

## CHAPTER 40-50.1 PLATTING OF TOWNSITES

### **40-50.1-01. Laying out townsites, additions, and subdivisions - Survey and plat required - Contents of plat.**

Any person desiring to lay out a townsite, an addition to a townsite, or a subdivision of land shall cause the land to be surveyed and a plat made of the land. The written plat must comply with the following:

1. The plat must describe particularly and set forth all the streets, alleys, and public grounds, and all outlots or fractional lots within or adjoining the townsite or jurisdiction, together with the names, widths, courses, boundaries, and extent of all such streets, alleys, and public grounds, and giving the dimensions of all lots, streets, alleys, and public grounds.
2. All lots and blocks, however designated, must be numbered in progressive numbers and their precise length, width, and area be stated on the map or plat. The streets, alleys, or roads which divide or border the lots must be shown on the map or plat.
3. The plat must indicate that all outside boundary monuments have been set and indicate those interior monuments that have been set. There must be shown on the plat all survey and mathematical information, including bearings and distances, and data necessary to locate all monuments and to locate and retrace all interior and exterior boundary lines appearing on the plat. All interior lot lines and exterior boundary lines of the plat must be correctly designated on the plat and show bearings on all straight lines, or angles at all angle points, and central angle, radius, and arc length for all curves. All distances must be shown between all monuments as measured to the hundredth of a foot [0.3048 centimeter]. All lot distances must be shown on the plat to the nearest hundredth of a foot [0.3048 centimeter] and all curved lines within the plat must show central angles, radii, and arc distances. A north arrow and the scale of the plat must be shown on the plat. The scale must be of a dimension that the plat may be easily interpreted. If a curved line constitutes the line of more than one lot in any block of a plat, the central angle for that part of each lot on the curved line must be shown.
4. Ditto marks may not be used on the plat for any purposes.
5. If a river, stream, creek, or lake constitutes a boundary line within or of the plat, a survey line must be shown with bearings or angles and distances between all angle points and their relation to a waterline, and all distances measured on the survey line between lot lines must be shown, and the survey line shown as a dashed line.
6. The unadjusted outside boundary survey and the plat survey data must close by latitude and departure with an error that does not exceed one part in ten thousand parts.
7. All rivers, streams, creeks, lakes, and all public highways, streets, and alleys of record must be correctly located and plainly shown and designated on the plat.
8. The names and adjacent boundary lines of any adjoining platted lands must be dotted on the plat.
9. The scale must be shown graphically and the basis of bearings must be shown. The plat must be dated as to the completion of the survey and preparation of the plat.
10. The purpose of any easement shown on the plat must be clearly stated. Building setbacks may not be shown on the plat.
11. Any plat which includes lands abutting upon any lake, river, or stream must show a contour line denoting the present shoreline, water elevation, and the date of survey. If any part of a plat lies within the one hundred year floodplain of a lake, river, or stream as designated by the state engineer or a federal agency, the mean sea level elevation of that one hundred year flood must be denoted on the plat by numerals. Topographic contours at a two-foot [60.96-centimeter] contour interval referenced to mean sea level must be shown for the portion of the plat lying within the floodplain. All elevations must be referenced to a durable benchmark described on the plat with its location and

elevation to the nearest hundredth of a foot [0.3048 centimeter], which must be given in mean sea level datum.

**40-50.1-02. Monuments required for survey - Destruction - Penalty.**

Durable ferromagnetic monuments must be set at all angle and curve points on the outside boundary lines of the plat. The monuments must be at least eighteen inches [45.72 centimeters] in length and at least one-half inch [1.27 centimeters] in sectional dimension. Any monument of the survey must bear the registration number of the land surveyor making the survey. Any person who disturbs, removes, or destroys any survey or reference monument or landmark evidencing a property line or cornerpost is guilty of a class B misdemeanor.

