closest wall of a confirming structure on a lot measured at right angles to the road or street line or lot line.
- 41. **STRUCTURE.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
- 42. **SUBDIVISION.** A parcel of land divided either repeatedly or simultaneously into three or more parcels or lots after the effective date of this act; but does not include the division of land for the purpose of transfer to a governmental body for public highway, road, street, or right-of-way use.
- 43. **SUBDIVISION PLAT.** A graphical representation of the subdivision of a parcel of land, prepared by a registered professional land surveyor, having a number designation for each lot within the plat and a succinct name or title that is unique in Marshall County and containing the information required by this Ordinance for subdivision plats.
- 44. **SUBDIVISION TRIGGER DATE.** A subdivision trigger date is the date after which a parcel of land of record may be divided once without requiring a subdivision plat, and the date after which any parcel of land of record, divided by repeated divisions or simultaneous divisions into three or more parcels, shall be required to file a subdivision plat or seek a subdivision variance.
- 45. **SURVEYOR.** A registered professional land surveyor who engages in the practice of land surveying pursuant to Chapter 355, of the current Code of Iowa.
- 46. **TRACT.** Any aliquot part of a section, a lot within an official plat, a government lot, or any other area of land the description of which is on file in the County

Recorder's Office and in the County Auditor's plat books for taxation or assessment purposes.

47. **UTILITIES.** Any systems providing the following public services: water, gas, electricity, telephone, cable television transportation, wastewater collection, and stormwater collection.
48. **YARD.** An open space on the same lot with a building, unoccupied and unprotected by any portion of a structure from the ground upward, excepting as otherwise provided herein. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the public road or street or lot line and the main building shall be used.
49. **ZONING ADMINISTRATOR.** The administrative officer designated or appointed by the Board of Supervisors to administer and enforce the regulations contained in the Zoning Ordinance of Marshall County.
50. **ZONING DISTRICT.** A section or sections of the unincorporated area of any portion thereof of Marshall County, Iowa, for which the district regulations governing the use of buildings and land or lot area and height of buildings are uniform.
51. **ZONING PERMIT.** A written statement issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of the Zoning Ordinance of Marshall County and for the purpose of carrying out and enforcing its provisions.

ARTICLE III. APPLICABILITY

Section 1. GENERAL APPLICATION OF THIS ORDINANCE.

- A. Every grantor of land wherever located in Marshall County, Iowa, who shall hereafter divide said tract of land into two (2) or more parcels using a metes and bounds description, shall cause a plat of survey of such area to be made in the form, and containing the information, as hereinafter set forth by this Ordinance before transferring any parcel, lot, or portion of land therein contained.
- B. If a new subdivision plat, wherever located in Marshall County, includes a parcel of land in an existing recorded official plat, the Auditor may require a plat of survey for the parcel of the existing official plat not included in the new subdivision plat.

Section 2. REQUIREMENTS FOR PLAT OF SURVEY.

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 the provisions of Chapter 355 of the current Code of Iowa and this Ordinance.

Section 3. SUBDIVISION PLAT REQUIRED.

A subdivision plat shall be made when a parcel of land of record as of January 1, 2005, located in the unincorporated portion of the county is divided by repeated divisions or simultaneous divisions into three or more parcels. January 1, 2005, shall be known as the subdivision trigger date. The

subdivision trigger date shall be revised to be January 1 of every tenth year following the initial trigger date of January 1, 2005.

Section 4. COVENANT OF WARRANTY.

The duty to file for record an official plat as provided in Sections 1 through 3 attaches as a covenant of warranty in all conveyances by a grantor who divides land against all assessment, 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 an official 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 section 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 Article III, Sections 1, 2, and 3 of this Ordinance.

Section 5. SUCCESSFUL APPEAL DECISION TO BE RECORDED.

Upon a final decision by the Board stating that an owner does not have to meet the requirements of Article III, Section 1, 2, or 3, the owner shall, at the owner's expense, have the decision recorded with the County Recorder. This recording shall include the proceedings of the Board stating that no plat of survey or subdivision plat is required.

ARTICLE IV. APPLICABILITY TO CITIES

Section 1. PLAT OF SURVEY REQUIRED WITHIN THE CITY LIMITS OF ANY CITY.

