

COMMISSION ACTION FORM

SUBJECT: SUBDIVISION ORDINANCE TEXT AMENDMENT RELATED TO PLATS OF SURVEY, BOUNDARY LINE ADJUSTMENTS, RETRACEMENT SURVEYS, AND SUBDIVISION REVIEW IN THE URBAN FRINGE

BACKGROUND:

SUBJECT: Public Hearing - Subdivision Code Amendments

At the January 21 Planning & Zoning Commission meeting, staff presented draft amendments to the City's subdivision code pertaining to plats of survey, boundary line adjustments, retracement surveys, and subdivision review in the fringe. Staff explained the problems that we are currently experiencing that the amendments would address. One of the primary concerns expressed was the creation of parcels through plats of survey that were not processed or approved by the City. Staff explained the resultant burden on subsequent parcel owners due to laws that prohibit the issuance of permits on lots not otherwise created through adopted subdivision regulations. The draft amendments would provide a process and criteria for review and approving of plats of survey, and would also provide a means to legalize existing lots created by plats of survey.

Regarding boundary line adjustments, the amendments would more formally define these as an adjustment of a lot or parcel line that would result in the same or fewer numbers of lots. The amendments would then exempt most boundary line adjustments from the requirement to install public improvements along the property frontage. Finally the amendments would affirm the City's desire to review plats of survey in the urban fringe.

After presenting the draft amendments to the Planning & Zoning Commission, staff held meetings with both local developers and surveyors, and also with Story and Boone County staff. Based upon the comments received at these meetings, the staff fine-tuned the draft language, and is now prepared to present a revised draft for Public Hearing before the Planning & Zoning Commission. The hearing will include a PowerPoint presentation on the proposed changes. A similar presentation was made at the meeting for local surveyors and developers, and also to staff members of both Story County and Boone County.

In summary, the amendments would:

- a. Define more specific procedures for processing plats of survey before being submitted to the County for recording;
- b. Provide means to officially recognize parcels created through conveyance, but which were not previously reviewed or approved under City subdivision standards;
- c. Confirm the City's intent to review plats of survey within the Ames Urban Fringe;
- d. Define boundary line adjustments and review procedures, and exempt them from public improvement requirements (with limited exceptions); and

- e. Exempt from City review all retracement surveys that are clearly titled, "Plat of Retracement Survey".

Staff is attaching for the Commission's consideration and for public review three separate ordinances that would adopt the above-described amendments. They are broken down into three ordinances to reflect the different (but related) subjects of the amendments including (1) conveyance lots, (2) plats of survey, and (3) review of plats of survey in the urban fringe. The draft ordinances include in the preambles the legislative purpose, intent and legal basis of the amendments.

The only thing left blank in the ordinances is the threshold date for acknowledging plats of survey that were recorded without city review and approval. Staff anticipates that the date would be the effective date of the ordinance, but we won't know this date until we can better determine the date of third reading and adoption by the City Council.

ALTERNATIVES:

1. The Planning and Zoning Commission can recommend that the City Council approve the subdivision ordinance text amendments as proposed in the attached three ordinances, based upon the stated purpose, intent, and legal basis described in the preambles of the ordinances.
2. The Planning and Zoning Commission can recommend that the City Council approve the subdivision ordinance text amendments as proposed in the attached three draft ordinances, but, with modifications, and subject to the stated purpose, intent, and legal basis described in the preambles of the ordinances.
3. The Planning and Zoning Commission can recommend that the City Council not approve the proposed subdivision ordinance text amendments.
4. The Planning and Zoning Commission can refer this issue to staff for further information.

RECOMMENDED ACTION:

The proposed amendments would provide resolution to the problem of lots that were created without benefit of City review, and would also lessen the infrastructure burden on property owners who want to simply adjust their lot line without requiring additional public improvements (with some exceptions that will be described at the meeting), and would also simplify the process of doing a retracement survey. Staff has put forth considerable effort to get input from individuals most affected by the changes, and believes that the draft amendments reflect, to the degree possible, input received to date.

Barring any new information that might be provided at the public hearing, staff recommends that the Planning & Zoning Commission act in accordance with Alternative 1, which is to recommend that the City Council approve the subdivision ordinance text amendment as proposed in the attached draft ordinances.

(Draft for P&Z Hearing)

ORDINANCE NO. _____ - _____

AN ORDINANCE OF THE CITY OF AMES, IOWA, RELATING TO SUBDIVISION REGULATIONS; AMENDING AMES MUNICIPAL CODE SECTION 23.102 TO CLARIFY THE TYPES OF CONTRUCTION FOR WHICH PERMITS CANNOT BE ISSUED ON UNAUTHORIZED PARCELS; AMENDING SECTION 23.201 TO DEFINE “CONVEYANCE PARCEL” AND “LEGALIZED LOT”; AMENDING SECTION 23.301(5) TO REFERENCE CONVEYANCE PARCELS; AMENDING SECTION 23.305(2) PERTAINING TO APPEALS; ADOPTING A NEW SECTION 23.306 DESCRIBING PROCEDURES FOR RECOGNIZING LOTS CREATED THROUGH CONVEYANCE OR RECORDINGS OF PLATS OF SURVEY PRIOR TO _____.