**40-50.1-03. Instruments of dedication - Certifying and recording plat.**

The plat must contain a written instrument of dedication, which is signed and acknowledged by the owner of the land. When there is divided ownership, there must be indicated under each signature the lot or parts of lots in which each party claims an interest. All signatures on the plat must be written with black ink, not ballpoint ink. The instrument of dedication must contain a full and accurate description of the land platted. The registered land surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correct and monuments are placed in the ground as shown, and that the outside boundary lines are correctly designated on the plat. The dedication and certificate must be sworn to before an officer authorized to administer an oath. The plat must be presented for approval to the governing body affected by the plat, together with a copy of a title insurance policy or an attorney's opinion of title, running to the benefit of the governing body affected by the plat, stating the name of the owner of record.

**40-50.1-04. Recording plat.**

Upon final approval of a plat under section 11-33.2-11 or 40-48-21, the subdivider shall record the plat in the office of the recorder of the county where the plat is located. Whenever plat approval is required by a jurisdiction, the recorder may not accept any plat for recording unless the plat officially notes the final approval of the governing body of the jurisdiction and acknowledgment of the planning and zoning commission.

**40-50.1-05. Conveyance of land by noting or marking map or plat - Status as general warranty - Land for public use.**

When the plat has been made out and certified, acknowledged, and recorded as required by sections 40-50.1-01, 40-50.1-03, and 40-50.1-04, every donation or grant to the public, or to any individual, religious society, corporation, or limited liability company, marked or noted as such on the plat or map is a sufficient conveyance to vest the fee simple title in the parcel of land as designated on the plat. The mark or note made on a plat or map is for all intents and purposes a general warranty against the donors, their heirs and representatives, to the donees or grantees for the expressed and intended uses and purposes named in the plat and for no other use or purpose. The land intended to be used for the streets, alleys, ways, or other public uses in any jurisdiction or addition thereto must be held in the corporate name of the jurisdiction in trust for the uses and purposes set forth and expressed and intended.

**40-50.1-06. Correction of plats - Declaration of necessity by resolution - Publication.**

If any part of any platted addition, outlot, or parcel of ground, in any jurisdiction, is found to be inadequately or erroneously described in the plat, or if the plat is in error or is deficient as to marked or scaled distances, angles, or descriptions, or has other defects which make it incorrect or deficient, the governing body of the jurisdiction, by resolution, may declare it necessary to correct the plat or plats or to replat the property. In that case, the resolution must be published in the official newspaper of the jurisdiction at least ten days before the meeting of the governing body to consider objections to the procedure.

**40-50.1-07. Resolution declaring necessity for correcting plat - Contents.**

The resolution mentioned in section 40-50.1-06 must set forth:

1. The description of the property affected.
2. The nature of the errors or defects.
3. An outline of the proposed corrections.
4. An estimate of the probable cost of having the corrections made.
5. Notice that any interested owner may file objections to the proposed work or to its cost and that the objections will be heard and considered at a meeting designated for that purpose.
6. The time the governing body of the jurisdiction will meet to consider all the objections.

**40-50.1-08. Governing body to order work done after hearing objections.**

After all the objections filed before the meeting have been heard and considered, the governing body of the jurisdiction, if it deems the work advisable and if the owners of the majority of the property affected have not filed a protest, shall order a land surveyor registered in this state to do the work in accordance with the resolution. If no interested owner has demanded the resurvey, the jurisdiction shall pay for the resurvey.

**40-50.1-09. Requirements governing land surveyor in correcting plat or in replatting - Affidavit and certification.**

The land surveyor designated to make the correction or to do the replatting shall follow the original hubs, stakes, monuments, and lines, and, by actual survey and measurements on the ground, shall make the plat conform to the divisions, subdivisions, blocks, lots, outlots, pieces, and parcels of land as originally laid out. All lost or disputed points, lines, and angles must be determined by actual survey and made to conform with the original survey and must be marked on the ground in a manner customary and as is provided in sections 40-50.1-01 through 40-50.1-17. All numbers, letterings, and names of references to blocks, lots, outlots, additions, streets, avenues, and alleys must be the same as on the original plat and the revised and corrected plat must be a true plat of the survey as made originally. The registered land surveyor shall make an affidavit and certificate that the plat has been made to the best of the land surveyor's ability. The registered land surveyor shall affix that affidavit and certificate to the plat.