Only the requirements of this Ordinance relating to requiring and settling standards for a plat of survey as required by Article III, Section 2 of this Ordinance for land divisions shall apply to land within the city limits of all incorporated municipalities. No person, partnership, corporation or other entity shall submit any plat of survey, which is subject to the terms of this Ordinance, to the County Auditor or the County Recorder until such plat of survey has been reviewed and approved in accordance with the provisions of this Ordinance.

Section 2. SUBDIVISION OF LAND WITHIN JURISDICTIONAL LIMITS OF CITIES.

Subdivision of land within two miles, or less if a city has, by ordinance, limited the area subject to its subdivision ordinance to less than two miles, of any city having a subdivision ordinance adopted under the provisions of Chapter 354 of the current Code of Iowa shall be submitted to said city for approval in accordance with the requirements of that city's subdivision ordinance. A tract of land in said area if subdivided either by repeated division or simultaneous division into three (3) or more parcels shall be

subject to both the city's subdivision ordinance, if any, and the requirements of this Ordinance for subdivision plats.

ARTICLE V. RECORDING PROHIBITED UNTIL COMPLIANCE

- Section 1.** No person, partnership, corporation, or other entity shall submit any final subdivision plat, re-subdivision or street dedication or transfer of ownership of any lot or parcel in any subdivision, re-subdivision, or street dedication, within the unincorporated portion of Marshall County, Iowa, which is subject to the terms of this Ordinance, to the County Recorder until such subdivision, re-subdivision, or street dedication has been reviewed and approved in accordance with the provisions of this Ordinance.
- Section 2.** Failure to comply with the procedures and requirements of this Ordinance, or failure to file and record an approved official plat within sixty (60) days after the date of approval by the Board, or approval by a municipality with a subdivision ordinance adopted under Chapter 354 of the current Code of Iowa shall render such plat, subdivision, re-subdivision or street dedication invalid.

ARTICLE VI. COMPLIANCE WITH ZONING ORDINANCE OF MARSHALL COUNTY

- Section 1.** ZONING PERMITS PROHIBITED UNTIL COMPLIANCE.
The Marshall County Zoning Administrator shall not issue a zoning permit for any use, building or structure located on a lot or parcel of land within the unincorporated areas of Marshall County which has been divided after the effective date of this Ordinance until the official plat, if required by this Ordinance, of such lot or parcel has been approved and recorded according to this Ordinance.
- Section 2.** PROHIBITED DIVISIONS OR PLATS.
No owner of any tract of land in the unincorporated portion of Marshall County shall divide or plat said tract of land into two or more parcels, for the purpose of laying out an addition, subdivision, building lot or lots, acreage, suburban lots, or any other use, with the exception of a boundary adjustment, or for the potential future such uses if any resulting parcel would not comply with requirements for the size, shape, frontage, lot area, access, coverage setbacks, parking, use or yard requirements of the Zoning Ordinance of Marshall County in effect at the time of the division. Any boundary adjustment shall require a covenant of non-severability to be attached to the survey and conveyance instrument and for those to be recorded with the County Recorder. The covenant of non-severability shall state that the existing parcel and the boundary adjustment parcel will not be sold separately.

ARTICLE VII. REQUIREMENTS AND APPROVAL PROCESS FOR A PLAT OF SURVEY

Section 1. FORM OF THE PLAT OF SURVEY.

The plat of survey required to be submitted by Article III, Section 1, shall be prepared in compliance with Chapter 355 of the of the current Code of Iowa. 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 or number designation approved by the Auditor.
- B. The name 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.
- F. Attachment of the corner certificate(s) if required.
- G. The location of existing buildings and structures standing within five feet of minimum set-back distances from lot lines, and those that encroach upon the county or state right-of-way shall be shown on the plat of survey in relation to lot lines and right-of-way lines.
- H. All adjoining properties shall be labeled.
- I. An Index Legend will be placed in the upper left corner of the survey to aid the recorder with consistent state-wide indexing of plats of surveys and shall include: location including the parcel letter or lot number, section, township, range & aliquot part of the section, and/or subdivision name, lots or blocks; Proprietor; Survey requested by; field work completion date; and surveyors, name, company, address, phone and email”
- J. If a new parcel is being split from an existing parcel letter or lot number, the new parcel letter shall include the Previous Parcel designation (for example Parcel B of Parcel A). The intent however, is not to have more than two descriptions referred to, and shall be at the discretion of the Auditor’s Office on what is reasonable

Section 2. REVIEW OF THE PLAT OF SURVEY.

