

## CHAPTER 151: SUBDIVISIONS

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***GENERAL PROVISIONS*****§ 151.001 TITLE.**

This chapter may be known and may be cited and referred to as the “Subdivision Regulation Ordinance of the City of Wayne, Nebraska”, to the same effect as if the full title were stated. (2002 Code, § 74-1) (Ord. 93-12, passed 9-28-1993)

**§ 151.002 JURISDICTION.**

The provisions of this chapter shall apply within the area of planning jurisdiction as defined on the official zoning map of the city, as it may be amended by subsequent annexation. (2002 Code, § 74-2) (Ord. 93-12, passed 9-28-1993)

**§ 151.003 PURPOSES AND OBJECTIVES.**

This chapter is adopted to preserve, protect and promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, this chapter is adopted in order to ensure that new development resulting in land subdivision in the city shall conform to minimum development practices and standards. Further, it is intended that such land subdivision shall result in properly coordinated design and construction of lots, blocks, streets, utilities, public facilities and other community assets. (2002 Code, § 74-3) (Ord. 93-12, passed 9-28-1993)

**§ 151.004 AMENDMENTS.**

Any provision of this chapter may be amended, supplemented, changed, modified or repealed by the Council according to law; however, such amendments, supplements, changes, modifications or repealed provisions shall not become effective until after the study, written report and recommendation by the Planning Commission to the Council. (2002 Code, § 74-4) (Ord. 93-12, passed 9-28-1993)

**§ 151.005 ADMINISTRATION AND ENFORCEMENT.**

The following apply towards administration of this chapter.

(A) It shall be the duty of the Zoning Administrator to enforce this chapter and to bring to the attention of the Planning Commission and the Council any violation or lack of compliance with this chapter.

(B) No owner, or agent of an owner, of any parcel of land located in a proposed subdivision shall transfer or sell any parcel before a plat of such subdivision has been approved by the Planning Commission and the Council in accordance with the provisions of this chapter, and filed for record with the County Register of Deeds.

(C) The subdivision, including resubdivision, of any lot or any parcel by the use of metes and bounds description for the purpose of sale, transfer or lease which would evade this chapter shall not be permitted. All such subdivisions shall be subject to all the requirements contained in this chapter.

(D) No building permit shall be issued for the construction of any building or structure located on a lot or parcel subdivided, sold, transferred or leased in violation of the provisions of this chapter. (2002 Code, § 74-5) (Ord. 93-12, passed 9-28-1993)

#### § 151.006 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ADT.** Average daily traffic in a 24-hour period.

**ALLEY.** A public or private thoroughfare which affords only a secondary means of access to abutting property.

**BLOCK.** A parcel of land entirely surrounded by public highways, streets, railroads or unplatted land.

**BOND.** Any form of security, including a cash deposit, security bond, collateral, property or instrument of credit in an amount and form satisfactory to the Council which meets the intent of such security required by this chapter.

**BUILDING LINE.** A line parallel or nearly parallel, to either the street line or the lot line not abutting the street and at a specified distance from the street or lot line which marks the minimum distance from either line a building may be erected. In the case of a cul-de-sac, the **BUILDING LINE** shall be measured around the curvature of the street line to the foundation wall.

**CITY ENGINEER.** The Engineer retained by the Council for the recommendation, advice and implementation of engineering work as requested by the city.

**COMMON OPEN SPACE.** The undivided land in a subdivision which may be jointly owned by all property owners of the subdivision, for the enjoyment and benefit of the owners and occupants of the individual building sites of the development.

**COMMUNITY WASTEWATER SYSTEM.** Any system, whether publicly or privately owned, serving two or more lots, for the collection and treatment of wastewater or industrial wastes of a liquid nature, including various devices for the treatment of such wastewater or industrial wastes.

**COMMUNITY WATER SYSTEM.** Any system, including various devices to collect, treat, store and distribute the water, whether publicly or privately owned, serving two or more lots, supplying an adequate amount of potable water to the occupant of the lot.

**COMPREHENSIVE PLAN.** A general plan for the improvement and development of the city as adopted by the City Planning Commission.

**CORNER LOT.** The same as *LOT, CORNER*.

**COVENANT.** A written agreement or promise between two or more parties for the performance of some action specifying such items as types of construction, land use, setbacks, design standards and the like.

**CUL-DE-SAC.** A street having one end open to traffic and being terminated by a vehicular turnaround.

**DEDICATION.** A grant of land by the owner to the public for public use.

**DENSITY.** The number of dwelling units or lots per gross acres of land area computed by dividing the gross acreage of the subdivision into the total number of dwelling units or lots.

**DEVELOPER.** Any individual, subdivider firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under this chapter to effect a subdivision of land under this chapter for himself, herself or for another.

**DEVELOPMENT.** The division of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining excavation, landfill or land disturbance; and any use or extension of the use of land.

**DISTRICT.** The same as *ZONING DISTRICT*.

**DWELLING.** Any building or portion of a building which is designed for and used exclusively for residential purposes.

**EASEMENT.** A right to use a parcel of land, granted to the general public, a utility, corporation or person for a specific purpose.

**ENGINEER.** Any person registered to practice professional engineering by the State Board of Registration who is designated by the city to approve portions of proposed subdivisions as specified in this chapter as requiring an engineer's approval.

**ESCROW.** A deposit of cash with the city in lieu of an amount required and still in force on a performance bond or maintenance bond as required by this chapter.

**FLOODPLAIN.** Those lands which are subject to a 1 % or greater chance of flooding in any given year.

**FLOODWAY COMMISSION.** A floodway whose limits have been designated and established by order of the State Natural Resources Commission.

**FLOODWAY, SELECTED.** A floodway within the limits of a commission floodway which is recognized by the State Natural Resources Commission as being subjected to a high degree of flood hazard.

**GENERAL OBLIGATION.** A debt incurred by the city or a SID by the issuance of general obligation bonds to finance certain public capital improvements in a subdivision. These improvements are outlined in §§ 151.070 through 151.080 of this chapter.

**GOVERNING BODY.** The body having jurisdiction in the zoning area.

**IMPROVEMENT.** Street grading, street surfacing and paving, curbs and gutters, street lights, street signs, sidewalks, crosswalks, water mains and water lines, fire hydrants, sanitary sewers, storm drainage facilities, culverts, manholes, bridges, public utilities or other installations as designated by the Council or its specific approving authority.

**INDIVIDUAL WASTEWATER SYSTEM.** A wastewater system, other than a public or community system, which receives either human excreta or liquid waste or both from no more than one lot. Included within the scope of this definition are wastewater stabilization ponds, septic tank soil-absorption systems, chemical-type systems and such other similar types of systems.

**INDIVIDUAL WATER WELL SYSTEM.** A water system, including various devices to supply the water, other than a public or community water system, which supplies adequate potable water to no more than one lot.

**LOT.** A platted parcel of land intended to be separately owned, developed and otherwise used as a unit.

**LOT, CORNER.** A lot abutting upon two or more streets at their intersection.

**LOT DEPTH.** The mean horizontal distance between the front and rear lot lines.

**LOT, FLAG.** Those lots landlocked from public right-of-way, except for a narrow tract of land of less width than required under assigned zoning.

**LOT FRONTAGE.** The portion of a lot abutting a street. For purposes of determining yard requirements of corner lots and through lots, all sides of a lot abutting a street shall be considered **FRONTAGE**.

**LOT, INTERIOR.** A lot other than a corner lot which has frontage on one street only.

**LOT LINE.** The boundary line of a lot.

**LOT MINIMUM AREA.** The minimum square footage of land area occupied or to be occupied by a single principal building and accessory buildings as applicable to designated zoning districts.

**LOT, NON-CONFORMING.** A lot which was lawfully created under prior zoning when lesser area or dimension requirements were enforced and does not currently conform to the existing zoning district space limits.

**LOT, PLATTED.** A lot which is part of a subdivision the plat of which, or the appropriate permit for which, has been legally approved and recorded in the office of the Register of Deeds for the county.

**LOT OF RECORD.** A lot which is both part of a subdivision recorded in the office of the Register of Deeds for the county, and having been owned separately and individually from adjoining lots or tracts of land prior to 8-8-1979.

**LOT, THROUGH.** A lot other than a corner lot fronting on more than one street.

**LOT WIDTH.** The width of a lot measured at the building line and at right angles to its depth.

**MAJOR STREET.** A portion of the Comprehensive Plan adopted by the city, indicating the general locations and functional classifications for arterial and collector and other major streets.

**MONUMENT.** An identification marker established by a land survey and set by a registered land surveyor at each section corner, angle point, block corner, street centerline or other point.

**OPEN SPACE.** An area open to the sky which may be on the same lot with a building. The area may include, along with the natural environmental features, swimming pools, tennis courts and any other recreational facilities that the Planning Commission deems permissive. Streets, structures for habitation and the like shall not be included.

**OUTLOT.** Property shown on a subdivision plat outside of the boundaries of the land which is to be developed and which is to be excluded from the development of the subdivision.

**PARKING SPACE.** An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress.

**PEDESTRIAN WAY.** A tract of land dedicated to public use, which cuts across a block to facilitate pedestrian access to adjoining streets and properties.

**PLANNED UNIT DEVELOPMENT.** Special development of certain tracts of land, planned and designed as a unit for one or more land uses under the regulations and procedures contained in Ch. 152 of this code and as approved by the Council.

**PLANNING COMMISSION.** The appointed planning body designated by the Council as authorized by statute.

**PLAT.** A map, drawing or chart on which the subdivided plan of the subdivision is presented to the Planning Commission and Council for approval, and which he intends in final form to record; a map which delineates the subdivision of land. A **PLAT** commonly shows lots, blocks and other information relevant to the development and improvement of the property.

