

**CODE**  
**OF THE CITY OF**  
**LEXINGTON, NEBRASKA**

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Chapter 111  
SUBDIVISIONS\*

\*State law reference—Subdivision regulations, R.R.S. 1943, § 19-916 et seq.

ARTICLE I. IN GENERAL

**Sec. 111-1. Title.**<sup>174</sup>

These regulations shall hereafter be known, cited and referred to as the subdivision regulations of the city. ~~Upon the adoption of these regulations according to law, the subdivision regulations of the city, adopted July 27, 1971 (Ordinance No. 1237), as amended are hereby repealed.~~

(Code 1990, § 24A-1)

**Sec. 111-2. Definitions.**<sup>175</sup>

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Alley* means a minor way, dedicated for public use, which is used primarily for vehicular access to the sides or rear of lots.

*Block* means a parcel of land entirely surrounded by streets or highways, or as otherwise determined by the city engineer.

~~*City planning department* shall consist of the city manager and such employees and legal or engineering consultants who are designated by the city manager to assist the city planning commission and perform planning functions.~~

*Comprehensive plan* means the comprehensive plan for the city, duly adopted and including subsequent amendments.

*Cul-de-sac* means a street having one end open to traffic and being terminated by a vehicular turnaround.

*Easement* means a permanent or temporary grant of right by a property owner, to the public, a corporation or other persons, of the use of a strip of land for specified purposes. Ownership of such strip of land shall normally remain with the property owner.

*Highway* means a thoroughfare controlled and maintained by the state.

*Improvements* means street pavement, curbs, drainage facilities, sidewalks and utility lines.

*Lot* means a portion of a subdivision intended as a unit for transfer of ownership or for development.

*Planning and zoning jurisdiction* means the corporate area of the city, plus that area lying within two miles therefrom.

*Plat, final*, means a drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements and other elements pertinent to the transfer of ownership and prepared for permanent record.

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<sup>174</sup> Legal or Editorial Change: Code 1990, § 24A-1 Title. Deleted last sentence as obsolete.

<sup>175</sup> Legal or Editorial Change: Code 1990, § 24A-12. Definitions. Deleted the definition of city planning department as apparently not needed.

*Plat, preliminary*, means a drawing showing the proposed general patterns of streets, lots and land uses within a tract to be subdivided.

*Rule exception* means the allowing of a subdivision to deviate from one or more specific standards and requirements of these rules and regulations.

*Street, private*, means a right-of-way which affords the principal means of vehicular access to property abutting thereon, which right-of-way is owned, controlled and maintained by persons other than the public.

*Street, public*, means a right-of-way which affords the principal means of vehicular access to property abutting thereon, which right-of-way has been dedicated to the public for such use.

*Subdivider* means a person, firm or corporation undertaking the subdividing of land.

*Subdivision* means the division of a lot, tract or parcel of land into two or more lots, one of which is less than ten acres, including a resubdivision of land and the vacation of streets, lots and alleys. The creation of a street, alley or other public way by dedication shall be deemed a subdivision.

(Code 1990, § 24A-12)

### **Sec. 111-3. Policy.**

(a) It is hereby declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the official master plan of the city for the orderly, planned, efficient and economical development of the city.

(b) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace, and land shall not be subdivided until proper provisions have been made for drainage, water, sewerage, utilities and capital improvements such as schools, parks, recreation and transportation improvements.

(c) The existing and proposed public improvements shall conform to and be properly related to the proposals shown on the comprehensive plan, official map and the capital budget and program of the city, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, and zoning ordinances.

(Code 1990, § 24A-2)

### **Sec. 111-4. Purposes.**

These regulations are adopted for the following reasons:

- (1) To protect and provide for the public health, safety and general welfare.
- (2) To guide the future growth and development of the city, in accordance with the comprehensive plan.
- (3) To protect the character and the social and economic stability of all parts of the city and to encourage the orderly and beneficial development for the total municipality.

(Code 1990, § 24A-3)

**Sec. 24A-4 Authority.**<sup>176</sup>

~~By authority vested through R.R.S. 1943, §§ 19-901-19-922 and other applicable laws, statutes, ordinances and regulations of the state, the planning commission does hereby exercise the power and authority to review, approve and disapprove plats for subdivision of land within the planning and zoning jurisdiction of the city which shows lots, blocks, or sites with or without new streets or highways subject to approval by the city council.~~

~~(Code 1990, § 24A-4)~~

**Sec. 111-5. Jurisdiction.**

(a) ~~This chapter these subdivision regulations~~ shall apply to all subdivisions of land, as defined herein, located within the planning and zoning jurisdiction of the city.

(b) No land shall be subdivided within the planning and zoning jurisdiction of the city, except as follows:

- (1) The subdivider or his agent shall submit a sketch plat of parcel to the city planning department so that preliminary agreements concerning lot sizes, street layout and other matters can be reached before the formal platting procedure is started.
- (2) Approval is obtained of the preliminary and final plat by the planning commission and approval of the final plat by the city council.
- (3) The approved plat is filed with the county recorder of deeds.