The Recorder shall seek the review and comment on the plat from the Auditor, Zoning Administrator, County Engineer, GIS Department, County Sanitarian, and Assessor. These officials shall review the plat for completeness and correctness of form as required by this Ordinance.

Section 3. APPROVAL OF THE PLAT OF SURVEY.

The Auditor shall review all plats of survey required by this Ordinance for completeness and correctness of form as required by this Ordinance. After the review process is complete, the Auditor shall initial the plat of survey, approving the plat and the letter designation. The Auditor, when a permanent real estate index system is operational, may note a permanent real estate index number upon each parcel shown on a plat of survey for real estate tax purposes.

Section 4. RECORDING THE PLAT OF SURVEY.

Each approved plat of survey shall be recorded in the Office of the County Recorder after the approval of the Auditor. The survey shall be recorded within one year of the date the parcel letter designation was assigned by the Auditor.

Section 5. DESCRIPTION AND CONVEYANCE ACCORDING TO PLAT OF SURVEY.

A conveyance of a parcel shown on a recorded plat of survey shall describe the parcel by reference to the plat of survey, which reference shall include all of the following:

- A. The parcel letter.
- B. The Recorder's document identification number of the recorded plat of survey.
- C. The section, township, and range number and reference to the aliquot part of the section- if the parcel lies outside of an official plat or the lot number or letter and name of the official plat, if the parcel lies within an official plat.

Section 6. CORNER CERTIFICATES REQUIRED.

Any United States public land survey corner referenced in a legal description or shown on a plat of survey shall have a United States public land survey corner certificate prepared and recorded in the County Recorder's Office and the person preparing the certificate shall furnish a copy of the recorded certificate to the County Engineer.

Section 7. RETRACEMENT PLAT OF SURVEY.

A retracement plat of survey is not required to comply with this Article. A retracement plat of survey is required to be recorded in the Office of the County Recorder.

**ARTICLE VIII.
PROCEDURE FOR SUBDIVISION PLAT APPROVAL**

Section 1. BOARD APPROVAL REQUIRED.

Final approval of the proposed subdivision plat shall be made by the Board. The subdivider shall submit a preliminary plat and final plat in accordance with the following order and procedure.

Section 2. Prior to the preparation and filing of the preliminary plat, the subdivider shall request a preliminary planning conference with the Zoning Administrator to discuss the nature of these requirements and the feasibility of the subdivision plan. Subsequent review and approval of the preliminary and final plats shall in no way be bound to this planning conference. The subdivider shall then prepare and file with the Zoning Administrator thirteen copies of a preliminary plat conforming in detail to the requirements set forth in this Ordinance.

Section 3. The Zoning Administrator shall seek the review and comment on the preliminary plat and any proposed restrictive covenants from the County Engineer, the County Sanitarian, the Assessor, the County Auditor, the

County Recorder, the Director of Geographical Information Systems (GIS), the Executive Director of County Conservation and others from whom the Administrator may request advice and comment. The Administrator shall review the preliminary plat for compliance with the laws and ordinances of Marshall County. This review shall not take longer than thirty days.

- Section 4.** The preliminary plat and the reviewers' comments shall then be submitted to the Commission at least two weeks before the Commission's next meeting.
- Section 5.** Before approving a preliminary plat, the Commission shall hold a public hearing on the proposed plat, notice of which shall be given by publication in an official newspaper of general distribution, and by posting notices on the tract, and by sending notices by mail to property owners within 500 feet of the area included within the preliminary plat. Such notice shall be given at least four (4) days but not more than twenty (20) days before the public hearing.
- Section 6.** The Commission shall study the preliminary plat for compliance with county laws and ordinances and review the comments submitted by the reviewers named in section 3. The Commission may confer with the subdivider on changes deemed advisable. The Commission shall approve or reject the preliminary plat within seven days after its meeting when it first considered the preliminary plat. If the Commission does not act within seven days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of time for a period not to exceed an additional sixty days. The approval of the preliminary plat shall be null and void unless the final plat is presented to the Commission within one year after the date of approval of the preliminary plat.
- Section 7.** Upon approval of the preliminary plat, the Commission shall forward its decision to the Board. The Board shall consider approval of the preliminary plat at its next meeting.
- Section 8.** Upon approval of the preliminary plat by the Board, the subdivider may proceed with the preparation of the final plat together with any detailed construction drawings and specifications for the improvements required under this Ordinance. If there are no changes required on the preliminary plat, the Board may consider the preliminary plat and the final plat, and may take action at the same meeting.
- Section 9.** Before the Commission shall consider the approval of the final plat, the subdivider shall file with the Administrator all required plans, covenants and the subdivision review fee. The Administrator shall review these plans and information and submit his/her recommendation to the Zoning Commission within thirty days of filing.
- Section 10.** Upon the determination of the Administrator that the final plat meets the requirements of this Ordinance, the final plat shall then be submitted to the Commission at least two weeks before the next meeting of the Commission.
- Section 11.** The Commission shall consider the final plat and shall submit their recommendation to the Board.