**PLAT, FINAL.** The final plan of the plat, subdivision or dedication prepared for filing or recording in conformance with this chapter.

**PLAT, PRELIMINARY.** The preliminary plan of the plat, subdivision or dedication prepared in accordance with the requirements of this chapter.

**PRIVATE STREET.** An approved privately owned open unoccupied space other than a public street or alley reserved as the principal means of vehicular access to abutting property.

**PUBLIC IMPROVEMENT.** Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, landscaping, parking area, lot improvement, utility line or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

**PUBLIC WAY.** An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk or other way in which the general public or a public entity has a right, or which are dedicated, whether improved or not.

**REPLAT/RESUBDIVISION.** A change in a map of an approved or recorded subdivision plat if such change affects any street layout, area reserved for public use, easement or any lot line or if it affects any map or plan legally recorded prior to the adoption of this chapter or any preceding subdivision ordinance.

**RIGHT-OF-WAY.** A strip of land taken or dedicated for use as a public way.

**SANITARY AND IMPROVEMENT DISTRICT.** A special taxing body created by the District Court for the purpose of constructing, financing and maintenance of capital improvements such as streets,

sewers, sidewalks, utilities and parks in a subdivision until such time as the subdivision is annexed by the city.

**SETBACK LINE.** A line, as shown on a recorded plat or otherwise established by the Council, beyond which no foundation of a building or structure may project.

**SEWER, ON-SITE.** A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process or equally satisfactory process for the elimination of sewage and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

**SIDEWALK.** The portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic. See **WALKWAY**.

**SPECIAL ASSESSMENT.** A lien assessed on private property on the basis of special benefit for a portion of public capital improvements in a subdivision.

**STREET.** A public way set aside for public travel which affords the principal means of access to abutting property. The word **STREET** includes the words **ROAD, HIGHWAY, THOROUGHFARE, PARKWAY** and **AVENUE**.

**STREET, ARTERIAL.** A street, freeway, expressway and arterial, as shown in the Comprehensive Plan.

**STREET, COLLECTOR.** A local street that is used or intended to be used to congregate traffic from several local streets and route such traffic to a major street.

**STREET, DEAD-END, TEMPORARY.** A street with one end open to traffic and the other end terminating at the boundary line of the subdivision, but will be required to be extended at a later date to provide access to abutting land.

**STREET, FRONTAGE (ROAD).** A street dedicated adjacent to and parallel to a major street with limited or controlled access and dedicated to provide frontage access to abutting properties.

**STREET, LOCAL.** Any public street that is used or intended to be used for the principal purpose of serving as vehicular access to abutting property.

**STREET PAVEMENT.** An impervious surface such as brick, concrete or asphalt concrete subject to the approval of the city. The **PAVEMENT** width is measured from the back of the curb on one side to the back of the curb on the other side.

**STREET RIGHT-OF-WAY.** The area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.

**SUBDIVIDER.** The owners, developers or agents of persons or corporations effecting subdivision.

**SUBDIVISION.** The division of land into two or more lots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development; except that, the division of land in which the smallest parcel created is more than ten acres and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall not be considered a **SUBDIVISION**. **SUBDIVISION** shall include the sale of any land and/or the creation of any easements or the lease of any land for new building development.

**SUBDIVISION, ADMINISTRATIVE.** Any further subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way is involved, and such subdivision complies with existing ordinance requirements concerning minimum areas and dimensions of such lots and blocks.

**SUBDIVISION CHECKLIST.** An administrative list of review statements and questions that must be completed prior to City Planning Commission review or Council approval of preliminary or final plats.

**SURVEYOR.** Any person registered to practice land surveying in the state.

**VARIANCE.** A relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

**VICINITY MAP.** A drawing located on the plat which sets forth by dimensions or other means the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the city in order to better locate and orient the area in question.

**WALKWAY.** A dedicated public way, four feet or more in width, for pedestrian use only, whether along the side of a road or not.

**YARD.** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward; however, fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any **YARD** subject to height limitations and requirements limiting obstruction of visibility and subject to the district regulations of any zoning regulations.

**YARD, FRONT.** A yard extending across the front of a lot between side lot lines. There shall be a required front yard on each street side of a corner lot. Through lots shall require frontages on both streets.

**YARD, REAR.** A yard extending across the rear of the lot between side lot lines.

**YARD, SIDE.** A yard extending between the front yard line and rear yard line.

**YARD, SPECIAL.** A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term “side yard” nor the term “rear yard” clearly applies.

**ZONING ADMINISTRATOR.** The person authorized and empowered by the Council having jurisdiction to administer the requirements of this chapter.

**ZONING AREA.** The area subject to the provisions of zoning and subdivision regulations as set out on the official zoning map of the city.

**ZONING DISTRICT.** An area delineated on a zoning map for which uniform use regulations are specified.

(2002 Code, § 74-6) (Ord. 93-12, passed 9-28-1993)

**Statutory reference:**

*“Subdivision” defined, see Neb. RS 19-921*

## **APPLICATION OF REGULATIONS**

### **§ 151.020 GENERALLY.**

Any plat for each subdivision or each part of a subdivision lying within the jurisdiction of this chapter shall be prepared, presented for approval and recorded as prescribed in this chapter. The regulations contained in this chapter shall apply to the subdivision of a lot, tract or parcel of land into two or more lots, tracts or other division of land for the purpose of sale or of building development, whether immediate or future, including the resubdivision or replatting of land or lots. Further, the regulations set forth by this chapter shall be minimum regulations which shall apply uniformly throughout the jurisdiction of this chapter, except as otherwise provided in this chapter.

(2002 Code, § 74-41) (Ord. 93-12, passed 9-28-1993)

### **§ 151.021 APPLICABILITY.**

(A) No subdivision of land shall be permitted within the city planning jurisdiction unless a plat is approved in accordance with provisions of this chapter.

(B) This chapter shall apply not only to subdivisions as set forth in this chapter but shall also apply, insofar as payment of costs for improvement of subdivisions is concerned, to those subdivisions or parts of subdivisions already platted and approved, which are undeveloped, wholly or partially.

(C) This chapter shall not apply to subdivision of burial lots in cemeteries.

(D) This chapter shall not apply to a division of land for agricultural purposes into lots or parcels of more than ten acres and not involving a new street.  
(2002 Code, § 74-42) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.022 PROVISIONS DECLARED TO BE MINIMUM REQUIREMENTS.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Whenever the provisions of this chapter require or impose higher standards than are required in any other ordinance, the provisions of this chapter shall govern. Wherever the provisions of any other ordinance require or impose higher standards than are required by the provisions of this chapter, the provisions of such ordinance shall govern.  
(2002 Code, § 74-43) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.023 SAVING PROVISION.**

This chapter shall not be construed as abating any action 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, or as waiving any right of the city under any section or provision existing at the time of adoption of this chapter, or as vacating or annulling any rights obtained by any person by lawful action of the city, except as shall be expressly provided for in this chapter.  
(2002 Code, § 74-44) (Ord. 93-12, passed 9-28-1993)

### ***PLAT REVIEW AND SUBMITTAL REQUIREMENTS***

#### **§ 151.035 SUBDIVISION, WHEN REQUIRED.**

It shall be unlawful for the owner, agent or person having control of any land within the corporate limits of the city or within the extraterritorial zoning jurisdiction to subdivide land, except in accordance with Neb. RS 15-406 and 15-901 and the provisions of the title; provided, however, that, any subdivision of land caused by the acquisition of land by the federal government, the state, any county, the city or any village, incorporated or unincorporated, within the jurisdiction of the city, shall be deemed to have received approval as required by Neb. RS 15-901. This provision shall apply to all such subdivisions occurring both before and after the effective date of the ordinance from which this section derives.  
(2002 Code, § 74-101) (Ord. 93-12, passed 9-28-1993)

**§ 151.036 ADMINISTRATIVE SUBDIVISIONS.**

(A) *Administrator.* The Zoning Administrator of the city is designated as the employee of the city who is authorized to approve, on behalf of the city, further subdivision of existing lots and blocks whenever all required public improvements have been installed, no new dedication of public rights-of-way is involved, and such subdivision complies with the existing ordinance requirements concerning minimum areas and dimensions of such lots and blocks, if the following conditions are met:

(1) The tract of land has not been previously subdivided as an administrative subdivision or a lot that has been previously split under the lot split procedures in the 1979 subdivision regulations, Ord. 947;

(2) The subdivision does not involve the dedication of full-width streets;

(3) The subdivision involves the replatting, consolidation or development of one or more lots into not more than eight lots;

(4) The subdivision would not require the vacation of any occupied utility easements; and

(5) In the opinion of the Zoning Administrator, the plat is not contrary to the Comprehensive Plan or other plans for the area.

(B) *Administrative application for administrative subdivision approval.* An application for an administrative subdivision approval shall be submitted to the Zoning Administrator. The following shall be submitted with the application:

(1) Application fee, payable at the City Clerk's office;

(2) One reproducible Mylar copy of the plat at a scale of one inch to 100 feet;

(3) One pdf copy of the plat;

(4) Two paper copies of the plat; and

(5) Information as required under division (H) below.

(C) *Administrative review.* Upon filing, the Zoning Administrator shall forward the application and supplemental information with a request for comments in seven working days from the following:

(1) City Electric Department;

(2) City Police Department;

- (3) City Street Department;
- (4) City Water/Wastewater Department;
- (5) County, if applicable.

(D) *Administrative action.* The Zoning Administrator shall approve or disapprove the plat within 15 working days of the filing date. In the event of disapproval, the Zoning Administrator shall give the owner/subdivider a written statement of reasons for the disapproval.