WHEREAS, the Iowa platting standards pertaining to the division and subdivision of land are codified in Chapter 354 of the Code of Iowa, and provide statewide, uniform procedures and standards for the platting of land, including the following provisions:

1. Section 354.9 authorizes cities to review subdivision plats or plats of survey for divisions or subdivisions within two miles outside the city’s boundaries; and

2. Section 354.2 (6) defines a “division” as a means of dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes; and

3. Section 354.2(5) defines “conveyance” as an instrument filed with a recorder as evidence of the transfer of title to land, including any form of deed or contract; and

4. Section 354.8 requires plats of survey to be submitted to the governing body for review and approval prior to recording with the County Recorder, and said section further states that the County Recorder shall refuse to accept a subdivision plat or plat of survey presented for recording without a resolution from each applicable governing body approving the subdivision or plat of survey, or waiving the right to review; and

WHEREAS, properties acquired through conveyances are often described on plats of survey; and

WHEREAS, common practice has been to submit plats of survey directly to the County Recorder for recording prior to approval or waiver of the applicable governing body; and

WHEREAS, an unknown number of lots have been created in the City of Ames and its fringe by the recording of plats of survey that have not had the benefit of City review and approval under the above-cited statutes or the City’s adopted subdivision regulations; and

WHEREAS, the fact that these lots within recorded plats of survey have been assigned a tax parcel number has led many people, including property owners, to believe that the lots were created with prior City approval; and

WHEREAS, Ames Municipal Code Section 23.103 prohibits the City from issuing any zoning and/or building permit on any area of land that has not been platted in accordance with the City's subdivision regulations as defined in Ames Municipal Code Chapter 23; and

WHEREAS, the City Council finds that for the following reasons it would be unreasonably burdensome to require property owners who are innocent bona fide purchasers of illegally created lots to apply for standard City subdivision approval in order to legalize the lot:

1. A standard subdivision or platting process would require the cooperation and signatures of all persons holding ownership in the original legally created lot in order to obtain their approval of the further dividing of the lot; and
2. Many lots have already been developed, and many have subsequently been sold to purchasers who may not have known that the new lots were illegal; and
3. Owners of developed lots would have little incentive to participate in the platting process because they have already realized the economic benefit of their property without having to install the improvements typically required for dividing their property, making them unwilling partners in the standard platting process; and

WHEREAS, the City Council concludes by the adoption of this Ordinance that the relevant permits may be issued and the public interest will not be adversely affected as long as: (1) The conveyance parcel was created prior to _____, or; (2) the conveyance parcel conforms in size and width with the City's then existing size and width requirements (as set forth in the Zoning Code); and (3) the City's Design & Improvement Standards are imposed on the conveyance parcel; and (4) the conveyance parcels are correctly described by a properly recorded plat of survey; and

WHEREAS, beginning on January 1, 2008, the City initiated a new system for tracking and documenting subdivision applications in order to enable staff to more easily and readily determine if a parcel has been legally divided; and

WHEREAS, _____ should be established as the date for conformance to this ordinance, as both the public and City staff would have been able to easily and readily determine if a lot complied with all State and local subdivision laws prior to issuance of any building permits or the granting of any development applications; and

WHEREAS, it is necessary to ensure that all newly created lots are reviewed for conformance with the City's development standards; and

WHEREAS, it is reasonable to require owners of land being divided or subdivided to install improvements along street frontages abutting their property as a means of mitigating the owner's rough proportional impacts to the street system providing access to the owner's land and thereby assessing the owner's proportional cost to improve said streets; and

WHEREAS, the proposed text amendments are consistent with the goals, objectives, and policies of the City’s Land Use Policy Plan; and

WHEREAS, the City Council held a public hearing on this Ordinance during its regular City Council meeting of _____; and

WHEREAS, legal notice of the public hearing was published in the Ames Tribune on _____;

NOW THEREFORE, be it ordained by the City Council of the City of Ames, Iowa:

Section 1.

Section 23.102 of the Ames Municipal Code is hereby amended as follows:

Section 23.102 PURPOSE, APPLICATION, AND WAIVER/MODIFICATION

. . . .

(2) Application:

(a) The provisions of the Regulations are the minimum requirements for promotion of the public health, safety, and general welfare. No zoning permit or building permit shall be issued for construction, enlargement or expansion of a principal building, within the meaning of the City’s zoning regulations, from the effective date of the Regulations with respect to any land that has been divided without compliance with the provisions of the Regulations and all other applicable state laws and city ordinances in force at the time of such division. If the Regulations impose higher standards than are required in any other statute or local ordinance or regulation, the Regulations shall govern. If any other statute or local ordinance or regulation imposes higher standards than are required by the Regulations, the other statute or local ordinance or regulation shall govern.

. . . .

Section 2.

Section 23.201 of the Ames Municipal Code is hereby amended to include a definition of “Conveyance Parcel” as follows:

Sec. 23.201. Definitions.

Unless otherwise expressly stated, the following terms shall, for the purposes of the Regulations, have the meaning herein indicated.

(1) Adequate Public Facilities: Facilities determined by the City Council to be capable of supporting and servicing specified levels of service for anticipated

infrastructure needs in the physical area and with the designated intensity of a proposed subdivision.