Section 12. The Board shall consider the plat and if it is acceptable and in accordance with this Ordinance, the Board shall accept the final plat. If the plat is disapproved by the Board, the reasons for such disapproval shall be conveyed in writing to the subdivider. The Board shall place a stamp of approval or disapproval on the plat.

Section 13. The passage of a resolution by the Board accepting the plat shall constitute final approval of the platting of the area shown on the final plat. The subdivider shall cause such plat and all required attachments to be recorded in the Office of the County Recorder of Marshall County, Iowa, before Marshall County shall recognize the plat as being in full force and effect. Recording fees shall be paid by the subdivider. Approval of the final plat shall be null and void unless the final plat is recorded within sixty days of the date of approval by the Board.

Section 14. Dedication of any street, alley, or other improvement and the land used for such street, alley, or other improvement to the county shall require approval of a separate resolution by the Board. No land shall transfer to the county except upon an affirmative action of approval by resolution of the Board. No title of any parcel or tract of land shall be recorded in the name of Marshall County unless the requirements of this section are met.

ARTICLE IX. INFORMATION AND FORM REQUIREMENTS FOR SUBDIVISION PLATS

Section 1. The principles and standards set forth in this Article are held to be the minimum requirements unless specifically noted otherwise. Approval of preliminary plats and final plats shall be predicated on the conformance of such plats to the provisions of this Article and to such other requirements as are prescribed in this Ordinance and pertaining to the land to be subdivided.

Section 2. The Commission shall have the right to agree or disagree with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may require that certain minimum regulations regarding this matter be incorporated in the deed restrictions. Such regulations shall be intended to protect the character and value of the surrounding area and shall also tend to secure the most appropriate character of development in the property which is subdivided.

Section 3. The preliminary plat shall be clearly marked "Preliminary Plat", shall be drawn at a scale of not less than one hundred feet to the inch, unless otherwise approved by the Administrator, and shall include the following.

- A. All of the requirements in Chapter 355, of the current Code of Iowa, not inconsistent with the specific provisions contained in this Article.
- B. The scale of the plat together with a north point and date.
- C. The proposed name of the subdivision, which shall not duplicate or too closely resemble names of existing subdivisions, unless similarity in name is desirable to denote proximity to existing related subdivisions.
- D. The name, address and signed consent of the owner(s) and the name and address of the registered professional land surveyor preparing the plat.

- E. The boundary of the area being platted, shown as a dark line, with the approximate length of boundary lines and the approximate location of the property in reference to known sections lines.
- F. The location, width, and names of each existing or platted street, highway, railroad, or other utility right-of-way; parks and other public open spaces within, or adjacent to the proposed subdivision.
- G. All existing utility easements, storm and sanitary sewer lines, water lines, gas lines, culvert, or other underground installations within the proposed subdivision or immediately adjacent thereto, with pipe size if available and locations shown.
- H. Names of all adjoining subdivisions and owners of adjacent parcels of unsubdivided land.
- I. If a public or private road is being created, or a lot size variance has been granted, the plat must include topography with contour intervals of not more than five (5) feet, referred to United States Geological Survey (USGS) datum or an assumed datum approved by the County Engineer. The location and size of existing buildings and structures shall be shown on the plat in relation to lot lines, other buildings and structures, and right-of-way. However, the County Engineer, in conjunction with the County Zoning Administrator, may waive these requirements when there is no identifiable reason for these requirements.
- J. The showing of the approximate boundaries of areas of known flood levels or storm water overflow, areas covered by water, wetlands, and wooded areas. The showing of the boundaries of flood plain, flood hazard area or floodway lines for areas that have been included in any official floodplain reports from the Iowa Department of Natural Resources, or the National Flood Insurance Program of the Federal Emergency Management Agency.
- K. The location, names, and widths of proposed streets, roadways, alleys pedestrian ways, and easements.
- L. The layout, lot number, and scaled dimension of each lot in each block of their proposed subdivision.
- M. The showing of existing and proposed zoning district classification for all land within the proposed subdivision and existing zoning in adjacent areas within five hundred (500) feet of the proposed subdivision.
- N. The location and size of proposed parks, playgrounds, churches, school sites, or special uses of land to be considered for dedication to public use or to be reserved by deed or covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservations.
- O. A vicinity map showing the general location of the plat in relationship to surrounding property and road systems shall be attached to each copy of the preliminary plat.