(E) *Administrative certificate of approval.* In lieu of §§ 151.037 and 151.038 of this chapter, plats eligible for administrative approval shall include a certificate of approval to be signed by the Zoning Administrator and attested by the City Clerk. Upon receiving administrative approval, the plat shall be filed with the Register of Deeds in accordance with § 151.038 of this chapter.

(F) *Appeal at administrative disapproval.* The owner/subdivider has the privilege of requesting Planning Commission and Council review and approval in accordance with § 151.037 of this chapter if the Zoning Administrator has disapproved the plat or has not taken action within 15 working days of filing of the plat.

(G) *Planning Commission and Council review and action.* If the plat does not qualify for administrative approval or has been disapproved by the Zoning Administrator, an application for subdivision shall be submitted in accordance with §§ 151.037 and 151.038 of this chapter.

(H) *Administrative subdivision plat information.* The subdivision plat shall be prepared in accordance with the final plat standards in § 151.038 of this chapter.

(I) *Subdivision plat filing.* The City Clerk's office shall be responsible for filing the plat in the Register of Deeds' office in the county.

(J) *Subdivision filing fees.* The owner/subdivider shall be responsible for the payment of all plat filing fees.

(2002 Code, § 74-102) (Ord. 93-12, passed 9-28-1993; Ord. 2010-13, passed 7-12-2010; Ord. 2021-6, passed 3-16-2021)

### **§ 151.037 PRELIMINARY PLAT PROCEDURES.**

(A) *Generally.* All preliminary plats shall be prepared in conformance with the provisions of this chapter and in conformance with the city's Comprehensive Plan. The subdivider shall be responsible for such conformance.

(B) *Preapplication meeting.* A preapplication meeting between the applicant or his or her representative, the Zoning Administrator and other city departments will be required prior to the

submission of an application for approval of a preliminary plat. No application for preliminary plat will be accepted by the Zoning Administrator until after the preapplication meeting. Preapplication meetings should be scheduled through the Zoning Administrator. The purpose of the preapplication meeting is to review policies, procedures and forms required by the city and to discuss the applicant's request. The applicant shall provide the following minimum information as part of a conceptual review sketch plan:

(1) The proposed layout of streets, lots and utilities in relation to existing streets, utilities, topography and other conditions; and

(2) A general location map showing the proposed subdivision and its relationship to existing abutting subdivisions and community facilities in the area, such as streets, alleys, schools, parks, commercial areas and other data supplementing the subdivision plan which outline or describe all of the proposed development as it relates to existing conditions.

(C) *Preliminary plat application.*

(1) The subdivider shall submit a complete application at least 15 days prior to the next regular meeting of the Planning Commission at which the request is to be heard.

(2) Upon submission of the application, the Zoning Administrator shall check it for completeness. If complete, the application shall be docketed for hearing at the next Planning Commission meeting. If the application is incomplete, the Zoning Administrator shall not docket the application for hearing and shall notify the subdivider that the application is incomplete and specify what additional data is needed. The Zoning Administrator shall notify the subdivider of any incompleteness within five days of the date of filing of the application. Any such application shall not be docketed for such meeting, but shall be docketed for the next regular Planning Commission meeting.

(D) *Preliminary plat fees.* A preliminary plat review fee shall accompany the application. Such fee shall be in accordance with the schedule of fees adopted by the Council.

(E) *Zoning Administrator review.* The Zoning Administrator shall, within seven working days from the date of application, transmit a copy of the proposed preliminary plat to the Board of Education of the School District involved, the city utility departments, the City Fire Department and any other department or agency that may be affected by the plat as the Commission may have designated. Such department or agency, except the Board of Education, shall have seven working days to review the referred preliminary study and report back to the Zoning Administrator any requirements or recommendation pertinent to approval of the plat. The Zoning Administrator shall examine the preliminary plat as to compliance with laws and ordinances of the approved master plan, other official plans and good planning principles; analyze the recommendations submitted by other departments and agencies; coordinate these recommendations; and submit his or her recommendations to the Planning Commission at the next regular meeting.

(F) *Planning Commission action.* The Planning Commission shall consider all evidence presented by the subdivider, the Zoning Administrator and others and shall approve or disapprove the preliminary plat, and shall within ten days of the meeting, transmit its recommendation along with all supporting

papers to the Council. A copy of the recommendation shall be sent to the subdivider, and one copy shall be retained in the permanent files of the Planning Commission.

(G) *Council action.* The Council shall consider and act upon the Planning Commission's recommendation, and shall approve or disapprove the preliminary plat. In the event of disapproval, the Council shall notify the Planning Commission and state specific reasons for disapproval, a copy of which shall be transmitted to the subdivider. Approval by the Council shall be effective for a period of 12 months, after which, if the final plat has not been submitted to the Planning Commission for approval or if an extension has not been granted by the Planning Commission, reapproval of the preliminary study by the Planning Commission and Council shall be required.

(H) *Preliminary plat information.* A preliminary plat shall be based on a legal description of the property as shown by the land records in the office of the Register of Deeds. A preliminary plat shall meet the design standards set forth in this chapter. Plats shall be at an adequate scale to clearly show all necessary information and in no case smaller than one inch equals 100 feet. The preliminary plat of a subdivision shall show or be accompanied by the following information:

- (1) Copies of the plat and one reduced copy of the plat;
- (2) Name of subdivision, legal description and owners of property;
- (3) Name of subdivider, engineer, landscape architect or surveyor;
- (4) Scale specified and bar scale;
- (5) North point and date;
- (6) Names of adjoining property owners or subdivision;
- (7) The location and dimensions in feet and hundredths of the property lines, lot lines and building setback line;
- (8) Names and dimensions of all existing and proposed street rights-of-way and pavement widths;
- (9) The location and size of existing and proposed utility lines, including water and sewer lines, and any other utility installations, including underground natural gas, electrical or telephone lines, adjacent to or within the proposed subdivision or the location of the nearest available such utilities;
- (10) Existing and proposed topographic contours at two-foot intervals if the average slope is less than 5% and at five-foot intervals if the average slope is 5% or more;
- (11) A clear indication of the proposed course of surface water drainage from the point where the water enters and leaves the subdivision together with all drainage within the subdivision outside of the proposed subdivision to the point where such water enters a watercourse;

(12) An indication of any area subject to flooding as determined by the FIRM flood hazard insurance maps of the city;

(13) Location and dimensions of any proposed sites, parks or other lands reserved or required to be reserved for public use in accordance with the Comprehensive Plan and this chapter;

(14) Proposed and existing easements, dedications and reservations of land required;

(15) A legend stating the total acreage, the number of lots, a computation of lot density and the total lineal feet of streets and alleys;

(16) A map indicating plans for the development of the entire area if the proposed plat is a portion of a larger holding intended for subsequent development. Preliminary engineering plans for all improvements for the entire holding shall be part of the requirement;

(17) A vicinity map presented on the preliminary plat showing the geographic relationship of the proposed subdivision to the surrounding street system. Vicinity maps shall be prepared at a scale of no smaller than one inch equals 2,000 feet; and

(18) If the proposed subdivision area will not be serviced by city utilities, a copy of Form SD On-Site Wastewater permit application required by the Nebraska Department of Environmental Quality (NDEQ) will need to accompany the preliminary plat submittals.  
(2002 Code, § 74-103) (Ord. 93-12, passed 9-28-1993; Ord. 2009-6, passed 4-21-2009)

### **§ 151.038 FINAL PLAT SUBMISSION REQUIREMENTS.**

(A) *Generally.*

(1) Final plats shall be submitted to the Zoning Administrator within one year of approval of the preliminary plat unless an extension is granted by the Planning Commission. The final plat shall conform to the approved preliminary plat and any conditions of such approval and to the requirements of all applicable ordinances and the requirements of this chapter.

(2) If desired by the subdivider, the final plat may constitute only a portion of the area contained in the approved preliminary plat which the subdivider proposes to record and develop.

(3) The subdivider shall submit a complete application at least 15 days prior to the next meeting of the Planning Commission at which the request is to be heard.

(4) Upon submission of the application, the Zoning Administrator shall check it for completeness. If complete, the application shall be docketed for hearing at the next Planning Commission meeting. If the application is incomplete, the Zoning Administrator shall not docket the application for hearing and shall notify the subdivider that the application is incomplete and specify what additional data is needed. The Zoning Administrator shall notify the subdivider of any incompleteness within seven

working days of the date of filing of the application. If the additional data is not provided to the Zoning Administrator at least 15 days prior to the Planning Commission meeting, such application shall not be docketed for such meeting but shall be docketed for the next following Planning Commission meeting.

(B) *Final plat fees.* A final plat review fee shall accompany the application. Such fee shall be in accordance with the schedule of fees adopted by the Council.