. . .

(13) Conveyance Parcel: Any parcel created by the division of land through a deed or contract conveyance, or any boundary line adjustment of land established through a deed or contract conveyance, initially created or established without the benefit of City review and approval, which has been assigned a tax parcel number prior to [_____], and which is not a legalized lot as defined in this Chapter.

~~(13)~~ (14) Dedication: A grant to the City of title to land, without compensation.

. . .

~~(20)~~ (21) Land Use Policy Plan: the comprehensive plan for the City of Ames, Iowa, as adopted August 26, 1997, and as subsequently amended.

(22) Legalized Lot: Any lot or parcel approved pursuant to the provisions of this Chapter, or as otherwise legalized under the provisions of Code of Iowa Sections 592.2, 592.3 and/or 592.4.

~~(24)~~ (23) Lot: An area of land designated by number or letter in a plat of subdivision recorded pursuant to the Regulations, or otherwise recorded with the office of the County Recorder.

. . .

~~(24)~~ (26) Outlot: an unbuildable area of land, due to its, size, shape, topography or general location within the phasing of a subdivision.

(27) Parcel: A part of, an aliquot part of a section, a lot within an official plat, or a government lot. In this context, the term “parcel” does not mean, and should not be confused with, tax parcels.

(25) ~~(28)~~ Preliminary Plat: A plat for a proposed major subdivision prepared and submitted in accordance with Section 23.13 of the Regulations.

. . .

Section 3.

Section 23.301(5) of the Ames Municipal Code is hereby amended to read as follows:

(5) Classification of Divisions and Subdivisions:

- a. (a) The Department of planning and housing shall issue a written determination as to the classification of a proposed division or subdivision within 20 days of the conclusion of the pre-application Conference process. ~~All Divisions and subdivisions~~ will be classified as ~~either~~ a

Major Subdivision, or a Minor Subdivision, Boundary Line Adjustment, or a Conveyance Division.

c. Any subdivision not meeting both conditions for classifications as a Minor Subdivision, or that does not conform to the definition of a Conveyance Division or Boundary line Adjustment, shall be classified as a Major Subdivision.

Section 4.

A new Section 23.306 of the Ames Municipal Code, titled “Review Procedures for Conveyance Parcels” is hereby adopted to read as follows:

Section 23.306 REVIEW PROCEDURES FOR CONVEYANCE PARCELS

(1) Purpose:

The purpose of this Section is to provide a review process to determine if conveyance parcels as defined in Section 23.201(13) are to be recognized as independent developable parcels based upon the time of their creation, or based upon their conformance to applicable development standards. It is further intended to define a process by which building or zoning permits can be issued for conveyance parcels.

(2) Applicability

This Section applies to all parcels or divisions defined as conveyance parcels in Section 23.201(13).

(3) Application for Review of Conveyance Parcel.

Application for review of conveyance parcels shall include all of the following:

- A. The tax parcel number of the conveyance parcel.
- B. A legal description of the original parcel, and a scaled, dimensioned drawing of the conveyance parcel, which includes all dimensions of lot or boundary lines and states the area of the lot by square footage.
- C. The location and name of abutting streets and rights of way, any easements on or serving the site, and any existing structures on the site and within 10 feet of the site,
- D. Identification of any contiguous or abutting lots under the same ownership as the subject site.
- E. A title opinion or abstract identifying the date of conveyance.
- F. A completed application form as provided by the Department of Planning & Housing, along with applicable fees.
- G. In lieu of items A through E of this section, an official plat of survey that has not been reviewed or approved by the City, but which has been recorded by Story or Boone County prior to _____, may be submitted.

(4) Review Procedures

The Planning & Housing Director (or designee) shall review the application and determine if the conveyance parcel conforms to one of the following:

A. Conformance to development standards. If the parcel was created by, or resulted from, a conveyance occurring prior to _____ and also conforms to all setback, area, and width requirements, the Director shall issue a written determination that the lot is a *conforming conveyance parcel* as to setbacks, lot area and width and is subject to the review provisions of Section 23.306(5).

B. Nonconformance to development standards. If the parcel was created by, or resulted from, a conveyance occurring prior to _____ but does not conform to all setback, size and width requirements, the Director shall issue a written determination that the parcel is a *non-conforming conveyance parcel* and may only be developed under the provisions of Section 23.306(6); or

C. Creation by plat of survey. If it can be verified that a plat of survey for the conveyance parcel was recorded prior to _____, it shall be considered a *pre-platted conveyance parcel*.

D. Unauthorized parcel. If the conveyance parcel was created after _____, the Director shall issue a written determination that the parcel is not an authorized division or subdivision of land under the City's subdivision standards, and that it is not recognized by the City as a valid parcel for permitting purposes. The determination shall be forwarded to the applicant, and also to the County Recorder's Office, the County Auditor's Office, and the City Assessor's Office.

(5) Conforming Conveyance Parcel

Conforming conveyance parcels are those that conform to the minimum size, area and width requirements specified in Ames Municipal Code Chapter 29 at the time that a determination is made under the provisions of Section 23.306(4). Conforming conveyance parcels are subject to the following requirements:

A. Conforming conveyance parcels shall be reviewed under the procedural requirements defined in Section 23.301 prior to the creating and recording of a plat of survey describing the lot, and prior to issuance of building or zoning permits for the lot.