Section 4. CORNER SECTION CERTIFICATES.

Any United States public land survey corner referenced in a subdivision plat shall have a United States public land survey corner certificate prepared and

recorded in the in the Office of the County Recorder and the person preparing the certificate shall furnish a copy of the recorded certificate, or a statement of the existence, accuracy and last date visited of all recorded United States public land survey corner certificates used in the preparation of the subdivision plat to the County Engineer.

Section 5. The final plat shall consist of three (3) identical originals and shall be on an approved drafting media film drawn to scale of not more than one hundred (100) feet to one (1) inch in compliance with the provisions of Chapter 354, of the current Code of Iowa, and shall show the following:

- A. The name of the subdivision.
- B. Name and address of the owner and subdivider.
- C. The scale, and graphic bar scale, north arrow and date on each sheet.
- D. All monuments to be of record as required by Chapter 354, of the current Code of Iowa.
- E. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other areas shown on the plat, as well as the outer boundaries of the subdivided lands.
- F. All distances, bearing curves and other survey data as set forth in Chapter 354, of the current Code of Iowa.
- G. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of that subdivision shall be shown. If the subdivision platted is a re-subdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. Re-subdivisions shall be labeled as such in a subtitle following the name of the subdivision wherever the name appears on the plat.
- H. Street names and clear designation of public alleys.
- I. Block and lot numbers.
- J. 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 public use.
- K. The purpose of any easement shown on the plat shall be clearly stated and shall be continued to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer, easements for ingress and egress, and such drainage easements as are necessary for the orderly development of the land encompassed within the plat.
- L. All interior excepted parcels, clearly indicated and labeled, “not a part of this plat”.
- M. A strip of land shall not be reserved by the subdivider unless the land is of sufficient size and shape to be of some practical use as determined by the Board.

- N. Legal description.
- O. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
- P. A statement by a registered professional 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 and seal.

Section 6. ATTACHMENTS TO THE FINAL PLAT. The following shall be attached to, and accompany, any final plat:

- A. A certificate by the owner and spouse, if any, that the subdivision is with their free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgments of deeds.
- B. An attorney's opinion showing that the fee title to the subdivision is in the name of the owner and spouse, if any, free from encumbrances other than those secured by an encumbrance bond, or that the statement required by subsection J. hereof has been filed.
- C. The encumbrance bond, if any.
- D. A certificate by the County Engineer and County Sanitarian that all required improvements have been satisfactorily completed in accordance with the construction plans as approved, and in substantial compliance with the preliminary plat. In lieu thereof, the County Auditor may certify that an acceptable financial surety guaranteeing completion as defined in Article XII, Section 1, has been approved by the County Attorney and is on file with the Auditor. The bond or escrow account be in an amount of one hundred thirty percent of the county's estimated cost of completion of the improvements. The subdivider shall provide whatever information the county may require to determine the amount of the bond or escrow account.
- E. Where any improvements are to become the property of the county, a resolution accepting and approving such improvements.
- F. A resolution and certificate for approval by the Board, and the signature of the chairperson.
- G. The correct legal description of the subdivision.
- H. A statement from the mortgage holders or lienholders, 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. When a mortgagor or lienholder consents to the subdivision, a release of the mortgage or lien shall be recorded for any areas conveyed to the governing body or dedicated to the public.
- I. A certificate of the Marshall County 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 Iowa Code Section 354.12. 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 a certificate from the County Treasurer that the land is free from certified taxes other than certified special assessments.

- J. A copy of all recorded United States public land survey corner certificates used in the preparation of the subdivision plat.
- K. A check made payable to the County Recorder for the total recording fees necessary to record the plat and attachments.

ARTICLE X. UNINCORPORATED AREAS SUBDIVISION IMPROVEMENTS REQUIRED

Section 1. GENERAL REQUIREMENTS.