(C) *Final plat information.* The subdivider shall prepare and submit a final plat at a scale of not less than one inch equals 100 feet. The plat shall be prepared under the supervision of and certified by a registered state land surveyor. The plat, including all signatures, shall be drawn with permanent black ink on reproducible Mylar. The final plat of a subdivision shall show, or be accompanied by, the following information:

- (1) One reproducible Mylar copy of the plat;
- (2) Two paper copies of the plat and one pdf copy submitted electronically;
- (3) Name of the proposed subdivision;
- (4) Name of the owner of the subdivision;
- (5) Name of the land planner, surveyor or engineer who prepared the final plat;
- (6) Date, north arrow and graphic scale;
- (7) Location by specific legal description indicating boundary lines with accurate lengths, angles and bearings, based upon an accurate traverse. These boundary lines shall be determined by a balanced and closed survey conducted in the field;
- (8) Tract boundary lines, rights-of-way of all streets, alleys and other rights-of-way, property lines of all lots and other sites with dimensions given in feet and hundredths;
- (9) Location, dimensions in feet and hundredths of all easements, together with the purpose of each;
- (10) Radii, central angles, tangents, lengths of arcs, curvature angles at street intersections and a complete street traverse of each street within and on the perimeter of the plat;
- (11) If an area is subject to flooding, the minimum floor elevation for each lot subject to such flooding;
- (12) Accurate location, size, type and material of all monuments, an indication whether such monuments were found or set, and the elevation of at least one such monument;
- (13) All lot and block numbers;

(14) Accurate outlines of any area to be dedicated or reserved for public use or acquisition with the purposes indicated. Any areas to be reserved by covenant or deed restriction for the common use by the owners in the subdivision shall also be noted;

(15) Certification and signature by the surveyor certifying to the effect that the final plat accurately represents a survey made by him or her and under his or her direct supervision, that any changes from the description appearing in the last record transfer of the land contained in the final plat are so indicated, that all monuments shown actually exist or will be installed and their position is correctly shown, and that all dimensional and geodetic data are correct;

(16) Certification signed and notarized by all parties holding title or having any title interest in the land contained in the final plat and consenting to the preparation and recording of the plat as submitted and consenting to all dedications noted. A registered abstractor or title insurance agent must perform the title search for any parties holding title or having any title interest;

(17) Certification by the registered abstractor that verifies any parties holding title or having any title interest;

(18) Certification of approval of the final plat by the Planning Commission;

(19) Certification of approval of the final plat by the Council;

(20) Certification of approval of the final plat by the county board if the land is outside of the city limits; and

(21) Certification of approval of the final plat by the Zoning Administrator.

(D) *Final plat construction plans and specifications.*

(1) The subdivider shall submit construction plans and specifications in accordance with the requirements for all improvements and installations required by this chapter.

(2) The construction plans and specifications shall consist of all cross sections, profiles and all other engineering data necessary for the proper design and construction of all improvements and installations required by this chapter, including, but not limited to, the following:

(a) Streets;

(b) Storm sewers and other elements of the drainage system;

(c) Sanitary sewer system;

(d) Water system;

(e) Monuments and markers;

- (f) Sidewalks and pedestrian ways; and
- (g) Any construction elements peculiar to the subdivision.

(E) *Final plat engineering data.* The subdivision agreement shall require that all final engineering plans and specifications for improvements be furnished by the subdivider to the city for approval prior to contracting for construction of any improvements.

(F) *Final plat; approval; procedure.*

(1) No approved final plat shall be released by the City Clerk until a subdivision agreement shall have been entered into between the subdivider and the city. The City Attorney shall prepare such agreement with the assistance of the City Administrator and Zoning Administrator.

(2) The agreement shall provide for the needs of the subdivision, including, but not limited to, pavement, water mains, sanitary sewers, storm sewers, sidewalks, grading, waste treatment and open space requirement. Security may be required to ensure performance under the agreement.

(G) *Final plat application acceptance or refusal.*

(1) Upon submittal of the final plat, the Zoning Administrator shall review the plat to ensure all data required has been provided. The Zoning Administrator shall have the right to refuse the submittal of the plat should the required data not be shown or presented.

(2) The Zoning Administrator shall distribute one copy of the final plat along with a request for comments, to be returned within five working days, to each of the following:

- (a) City utility departments;
- (b) City Police Department;
- (c) City Fire Department; and
- (d) Any other department or agency that may be affected by the plat.

(H) *Recommendation.* The Zoning Administrator shall then develop a recommendation, based on the department review meeting, and forward the recommendation and the final plat to the Planning Commission for its consideration at a regular meeting.

(I) *Planning Commission approval.* If the Planning Commission approves the final plat, the Zoning Administrator shall forward the Planning Commission's recommendation and the final plat to the Council for its consideration at a regular meeting.

(J) *Council action.* The Council shall consider and act upon the Planning Commission's recommendations and shall approve or disapprove the final plat. In the event of disapproval, the Council

shall notify the Planning Commission and state specific reasons for disapproval, a copy of which shall be transmitted to the subdivider. If approved, final plat shall be filed with the county Register of Deeds' office.

(2002 Code, § 74-104) (Ord. 93-12, passed 9-28-1993; Ord. 2008-11, passed 9-2-2008)

### **§ 151.039 VACATION OF PLATS.**

Plats shall be vacated according to the following.

(A) Any plat or any part of any plat may be vacated by the owner of the property, at any time before the sale of any lot, by a written instrument, duly executed and approved, to which a copy of such plat shall be attached, declaring the plat to be vacated.

(B) Such written instrument shall be approved by the Planning Commission in like manner as plats of subdivisions. The 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 written instrument when executed, acknowledged and approved shall be recorded in like manner as plats of subdivisions and being duly recorded 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, commons, public grounds laid out or described in such plat.

(D) In cases where any lots have been sold, the plat may be vacated by all owners of the lots in such plat joining in the execution of the written instrument.

(2002 Code, § 74-105) (Ord. 93-12, passed 9-28-1993)

## ***SUBDIVISION DESIGN REQUIREMENTS***

### **§ 151.050 GENERAL REQUIREMENTS.**

(A) 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, erosion or other menace. If, following adequate investigation conducted by all public agencies concerned, it is determined that land to be subdivided cannot be used without endangering the health, safety, welfare or prosperity of the community, or would necessitate an excessive expenditure of public financial resources for sewage and water facilities, other public facilities and streets, the subdivision plat shall not be approved unless the subdivider formulates adequate methods for meeting such problems.

(B) All subdivision design shall conform to standards of the Comprehensive Plan and to Ch. 152 of this code.

(C) All required improvements shall be constructed or installed to conform to the provisions of this chapter and specifications.

(2002 Code, § 74-141) (Ord. 93-12, passed 9-28-1993)

### § 151.051 STREETS.

(A) *Generally.*

(1) *Conformity with Comprehensive Plan.* The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by such streets.

(2) *Street extensions.* The street layout of the proposed subdivision shall provide for the continuation or appropriate projection of streets and alleys already existing in areas being subdivided. Where at the determination of the Planning Commission it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of such properties. Where the Planning Commission deems it necessary, such deadend streets shall be provided with a temporary turnaround having a radius of at least 50 feet. The street system for the proposed subdivision shall provide for extending existing streets at the same or greater width, but in no case shall a street extension be of less width than the minimum width required in this chapter for a street in its category.

(3) *Dedication of right-of-way for new streets.* The dedication of right-of-way for new streets measured from lot line to lot line shall be as shown on the Comprehensive Plan, or, if not shown on that plan, shall meet the right-of-way requirements as provided in division (B) below. All streets classified as arterial streets by the Comprehensive Plan shall have all points of access approved by the Planning Commission.

(4) *Dedication of right-of-way for existing streets.* Subdivisions platted along existing streets shall dedicate additional right-of-way, if necessary, to meet the minimum street width requirements set forth in this chapter. The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one side of an existing street, half the required right-of-way width, measured from the centerline of the existing roadway, shall be dedicated. Dedication of half the right-of-way for a proposed street along the boundaries of land proposed for subdivision shall be prohibited, except where essential to the reasonable development of the subdivision and where it is found to be practical and reasonable to require the dedication of the other half of the right-of-way when adjoining property is subdivided.

(5) *Intersections.* Streets shall intersect as nearly as possible at an angle of 90 degrees, and no intersection shall be at an angle of less than 60 degrees. Street curb intersections shall be rounded by radii of at least 20 feet. When the smallest angle of street intersection is less than 75 degrees, the Council may require curb radii of greater length. Whenever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at such street corner to less than nominal width, the

property line at such street corner shall be rounded or otherwise set back sufficiently to permit such construction. No lot or other parcel of land which abuts on and has access to either a collector or minor street shall have a service drive, curb cut or other means of access to an arterial street within 75 feet of the right-of-way of such arterial street.

(6) *Curves in streets; horizontal and vertical.*

(a) A tangent at least 100 feet long shall be introduced between reversed curves on arterial and collector streets.

(b) Where there is a deflection angle of more than ten degrees in the horizontal alignment of a street, a curve with a radius adequate to ensure safe sight distance shall be made.

1. The minimum radius of curves shall be:

<i>Street Type</i>	<i>Minimum Curve Radius</i>
Arterial	510 feet
Collector	380 feet
Local	100 feet

2. Minimum sight distance on vertical curves shall be:

<i>Street Type</i>	<i>Minimum Sight Distance</i>
Arterial	350 feet
Collector	300 feet
Local	200 feet

(c) Sight distance is measured from a driver’s eyes, which are assumed to be four and one-half feet above the pavement surface, to an object four inches high on the pavement. Profiles of all streets, showing natural and finished grades, drawn to an approved scale, may be required.

(7) *Street grades and elevations.*

(a) All streets shall be designed so as to provide for the discharge of surface water from the pavement and from the right-of-way by grading and drainage. For adequate drainage, the minimum street grade shall be not less than 0.5%. The Planning Commission shall not approve streets which will be subject to inundation or flooding.

(b) Street grades shall conform to the minimum requirements provided in division (B) below.

(8) *Marginal-access streets.*

(a) Where a subdivision fronts on or contains an existing or proposed arterial street, the Council shall require marginal-access streets in all situations indicated below or reverse frontage lots with screen planting located in the non-access arterial street frontage along the rear of the lots, or such other treatment as may be necessary for adequate protection of properties from the arterial street and to protect and preserve the safety and traffic handling capabilities of the arterial street.

(b) Marginal-access streets shall be required by the Council for subdivisions fronting on arterial streets where existing development would not prohibit the extension of a marginal-access street for at least a distance of 150 feet from either side lot line of the lot of lots being subdivided or if the frontage of the subdivision in question is 300 feet or more. If lots back up to the arterial street and such lots have access other than the arterial street frontage, a marginal-access street may not be required.

