

CHAPTER 166

SUBDIVISION REGULATIONS

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166.01 PURPOSE. This chapter is intended to provide for the harmonious development of the City and adjacent territory by establishing appropriate standards for streets, blocks, lots, utilities, and other improvements; by promoting coordination with existing development; and by establishing procedures and conditions for the approval of subdivisions of land, all in the interest of health, safety, and general welfare of the community.

166.02 JURISDICTION. All plats, re-plats or subdivisions of land into three or more parts for the purpose of laying out a portion of the City, an addition thereto or, pursuant to Section 354.9 of the *Code of Iowa*, suburban lots within two miles of the corporate limits of the City shall be submitted to the Council and the Commission in accordance with the provisions of this chapter and shall be subject to the requirements established herein.

166.03 DEFINITIONS. For the purpose of this chapter, certain terms and words are hereby defined. Also, as used herein, the word "building" shall include the word "structure."

1. "Acquisition plat" means 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.
2. "Aliquot part" means 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. "Alley" means a permanent service way providing a secondary means of access to abutting lands.
4. "Auditor" means the Auditor of Marshall County, Iowa.
5. "Auditor's plat" means a subdivision plat required by either the Auditor or the Assessor, prepared by a surveyor under the direction of the Auditor.
6. "Building line" means a line established on a plat as a restrictive covenant, beyond which no building may be placed. The building lines need not correspond to the front, side or rear yard requirement established in the Zoning Ordinance, but where they do not, the most restrictive requirement will control.

7. "Clerk of Court" means the Clerk of Court of Marshall County, Iowa.
8. "Commission" means the Planning and Zoning Commission of the City.
9. "Conveyance" means an instrument filed with a recorder as evidence of the transfer of title to land, including any form of deed or contract.
10. "Cul-de-sac" means a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.
11. "Developer" – see "subdivider."
12. "Division" means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, shall not be considered a division for the purpose of this chapter.
13. "Easement" means authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property.
14. "Engineer" means the Engineer of Marshall County, Iowa.
15. "Final plat" means the map or drawing on which the subdivision plan is presented in the form which, if approved by the Council and Commission, will be filed and recorded with the Recorder.
16. "Forty-acre aliquot part" means one-quarter of one-quarter of a section.
17. "Government lot" means 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.
18. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.
19. "Metes and bounds description" means 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.
20. "Official plat" means either an auditor's plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor and Assessor.
21. "Parcel" means a part of a tract of land.
22. "Permanent real estate index number" means a unique number or combination of numbers assigned to a parcel of land
23. "Plat of survey" means the 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 land surveyor.
24. "Preliminary plat" means a study or drawings indicating the proposed manner of layout of the subdivision which is submitted to the Council and Commission for consideration.
25. "Proprietor" means 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.
26. "Recorder" means the Recorder of Marshall County, Iowa.

27. "Separate tract" means a parcel of land or a group of contiguous parcels of land under one ownership on the effective date of the ordinance codified in this chapter.
28. "Street" means a right-of-way dedicated to and accepted for the public use, which affords the principal means of access to abutting property.
- A. "Thoroughfare street" means a street intended for cross-town or through traffic.
- B. "Collector street" means a street intended to carry vehicular traffic from residential streets to thoroughfares.
- C. "Residential street" means a street used primarily for access to abutting property.
29. "Street pavement" means the wearing or exposed surface of the street right-of-way used by vehicular traffic. The pavement width is measured from the back of the curb on one side to the back of the curb on the other side.
30. "Street right-of-way" means the area measured between property lines dedicated to and accepted for public use and providing access to abutting properties.
31. "Subdivider" means any person who lays out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either for the subdivider or others.
32. "Subdivision" means the division of a separate tract of land into three or more lots or parcels for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land.
33. "Subdivision plat" means 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 where the land is located.
34. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B.
35. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.
36. "Treasurer" means the Treasurer of Marshall County,

166.04 PREPARATION OF PRELIMINARY PLAT. The owner or developer of any tract of land to be subdivided shall cause a preliminary plat to be prepared of the subdivision containing the information specified herein and shall file five copies and a reproducible sepiam or tracing of plat with the Clerk.