(c) No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of the ordinance from which this chapter is derived ~~these subdivision regulations~~, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations.

~~(Code 1990, § 24A-5)~~

**Sec. 24A-6. Enactment.**<sup>177</sup>

~~In order that land may be subdivided in accordance with these purposes and policy, these subdivision regulations are hereby adopted.~~

~~(Code 1990, § 24A-6)~~

**Sec. 111-6. Conflict in interpretation.**<sup>178</sup>

(a) *Minimum requirements.* In the interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

(b) *Conflict with public and private provisions.*

- (1) *Public provisions.* The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of the regulations set forth in this chapter impose restrictions different from those imposed by any other provision of this chapter ~~these regulations~~ or any other

<sup>176</sup> Legal or Editorial Change: Code 1990, § 24A-4 Authority. Deleted as not needed in light of Code § 24A-5.

<sup>177</sup> Legal or Editorial Change: Code 1990, § 24A-6. Enactment. Deleted as not needed.

<sup>178</sup> Legal or Editorial Change: Code 1990, § 24A-7. Interpretation, Conflict and Separability. Deleted the last sentence as covered by chapter 1.

ordinance, rule or regulation, or provision of law, whichever provisions are more restrictive or impose higher standards shall control.

- (2) *Private provisions.* These regulations are not intended to abrogate any easement, covenant or any other private agreement or restrictions, provided that any private subdivision covenant, easements, and agreements are not under the jurisdiction of the city to enforce.

~~Separability: If any section, subsection, or any other portions of these regulations are held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and independent and such holding shall not affect the validity of the remaining portions thereof.~~

~~(Code 1990, § 24A-7)~~

~~Sec. 24A-8. Saving Provision.~~<sup>179</sup>

~~These regulations shall not be construed as abating any actions now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the city under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the city except as shall be expressly provided for in these regulations.~~

~~(Code 1990, § 24A-8)~~

#### **Sec. 111-7. Amendments.**

For the purpose of providing the public health, safety and general welfare, the planning commission may from time to time recommend to the city council amendments to the subdivision regulations set forth in this chapter. Public hearings on all proposed amendments shall be held by the planning commission and the city council in the manner prescribed by law.

(Code 1990, § 24A-9)

#### **Sec. 111-8. Enforcement.**<sup>180</sup>

- (a) *Generally.*
- (1) It shall be the duty of the city planning department to enforce this chapter ~~these regulations~~ and to bring to the attention of the city attorney any violations or lack of compliance herewith.
  - (2) No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved in accordance with the provisions of this chapter ~~these regulations~~, and filed with the county recorder of deeds.
  - (3) The subdivision of any lot or any parcel of land, by the use of metes and bounds description for the purpose of sale, transfer or lease with the intent of evading these regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in this chapter ~~these regulations~~.

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<sup>179</sup> Legal or Editorial Change: Code 1990, § 24A-8. Saving Provision. Deleted as obsolete.

<sup>180</sup> Legal or Editorial Change: Code 1990, § 24A-36. Enforcement, Violations and Penalties. Deleted last sentence as not needed.

- (4) No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of this chapter ~~these regulations~~.

(b) *Civil enforcement.* Appropriate actions and proceedings may be taken by law or in equity to prevent any violations of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalties described in section 1-8 below.

~~(3) Violations and penalties. In addition to any civil enforcement provided herein, any person, firm, or corporation who fails to comply with, or violates any of these regulations shall be guilty of a misdemeanor punished as provided by section 1-9.~~

(Code 1990, § 24A-36)

### **Sec. 111-9. Conditions.**

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to the city. The developer has the duty of compliance with reasonable conditions laid down by the planning commission for design, dedication, improvement and restrictive use of the land so as to conform with the physical and economical development of the city and to the safety and general welfare of the future plot owners in the subdivision and of the community at large.

(Code 1990, § 24A-10)

### **Sec. 111-10. Exceptions.**

(a) *Generally.* Where the planning commission finds that extraordinary hardships or practical difficulties may result from strict compliance with the regulations set forth in this chapter and/or the purposes of this chapter ~~these regulations~~ may be served to a greater extent by an alternative proposal, it may approve exceptions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such exception shall not have the effect of nullifying the intent and purpose of this chapter ~~these regulations~~; and further provided the planning commission shall not approve exceptions unless it shall make findings based upon the evidence presented to it in each specific case that:

- (1) The granting of the exception will not be detrimental to the public safety, health or welfare, or injurious to other property;
- (2) The conditions upon which the request for an exception is based are unique to the property for which the exception is sought and are not applicable generally to other property;
- (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;
- (4) The exceptions will not in any manner vary the provisions of the zoning ordinance set forth in chapter 115, the comprehensive plan or official zoning map.