(9) *Street jogs.* Street jogs with centerline offsets of less than 125 feet shall be prohibited.

(10) *Cul-de-sac.* Minor terminal or dead-end streets or courts which are designed so as to have one end permanently closed shall not be longer than 600 feet and shall be provided at the closed end with a turnaround having a diameter at the outside of the pavement of at least 70 feet and a diameter at the outside of the right-of-way of at least 100 feet. If center islands are provided in the turnaround, the pavement width shall be at least 31 feet; and the subdivider shall make provisions for the maintenance of the island by owners of lots fronting on the turnaround in the deed restrictions.

(11) *Rectangular or square cul-de-sac streets.* With Planning Commission and Council approval, minor terminal or dead-end streets or courts which are designed so as to have one end permanently closed shall not be longer than 600 feet and provide the minimum unobstructed moving lane with the proper radius and dimension and simultaneously meet the need for spillover parking.

(12) *Street names.*

(a) Proposed streets which are in alignment with other already existing and named streets shall bear the names of such existing streets. The name of a proposed street which is not in alignment with an existing street shall not duplicate the name of any existing street, irrespective of the use of the suffix street, avenue, boulevard, drive, place, court, lane, road, pike, highway, parkway or similar suffix.

(b) Whenever a street alignment changes direction more than 45 degrees without a return to the original alignment within a distance of 500 feet, the name of the street shall be changed at the point of curvature.

(c) Whenever a cul-de-sac street serves not more than three lots, the name of the intersecting street shall apply to the cul-de-sac. To avoid duplication and confusion, the proposed names of all streets shall be approved by the city prior to such names being assigned or used.

(13) *Private streets and reserve strips.* New private streets may be created provided such streets are specifically authorized by the Planning Commission and Council as an exception to the terms of this chapter. There shall be no reserve strips in a subdivision, except where their control is definitely vested in the city under conditions of approval by the Planning Commission as authorized in this chapter. New private streets and reserve strips may be created; provided, such streets are specifically authorized by the Commission and the Council as an exception to the terms of this chapter.  
(2002 Code, § 74-142)

(B) *Minimum street standards.*

<i>Street Classifications</i>	<i>Minimum Right-of-Way</i>	<i>Pavement Width</i>	<i>Minimum Number of Traffic Lanes</i>	<i>Maximum Grade</i>	<i>Minimum Centerline Radius</i>
Arterial street	80 feet	36 feet	2 lanes	7%	700 feet
Collector street	70 feet	32 feet	2 lanes	7%	300 feet
Cul-de-sac	100 feet diameter	32 feet*	2 lanes	10%	100 feet
Local street	60 feet	32 feet	2 lanes	10%	200 feet
Loop street	60 feet	32 feet	n/a	n/a	n/a
Marginal access (frontage road, no parking)	50 feet	25 feet	2 lanes	10%	100 feet
Urban-rural access (no parking)	60 feet	25 feet	2 lanes	10%	200 feet
<b>NOTES TO TABLE:</b>					
1. Pavement width measured back to back of curb.					
2. *Minimum right-of-way diameter for the cul-de-sac turnaround shall be 100 feet minimum.					

(2002 Code, Ch. 74, Schd. A)  
(Ord. 93-12, passed 9-28-1993)

**§ 151.052 BLOCKS.**

The lengths, widths and shapes of blocks shall be determined with due regard to the provisions of adequate access and circulation, building sites suitable to the needs of the use contemplated, zoning requirements regarding minimum lot sizes, widths and frontages and the limitations or opportunities presented by the topography. Block lengths, except in unusual circumstances, shall not exceed 1,320 feet.

(2002 Code, § 74-143) (Ord. 93-12, passed 9-28-1993)

**§ 151.053 LOTS.**

(A) *Appropriateness.* The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(B) *Lot dimensions.* Lot dimensions shall conform to the requirements of the applicable zoning district. Residential lots not served by a public sewer may be required to be larger to protect against health hazards of on-site sewage disposal.

(C) *Corner lots.* Corner lots for residential uses shall have additional width to permit appropriate building setback distances and orientation to both streets.

(D) *Access to lots.* The subdividing of land shall provide each lot with satisfactory access to a public street. The subdividing of land shall be such as to provide each lot with satisfactory vehicular access by means of public street or approved private street.

(E) *Double-frontage and reverse-frontage lots.* Double-frontage and reverse-frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

(F) *Depth and width of lots.* Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for off-street service and parking facilities required by the type of use and development contemplated.

(G) *Angle of side lot lines.* Side lot lines shall be substantially at right angles or radial to street lines.

(H) *Setback lines.*

(1) Building setback lines on lots shall be as regulated by the yard provisions of Ch. 152 of this code.

(2) Where the subdivider desires setback distances in excess of those minimums stipulated in Ch. 152 of this code, such shall be indicated on the final plat.

(I) *Sidewalks.*

(1) Sidewalks shall be labeled upon the improvement plans and installed by the subdivider in subdivisions, except where unusual conditions exist which eliminate the need for sidewalks and an exception is specifically granted by the Council.

(2) Sidewalks shall be installed in all subdivisions within the boundaries of the plat according to the following:

(a) Along both sides of all streets within the subdivision, in which case the edge of the sidewalk away from the street shall normally be placed at a distance of eight feet behind the curb;

(b) Parallel to any streets abutting and/or running along the outer perimeter of the subdivision;

(c) All sidewalks shall extend to the street pavement at all intersections at midblock crossings where appropriate and shall be equipped with handicap access ramps;

(d) In neighborhoods planned as cluster developments, sidewalk locations may be adjusted to accommodate the most efficient pedestrian circulation through and to and from the development; and

(e) The Council may modify the requirements of this section, but only in instances where park, railroad, extreme topographical conditions or other unusual conditions make sidewalk installation non-essential or unnecessary on both sides of the street.

(J) *Minimum sidewalk width.* The minimum sidewalk width shall be four feet; however, in multiple-family residential developments and non-residential developments, sidewalks shall be of a width suitable for the anticipated traffic, but not less than four feet, as determined by the Council. (2002 Code, § 74-144) (Ord. 93-12, passed 9-28-1993)

#### § 151.054 FLOOD HAZARDS.

Land subject to flooding and land deemed to be topographically unsuitable for residential or other development shall not be platted for such purposes. Such land may be set aside on the plat for such uses as will be compatible with the hazards associated with flooding or erosion. The Planning Commission shall require that any building lot be elevated above the 100-year flood elevation or require that any development be flood-proofed in accordance with the flood hazard zoning provisions of Ch. 152 of this code.

(2002 Code, § 74-145) (Ord. 93-12, passed 9-28-1993)

#### § 151.055 EASEMENTS.

(A) *Utility easements.* Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least 12 feet in width, six feet each side of the lot line.

(B) *Waterway easements.* Where a subdivision is traversed by a watercourse, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width will be adequate for the purpose of retaining the water-handling capacity of the watercourse.

(2002 Code, § 74-146) (Ord. 93-12, passed 9-28-1993)

**§ 151.056 COMMUNITY ASSETS.**

In all subdivisions, due regard shall be shown for natural features, such as trees, unusual rock formations, watercourses and any sites having historical significance, which if preserved will add attractiveness and value to the area. The Council shall have the authority to require preservation of such natural features as it deems reasonable.

(2002 Code, § 74-147) (Ord. 93-12, passed 9-28-1993)

**§ 151.057 CONFORMANCE WITH OTHER REQUIREMENTS.**

No final plat of land within the area of force and effect of existing zoning regulations will be approved unless it conforms with such regulations. Whenever there is a variance between the minimum standards set forth in this chapter and those contained in the Building Code, or other official regulations, the highest standard shall apply.

(2002 Code, § 74-148) (Ord. 93-12, passed 9-28-1993)

***REQUIRED SUBDIVISION IMPROVEMENTS*****§ 151.070 GENERAL REQUIREMENTS.**

(A) The subdivider shall design and construct improvements not less than the standards outlined in this chapter. The work shall be done under city supervision and inspection and shall be completed within the time fixed or agreed upon by the City Engineer. The minimum requirements for materials shall be in accordance with the standards currently in effect in the city or as approved by the City Engineer. Standards applicable to health and sanitation as required by the State Department of Environmental Control and the State Department of Health shall be the minimum standards required.

(B) Schedules of improvements shall be prepared by the subdivider. The schedules shall contain standards and classes of construction which are consistent within the zoning districts as identified in Ch. 152 of this code. The subdivider shall furnish copies of pertinent schedules and certificates of compliance as required by the City Engineer.

(C) All inspection costs and costs for required tests shall be paid by the subdivider.  
(2002 Code, § 74-181) (Ord. 93-12, passed 9-28-1993)

**§ 151.071 MONUMENTS, MARKERS AND PINS.**

Monuments in the form of iron rods or pipes not less than five-eighths inch in diameter and extending at least 24 inches below grade shall be placed at all block corners, angle points, points of curves in streets, lot corners and at the intermediate points as shall be required by the Council. (2002 Code, § 74-182) (Ord. 93-12, passed 9-28-1993)

**§ 151.072 STREETS.**

(A) *Grading.* All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the Council.

(B) *Minimum pavement widths.* Pavement widths shall be measured between backs of curbs. Minimum pavement or surface widths shall be provided as indicated in § 151.051(B) of this chapter.

(C) *Street surfacing.*

(1) Minimum requirements for pavement construction shall be in accordance with this chapter or as determined by the City Engineer, Planning Commission and Council. Higher design standards may be required by the Commission and the Council to provide adequately for unusual soil conditions or extraordinary traffic volumes or other abnormal characteristics.