166.05 CLERK'S DUTIES. The Clerk shall immediately transmit two copies of the preliminary plat to the Commission for study and recommendation and one copy to the City Attorney and one copy to the City Superintendent.

166.06 COMMISSION'S DUTIES. The Commission shall examine the plat as to its compliance with Iowa law, this chapter, and the comprehensive plan of the City and shall have 30 days within which to submit a recommendation to the Council, provided that the owner or developer may agree to an extension of time not to exceed 60 days.

166.07 COUNCIL DUTIES. The Council, upon receipt of the Commission's recommendation, or after 30 days or any extension thereof shall have passed, shall by resolution approve or reject the preliminary plat, provided the Council shall not have jurisdiction to act on the Commission's recommendation until seven days after its receipt by the Council. Approval of the preliminary plat by the Council shall constitute approval to proceed with preparation of the final plat but shall not be deemed approval of the subdivision.

166.08 FINAL PLAT. A final plat shall be submitted within 12 months of the approval of the preliminary plat, or such approval shall expire and the preliminary plat must be resubmitted prior to presentation of a final plat.

166.09 APPROVAL. Upon approval of the final plat, a certification of approval signed by the Mayor, and attested by the Clerk shall be affixed to the original tracing of the final plat and copies of it filed with the Clerk, Auditor and Recorder, along with such other certificate and instruments as may be required by law.

166.10 PLATS OUTSIDE CORPORATE LIMITS. With the adoption of the ordinance codified in this chapter, specific reference is made to Section 354.9(1) of the *Code of Iowa* granting the City the authority it is assuming over plats outside the corporate limits. Procedure for approval of preliminary and final plats of land within two miles of the corporate limits (but outside the corporate limits) shall be the same as set out in Section 166.12 et seq., except that two additional copies of the plat shall be filed with the Clerk and the Clerk shall refer one of the additional copies to the Engineer and the other to the Marshall County Planning and Zoning Commission and request their recommendations to be submitted to the Commission. The Commission may take action on the plat prior to receiving the recommendations of the County Planning and Zoning Commission.

166.11 PROFESSIONAL ASSISTANCE. The Council or the Commission with approval of the Council may employ such professional assistance as is deemed necessary to properly evaluate plats submitted.

166.12 PRELIMINARY PLAT REQUIRED. A preliminary subdivision plat is required when a tract of land is divided by repeated divisions or a simultaneous division into three or more parcels, any of which are described by metes and bounds descriptions for which no plat of survey is recorded. A subdivision plat is not required when land is divided by conveyance to a government agency for public improvements.

166.13 PHYSICAL REQUIREMENTS.

1. The original plat drawing shall remain the property of the surveyor.
2. The size of each plat sheet shall not be less than eight and one-half inches by eleven inches.
3. It shall be drawn to the scale of one hundred feet to one inch.
4. If more than one sheet is used, each sheet shall display both the number of the sheet and the total number of sheets included in the plat, and clearly labeled match lines indicating where other sheets adjoin. An index must be provided to show the relationship between the sheets.
5. The scale of the plat drawing shall be clearly stated and graphically illustrated by a bar scale on every plat sheet.