- A. Any subdivider of land within the unincorporated portion of the county required by this Ordinance to prepare a subdivision plat shall, at the subdivider's expense, install and construct all improvements required by this Ordinance or shall post either a bond, surety bond, or cash escrow before the final plat is approved by the Board. The bond company, financial institution, or other company providing the bond or escrow must be approved by the County Attorney and County Treasurer. The bond, or escrow shall be security for the completion of said improvements by the subdivider. The amount of the surety shall be one hundred thirty percent of the estimated cost of the uncompleted improvements, said estimate to be approved by the county. The bond or escrow account shall remain in effect at the subdivider's expense until the improvements are completed and approved by the county, at which time any excess escrow funds shall be returned to the subdivider. All required improvements shall be installed and constructed as shown on the approved preliminary plat, and in accordance with design standards for such improvements which shall be established by resolution of the Board.
- B. The subdivider shall be deemed in default if the improvements are not completed within a time specified by the Board of Supervisors, or an approved extension thereto. Default shall be declared by majority vote of the Board and the credited fund drawn upon by written notice to the financial institution involved.
- C. In the event that the subdivider defaults on the obligation and the Board draws on the credited funds to complete said improvements, said funds may also be used to pay the county's cost of administering the completion of improvements in addition to paying for the improvements themselves.
- D. All required improvements shall be installed and constructed as shown on approved construction plans, and in accordance with design standards for such improvements which shall be established by resolution of the Board or applicable state standards.

Section 2. WAIVER OF COMPLETION OR BONDING REQUIREMENTS.

For plats located in unincorporated areas within two miles of the corporate limits of cities and towns with subdivision ordinances of their own, the Commission and Board may waive the requirements of this Article provided they are satisfied that the subdivision regulations of the cities and towns governing the areas within which the subdivision is located are sufficient to ensure adequate conformance with these regulations.

Section 3. SUBDIVISION DESIGN STANDARDS.

The standards and details of design herein contained, or contained in resolutions adopted by the Board after the effective date of this Ordinance and hereby made a part of this Ordinance as if set out here in full, are intended only as the minimum requirements so that the general arrangement and layout of a subdivision may be adjusted to a wide variety of circumstances. However, in the design and development of the plat, the subdivider shall use standards consistent with the site conditions so as to assure an economical, pleasant and durable neighborhood.

Section 4. INSPECTION.

All improvements shall be inspected by the County Engineer, except water supply and wastewater treatment and disposal improvements shall be approved by the County Sanitarian, to insure compliance with the requirements of this Ordinance. The cost of such inspection shall be borne by the subdivider, and shall be determined by resolution of the Board.

Section 5. MINOR SUBDIVISIONS.

Any subdivision of land into no more than three (3) lots, all fronting on an existing public road or street, provided safe access is approved by the County Engineer, shall be classified as a minor subdivision and no other improvements shall be required. However any building site within five hundred (500) feet of a public water supply system may be required to hook up to such public water supply system to provide a water supply for all uses.

Section 6. OTHER SUBDIVISIONS.

All other subdivisions within the unincorporated portion of the county which require a subdivision plat under this Ordinance shall be required to install the following minimum improvements necessary to protect the public health, safety and welfare:

A. Streets. All roads or streets shall be constructed as to meet the standards of the county as set by Board resolution.

B. Sanitary Sewer System.

1. 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 an existing public sanitary sewer system is not available, or the construction of a central sewage collection and treatment system cannot be accomplished, the subdivider shall construct a system or systems for appropriate disposal of sewage from the platted area, conforming with all applicable rules and regulations of the Iowa Department of Natural Resources, Chapter 567-69 of the

Iowa Administrative Code, and all applicable state rules on waste water treatment facilities. All systems must be approved by the County Sanitarian. The County Sanitarian shall not approve a proposed system without the approval of the Iowa Department of Natural Resources, if approval by that Department is required under its rules and regulations.

2. No subdivision shall be approved until and unless percolation tests have been performed for each lot, if the proposed system requires such a test. No variances in the minimum lot size will be accepted unless the approved lot size is adequate for wastewater disposal and adequate to accommodate the proposed sanitary system. The County Sanitarian may require that the siting of the proposed sanitary system be done prior to the siting of all proposed buildings, driveways, roads, and/or streets on each lot of the subdivision, if any lot or lots are of such size and shape as to make it difficult to place a system without such requirements.
- C. Storm Sewer System. The subdivider 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 lands.
- D. Water System. The subdivider shall make appropriate provision for a suitable water supply for each platted lot or parcel with due regard being given to present or reasonably foreseeable needs. If a public water supply system is available within one (1) mile, then the subdivider may be required to provide the subdivision from that public water supply system. No subdivision shall be approved until and unless the proposed system for providing water has been approved by the County Sanitarian.
- E. Other improvements. The subdivider shall be responsible for the installation of grading and seeding or sodding of all lots and all necessary soil erosion control measures during construction, the planting of any required trees, and the installation of street signs and street lighting as required.
- F. Streams and Watercourses: Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at the subdivider's expense, make provisions for drainage of surface water.