(2) Requirements for paving, including curb and gutter, may be waived at the request of the subdivider in the case of a subdivision wherein all of the lots in the subdivision have a minimum frontage width of 300 feet or more, subject to the approval of the City Engineer. Streets in such subdivisions shall have a crushed rock or gravel surface which meets the specifications of the city.

(D) *Curb and gutter.*

(1) Curbs and gutters shall be required for all streets within the boundaries of the subdivision unless excepted by the Council in accordance with the terms of this chapter.

(2) Curbs and gutters shall be designed and constructed in accordance with standard specifications of the city. Rolled or dish-shaped curbs shall remain an option subject to Planning Commission recommendation and Council approval unless deemed essential for storm water management.

(E) *Street name signs.*

(1) At least one street sign shall be installed at each street intersection within or on the perimeter of the subdivision and shall be located in the northeast corner of the intersection, whenever possible, and within the area between the street and sidewalk at a point approximately six inches from the sidewalk or its intended location.

(2) Street name signs of a type in use throughout the city or approved by the Council shall be erected by the subdivider at all street intersections, in conformance with §§ 154.01 through 154.04 of this code.

(F) *Culverts*. Culverts shall be constructed and installed whenever necessary as determined by the Commission to provide adequate drainage in accordance with recommendations of the City Engineer. (2002 Code, § 74-183) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.073 SIDEWALKS.**

Sidewalks shall be provided in conformance with the requirements of § 151.053 of this chapter and shall be constructed of portland cement concrete or other acceptable material as approved by the Council. Sidewalk thickness shall be specified by city construction standards. The subdivider need not install such sidewalks until building construction is completed on a lot-by-lot basis to avoid damage by heavy equipment.

(2002 Code, § 74-184) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.074 DRIVEWAYS.**

Driveways shall have a maximum grade of 14%. Curb cuts for straight curbs and the flare for rolled curbs shall be three feet wider than the driveway pavement on each side.

(2002 Code, § 74-185) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.075 STREET AND WALKWAY LIGHTING.**

(A) The subdivider shall install, at his or her cost, streetlights of a type acceptable to the city at each entrance (street or sidewalk) into the subdivision and at each street intersection within the subdivision and at such intermediate points so that the streetlight spacing does not exceed 300 feet.

(B) New subdivision lighting shall utilize underground wiring, and easements for such wiring shall be indicated on the plat.

(2002 Code, § 74-186) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.076 STREET TREES.**

Street trees shall be species which are resistant to damage and disease and which do not cause interference with underground and overhead utilities, street lighting or visibility at street intersections. Existing trees should be retained in new subdivisions wherever possible.

(2002 Code, § 74-187) (Ord. 93-12, passed 9-28-1993)

**§ 151.077 UTILITY AND DRAINAGE FACILITIES.***(A) Generally.*

(1) Sanitary sewer, storm sewer, water distribution, electrical, gas, telephone, communications cable and all other utility lines shall be installed in rear lot easements wherever practical. Where it is impractical to install such utility lines in rear easements, they shall be installed within the unpaved portions of the street right-of-way, except for sanitary and storm sewer lines, which may be installed in the paved portion of the street right-of-way if it is impossible to install them in the unpaved portion.

(2) When it is impossible to install sanitary and storm sewer lines in the unpaved portion of the street right-of-way, all such utility lines, including service connections, shall be completely installed and inspected and approved by the City Engineer following the grading of the street and prior to the application of any pavement base.

(3) Where sanitary and storm sewer lines are to be installed in the unpaved portion of the street right-of-way, the installation of service connections may be delayed; provided that, at such time as these service connections are installed, they shall be installed without breaking or weakening the existing pavement. Where rock is known to exist beneath the pavement area at such depth as to interfere with the installation of service connections, the complete installation of service connections shall be required prior to the application of any pavement base.

*(B) Water supply improvements.* A water distribution system shall be designed and constructed by the subdivider to provide adequate water service to all lots in the proposed subdivision. The following requirements shall apply.

*(1) Type of improvement.*

(a) Within the corporate limits of the city, a water distribution system, including all pipes, fire hydrants, valves and other appurtenances, shall be provided; and such distribution system shall be connected to the public water system in accordance with plans acceptable to the Planning Commission and the Council.

(b) Within the jurisdictional area of the city, but outside the corporate limits, if a proposed subdivision is so located with regard to an adequate public water supply line, either existing or proposed, within one year from the date of application for final plat approval, that the water line is located within 500 feet of the proposed subdivision or can be reached if the cost of connecting to the water line and installing an adequate distribution system to all lots shown upon the plat, exclusive of connections from individual structures, is equal to or less than 150% of the cost of installing an individual water supply system for all lots, adequate connecting lines to the public water system shall be constructed.

(c) If the subdivision is not so located relative to a public water line, individual wells may be installed.

(2) *Standards.*

(a) When applicable, improvement plans for a permanent water system shall be provided showing pipe sizes, type of pipe, locations of fire hydrants and valves and, if applicable, supply facilities, booster pumps, elevated or ground level storage tanks and other appurtenances.

(b) Design standards of the system shall be subject to the approval of the city in accordance with the following standards.

1. The minimum main or pipe size shall be determined by the type of uses to be served and the provision of adequate fire flow capacities. Generally, water lines shall be at least six inches in diameter.

2. The maximum distance between fire hydrants shall be determined by the city, but generally any portion of the proposed subdivision shall be within 250 feet of a fire hydrant.

3. Gate valves on cross-connecting water lines shall be so located that no single break in the distribution system shall require more than 500 feet to be out of service in high-value districts or 800 feet in other districts.

(c) Valves or cross-connecting mains shall be so located that a break in the secondary distribution system will not necessitate shutting down major distribution lines.

(d) Design standards of the water distribution system shall be in compliance with the requirements of the State Department of Health.

(C) *Sanitary sewer improvements; sanitary sewage disposal improvements.* A sanitary sewer system shall be designed and constructed by the subdivider for all lots in the proposed subdivision. The following requirements shall apply.

(1) *Type of improvements.*

(a) Within the corporate limits of the city, a sanitary sewage collection system, including all pipes and manholes, shall be provided; and such collection system shall be connected to the public sewer system in accordance with plans acceptable to the Commission and the Council.

(b) Within the jurisdictional areas of the city, but outside the corporate limits, if a proposed subdivision is so located with regard to an adequate public sewer, either existing or to be existing within one year from the date of application for final plat approval, that the sewer is located within 500 feet of the proposed subdivision or can be reached if the cost of installing lateral and connecting sewers from all lots shown upon the plat, exclusive of connections from individual structures, is equal to or less than 150% of the cost of installing a private sewage collection and disposal system for all lots, adequate lateral and connecting sewers to the public sewer system shall be constructed.

(c) If the subdivision is not located relative to a public sewer system, a private collection and treatment system acceptable to the Council and appropriate to the State Department of Health and Environmental Control may be used. If on-site disposal is proposed, the subdivider shall document that acceptable percolation rates do exist on each lot; and such lots shall be adequately sized to allow for the installation and safe operation of such systems.

(2) *Standards.*

(a) When applicable, improvement plans for a permanent sewer system shall be provided, showing pipe sizes, gradients, type of pipe, invert and finished grade elevations, location and type of manholes, treatment facilities, if applicable, and the location, type and size of all lift or pumping stations.

(b) Design standards of the system shall be subject to the approval of the city in accordance with the following standards.

1. At least eight-inch sewer lines will be installed.
2. At least four-inch service connections from the sewer line to the property line of each lot will be installed, with the location marked.
3. Manholes or cleanouts will be provided at all interceptor and lateral junctions, at the end of each line, and at all changes in direction, grade and size.

(c) Design standards of the system shall be in general compliance with the requirements of the State Department of Health.

(D) *Drainage improvements.* A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of surface water of the subdivision and the drainage area of which it is a part. The following requirements and improvement plans shall be provided.

(1) *Drainage report.* A subdivision plat other than an administrative subdivision shall not be considered for final approval until the subdivider shall submit a drainage report prepared by a registered professional engineer or surveyor as to the existing and proposed drainage conditions if required by the Planning Commission and the Council. The report may be included on the preliminary plat or attached to the final plat and shall include an evaluation of the ability of the proposed watercourses, drainage tiles, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the runoff which would be generated by the development of the land within and above the subdivision and the impacts of such drainage on downstream drainage systems. The report shall include:

(a) Estimates of the quantity of storm water entering the subdivision naturally and estimates of such storm water when the upper watershed shall be developed in a manner in which it is zoned;

(b) Existing conditions of the watershed that may affect the proposed subdivision, such as soil type, drainage channels, obstructions and the like;

(c) Quantities of flow at each pickup point;

(d) Estimates of temporary erosion control measures necessary to control erosion during construction;

(e) A description of an adequate drainage system within the subdivision and its design capacities based on a ten-year storm; and

(f) A description of the impacts that the proposed drainage system will have on property downstream until such water drains into a recognized watercourse.

(2) *Drainage requirements.* The subdivider shall provide adequate drainage facilities within the subdivision, including storm sewers determined to be necessary by the Commission upon recommendation of the City Engineer. If storm sewers are not necessary, all open ditches shall be graded and all pipes, culverts and/or bridges, intersectional drains, drop inlets, bridges, headwalls, gutters and similar or related installations necessary to provide adequate surface water drainage shall be constructed and installed in accordance with plans approved by the Commission upon recommendation by the City Engineer.

(3) *Drainage system standards.*

(a) All streets shall be provided with an adequate storm drainage system, if required, of curbs, gutters and storm sewers or side ditches and as specified in the storm water management plan prepared by The Schemmer Associates, Inc., and adopted by the Council on 3-9-1993.