B. Conveyance parcels approved under this Section shall be described and recorded by plat of survey as allowed under the provisions of Section 23.103(2), (as opposed to a final subdivision plat). The property so described by the plat of survey shall be staked with official survey monuments as specified in Section 23.401(3) prior to the recording of the plat of survey and prior to issuance of zoning or building permits.

C. All public improvements otherwise applicable to subdivisions as required by the City's Design and Improvement Standards specified in Ames Municipal Code Chapter 23, Division IV, shall be installed prior to creation and recording of the plat of survey and prior to issuance of zoning or building permits. These requirements do not apply to pre-platted conveyance parcels as described in Section 23.306(7).

D. If, in the opinion of the Public Works Director, the public improvements required under subsection C should be delayed, the lot owner may, in lieu of installing the actual public improvements, opt to secure the future installation of these improvements in accordance with Section 23.409. A determination as to whether public improvements may be delayed shall be reached during the conveyance parcel review process as described in Section 23.301.

E. Provisions of subsections 23.306(5)(C) and 23.306(5)(D) do not apply to conveyance parcels created by boundary line adjustments, except that the requirement for a recorded plat of survey shall be complied with prior to zoning or building permit issuance.

F. Plats of survey shall not be prepared for conveyance parcels until all provisions for reviewing conveyance parcels, and all conditions for plat of survey recordation, as described in this Section have been met.

(6) Non-conforming Conveyance Parcel

Non-conforming conveyance parcels are those lots that do not conform to the minimum area and width requirements, or contain structures that do not conform to minimum setback requirements, specified in Ames Municipal Code Chapter 29 at the time that a determination is made under the provisions of Section 23.306(4). Permits shall not be issued on non-conforming conveyance parcels except under the following provisions:

A. The Zoning Board of Adjustment makes a determination that the public interest will not be adversely affected by the granting of a permit on the lot. In making this determination, the Board shall consider:

i. Whether the lot can be developed in a manner that reflects surrounding development patterns and setbacks and does not need variances for new construction;

ii. Whether existing development on the lot either conforms to current setback requirements as measured from the conveyance parcel lines or conform to all adopted building code, fire code, and fire separation requirements, and

iii. Whether, in the opinion of the City Engineer, the lot conforms to all applicable engineering and public improvement standards.

iv. Whether, in the opinion of the Fire Inspector, the lot conforms to all fire codes applicable at the time any structures on the site were built, and conforms to any current fire codes pertaining to setbacks from property lines that have been moved closer to any structures after they were built.

B. If the Planning & Housing Director determines that a non-conforming conveyance parcel qualifies for legal lot status under the provisions of this Section, building and zoning permits shall not be issued for the lot unless all conditions required for conforming conveyance parcels in Section 23.306(5) are met.

(7) Pre-platted Conveyance Parcel.

Any lot deemed to be a *pre-platted conveyance parcel* under the provisions of Section 23.306(4)(C) shall be recognized as a valid lot of record. Permits may be issued subject to conformance with all development standards as adopted.

(8) Appeals

Decisions of the Planning & Housing Director under the provisions of this Section 23.306 are appealable to the Zoning Board of Adjustment under the provisions of Section 23.305(2)(A).

Section 5.

Subsection 23.305 of the Ames Municipal Code is hereby amended, to read as follows:

Sec. 23.305 APPROVAL, RECORDATION AND APPEAL.

(1) Approval and Recordation:

- a. The passage of a resolution by the City Council accepting any Final Plat, whether for Major or Minor Subdivision, or any Plat of Survey, shall constitute final approval of the division or subdivision subject to the City Clerk receiving a copy of the recorded Final Plat or Plat of Survey.
- b. The applicant shall request that a copy of such resolution be certified by the City Clerk. The applicant shall cause the Final Plat or Plat of Survey and the certified resolution to be recorded in the office of the County Recorder of Story County, or Boone County, Iowa, as appropriate.
- c. The applicant shall provide a copy of the recorded Final Plat or Plat of Survey and certified resolution to the City Clerk within 30 days of the final approval of the Final Plat by the City Council. The City Council may initiate proceedings to revoke any approved Final Plat or Plat of Survey not so received,

~~(2) Appeal of Disapproval: If any Preliminary Plat or Final Plat is disapproved by the City Council, such disapproval shall state the reason for such disapproval and shall state requirement for approval.~~

(2) Appeal of Decision.

- a. Conveyance Parcels. Decisions of the Planning & Housing Director pertaining to conveyance parcels may be appealed to the Zoning Board of Adjustment within 20 days of the date of the decision. The appeal shall state the specific reasons for the appeal and explain how the Director erred in the decision.
- b. Preliminary or Final Plats, Plats of Survey. Decisions by the governing body of any Preliminary Plat, Final Plat or Plat of Survey may be appealed to the district court pursuant to Code of Iowa Section 354.10.

Section 6.

Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 7.

Effective Date. This ordinance shall take effect on _____.

INTRODUCED the _____ day of _____, 200_.

ADOPTED by the City Council of the City of Ames, Story County, Iowa at a regular open public meeting held the _____ day of _____ 200_.