Section 7. EASEMENTS REQUIRED.

- A. 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 the 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 building or structures, except as necessary for utilities, shall be permitted on such easements. Any improvements, including but not limited to landscaping or fence, constructed upon a utility easement which interferes with the operation or maintenance of the utility shall be so placed at the owner's liability.

B. Utility and drainage easements, as recorded, shall not be changed or vacated without the approval of the Board, by resolution upon recommendation of the Administrator.

Section 8. MAINTENANCE OF IMPROVEMENTS.

Unless otherwise approved by the Board, improvements required to be installed shall remain the property and 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 improvement, have been approved by the County Attorney and the Board.

ARTICLE XI. VARIANCES

Section 1. APPEAL

Whenever a proposed division is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this Ordinance would result in real difficulties and substantial hardships or injustices, the applicant can file an appeal with the Zoning Administrator. The Zoning Commission will consider the appeal at a public hearing, and forward their recommendation to the Board. At a regular meeting, the Board, after receiving the recommendation of the Commission, may vary, modify, or waive such requirements so that the applicant is allowed to develop the property in a reasonable manner, but so at the same time, the public welfare and interest of the county and the surrounding area are protected and the general intent and spirit of these regulations are preserved. Nothing in this Article shall allow the Zoning Ordinance of Marshall County to be changed except as allowed in the Zoning Ordinance. Any party aggrieved by the decision of the Board may appeal the decision to District Court within thirty (30) days of notice of the Board decision.

Section 2. APPEAL FEE.

The Board shall set, by resolution, a fee to be paid by any person filing an appeal of the platting requirement allowed in Section 1.

ARTICLE XII.

VACATION OF OFFICIAL PLATS AND STREETS OR OTHER PUBLIC LANDS; ERRORS ON RECORDED PLATS; SURVEY AND REPLAT OF OFFICIAL PLAT; CORRECTIONS OR CHANGES TO PLATS

The vacation of official plats and streets or other public lands, the response to errors detected on recorded official plats, the survey and replat of official plats, and the corrections or changes to official plats shall be accomplished by the procedures outlined in Sections 354.22 through 354.26 of the Iowa Code.

ARTICLE XIII. FEES

The Board shall, from time to time, establish by resolution fees for the review of plats. No plat of survey, retracement, acquisition plat, DOT disposition plat or any subdivision plat shall be reviewed prior to consideration for approval unless and until said application for review and approval of the plat is accompanied by the fee, as established by resolution of the Board and as required by these regulations.

ARTICLE XIV. ENFORCEMENT

Section 1. ENFORCEMENT BY COUNTY AUDITOR.

It shall be the duty of the County Auditor to enforce this Ordinance with its provisions. All departments, officials and public employees of Marshall County who are vested with the duty or authority to issue permits shall ensure conformance to the provisions of this Ordinance and shall issue no permit for any reason if the same would be in conflict with the provisions of this Ordinance.

Section 2. COUNTY AUDITOR TO REQUIRE COMPLIANCE.

If a tract is divided or subdivided in violation of Chapter 354, of the current Code of Iowa or this Ordinance, or the descriptions of one or more parcels within a tract are not sufficiently certain and accurate for the purposes of assessment and taxation under the guidelines of Chapter 354, of the current Code of Iowa, the Auditor shall notify the proprietors of the parcels within the tract for which no plat has been recorded as required by this Ordinance. The Auditor shall follow the procedures in Sections 13 through 17 of Chapter 354, of the current Code of Iowa, to carry out the duties of this section. Sections 13, 14, 15, 16 and 17 of Chapter 354, 1993 Code Iowa, are hereby adopted by this reference in full as if set out here in their entirety.

Section 3. VIOLATIONS AND PENALTIES.