(b) *Conditions.* In approving exceptions, the planning commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of the regulations set forth in this chapter.

(c) *Procedures.* A petition for any such exception shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the planning

commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

(Code 1990, § 24A-35)

**Sec. 111-11. Vacation of plats.**

(a) Any plat or any part of any plat may be vacated by the owner of the premises, at any time before the sale of any lot therein, by a written instrument, to which a copy of such plat shall be attached, requesting the same to be vacated.

(b) Such an instrument shall be approved by the planning commission in like manner as plats of subdivisions. The city council may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

(c) Such instrument shall be executed, acknowledged or approved, and recorded or filed, in like manner as plats of subdivisions; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

(d) When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in such plat joining in the execution of such writing.

(Code 1990, § 24A-11)

**State law reference**—Vacating plats, R.R.S. 1943, § 19-917.

**Secs. 111-12--111-40. Reserved.**

**ARTICLE II. PLATS AND PLATTING\***

**\*State law reference**—Plat approval, R.R.S. 1943, § 19-918 et seq.

**DIVISION 1. GENERALLY**

**Sec. 111-41. Subdivision classification.**

There is hereby established three subdivision classifications as follows:

- (1) *Class A subdivision.* All subdivisions located within the corporate limits.
- (2) *Class B subdivision.* All subdivisions adjoining or touching the corporate limits, which upon approval are annexed into the city.
- (3) *Class C subdivision.* All subdivisions lying within the planning area that do not adjoin or touch the corporate limits.

(Code 1990, § 24A-13)

**Sec. 111-42. Administrative survey plat; approval.<sup>181</sup>**

(a) *When permitted.* The city engineer is hereby empowered to administratively approve an instrument effecting a subdivision when the following conditions exist:

- (1) No new streets or private roadway is dedicated, accepted or needed within the area of the new lots.
- (2) The area affected by the instrument effecting a subdivision is wholly contained within the boundaries of a previous subdivision which has been platted and recorded.

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<sup>181</sup> Legal or Editorial Change: Code 1990, § 24A-26. Administrative Survey Plat. Tied fee to city action.

- (3) The new lots shall meet all zoning requirements of the zoning district in which they are situated.
- (4) The instrument effecting a subdivision shall create no more than four lots from any prior lot, tract or parcel of land. If said four lots have been created by prior administrative approval, any further subdivision shall be done by filing and processing a plat as otherwise provided in this article. Exceptions to the ~~foregoing~~ restriction set forth in this subsection shall be permitted only to allow adjustment of lot lines in case of mistake or error. All new lots shall continue to be described in terms of the preexisting lot description.
- (5) Any easements required for utilities, drainage and any other improvements shall be provided.

(b) *Procedure.* The city engineer shall be provided the following information:

- (1) A statement from the county treasurer showing that all general real estate taxes assessed against the land within the proposed subdivision or any part thereof have been paid in full.
- (2) A statement from the city treasurer showing that all special assessment installment payments are current as applied to said proposed subdivision.
- (3) A statement showing the method of apportioning any installments against the new lots.

(c) *Survey.* If the city engineer determined that a survey of the area affected is necessary in order to determine whether the proposed subdivision will comply with this article, a survey of the lots affected, showing the boundaries proposed to be created by such instrument shall be submitted to the city engineer by the subdivider. The survey shall be drawn at a minimum scale of one inch to 100 feet by a licensed land surveyor and shall show the boundaries of the new lots superimposed over the existing lot boundaries. The survey shall also show the location of all existing buildings and the location of all existing utilities serving the land within the boundaries of the survey. Upon approval of the instrument effecting subdivision, the survey as provided in this section shall be filed with the county register of deeds.

(d) *Approval or denial by city engineer.* If the city engineer determines that an instrument effecting subdivision meets the requirements of this article, his approval shall be endorsed upon such instrument effecting subdivision. Upon denial of the request, if such approval is not given, the subdivider may submit the proposed subdivision to the planning commission by filing a preliminary plat and as otherwise provided in this article.

(e) *Prior instruments approved.* Any instrument in writing, which has been filed in the office of the county register of deeds prior to the effective date of the ordinance from which this chapter is derived, which in any manner purports to effect a subdivision of real property, regulated by this chapter, and the instrument, or the record thereof, fails to comply with any requirements of this chapter, such instrument shall be fully legal, valid and binding and effectual for all purposes to the same extent as though such instrument had, in the first instance, been in all respects duly approved, and provided an action has not been commenced in a court of competent jurisdiction to set such instrument aside within 180 days from and after the effective date of the ordinance from which this chapter is derived.

(f) *Fee.* Upon filing a request for administrative approval of an instrument effecting a subdivision, a fee of ~~\$35.00~~ in the amount established by the city shall be paid.