ATTEST:

Mayor Campbell

City Clerk Voss

APPROVED AS TO FORM:

City Attorney Marek

(Draft for P&Z Hearing)

ORDINANCE NO. _____ - _____

AN ORDINANCE OF THE CITY OF AMES, IOWA, RELATING TO SUBDIVISION REGULATIONS; AMENDING AMES MUNICIPAL CODE SECTION 23.102(3) TO STATE THE CITY’S INTENT TO REGULATE BOUNDARY LINE ADJUSTMENTS; AMENDING AMES MUNICIPAL CODE SECTION 23.103(2) TO REFERENCE PLAT OF SURVEY REQUIREMENTS; AMENDING SECTION 23.201 TO INCLUDE DEFINITIONS OF “BOUNDARY LINE ADJUSTMENT”, “PLAT OF SURVEY, PROPOSED” AND “PLAT OF SURVEY, OFFICIAL”, TO REDEFINE THE DEFINITION OF “MAJOR SUBDIVISION”, AND TO ADOPT A NEW DEFINITION OF “RETRACEMENT SURVEY”; AMENDING SECTION 23.301(5) TO INCLUDE BOUNDARY LINE ADJUSTMENT AS A CLASSIFICATION OF SUBDIVISION; ADOPTING A NEW SECTION 23.307 DESCRIBING PROCEDURES FOR REVIEWING PLATS OF SURVEY FOR DIVISIONS OF LAND; ADOPTING A NEW SECTION 23.308 DESCRIBING PROCEDURES FOR BOUNDARY LINE ADJUSTMENTS; ADOPTING A NEW SECTION 23.309 DEFINING REVIEW PROCEDURES FOR RETRACEMENT SURVEYS; AND ADOPTING A NEW SECTION 23.310 DEFINING PROCEDURES FOR CORRECTING PLAT ERRORS.

WHEREAS, Section 354.8 of the Code of Iowa requires the County Recorder to refuse to accept for recording a subdivision plat presented for recording without a resolution from each applicable governing body approving the subdivision plat or waiving the right to review; and

WHEREAS, the provisions of Section 354.8 of the Code of Iowa pertain to both subdivision plats and plats of survey as specified in said Section 354.8; and

WHEREAS, Ames Municipal Code Section 23.103(2) provides for conditional waiver by staff of the requirements of the Regulations for the platting of a Minor Subdivision, with one stated condition being that the description and area of the land shall be provided by means of a plat of survey; and

WHEREAS, administrative approval of plats of survey are not approved by resolution, and may therefore not be accepted for recordation by the County Recorder under the provisions of Code of Iowa Section 354.8; and

WHEREAS, it is the purpose of this ordinance to define a review process for plats of survey, which includes approval by resolution, thereby facilitating the lawful recording of plats of survey; and

WHEREAS, the City Council held a public hearing on this Ordinance during its regular City Council meeting of _____;

WHEREAS, legal notice of the public hearing was published in the Ames Tribune on _____:

NOW THEREFORE, be it ordained by the City Council of the City of Ames, Iowa:

Section 1.

Section 23.102(3) of the Ames Municipal Code is hereby amended, to read as follows:

- (3) These Regulations apply where any or all of the following circumstances exist or occur::
- a. Any area of land which has been divided or shall hereafter be divided into two or more parts;
 - b. Any area of land that is described by metes and bounds, or an area of land that is not a complete platted lot
 - c. Any adjustment, addition, or deletion of lot or parcel lines.

Section 2.

Section 23.103(2) of the Ames Municipal Code is hereby amended, to read as follows:

- (2) The requirements of the Regulations for the platting of a Minor Subdivision may be waived by city staff when it is determined by city staff that:
- d. A clear and accurate description of the area of land will be provided by means of a plat of survey to be procured by the property owner, and in compliance with Section 23.307.
 - e. With respect to that area of land, all substantive requirements and standards of the Regulations area already met.

Section 3.

Section 23.201 of the Ames Municipal Code is hereby amended to include definitions of “Boundary line Adjustment”, “Plat of Survey, Proposed”, “Plat of Survey, Official”, “Retracement Survey”, and to redefine the definition of “Major Subdivision”, as follows:

Sec. 23.201. Definitions.

Unless otherwise expressly stated, the following terms shall, for the purposes of the Regulations, have the meaning herein indicated.

- (1) Adequate Public Facilities: Facilities determined by the City Council to be capable of supporting and servicing specified levels of service for anticipated

infrastructure needs in the physical area and with the designated intensity of a proposed subdivision.

. . .

(6) Bond: Any form of security including a letter of credit, a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the City Council.

(7) Boundary line Adjustment. An adjustment of lot or parcel lines between owners of contiguous officially platted lots or parcels where no more than the same number of lots or parcels, or fewer numbers of lots or parcels, exist after the adjustment.

~~(7)~~ (8) Building: Any structure having a roof supported by columns or walls for shelter, support or enclosure of persons, animals or chattels. Each area of such structure separated by division walls from the ground up without openings shall be deemed a separate building.

. . .