**40-50.1-10. Filing completed plat - Publication of notice of completed plat.**

The completed plat must be filed with the chief administrative officer of the jurisdiction, who shall publish a notice of the filing. The notice must stipulate that all interested parties may view the plat. The notice must set the date the governing body of the jurisdiction will meet to hear and consider objections to the survey as made and must be published at least ten days before the hearing.

**40-50.1-11. Resurveys to determine merits of objections.**

After hearing objections to the corrected plat, the governing body may order surveys and resurveys to determine the merit of any claim or objection. The governing body may adjourn the hearing until the necessary information is available.

**40-50.1-12. Acceptance or rejection of corrected plat - Recording - Effect of corrected plat.**

After completing the hearing, the governing body shall affirm or reject the corrected plat by resolution. If the plat is affirmed by a majority vote of the governing body, the plat must be recorded in the office of the recorder within sixty days and a blueprint of the plat must be filed in the office of the chief administrative officer. The plat so recorded and filed is the true and correct plat of the property described and supersedes all previous plats.

**40-50.1-13. Assessment of costs of new plat - Publication of assessments - Approval of assessments.**

The chief administrative officer shall assess the cost of making the plat against the properties benefited proportionally to the benefits received. The assessments are subject to the approval of the governing body of the jurisdiction after due consideration and hearing of all objections at a meeting designated for that purpose. At least ten days before the hearing, the assessments must be published in full by the chief administrative officer of the jurisdiction in the official newspaper of the jurisdiction. The chief administrative officer shall certify the assessments, when approved by the governing body.

**40-50.1-14. Notice of errors on recorded plat - Certificate by original surveyor.**

Notwithstanding section 40-50.1-06, if a plat, or what purports to be a plat, has been signed and filed in the office of the recorder of the county where the land is situated, and the plat fails to identify or correctly describe the land to be so platted or subdivided, or to show correctly on its face the tract of land intended or purported to be platted or subdivided, or is defective because the plat or subdivision and the description of land purported to be so platted or subdivided is inconsistent or incorrect, the registered land surveyor who prepared the plat may sign a certificate stating the nature of the error, omission, or defect and stating the information that surveyor believes corrects the error, supplies the omission, or cures the defect, referring, by correct book and page or document number, to the plat or subdivision and designating its name, if it has a name. The registered land surveyor shall date and sign the certificate.

**40-50.1-15. Filing and recording of surveyor's certificate.**

The recorder of the county in which the land platted or subdivided is located shall accept each certificate for filing and recording upon payment of a fee commensurate with the length of the certificate. Neither witnesses nor an acknowledgment is required on any such certificate, but it must be signed by the registered land surveyor and must include a statement that the signing surveyor holds valid registration in this state. The recorder shall make suitable notations on the record of the plat or subdivision to which the certificate refers to direct the attention of anyone examining the plat or subdivision to the record of that certificate. No such certificate has the effect of destroying or changing vested rights acquired based on an existing plat or subdivision despite errors, defects, or omissions.

**40-50.1-16. Vacation of plat - Before and after sale of lots - Effect.**

1. Before the sale of lots, a plat, any part of a plat, a subdivision of land, or a townsite may be vacated by the proprietors by a written instrument declaring the plat to be vacated. The instrument must be signed, acknowledged or approved, and recorded in the office in which is recorded the instrument to be vacated. The signing and recording of that instrument destroys the force and effect of the recording of the plat which is so vacated and divests all public rights in the streets, alleys, easements, and public grounds laid out as described in the plat.
2. If lots have been sold, a plat or any part of a plat may be vacated by all owners of the lots in the plat joining in the signing of the instrument declaring the vacation. Vacation of streets and public rights is not effective without endorsement by the governing body that has the power to approve the plat. The endorsement must indicate the public rights to be vacated.

**40-50.1-17. Action by recorder.**

The recorder shall write in plain, legible letters, in black ink that is not ballpoint ink, across that part of a plat which has been vacated the word "vacated" and shall make a reference on the plat to the volume and page or document number in which the instrument of vacation is recorded.