(Code 1990, § 24A-26; Ord. No. 1816, § 2)



**Sec. 111-43. Fees for submission of plats.<sup>182</sup>**

~~The following~~ Fees shall be paid by all persons or corporations submitting preliminary plats for approval by the planning commission. In addition to any other fees required by law and prior to filing of the preliminary plat with the planning commission, the subdivider shall pay to the city treasurer a processing fee, which shall not be refundable. The fee shall be ~~computed on the basis of \$60.00, plus \$2.50 per lot for the first ten lots in a plat, and \$1.00 per lot for each lot in excess of ten lots as established by the city.~~ The city treasurer, upon receipt of the proper fee, shall issue to the subdivider two copies of the receipt, one of which the subdivider shall transmit to the planning commission at the time of filing of the preliminary plat.

(Code 1990, § 24A-24; Ord. No. 1816, § 1)

**Sec. 111-44. Subdivision request.**

Any individual or group of individuals desiring subdivision plat approval before the planning commission shall submit a written request for such consideration to the city engineer not less than ten calendar days before the meeting date at which approval is requested.

(Code 1990, § 24A-25)

**Sec. 111-45. Adherence to zoning regulations.**

Every plat shall conform to existing zoning regulations and subdivision regulations applicable at the time of proposed final approval, except that any plat which has received preliminary approval shall be exempt from any subsequent amendments to the zoning ordinance rendering the plat nonconforming as to bulk or use, provided that final approval is obtained within the one-year period.

(Code 1990, § 24A-19)

**Secs. 111-46–111-63. Reserved.****DIVISION 2. PRELIMINARY PLATS****Sec. 111-64. Procedure.**

(a) A preliminary plat of the proposed subdivision shall be prepared by the subdivider or his agent and submitted to the planning commission prior to preparation of a final plat for record. The commission shall satisfy itself that the proposed street pattern and land use will conform to the comprehensive plan, and chapter 24 and other local standards.

(b) The city planning department shall submit a print of the preliminary plat to the board of education for its comment and recommendations. Such plat proposal shall be submitted in writing and the board of education shall, within 30 days, recommend in writing to the city council that such plat is approved or disapproved, in whole or in part, or with such changes as may be desirable, which recommendation shall be advisory. Failure of the board of education to make a written recommendation within 30 days shall be construed as approval of the proposed plat as submitted.

(c) A print of the preliminary plat of class C subdivision shall be submitted to the county highway superintendent for his comment and recommendations of the road and drainage provisions.

(Code 1990, § 24A-14)

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<sup>182</sup> Legal or Editorial Change: Code 1990, § 24A-24. Fees for Submission of Plats. Tied fees to city to action.

**Sec. 111-65. Number of prints; scale; contents.**

Twelve copies of the preliminary plat shall be submitted to the city planning department at least ten days before the meeting date at which approval is asked. The preliminary plat shall be drawn to a scale of one inch to 100 feet and shall contain the following:

- (1) The proposed name of the subdivision and the names of any adjacent subdivisions, lots within said adjacent plats, and landowners of any adjacent unplatted parcels.
- (2) The boundary lines of the tract with approximate dimensions in feet and tenths of feet.
- (3) The general location, width and alignment of existing and proposed streets, and any highways and alleys. Existing streets and highways shall be named.
- (4) The general location, dimensions and area of proposed lots and tracts.
- (5) The proposed use of land, whether for a single family, multifamily, commercial, industrial, parks, schools, etc.
- (6) Existing and proposed zoning, if different from the existing zoning.
- (7) All platted or existing streets and property lines on land adjacent for a distance of not less than 400 feet. All easements of record, water bodies, streams, parks, cemeteries, drainage ditches, bridges or other like facilities shall also be noted on the plat.
- (8) The name of the subdivider, the name of the subdivision, the firm responsible for the preparation of the plat, north point, scale, date of preparation and any revisions, space for endorsement by the city engineer and planning commission.
- (9) The preliminary plat shall be prepared by a licensed land surveyor, his seal affixed to the document.
- (10) The preliminary plat map should be drawn on tracing cloth or reproducible Mylar so that changes and additions will be easier to make as the map may be used as the final map.

(Code 1990, § 24A-15)

**Sec. 111-66. Approval or denial by commission; appeals.**

The commission shall approve or deny the preliminary plat as submitted or may approve the plat as submitted subject to the specified changes. Upon denial the subdivider may appeal the commission's decision to the city council who may affirm or reverse the same.

(Code 1990, § 24A-16)

**Sec. 111-67. Approval does not constitute acceptance of subdivision.**

Approval of the preliminary plat does not constitute acceptance of the subdivision, but authorizes preparation of the final plat. No grading for streets or construction of improvements shall take place in the subdivision prior to approval and endorsement of the final plat and the submittal and approval of street construction plans by the city planning department.

(Code 1990, § 24A-17)

**Sec. 111-68. Effective period of preliminary approval.**

The approval of a preliminary plat shall be effective for a period of one year at the end of which time final approval on the subdivision must have been obtained from the planning commission, although the plat need not be signed and filed with the county recorder of deeds. Any plat not receiving final approval within the period of time set forth herein shall be null and void, and the developer shall be required to resubmit a new plat for preliminary approval subject to all new zoning restrictions and subdivision regulations.