~~(21)~~ (22) Lot. An area of land designated by number or letter in a plat of subdivision recorded pursuant to the Regulations, or otherwise recorded with the office of the County recorder

~~(22)~~ (23) Major Subdivision: any ~~subdivision~~ division that is not classified as a Minor Subdivision, Boundary line Adjustment or conveyance division.

. . .

~~(24)~~ (25) Outlot: an unbuildable area of land, due to its, size, shape, topography or general location within the phasing of a subdivision.

(26) Plat of Survey, Official. 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 and signed by a registered land surveyor in compliance with Code of Iowa Section 355.7.

(27) Plat of Survey, Proposed. A graphical representation of an existing parcel or tract of land, or of a proposed division or reconfiguration of an existing lot, parcel or tract of land, prepared in the same format as an Official Plat of Survey but without the signature of the registered land surveyor.

~~(25)~~ (28) Preliminary Plat: A plat for a proposed major subdivision prepared and submitted in accordance with Section 23.13 of the Regulations.

~~(26)~~ (29) Public Way: A right-of-way used for passage by the public. “Public Way” shall include, but not be limited to, any highways, streets or alleys.

(30) Retracement Survey. The process of field locating and marking record title boundaries as described in Code of Iowa Section 355.4.

~~(27)~~ (31) Right-of-way: A strip of land acquired by reservation, dedication, prescription, or condemnation and used or intended to be used by specific persons or the public for a specific purpose or purposes. “Right-of-Way” shall include but not be limited to, any public ways.

. . .

[Continue re-numbering in sequence]

Section 4.

Section 23.301(5) of the Ames Municipal Code is hereby amended to read as follows:

(5) Classification of Subdivisions and Boundary line Adjustments:

a. The Department of Planning and housing shall issue a written determination as to the classification of a proposed subdivision or boundary line adjustment within 20 days of the conclusion of the Pre-Application Conference process. All subdivisions or boundary line adjustments will be classified as either a Major subdivision, ~~or a~~ Minor Subdivision, Conveyance Division, or Boundary line Adjustment.

. . .

~~(d) City staff may classify a~~ A proposed adjustment of lot or parcel lines between owners of contiguous officially platted lots or parcels as a minor subdivision shall be classified as a Boundary line Adjustment if no more than the same number of lots, or fewer number of lots, exist after the adjustment.:

(i) ~~No more than the same number of lots or fewer numbers of lots exist after the adjustment.~~

(ii) ~~The lots resulting from the adjustment conform to the requirements of the zoning ordinances of the City and the subdivision regulations of the City, in place at the time of the lot line adjustment; and,~~

(iii) ~~Such adjustment of lot lines is not contrary to the goals and objectives of the Land use policy Plan of the city, or the Transportation, Parks Master Plan, or any other plan, regulation or ordinance of the City of Ames, Iowa.~~

Section 5.

A new Section 23.307 of the Ames Municipal Code, titled “Review Procedures for Plats of Survey” is hereby adopted to read as follows:

Section 23.307 REVIEW PROCEDURES FOR PLATS OF SURVEY

(1) Purpose:

The purpose of this Section is to provide a review process to determine if proposed plats of survey as defined in Section 23.201 conform to all subdivision standards of this Chapter, and to all development regulations of Chapter 29, prior to the preparation of the official plat of survey, and prior to the submittal of an official plat of survey to the Story or Boone County Recorder’s Office and Story or Boone County Auditor’s office as specified in Code of Iowa Section 354.8

(2) Applicability:

This Section applies to all plats of survey within the City of Ames, and to all plats of survey describing divisions or conveyances of land lying within the unincorporated area extending not more than two (2) miles beyond the Ames City Limits. It does not apply to retracement surveys as defined by this Chapter. The only types of divisions which may be approved as plats of survey are, boundary line adjustments, replats to correct errors as provided in Section 23.310, auditor’s plats as provided in Code of Iowa Section 354.15, and conveyance divisions occurring prior to _____. All other divisions must be processed as major or minor subdivision plats, as defined by this Chapter.

(3) Application for Review of Plats of Survey

- (a) The applicant shall file an Application for a Plat of Survey with the Department of Planning and Housing. The application shall contain the following information:
 - i. A completed Application Form available from the Department of Planning and Housing.
 - ii. The tax parcel number of the lot, tract or parcel to be divided or adjusted by the plat of survey
 - iii. A legal description of the lot, tract or parcel to be divided or adjusted,
 - iv. Six paper copies of a scaled graphic illustration (map) of the existing lot, tract or parcel, identifying lot area, dimensions and reference to established survey monuments, abutting streets and rights of way, any easements on or serving the site, and any existing structures on the site and within 10 feet of the site,
 - v. Six paper copies of a map (graphic illustration) of the proposed plat of survey (not an official or signed plat of survey), which includes the proposed name of the plat of survey, references established survey monuments, includes all dimensions of lot or parcel lines, states the area of the lot or parcel by square footage,

and which shows all easements on or serving the parcels contained within the proposed plat of survey. The format of the proposed plat of survey shall be in substantially the same form and format as an official plat of survey, and shall include signature blocks for the City of Ames Planning & Housing Director, and for the surveyor who prepared the map, except that it shall be submitted unsigned by the surveyor.

- vi. Identification of any contiguous or abutting lots or parcels under the same ownership as the subject site.
- vii. The names and signatures of the owners of each lot or parcel that the proposed plat of survey encompasses.
- viii. Any filing fee established by the City Council.