(b) Curb drainage inlets shall be provided at appropriate intervals along streets with curbs and gutter drainage. Where inlets connect to storm sewers, a drain inlet structure and a protective grating shall be installed.

(E) *Erosion control.* The subdivider shall be required to provide for the control of erosion of areas of the subdivision which are disturbed by grading operations by constructing temporary terraces on slopes, temporary silting basins, sod swales and spillways, and whatever may be necessary to prevent erosion and damage to adjacent properties from surface drainage as approved by the City Engineer and the Planning Commission.

(F) *Electric, gas and telephone and cable television improvements.*

(1) Electric service and telephone service shall be provided within each subdivision. Gas service may be required where reasonably accessible. Whenever such facilities are reasonably accessible and available, they may be required to be installed within the area prior to the approval of the final plat. Telephone, electric and streetlighting wires, conduits and cables shall be constructed underground,

except in cases where the City Engineer determines that topographic, bedrock or underground water conditions would result in excessive costs to the subdivider.

(2) Overhead utility lines, where permitted, shall be located at the rear of all lots. Underground utility lines may be permitted at side and front lot lines.

(3) Whenever a sanitary sewer line and electric and/or telephone line are each placed underground in the same utility easement, the following provisions shall be applicable.

(a) The total easement width shall be not less than 20 feet.

(b) The sanitary sewer line shall be installed within three feet of one side of the easement, and the electric and/or telephone lines shall be installed within three feet of the opposite side of the easement.

(2002 Code, § 74-188) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.078 IMPROVEMENT COSTS.**

(A) *Extension to boundaries.* The subdivider shall be required to extend the necessary improvements to the boundaries of the proposed subdivision at his or her expense to allow for service to future anticipated developments on adjoining lands, as determined by the Planning Commission and the Council.

(B) *Off-site extensions.* If streets or utilities are not available at the boundary of the proposed subdivision or within the distances or costs established in this chapter and the Council determines that extensions across undeveloped areas are not warranted, the subdivider, if he or she wishes to proceed with the development, shall pay the cost of such off-site improvements and provide for appropriate off-site easements prior to the approval of the final plat. Such improvements shall be available for connections by subdividers of adjoining lands.

(C) *Oversize and off-site improvements.* The utilities, street pavement and other improvements required for the proposed subdivision may be required to be oversized or extended to serve nearby land or anticipated future development. This determination shall be made by the Planning Commission and the Council in consultation with the Utilities Department and the City Engineer.

(D) *Cost of oversize improvements.* Minimum street pavement widths for streets shall conform to the standards established in § 151.051 of this chapter. Minimum utility sizes shall be determined by the standards of the city with regard to providing service to the subdivision in question. Where pavement widths or larger pipe or main sizes are deemed necessary by the Planning Commission and the Council, the city or the Utilities Department shall bear the extra cost of providing such greater width or larger pipe or main sizes. The subdivider shall be required to pay for that part of the construction costs for the arterial streets, trunk sewers or water lines which are serving the proposed subdivision as determined by the Commission and the Council. The city or the Utilities Department shall pay the remainder of the costs.

(E) *Dedication.*

(1) Before final plat approval is given, the subdivider shall dedicate to the public all streets and alleys as may be required by the Planning Commission and the Council. If such streets and alleys are not to be dedicated and are to be developed as private streets, the subdivider shall make adequate provision for an owners' association with direct responsibility to and control by the property owners of the subdivision to provide for the maintenance of all such private streets and alleys and the removal of debris and snow so as to maintain adequate access at all times for fire, police, sanitation, utility and emergency vehicles. Legal assurances shall be provided which show that the association is self-perpetuating and has the authority to collect assessments from owners of property within the subdivision to accomplish these and other related purposes.

(2) Such provisions shall also provide for agreement of the property owners that if the city is requested or required to perform any maintenance or snow removal from such streets in order to maintain adequate access, the owners shall pay the costs to the city and that, if not paid, the costs shall become a lien upon the properties until such costs are paid in full.  
(2002 Code, § 74-189) (Ord. 93-12, passed 9-28-1993)

**§ 151.079 SUBDIVISION IMPROVEMENT GUARANTEES.**

(A) *Completion of improvements.*

(1) Prior to final plat approval, but after approval of all improvement plans and specifications, the subdivider shall complete all improvements required for the subdivision. Final plat approval shall not be given until the dedication of all appropriate improvements and their acceptance by the Council.

(2) In lieu of requiring the completion of all improvements prior to final plat approval, the Council may enter into an agreement with the subdivider whereby the subdivider shall guarantee to complete all improvements required by this chapter and approved by the Planning Commission and the Council in a manner satisfactory to the Council. To secure this agreement, the subdivider shall provide, subject to the approval of the Council, one or more of the guarantees set forth in divisions (B), (C), (D) or (E) below.

(B) *Surety performance bond.* The subdivider shall obtain a security bond in the amount of 110% of the estimated public improvement construction costs, from a surety bonding company authorized to do business in the state. The bond shall be payable to the city and shall be in an amount to cover the entire cost, as estimated by the City Engineer, of installing all dedicated public improvements. The duration of the bond shall be until such time as the improvements are accepted by the city in accordance with division (H) below.

(C) *Escrow account.* The subdivider shall deposit cash, or other instrument readily convertible into cash at face value, either with the city or in escrow with a bank. The use of any instrument other than cash and, in the case of an escrow account, the bank with which the funds are to be deposited, shall be subject to the approval of the Council. The amount of the deposit shall be in an amount equal to 110%

of the estimated construction cost, as estimated by the City Engineer, of installing all dedicated public improvements. In the case of an escrow account, the subdivider shall file with the Council an agreement between the financial bank and himself or herself guaranteeing the following.

(1) The funds of the escrow account shall be held in trust until released by the Council and may not be used or pledged by the subdivider as security in any other matter during that period.

(2) In the case of a failure on the part of the subdivider to complete the improvements, the bank shall immediately make the funds in the account available to the city for use in the completion of those improvements.

(D) *Sequential approval of subdivision segments without guarantee.* Where a subdivision is to be developed in several sections, the Council may, at its discretion, waive the use of a guarantee on the initial sections; provided that, such sections may not be larger than 25 lots or 50% of the total number of lots in the subdivision, whichever is less. The Council shall grant final plat approval for each succeeding section's being contingent upon completion of all contracted improvements in each preceding section, and acceptance of those improvements in accordance with this section. Completion of improvements in the final section of the subdivision, which shall include at least 25 lots or 50% of the total number of lots in the subdivision, whichever is less, must be guaranteed through the use of one of the other methods detailed under this section.

(E) *Special assessment.* The city may, in accordance with adopted policies and guidelines, enter into an agreement with the subdivider to pay the cost of the required improvements through the use of a special assessment. The city shall make such arrangement for actual construction and interim financing as it deems appropriate; provided that, construction improvements in any section of the subdivision shall be completed in a time period not longer than would be allowed if another form of improvement guarantee were used.

(F) *Time limits.* Prior to the granting of final plat approval, the subdivider and the Council shall agree upon a deadline for the completion of all improvements. Such deadline shall not exceed two years from the date of final plat approval; however, the Council may extend that deadline for one additional year where the subdivider can present substantial reason for doing so and provides any additional performance surety made necessary due to inflation or increased cost of completing the improvements.

(G) *Installation of improvements.* Developers may select either method or combination of methods listed below to comply with the minimum improvement requirements:

(1) They may install the required improvements upon acceptance of plans and specifications being approved by city staff, the City Engineer and the Council.

(2) They may submit a petition requesting the city to construct street surfacing, sanitary sewer, storm drainage and water mains in the proposed subdivision by the district method. In that event, the city will prepare plans and specification for all such improvement districts and shall assess the cost of such improvements to the adjacent property, as provided by law. The size of any street improvement district, sanitary sewer district, storm drainage district or water main district shall be determined by the Council;

and the construction of any such district shall be subject to the city's ability to finance any of the improvements.

(H) *Failure to complete improvements.* If any portion of the required improvements shall fail to be accepted for dedication in compliance with this section within the allocated time period, either for reason of incompleteness or for reason of substandard construction, the Planning Commission and the Council shall take one of the following actions.

(1) Where improvements have been guaranteed under division (H)(2) below, preliminary plat approval shall be revoked.

(2) Where improvements have been guaranteed under division (H)(1) above, the Planning Commission and the Council shall declare whatever security has been pledged as a guarantee to be forfeited. Where the Planning Commission is not already in possession of the guarantee, it shall immediately take the actions necessary to obtain it. Upon receipt of these securities, the Planning Commission shall use them or receipts from their sale, if that is necessary, to finance the completion of contracted improvements on the rebuilding of such improvements to the proper specifications. Unused portions of these securities shall be returned to the subdivider, bonding company or crediting institution, as is appropriate.

(I) *Inspection and certification.*

(1) The City Engineer, or other knowledgeable officials as specified by the Council, shall regularly inspect for defects in the construction of required improvements. Upon completion of these improvements, the City Engineer shall file with the Council a statement either certifying that the improvements have been completed in the specific manner or listing the defects in those improvements.

(2) Upon completion of the improvements, the subdivider shall file with the Council a statement stipulating the following:

(a) All required improvements are complete;

(b) These improvements are in compliance with the minimum standards specified by the Council for their construction;

(c) The subdivider knows of no defects from any cause in those improvements; and

(d) These improvements are free and clear of any encumbrance or lien.

(3) If the City Engineer has certified that the contracted improvements are complete and free from defect, then upon receipt of the other statements and agreements detailed in division (I)(2) above, the city shall accept the dedication of those improvements. The city may, at its discretion, accept the dedication of any portion of the required improvements; provided that, all statements and agreements specified in division (I)(2) above have been received for that portion of the improvements.