(Code 1990, § 24A-18)

**Secs. 111-69--111-94. Reserved.**

## DIVISION 3. FINAL PLAT

**Sec. 111-95. Procedure.**

After the preliminary plat has been approved by the planning commission, or by the city council on appeal, a final plat for record shall be prepared and submitted to the planning commission and, upon approval, to the city council for final approval. The final plat may contain all or a portion of the area contained in the preliminary plat. The final plat must conform to the street patterns, lot size and pattern and other conditions of the preliminary plat as approved.

(Code 1990, § 24A-20)

**Sec. 111-96. Number of prints; scale; contents.**

Twelve copies of the final plat shall be submitted to the city planning department at least ten calendar days prior to the date of the meeting at which approval is asked. The plat shall be drawn to a scale of one inch to 100 feet and shall contain on a piece of tracing cloth or reproducible Mylar the same information required in a preliminary plat with the following requirements:

- (1) The name of the subdivision and any adjacent subdivisions, the name of streets which shall conform to the existing pattern, and a system of lot and block numbers in an orderly sequence shall be shown on the plat.
- (2) A boundary survey of the third order surveying accuracy (maximum closure error one in 5,000), with bearing and distances referenced to section or fractional section corners or other base lines shown on the plat and readily reproducible on the ground.
- (3) Calculation containing the following data: The length and radii of all curved street and lot lines and the bearings and length of all straight street and lot lines and the area in square feet of each lot on the final plans. Bearings and distances referenced to section or fractional section lines or other base line shown on the plat and readily reproducible on the ground.
- (4) The dimensions in feet and decimals of feet of all lots, the location of building setback lines along front and side streets and the location and dimension of all necessary easements shall be shown on the plat.
- (5) Certification of dedication of all streets, highways and other rights-of-way or parcels for public park or other public use, signed by the owners and all other parties who have a mortgage or lien interest in the property.
- (6) Certification by a registered land surveyor to the effect that the plat represents a survey made by him.
- (7) North point, scale and date.
- (8) Space for endorsement of the plat by the planning commission and city council.
- (9) Subdivider must properly record plat.
- (10) Official receipt for recording of plat must be submitted to the city before building permit can be issued.

(Code 1990, § 24A-21)

**Sec. 111-97. Approval procedure; endorsements required prior to filing plat, etc.**

All final plats of subdivisions within the planning jurisdiction of the city and as defined herein shall be submitted to the planning commission for its consideration and its recommendation shall then be submitted to the city council for its official consideration and action. No plat or other

subdivision of property and no dedication or vacation of a public street or establishment of a private street shall be filed with the recorder of deeds as provided by law until approval shall have been endorsed thereon by the planning commission and city council.

(Code 1990, § 24A-22)

**Sec. 111-98. Subdivision agreement--Required for plat approval.**

(a) No plat shall be approved by the city council until a subdivision agreement shall have been entered into between the subdivider and the city.

(b) In any class C subdivision, the dedication of roadway right-of-way and utility easements and the maintenance and repair of said roadways and easements shall be submitted to the county board of commissioners for their acceptance or rejection by way of preliminary and final plat approval. Should the county board of commissioners not accept dedication, maintenance and repair, then an acceptable form of landowners association to maintain and repair said roadways and easements shall be formed prior to approval of the final plat of a class C subdivision.

(c) The subdivision agreement shall provide for the needs of the subdivision including but not limited to pavement, water mains, sanitary sewers, storm sewers, sidewalks, grading and dedication of public lands. Security may be required to ensure performance under the agreement.

(Code 1990, § 24A-23)

**Sec. 111-99. Same--Public works engineering.**

The subdivision agreement shall provide for engineering of public works construction. If the city engineer is required to provide services, provision shall be made for reimbursement of city for the expense of such services. If a private engineer or engineering firm is to provide services, a separate agreement shall be entered into between city and such engineer, which agreement shall include the following:

- (1) A statement of credentials of each engineer or other person assigned to the project;
- (2) The scope of services to be performed, which shall include site surveys, design, preparation of bid specifications and construction supervision;
- (3) A certification of professional liability insurance coverage for each project;
- (4) Submission of plans to the city planning department for review of compliance with public works construction specifications; no contract shall be let for construction until such approval is given by the planning department;
- (5) In the event of controversy relating to plans and specifications for a project, or controversy with the city engineer in regard to his duty to inspect construction of public works, such controversy shall be subject to binding arbitration under the Uniform Arbitration Act (R.R.S. 1943, § 25-2601 et seq.), with arbitration to be performed by a licensed civil engineer who is appointed by agreement of the city engineer and the private engineer.