6. An arrow indicating the northern direction shall be shown on each plat sheet.

166.14 CONTENTS OF PRELIMINARY PLAT. The preliminary subdivision plat shall contain the following information:

1. A preliminary subdivision plat shall have a succinct name or title that is unique and which has been approved by the Auditor. The name in bold letters shall appear inside the margin at the top of each plat sheet.
2. The plat shall include an accurate description of the land included in the subdivision and shall give reference to two 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 established monuments within the official plat.
3. Each lot within the plat shall be assigned a progressive number.
4. 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.
5. 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 Council.
6. 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.
7. The surveyor shall not assign lot numbers or letters to a lot shown within a subdivision plat unless the lot has been surveyed by the surveyor in compliance with Chapter 355 of the *Code of Iowa*.
8. Sufficient information including dimensions and angles or bearings shall be shown on the plat to establish accurately the boundaries of each lot, street, and easement.
9. Easements necessary for the orderly development of the land within the plat shall be shown and the purpose of the easement shall be clearly stated.
10. 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 irregular lots within a plat shall be shown and may be expressed in either acres, to the nearest one-hundredth acre, or square feet, to the nearest ten 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.
11. The plat shall show the lengths and bearings of the boundaries of the tracts surveyed. The course of each boundary line shown on the plat may be indicated by a direct bearing reference or by an angle between the boundary line and an intersecting line having a shown bearing except when the boundary line has an irregular or constantly changing course as along a body of water, or when a description of the boundary line is better achieved by measurement shown at points or intervals along a meander line or an offset line having a shown course. The bearing shall be referenced to a United States public land survey system land line or recorded subdivision line. If the boundary lines show bearings, lengths, or locations which vary from those recorded in deeds, abutting plats, or other instruments of record, the following note shall be

placed along the lines: "Recorded as (show recorded bearing, length, or location)." Bearings and angles shown shall be given to at least the nearest minute of arc.

12. The plat shall show and identify all monuments necessary for the location of the tracts and shall indicate whether the monuments were found or placed.

13. If United States public land survey system corners control the land description, the corners shall be clearly identified on the plat including a description of the monumentation and shall indicate whether the monuments were found or placed.

14. Control monuments shall be adequately described and clearly identified on the plat and noted as found or placed. If additional monuments are to be placed subsequent to the recording of the subdivision as provided in Section 355.6 of the *Code of Iowa*, the location of the additional monument shall be shown on the plat.

15. Survey data shall be shown to describe positively the bounds of every lot, block, street, easement, or other areas shown on the plat and the boundaries of the surveyed lands.

16. Distances shall be shown in feet to at least the nearest one-tenth of a foot in accordance with the definition of the international foot. Distance measurements shall refer to the horizontal plane.

17. Curve data shall be stated in terms of radius, central angle, and length of curve. Unless otherwise specified, curve data for streets of uniform width need only be shown with reference to the centerline and lots fronting on such curves need only show the chord bearing and distance of the part of the curve included in the lot boundary. Otherwise, the curve data shall be shown for the line affected.

18. The unadjusted error of closure shall not be greater than one in three thousand for subdivision boundaries and shall not be greater than one in three thousand for an individual lot.

19. If part of the surveyed land is bounded by an irregular line, that part shall be enclosed by a meander line or an offset line showing complete data with distances along all lines extending beyond the enclosure to the irregular boundary and shown with as much certainty as can be determined or as "more or less," if variable. In all cases, the true boundary shall be clearly indicated on the plat.

20. Interior excepted parcels shall be clearly indicated and labeled, "not a part of this survey (or subdivision)."

21. Adjoining property shall be identified, and, if the adjoining properties are part of a recorded subdivision, the name of that subdivision shall be shown. If the survey is a subdivision of a portion of a previously recorded subdivision plat, sufficient ties shall be shown to controlling lines appearing on such plat to permit a comparison to be made.

22. The purpose of any areas dedicated to the public shall be clearly indicated on the plat.

23. The plat shall be accompanied by a description of the land included in the subdivision and shall contain a statement by the surveyor that the work was done and the plat was prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor's Iowa registration number and legible seal.

24. A copy of any restrictive covenants proposed by the subdivider shall be attached to the preliminary subdivision plat.

166.15 FINAL PLAT SPECIFICATIONS. The final subdivision plat shall conform to the approved preliminary plat and shall meet the following additional specifications:

1. Building lines if different than yard requirements of the Zoning Ordinance shall be clearly shown.
2. The location and dimensions of utility easements and certificate of utility easement dedication shall be clearly shown.
3. The final plat shall also be accompanied by the following instruments:

A. 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 acknowledgments 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 Council;

B. One of the following:

(1) A certificate bearing the approval of the Council stating that all improvements and installations in the subdivision required by this chapter have been made or installed in accordance with the City specifications, or