Failure of any person, firm, or corporation to comply with any regulation in or any provision of this Ordinance or of any amendment or supplement thereto, shall be deemed to have committed a county infraction. A county infraction is a civil offense punishable by a civil penalty of not more than seven hundred fifty dollars for each violation or if the infraction is a repeat offense a civil penalty not to exceed one thousand dollars for each repeat offense. Each and every day during which the defendant fails to comply with the provisions of this Ordinance may be deemed a separate offense. A county infraction is not punishable by imprisonment.

When judgment has been entered against a defendant for a county infraction, the court may impose a civil penalty or may grant appropriate relief to require the compliance with the requirements and provisions of this Ordinance or to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court. If a defendant willfully fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt.

Seeking a civil penalty as authorized in this Section, does not preclude a county from seeking alternative relief from the court in the same action.

Section 4. NOTICE OF COUNTY INFRACTION.

The County Auditor or other officer authorized by the county to enforce a county code or regulation may issue a civil citation to a person who commits a county infraction. The citation may be served by personal service or by certified mail return receipt requested and must be so served at least 20 days prior to the date set for the hearing. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the Clerk of the District Court. The citation shall serve as notification that is alleged that a civil offense has been committed and shall contain the following information.

- A. The name and address of the defendant
- B. The name or description of the infraction attested to by the officer issuing the citation.
- C. The location and time of the infraction.
- D. The amount of civil penalty sought to be assessed or the alternate relief sought, or both.
- E. The manner, location, and time in which the penalty may be paid.
- F. The time and place of court appearance.
- G. The penalty for failure to appear in court.

Section 5. COURT PROCEDURE.

In proceedings before the court for a county infraction:

- A. The county has the burden of proof that the county infraction occurred and that the defendant committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.
- B. The court shall ensure that the defendant has received a copy of the charges and that the defendant understands the charges. The defendant may question all witnesses who appear for the county and produce evidence or witnesses on the defendant's behalf.
- C. The defendant may be represented by counsel of the defendant's own selection and at the defendant's own expense.
- D. The defendant may answer by admitting or denying the infraction.
- E. If a county infraction is proven, the court shall enter judgment against the defendant. If the infraction is not proven, the court shall dismiss it. Notwithstanding 1993 Iowa Code, Section 602.8106, Subsection 3, penalties or forfeitures collected by the court for county infractions shall be remitted to the county in the same manner as fines and forfeitures are remitted to cities for criminal violations under Section 602.8106. If the person named in the citation is served as provided in Section Three (3) and fails without good cause to appear in response to the civil citation, judgment shall be entered against the person cited.
- F. A person against whom judgment is entered, shall pay the court costs and fees as in small claims under Iowa Code Chapter 631. If the action is dismissed, the county is liable for the court costs and court fees. Where the action is disposed of without payment or provision for assessment of

court costs, the Clerk shall at once enter judgment for costs against the county.

- G. A defendant who has judgment entered against him or her may file a motion for a new trial or a motion for a reversal of a judgment as provided by law or rule, of civil procedure.

Section 6. IMMUNITY.

The issuance of a civil citation for a county infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or prosecution.

ARTICLE XV. AMENDMENTS TO THIS ORDINANCE

Any provision of this Ordinance may be amended from time to time by the Board, provided, however, that such Board action shall be proceeded by a public hearing, public notice of which shall have been given in a newspaper of general circulation in Marshall County at least four (4) but not more than twenty (20) days prior to such hearing.

ARTICLE XVI. IMMUNITY

The approval and recording of any plat of survey or subdivision plat does not create any liability on the part of Marshall County or any officer or employee thereof for any damages from reliance on this Ordinance or any administrative review made thereunder.

ARTICLE XVII. VALIDITY

If any article, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of this Ordinance.

ARTICLE XVIII. CONFLICTING PROVISIONS REPEALED

All regulations, rules, resolutions or ordinances or parts thereof, in conflict with these regulations are hereby repealed except any regulation, rule, resolution or ordinance that imposes more restrictive provisions than are imposed herein.

ARTICLE XIX. EFFECTIVE DATE

The Ordinance, after its final passage and publication as provided by law, shall be in full force and effect on January 1, 2005.

History:

Platting & Subdivision Ordinance, Recorded Instrument No. 05039-1993-4

Amendment Adopted 12-1-2004, Recorded Instrument No. 0408903

Amendment No. SOA15-01, Recorded Instrument No. 2015-00003838

Amendment No. SOA17-01, Recorded Instrument No. 2018-00000202

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