(Code 1990, § 24A-23.1)

**Secs. 111-100--111-126. Reserved.**

**ARTICLE III. DESIGN STANDARDS AND REQUIRED IMPROVEMENTS**

**Sec. 111-127. Improvements.**

(a) *Conformance to applicable rules and regulations.* In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules, and regulations:

- (1) All applicable statutory provisions.
- (2) The local municipal zoning ordinances, building and housing codes, and all other applicable laws of the appropriate jurisdictions.
- (3) The official comprehensive plan, official map, public utilities plan and capital improvements program of the city.
- (4) The special requirements of the regulations set forth in this chapter and any rules of the health department and/or appropriate state agencies.
- (5) The rules of the state highway department if the subdivision or any lot contained therein abuts a state highway or connecting street.
- (6) Plat approval may be withheld if a subdivision is not in conformity with the ~~above~~ guides set forth in this subsection (a) or the policy and purposes of the regulations established in this chapter.

(b) *Monuments.* The applicant shall place permanent reference monuments in the subdivision as required herein and as approved by a registered land surveyor.

- (1) Monuments shall be located on street right-of-way lines, at street intersections, angle points of curve and block corners.
- (2) The external boundaries of a subdivision shall be monumented in the field by iron rods or pipes at least 30 inches long and five-eighths-inch in diameter. These monuments shall be placed at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line, and at all angle points along the meander line, said points to be not less than 20 feet back from the bank of any river or stream.
- (3) All internal boundaries and those corners and points not referred to in subsection (b)(2) of this section ~~the preceding paragraph~~ shall be monumented in the field by like monuments as described in this subsection (b) ~~above~~. These monuments shall be placed at all block corners, at each end of all curves, at a point where a river changes its radius, and at all angle points in any line.
- (4) The lines of lots that extend to rivers or streams shall be monumented in the field by iron pipes at least 30 inches long and five-eighths-inch in diameter or by round or square iron bars at least 30 inches long. These monuments shall be placed at the point of intersection of the river or stream lot line, with meander line established not less than 20 feet back from the bank of the river or stream.
- (5) All such monuments shall be set flush with the ground and planted in such a manner that they will not be removed by frost.
- (6) Boundary and control monuments shall be properly set and approved by a registered land surveyor prior to the time the planning commission recommends approval of the final plat and rechecked before issuance of building permits.

(c) *Character of the land.* Land which the planning commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, utility easements or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the planning commission, upon recommendation of the city engineer, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.

(d) *Subdivision name.* The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by the

regulations set forth in this chapter. The planning commission shall have final authority to designate the name of the subdivision which shall be determined at preliminary plat approval.

(Code 1990, § 24A-27)

**Sec. 111-128. Lot improvements.**

(a) *Arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning ordinance set forth in chapter 115 and health regulations and in providing driveway access to the buildings on such lots from an approved street.

(b) *Dimensions.* Lot dimensions shall comply with the minimum standards of the zoning ordinance set forth in chapter 115. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in the zoning ordinance set forth in chapter 115.

(c) *Access.* Lots shall not, in general, derive access exclusively from a primary arterial. Where driveway access from a primary street may be necessary for several adjoining lots, the planning commission may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on primary or secondary arterials. No subdivision shall be approved which would restrict the development of any vacant adjacent tract of land. The developer shall show with a sketch plan how all adjacent properties could be developed.

(d) *Debris and waste.* No cut trees, timber, debris, junk, rubbish or other waste materials of any kind shall be buried or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of same shall be required prior to issuance of any certificate of occupancy on a subdivision. Nor shall any be left or deposited on any area of the subdivision at the time of expiration of the performance bond or dedication of public improvements, whichever is sooner.

(Code 1990, § 24A-28)

**Sec. 111-129. Roads.**

(a) *Regulations.* Street systems shall be designed to be compatible with existing streets, the official map of the city and to rationalize traffic patterns within new subdivisions. The street plan shall accommodate existing street alignments which enter or border the tract.

- (1) Existing and proposed streets which are a part of a master transportation plan should be incorporated into the design of new subdivisions. Special exceptions can be granted for streets that can be terminated by a cul-de-sac or other arrangement without seriously affecting traffic flows and existing trip destinations.
- (2) Existing streets, constructed or platted, shall not be vacated unless the vacation:
  - a. Is in accordance with the city master plan;
  - b. Will alleviate a significant traffic problem; and
  - c. Does not remove reasonable access to individual properties.
- (3) No half-streets shall be permitted. Streets designed to create a border for the tract shall be platted as whole streets according to their use and classification.

- (4) No dead-end streets shall be permitted, except as a temporary measure approved by the city.
- (5) The design of streets shall be based on traffic projections into and from the proposed subdivision at the potential full development of the area, as indicated from the current zoning plan of the city.
- (6) Additional street width within a subdivision requested to accommodate future development and not the result of traffic within the development shall be compensated for by the city or negotiated with adjacent property owners proposing developments or a combination of both.
- (7) Single-family residences should not front on streets on which future high traffic volumes are expected.