(2) A surety bond with the City which will insure the City that the improvements required will be completed within two years after official acceptance of the plat. Provided, however, the developer may request and the Council may agree to stage the installation of improvements on an annual basis to serve those lots to be offered for sale or development in that particular year, in which case a bond may be required only for improvement to those lots so designated. The form and type of bond shall be approved by the City Attorney, and the amount of the bond shall not be less than the amount of the estimated cost of the improvements plus 10 percent and the amount of the estimate must be approved by the Council. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof to complete the same, or

(3) A petition by the developer to the Council to provide the necessary improvements and to assess the costs thereof against the subdivided property in accordance with the requirements regarding special assessments, provided, however, that the subdivider or property owners shall furnish the necessary waivers to permit the assessment of the entire cost of the improvement plus the necessary and reasonable costs of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations.

If Option (2) or Option (3) above is chosen, the final plat shall state that the developer, the grantees, assignees and successors in interest agree that public services including but not limited to street maintenance, snow and ice removal, rubbish, refuse and garbage collection will not be extended to this subdivision until the pavement is completed and accepted by the City.

4. The final plat shall also be accompanied by the following instruments at the time it is presented for filing with the County Recorder:

A. 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. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

B. An opinion by an attorney-at-law who has examined the abstract of title of the 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.

C. A certificate of the 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 Section 354.12 of the *Code of Iowa*.

D. A certified resolution by each governing body, as required by Section 354.8 of the Code of Iowa, either approving the subdivision or waiving the right to review.

E. A subdivision plat which includes no land set apart for streets, alley, parks, open areas, school property, or public use other than utility easements, shall be accompanied by the documents listed in Paragraphs 3A, 4A, 4B, 4D and a certificate of the Treasurer that the land is free from certified taxes other than certified special assessments.

The Council or Commission may request drafts or copies of any of the above instruments for examination at the time of processing the final plat if in their opinion a review of such instruments is deemed necessary to evaluate properly the proposed subdivision.

166.16 DESIGN STANDARDS.

1. Streets. New subdivisions shall make provision for continuation and extension of thoroughfares and collector streets.

2. Rights-of-way. Minimum street rights-of-way to be provided shall be as follows:

- A. Thoroughfare streets – 80 feet
- B. Collector streets – 70 feet
- C. Residential streets – 66 feet
- D. Cul-de-sacs – 110 feet in outside diameter
- E. Alleys, residential – 16 feet
- F. Alleys, commercial or industrial – 20 feet

3. Pavement Widths. Minimum pavement widths measured back of curb to back of curb shall be provided as follows:
 - A. Thoroughfare streets – 38 feet
 - B. Collector streets – 36 feet
 - C. Residential streets – 32 feet
 - D. Cul-de-sacs – 85 feet in outside diameter
 - E. Alleys – 16 feet
 - F. Sidewalks – 4 feet
4. Street Grade. No street grade shall be less than one-half of one percent and shall not exceed the following limits:
 - A. Thoroughfare streets – 4 percent
 - B. Collector streets – 6 percent
 - C. Residential streets – 8 percent
5. General Considerations. Subdivisions shall be subject to the following general considerations:
 - A. Intersections of more than two streets at a point shall not be permitted.
 - B. Jogs of less than 125 feet shall be avoided.
 - C. Intersection of street centerlines shall be between 80 degrees and 100 degrees.
 - D. No dead-end streets and alleys will be permitted except at subdivision boundaries.
 - E. Cul-de-sacs shall not exceed 500 feet in length.
 - F. Thoroughfare and collector streets in a subdivision shall extend through to the boundaries thereof.
 - G. Alleys shall be discouraged in residential districts but shall be provided in commercial and industrial districts.
 - H. If no provision is made for alleys in a residential district, utility easements shall be provided, the locations and dimensions of which shall be determined by the Council. Generally such easements shall be centered on rear and/or side lot lines and shall be aligned from block to block. At deflection points easements for pole anchors shall be provided as necessary.
6. Blocks. The length of blocks shall be not less than 350 feet and not more than 440 feet. The width of the block shall be sufficient to permit two tiers of lots but in no case shall the width be less than 220 feet.
7. Crosswalks. Crosswalks may be required in areas where curved streets require excessive pedestrian travel. If required they shall be constructed by the subdivider.
8. Corner Lots. Corner lots which abut on a thoroughfare or collector street shall have a minimum radius of 15 feet at the intersection. Corner lots shall not be less than 80 feet in width.