(4) Staff and Agency Review of Proposed Plat of Survey.

(a) Review for Completeness. The Department of Planning and Housing shall review the application to determine if it contains all information required under Section 23.307(3).

(b) Distribution. Upon determination of completeness, the Department of Planning and Housing shall file one copy of a complete application (less fees) with the City Clerk and shall also distribute copies to the Office of the City Assessor, the Department of Public Works, the applicable County Planning Department and County Auditor's Office, and such other departments, persons, and utility companies as it determines may be necessary or appropriate for their review, comments and recommendations.

(c) Review Procedures – Preliminary Decision

The Planning & Housing Department shall review comments from all departments and agencies that reviewed the proposed plat of survey and render a preliminary decision on the proposed plat of survey. The preliminary decision shall be based upon compliance with all adopted codes and standards, the adequacy of existing infrastructure and services to serve the site, adequate access to the site for ingress/egress, utilities, fire and emergency vehicles, and provisions for storm water. The preliminary decision may include conditions of approval including, but not limited to:

- (i) The installation of improvements necessary to comply with all Design and Improvement Standards contained in Division IV of this Chapter, and with all other adopted codes and regulations applicable to the division of land.
- (ii) Incorporation of any easements necessary for access, utilities, storm water and/or fire access.

(d) Decisions of Denial

If the Planning & Housing Department finds that the proposed plat of survey does not comply with all standards defined in Subsection 23.307(4)(c), the Director shall render a written decision of denial. The decision shall state how the proposed plat of survey does not conform to

all adopted codes and standards. Decisions of denial may be appealed to the City Council pursuant to Section 23.305(2).

- (5) **City Council Review – Final Decision**
Once a preliminary decision of approval has been rendered by the Planning & Housing Director, the decision shall be forwarded to the City Council for final review and decision. If the City Council agrees with the Planning & Housing Director’s preliminary decision, the Council shall render final approval of the proposed plat of survey. The City Council’s decision to approve the proposed plat of survey shall be by resolution, and the resolution shall be certified pursuant to Code of Iowa Section 354.8.
- (6) **Installation of Required Improvements.**
 - A. All public improvements as required by this chapter shall be installed prior to creation and recordation of the official plat of survey and prior to issuance of zoning or building permits. These requirements do not apply to pre-platted conveyance parcels as described in Section 23.306(5), or to boundary line adjustments unless improvements are otherwise required under the provisions of Section 23.309(c).
 - B. If, in the opinion of the Public Works Director, the public improvements required under subsection A should be delayed, the lot owner may, in lieu of installing the actual public improvements, opt to secure the future installation of these improvements in accordance with Section 23.409. A determination as to whether public improvements may be delayed shall be reached during the plat of survey review process as described in this Section.
- (7) **Preparation of Official Plat of Survey.** Once a proposed plat of survey has been approved by the City Council by certified resolution, and once all conditions of approval pertaining to installation of public improvements have been met, the official plat of survey may be prepared for signature by a licensed surveyor in compliance with all conditions of approval. The prepared plat of survey shall in all respects reflect the graphic illustration of the proposed plat of survey reviewed and approved by the City Council, except that it shall reflect any and all conditions of approval pertaining to the format or content of the map.
- (8) **Submittal for Signature.** The plat of survey prepared for official signatures shall be submitted to the Planning & Housing Department for the Director’s review and signature. The Planning & Housing Director shall sign the prepared plat of survey if it fully conforms to all conditions of approval.
- (9) **Recording of Plat of Survey.** Once signed by the Planning & Housing Director, the surveyor may sign the prepared survey to make it the official plat of survey and submit it, along with the certified resolution approving

the plat of survey, to the County Recorder's office for recordation. The plat of survey shall not be signed or submitted to the County Recorder without fully complying with the requirements of this Section.

- (10) Completion of Approval Process. The official plat of survey shall not be recognized as a binding plat of survey for permitting purposes until a copy of the signed and recorded plat of survey is filed with the Ames City Clerk's office, and a digital image in Adobe PDF format has been submitted to the Planning & Housing Department.

Section 6.

A new Section 23.308 of the Ames Municipal Code, titled "Review Procedures for Boundary line Adjustments" is hereby adopted to read as follows:

Section 23.308 REVIEW PROCEDURES FOR BOUNDARY LINE ADJUSTMENTS

Boundary line adjustments are subject to the following provisions:

1. The lots or parcels resulting from a boundary line adjustment must conform to the requirements of the zoning ordinances of the City and the subdivision regulations of the City in place at the time of the boundary line adjustment.
2. The boundary line adjustment may be created by plat of survey or through the minor subdivision process, as regulated by this chapter. If the adjustment is created by plat of survey, then only the newly created parcel lines shall be recognized for permitting purposes; not the original lot lines. If the minor subdivision option is used, then the original lot lines are eliminated.
3. No public improvements shall be required in association with a boundary line adjustment unless the adjustment increases the street frontage of the original lot or parcel that currently has frontage improvements, in which case existing frontage improvements, which may include curbs, gutters, sidewalks, paths, street trees and/or street lights, shall be extended across the entire frontage of the adjusted lots or parcels prior to preparation of the official plat of survey, or prior to minor plat approval.