(b) *Street classification.* Classification of streets is done to assist in the evaluation of the design in each street in a subdivisions system. It is not intended to be used to set arbitrary standards without assessing the complete plan for a subdivision and the intended use of each street. Streets shall be classified according to their design, use (actual or intended), their relationship to other streets in the hierarchy and their residential character. The following classes of streets (place, lane, local, collector and arterial) shall be recognized and defined as follows:

- (1) *Place.* The term "place" means a short street, cul-de-sac or court. The primary purpose of a place street is to conduct traffic to and from dwelling units to other streets within the hierarchy of streets. Usually a place is a street with little or no through traffic and limited on-street parking.
- (2) *Lane.* The term "lane" means a short street, cul-de-sac or court, or a street with branching places or lanes. The primary purpose of a lane is to conduct traffic to and from dwelling units to other streets within the hierarchy. Usually, there is no through traffic between two streets of a higher classification.
- (3) *Local.* The term "local" means provides access to places and lanes and conducts traffic to an activity center or a higher classification street. It may be a loop street connecting one collector or arterial street at two points, or a more or less straight street conducting traffic between collector and/or arterial streets.
- (4) *Collector.* The term "collector" means functions to conduct traffic between major arterial streets and/or activity centers. It is a principal traffic artery within residential areas and carries a relatively high volume of traffic. A collector street has the potential for sustaining minor retail or other commercial establishments along its route which will influence the traffic flow.
- (5) *Arterial.* The term "arterial" means the major street in the hierarchy. It has a high average daily traffic (ADT) and is not intended to be a residential street. An arterial street provides connections with major state and interstate roadways and has a high potential for the location of significant community facilities as well as retail, commercial and industrial facilities.

Streets in each class as defined in this subsection (b)-~~above~~ shall meet construction specifications as required by the Standard Specifications for Public Works Construction, dated 1978 or subsequent revisions thereto, or as required by the city engineer after inspection of the master plan, the soil types, site contours and other factors deemed necessary by the city engineer.

(c) *Street length.* The uninterrupted length of any street between intersections shall not exceed 1,320 feet where no existing plats control.

- (1) The length of a cul-de-sac shall not exceed 400 feet.

(2) Off-center street intersections with an offset of less than 150 feet between centerlines will not be approved.

(d) *Street width.* The minimum two-way street width (including curbs) for streets shall be as follows:

(1) Place/cul-de-sac: 28 feet (parking on one side only).

(2) Lane: 28 feet (parking on one side only).

(3) Local: 36 feet.

(4) Collector: 40 feet.

(5) Arterial: 45 feet or as designed by state or county highway department.

(e) *Rights-of-way.*

(1) Rights-of-way for streets shall be determined by the need for such rights-of-way to protect the city and to enable future revisions to the street system, which can reasonably be foreseen.

(2) Rights-of-way requirements for cul-de-sacs, places and lanes shall be based upon provisions for future widening.

(3) Rights-of-way for pedestrian access or adjacent to paved streets shall be obtained where sidewalks or other structures are deemed necessary.

(4) Rights-of-way requirements for all streets except cul-de-sacs, places and lanes shall consider the need for future widening.

(5) If future widening is indicated, the rights-of-way width shall be the minimum consistent with accommodating the increased pavement.

(6) Alleys shall be a 20-foot right-of-way width.

(f) *Minimum right-of-way widths.*

(1) Cul-de-sac, places and lanes: pavement plus six feet on either side where no sidewalks exist or are proposed, or, pavement plus 12 feet on either side unless sidewalks are placed in easements.

(2) If curbs and gutters are eliminated by the use of street side swales for drainage: the minimum right-of-way shall include the area of the swales, plus six feet.

(3) Subcollectors: pavement plus 12 feet on either side, plus drainage requirements.

(4) Collectors: collector streets shall be designed and constructed to avoid where possible the need for future widening. Where future widening is not planned the right-of-way width shall be the width of the pavement, plus 15 feet on either side plus the area required for drainage.

(5) Arterial: right-of-way width shall be 100 feet or as determined by the city planning department and the planning commission. It should not exceed the width necessary to accommodate the functions of the arterial street.

(6) Dedication of land: when a proposed subdivision abuts a thoroughfare, or is bounded by a line that will in the future lie in a thoroughfare, or is divided by a thoroughfare, as shown in the comprehensive plan, then the owner of that subdivision shall dedicate, without charge, any land within such subdivision that is necessary to provide conformity with the ~~foregoing~~ standards set forth in this subsection (f), such dedication to be shown on the preliminary plat and final plat.



(g) *Traffic movement.* Residential street systems shall be designed to maintain a free flow of traffic, consistent with the need for safety of vehicles and pedestrians.