9. Interior Lots. Interior lots shall not be less than 70 feet in width at the building line.
10. Double Frontage Lots. Lots with double frontage shall be avoided except in specific locations where good platting indicates their use.
11. Lot Side Lines. Side lines of lots shall approximate right angles to straight street lines and radial angles to curved street lines except where a variation will provide better street and lot layout.

166.17 IMPROVEMENTS REQUIRED.

1. Sanitary Sewers. The subdivider shall provide the subdivision with a complete sanitary sewer system which shall connect with a sanitary sewer outlet approved by the Council. The sewers shall extend to the subdivision boundaries as necessary to provide for the extension into adjoining properties. The sanitary sewers shall be constructed in accordance with the City's Wastewater Operating Policy and applicable ordinances in effect at the time of the filing of the preliminary plat.
2. Storm Drains. The subdivider shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes, and manholes, to provide for collection and removal of all surface waters, and these improvements shall extend to the subdivision boundaries as necessary to provide for extension into or onto adjoining properties. The storm sewers shall be constructed in accordance with the City's Streets and Storm Sewer Extension Policy in effect at the time of the filing of the preliminary plat.
3. Water. The subdivider shall provide the subdivision with a complete water main system including hydrants, valves, and all other appurtenances which shall extend to the subdivision boundaries as necessary to provide for the extension into adjoining properties; shall provide for a water connection for each lot; and shall be connected to the City water system. The water mains shall be constructed in accordance with the City's Water Operating Policy and applicable ordinances in effect at the time of the filing of the preliminary plat.
4. Electric. The subdivider shall provide the subdivision with an adequate electric distribution system which shall extend to the subdivision boundaries as necessary so as to provide for the extension of service to adjoining properties. The electric system shall be constructed in accordance with the City's Electric Operating Policy and applicable ordinances in effect at the time of the filing of the preliminary plat.
5. Sidewalks. A four foot wide concrete sidewalk shall be provided adjacent to each lot frontage.
6. Grading. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council.
7. Surfacing. All streets being dedicated for public use shall be surfaced. Surfacing shall be as determined by the Council and shall be constructed in accordance with the City's Streets and Storm Sewer Extension Policy in effect at the time of the filing of the preliminary plat.
8. Specifications. The type of construction, the materials, and the methods and standards of subdivision improvements shall be of a quality equal to the current specifications of the City for similar work. Plans and specifications shall be submitted

to the Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

9. Inspection. The Council shall cause the installation of all improvements to be inspected to insure compliance with the requirements of this chapter. The cost of the inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

166.18 FEES. Each preliminary plat submitted for approval shall be accompanied by a fee of \$10.00, which shall be credited to the General Fund of the City.

166.19 VARIANCES. Where the strict application of standards or requirements established by this chapter would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Commission may recommend and the Council may grant such variances from these standards or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of this chapter.

166.20 RECORDING. No plat or subdivision in the City or within two miles thereof shall be recorded or filed with the Auditor or Recorder nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed herein.

166.21 PERMITS. Not more than two building permits shall be issued for each separate tract existing on March 18, 1992, the effective date of the ordinance codified herein, unless the tract shall have been platted in accordance with the provisions of this chapter.

166.22 CITY FUNDS. No public improvements over which the Council has control shall be made with City funds, nor shall any City fund be expended for street maintenance, street improvements or other services in any area that has been subdivided after the effective date of the ordinance codified in this chapter unless such subdivision has been approved in accordance with this chapter.

166.23 AMENDMENTS. This chapter may be amended from time to time by the Council. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report within 30 days, after which the Council shall give notice of and hold a public hearing on the proposed amendment in the same manner as that required for amendment of the Zoning Ordinance. The amendment shall become effective from and after its adoption and the publication as required by law.

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