Section 7.

A new Section 23.309 of the Ames Municipal Code, titled “Review Procedures for Retracement Surveys” is hereby adopted to read as follows:

Section 23.309 RETRACEMENT SURVEYS

Any plat of survey prepared for retracing the lines of an original survey or record title boundary is exempt from the procedural requirements of this Chapter, except that the retracement survey shall be submitted to the City Assessor’s office at least 7 days prior to recording. The County Recorder may accept for recording any plat of survey that is clearly titled “Plat of Retracement Survey” without a certificate of resolution from the City. However, plats of retracement surveys shall not be recognized descriptions of official lots or parcels for permitting purposes. Only the original survey or plat of a lot or parcel approved by the applicable governing body shall be used for permitting purposes. If the retracement survey lines differ from the lot or parcel lines originally approved by the governing body, and if the proprietors of record wish to have the retracement lines recognized as the official lot or parcel lines for permitting purposes, they must submit application for a boundary line adjustment as defined in Section 23.308 of this Chapter. If the lot or parcel line difference is the result of an error in the original survey, the surveyor or proprietor may pursue correction of the error as provided in Section 23.310 of this Chapter.

Section 8.

A new Section 23.310 of the Ames Municipal Code, titled “Plat Errors and Corrections” is hereby adopted to read as follows:

Section 23.310 PLAT ERRORS AND CORRECTIONS

If an error is identified on an original plat, the surveyor may record an affidavit of error with the county Recorder pursuant to Code of Iowa Section 354.24, except that if the error results in a difference of more than 10% of the dimension of any line on the original plat, or results in a change of more than 10% of the lot or parcel area on the original plat, the error shall be considered substantial and may only be corrected by a replat of the official plat pursuant to Code of Iowa Section 354.25. A replat may be processed as a plat of survey under the provisions of Section 23.307 of this Chapter, or as a minor subdivision.

Section 9.

Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 10.

Effective Date. This ordinance shall take effect on _____.

INTRODUCED the _____ day of _____, 200_.

ADOPTED by the City Council of the City of Ames, Story County, Iowa at a regular open public meeting held the _____ day of _____ 200_.

ATTEST:

Mayor Campbell

City Clerk Voss

APPROVED AS TO FORM:

City Attorney Marek

(Draft for P&Z Hearing)

ORDINANCE NO. _____ - _____

AN ORDINANCE OF THE CITY OF AMES, IOWA, RELATING TO SUBDIVISION REGULATIONS; AMENDING AMES MUNICIPAL CODE SECTION 23.101(1)(2) TO CLARIFY THE CITY'S INTENT TO REVIEW PLATS OF SURVEY WITHIN THE AMES URBAN FRINGE PURSUANT TO CODE OF IOWA SECTION 354.9(1).

WHEREAS, the City of Ames subdivision standards are contained in Chapter 23 of the Ames Municipal Code; and

WHEREAS, Ames Municipal Code Section 23.201(2)(b) states that the City's subdivision regulations govern any plat for subdivision of land within the City, or outside the City, but within two miles of the city boundaries, including any plat of survey, within Story County or Bone County, Iowa; and

WHEREAS, Section 354.9 of the code of Iowa establishes the City's authority to review subdivisions and plats of survey within two miles of a city's boundaries, which review shall be established by ordinance specifically referring to Code of Iowa Section 354.9; and

WHEREAS, the subdivision of land within two miles of the City's boundaries, including plats of survey, can adversely affect the City's ability to plan for future growth and to provide necessary infrastructure and services for such growth – both within the City limits and in future annexation areas;

NOW THEREFORE, be it ordained by the City Council of the City of Ames, Iowa:

Section 1.

Section 23.102(2) of the Ames Municipal Code is hereby amended, to read as follows:

(2) Application

- a. The provisions of the Regulations are the minimum requirements for promotion of the public health, safety, and general welfare. No zoning permit or building permit shall be issued for a principal building, within the meaning of the City's zoning regulations, from the effective date of the Regulations with respect to any land; that has been divided without compliance with the provisions of the Regulations and all other applicable state laws and city ordinances in force at the time of such division. If the Regulations impose higher standards than are required in any other statute or local ordinance or regulation, the Regulations shall govern. If any other statute or local ordinance or regulation imposes higher standards

than are required by the Regulations, the other statute or local ordinance or regulation shall govern.

- b. These Regulations govern any subdivision plats or plats of survey for divisions or subdivisions inside the City's boundaries or outside the City's boundaries but within two miles of the City's boundaries ~~plat for subdivision of any area of land within the City, or outside the City, but within two miles of the City boundaries, including any plat of survey,~~ within Story County or Boone County, Iowa, pursuant to the authority of Code of Iowa Section 354.9(1).

. . .

Section 2.

Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this ordinance.

Section 3.

Effective Date. This ordinance shall take effect on _____.

INTRODUCED the _____ day of _____, 200_.

ADOPTED by the City Council of the City of Ames, Story County, Iowa at a regular open public meeting held the _____ day of _____ 200_.

ATTEST:

Mayor Campbell

City Clerk Voss

APPROVED AS TO FORM:

City Attorney Marek