(Code 1990, § 24A-29)

**Sec. 111-130. Drainage and storm sewers.**

(a) *Requirements.* The planning commission shall not recommend for approval any plat of subdivision which does not make adequate provision for stormwater or floodwater runoff channels or basins. The stormwater drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be in conformance with the city's storm drainage improvement plan. A copy of design computations shall be submitted along with plans. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every block.

(b) *Nature of stormwater facilities.*

(1) *Location.* The applicant may be required by the planning commission to carry away by pipe or open ditch any spring or surface water that may exist previously to, or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.

(2) *Accessibility to public storm sewers.*

a. Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of stormwaters, subject to the specifications of the city planning department.

b. If a connection to a public storm sewer will be provided eventually, as determined by the city planning department and the planning commission, the developer shall make arrangements for future stormwater disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the performance bond required for the subdivision plat.

(3) *Accommodation of upstream drainage areas.* A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The city planning department shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the zoning ordinance set forth in chapter 115.

(4) *Effect on downstream drainage areas.* The city planning department shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility or flood existing development upstream, the planning commission may withhold approval of the subdivision until provision has been made for the improvement of said potential condition in the sum as the planning commission shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

(c) *Dedication of drainage easements.* ~~(a) general requirements.~~ Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction, or both, as will be adequate for the purpose. Wherever possible, it

is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(d) *Curbing*. The city planning department shall specify the design for each type of curb permitted in the city, when curbs and gutters are required. The curb designs so specified shall be the standard, acceptable curb unless a special exception is granted. Curbs and gutters will be required when they are necessary:

- (1) To handle runoff for the section of the roadway to which they are applied;
- (2) For the maintenance of the pavement and the prevention of pavement edge raveling.

Curbs and gutters may be eliminated along certain roadways, when drainage is provided in swales, which are designed to reduce the rate of runoff, restore and/or supply needed water to vegetation in the street right-of-way.

(Code 1990, § 24A-30)

**Sec. 111-131. Sidewalks/pedestrian circulation system.**

(a) Sidewalks shall be placed parallel to the roadways providing direct access to:

- (1) Commercial/retail facilities;
- (2) Schools;
- (3) Public recreational facilities; and
- (4) Elsewhere in accordance with the pedestrian circulation system as necessary.

(b) Sidewalks may also be eliminated along one or both sides of minor streets if the subdivision provides an alternative pedestrian circulation system.

(c) Sidewalks may also be eliminated along one or both sides of major streets, outside of the commercial, retail and educational concentrations if it will facilitate pedestrian safety.

(d) Sidewalk design, including, but not limited to, cross slope, thickness joints and material composition shall be approved by the city engineer.

(e) Pedestrian-vehicular separation shall be considered where possible. Design solutions which achieve this separation shall receive priority consideration.

(Code 1990, § 24A-31)

**Sec. 111-132. Traffic control.**

(a) Streets shall not be designed in a manner which encourages:

- (1) Speeds in excess of the posted limits.
- (2) The use of residential streets for shortcuts.
- (3) Undesirable or illegal parking.

(b) Traffic controls (stop signs, crosswalks, etc.) may be designed to ensure compliance with posted speeds, especially where enforcement is difficult.

(c) Directional and informational signs shall be controlled so as not to compete with traffic control signs for the drivers' attention.

(Code 1990, § 24A-32)

**Sec. 111-133. Utilities.**

(a) *Subdivider responsible*. The subdivider shall be responsible for proper installation of all utilities, including, but not limited to:

- (1) Sanitary sewers and connection to approved treatment facilities;
- (2) Water supply approved by the state board of health;
- (3) Natural gas;
- (4) Electricity;
- (5) CATV cable and television service.

Such utilities shall be installed in accordance with the specifications and minimum standards of the controlling utility company, public agency or city.

(b) *Easements.*

- (1) Easements centered on rear lot lines shall be provided for utilities (private and municipal) such easements shall be at least 20 feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.
- (2) Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least 20 feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

(Code 1990, § 24A-33; Ord. No. 1759, § 1)

**Sec. 111-134. Public uses.**

The proposed subdivision of land should provide open spaces suitably located and of reasonable size for parks, playgrounds, play lots and other recreational areas, as well as the reservation of land for school sites, fire station sites and other public facilities. The planning commission, based on the comprehensive plan, may require as a condition precedent to approval of any subdivision plat that the:

- (1) Subdivider offers to sell to the appropriate public body, agency or authority, lands, sites and locations for parks, playgrounds, open space, schools or other public facilities; however, nothing herein shall be construed as to prohibit the subdivider from making an offer of dedication of such lands. As soon as the preliminary plat has been approved, the planning commission shall give 45 days' notice to the governing body, agency or department that it appears that lands should be considered for public acquisition. If, within the 45 days, the body receiving the notice fails to act or submits a negative report on acquisition, then the subdivision and design thereof shall be treated as if no such request for land has been made.
- (2) Time allocated for making the determination, set forth in subsection (1) of this section, may be extended with the mutual consent of the subdivider and the agency involved.

(Code 1990, § 24A-34)