(J) *Reduction of guarantees.* In those cases where improvement guarantees have been made under division (C) above, the amount of the guarantee may be reduced upon acceptance, in compliance with division (H) above of the dedication of a portion of the required improvements.

(K) *Release of guarantee.* Upon acceptance, in accordance with division (H) above of the dedication of the final portion of improvements, the city shall authorize the release of the remaining portion of the improvement guarantee.

(2002 Code, § 74-190) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.080 OPERATION AND MAINTENANCE.**

It is the intention of the city to provide no services other than planning and zoning administration to its area of planning and zoning jurisdiction beyond the corporate boundaries of the city. Therefore, it will be the obligation of the subdivider to present to the Planning Commission and the Council a precise approach for the provision of these services. This approach may include the formation of districts, homeowners' organizations or other methods to operate and provide for long-term maintenance and service. This approach shall be made binding on the subdivider in a form, agreement or contract in a manner which is accepted by the City Attorney.

(2002 Code, § 74-191) (Ord. 93-12, passed 9-28-1993)

### **VARIANCES**

#### **§ 151.095 GRANTING VARIANCES; HARDSHIP.**

Where the Council, upon the recommendation of the Planning Commission, finds that extraordinary non-self-inflicted hardships may result from strict compliance with this chapter, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this chapter.

(2002 Code, § 74-221) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.096 GRANTING VARIANCES; CONDITIONS.**

The Planning Commission may recommend and the Council may grant variances from the provisions of this chapter after determining that:

(A) There are unique circumstances or conditions affecting the property;

(B) The variance is necessary for the reasonable and acceptable development of the property in question; and

(C) The granting of the variance will not be detrimental to the public welfare or injurious to adjacent property.

(2002 Code, § 74-222) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.097 RECORDING PLAT.**

In no case shall the requirement of filing and recording a plat for subdivision be waived.

(2002 Code, § 74-223) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.098 PLANNED UNIT/CLUSTER DEVELOPMENTS.**

The Planning Commission and the Council may also grant reasonable variances to this chapter if the subdivider concurrently submits an application for and obtains approval of a planned unit development or cluster development. The subdivider shall indicate where the plans vary from the requirements of this chapter and shall present evidence to support such requests.

(2002 Code, § 74-224) (Ord. 93-12, passed 9-28-1993)

### ***SUBDIVISION ANNEXATIONS***

#### **§ 151.110 SUBDIVISION ANNEXATION GENERALLY.**

(A) *Subdivision annexation of adjoining or contiguous properties.* All subdivisions or additions laid out adjoining or contiguous to the corporate limits may be included within and become a part of the city for all purposes whatsoever, upon approval of and acceptance by resolution of the Council.

(B) *Subdivision annexation; petition for annexation.* Any subdivision in which there are lands dedicated to the city or any subdivision serviced by public utilities shall be annexed to the city. Before approval for the final plat is given, the Council shall receive a petition for annexation from the owners of the subdivided properties.

(C) *Subdivision annexation; adoption of plan by resolution.*

(1) The Council, desiring to annex land under the authority of this section, shall first adopt both a resolution stating that the city is considering the annexation of the land and a plan for extending city services to the land. The resolution shall state:

- (a) The time, date and location of the public hearing required in division (C)(3) below;
- (b) A description of the boundaries of the land proposed for annexation; and

(c) The plan of the city for extension of city services to the land proposed for annexation is available for inspection during regular business hours in the office of the City Clerk.

(2) The plan adopted by the Council shall contain sufficient detail to provide a reasonable person with a full and complete understanding of the intentions of the city for extending city services to the land proposed for annexation. The plan shall:

(a) State the estimated cost impact of providing the services to such land;

(b) State the method by which the city plans to finance the extension of services to the land and how any services already provided to the land will be maintained;

(c) Include a timetable for extending service to the land proposed for annexation; and

(d) Include a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the city, the proposed boundaries of the city after annexation and the general land use pattern in the land proposed for annexation.

(3) A public hearing on the proposed annexation shall be held within 60 days following the adoption of the resolution to allow the Council to receive testimony from interested persons. The Council may recess the hearing, for good cause, to time and date specified at the hearing.

(4) A copy of the resolution providing for the public hearing shall be published in the official newspaper in the city at least once not less than ten days preceding the date of the public hearing. A map drawn to scale delineating the land proposed for annexation shall be published with the resolution. A copy of the resolution providing for the public hearing shall be sent by first class mail, following its passage, to the school board of any school district in the land proposed for annexation.  
(2002 Code, § 74-261) (Ord. 93-12, passed 9-28-1993)

### ***DEDICATION OF LAND FOR PARKS, RECREATIONAL FACILITIES OR OPEN SPACES***

#### **§ 151.125 DEDICATION.**

(A) Every subdivider who subdivides land shall dedicate a portion of such land, or pay a fee, as set forth in this subchapter for the purpose of providing a park, recreational facilities and open spaces to serve future residents of such subdivision.

(B) Regardless of when said land was dedicated to the city under this subchapter, the Council, only through a super majority vote of six ayes, may at any time:

(1) Trade park fee land acquired pursuant to this subchapter for an equal area of land to be used for a public park within the same subdivision or within 1,000 feet of the subdivision; or

(2) Sell park fee land at current market value and use the sale funds within 24 months to purchase an equal amount of land within the same subdivision or within 1,000 feet of the subdivision or to purchase playground equipment or other public recreation enhancements in a public park within the same subdivision or within 1,000 feet of the same subdivision.

(2002 Code, § 74-291) (Ord. 93-12, passed 9-28-1993; Ord. 2013-8, passed 2-19-2013)

#### **§ 151.126 APPLICATION.**

Provisions of this subchapter shall apply to all subdivisions, except subdivisions for which the final subdivision plat has been accepted by the city on or before 1-9-1979.

(2002 Code, § 74-292) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.127 FEES.**

(A) The amount of land dedicated by a subdivider pursuant to this subchapter shall be 5% of the land area comprising the total land area in the proposed subdivision as reflected in the final subdivision plat. If a subdivider so desires, the subdivider may elect to pay a fee in lieu of land dedication; provided, however, the city may reject the subdivider's election and require land dedication. Where a subdivider is required to pay a fee in lieu of land dedication, the amount of such fee shall be based upon the fair market value of the amount of land comprising the total land area as indicated in the final subdivision plat. The amount of such fee shall be 8% of the fair market value of the total land area comprising the proposed subdivision as indicated in the final subdivision plat, except that the park fee for new non-annexed, non-contiguous subdivisions, which are outside of the city limits, in the extraterritorial jurisdiction, and not fully served by city services, shall be 1%.

(B) Fair market value shall be determined as of the time of filing the final plat in accordance with the following:

(1) The fair market value as determined by the Council based upon fair market value appraisals considering all of the uses and purposes for which it might reasonably be used;

(2) If the subdivider objects to the amount of valuation the subdivider may, at its expense, obtain an appraisal of the land based on the highest and the best use of the land by a qualified real estate appraiser approved by the city, which appraisal may be accepted by the Council if found reasonable; or

(3) The city and the subdivider may agree as to the fair market value.

(2002 Code, § 74-293) (Ord. 2008-22, passed 11-4-2008; Ord. 2010-9, passed 5-4-2010)

#### **§ 151.128 PROCEDURES.**

The procedure for determining whether the subdivider is to dedicate land or pay a fee shall be as follows.

(A) At all times, the Council shall have the power to require land dedication or a fee in lieu of land dedication, regardless of the subdivider's election to dedicate land or pay a fee. The Council shall not approve any preliminary plat or final plat which has not complied with this subchapter.

(B) At the time of the filing of the preliminary subdivision plat for approval, the subdivider of the property shall, as a part of such filing, indicate whether the subdivider desires to dedicate land for park and recreational purposes, or whether the subdivider desires to pay a fee in lieu thereof or provide private recreational areas if accepted by the Council. If the subdivider desires to dedicate land for this purpose, the subdivider shall designate the area thereof on the preliminary plat as submitted and all dedicated land shall be contiguous.

(C) At the time the preliminary plat is submitted for approval, the Council shall determine, as a part of such approval, whether to accept a dedication of land within the subdivision or a payment of fee in lieu thereof. The minimum size of a dedication of land for park purposes shall be five-tenths acre.

(D) Where a dedication of land is required, it shall be accomplished in accordance with the provisions of the land subdivision ordinance. Further, the subdivider shall convey the dedicated land to the city by deed, and the deed shall be delivered to the city upon approval of the final plat. The final plat will contain all dedicated park land and the name of the park.

(E) Where fees are required, such fees shall be paid and deposited with the city prior to the approval of the final plat, or in the alternative, the subdivider shall pay the fees within 12 months from the date of the approval of the final plat; provided that, the subdivider furnishes a written agreement to pay the fees and a personal note or total amount of fees, subject to the approval of the city, to the city prior to the approval of the final plat. The city shall not issue any building permits for construction on more than one-third of the lots in any subdivision until the fees are paid and shall not issue any building permits for construction on any lots after the expiration of the 12-month period until the fees are paid.

(F) At the time the final plat is approved, and land is dedicated, the Council shall designate the time when the development of the park and recreational facility shall be commenced.  
(2002 Code, § 74-294) (Ord. 93-12, passed 9-28-1993)

#### **§ 151.129 USE OF PROCEEDS.**

With the exception provided in § 151.125 of this chapter, land and fees received under this subchapter shall be used for the purpose of providing parks, recreational facilities and open spaces to serve the approximate area of the subdivision for which received and location of the land and amount of fees shall bear a reasonable relationship to the use of the parks, recreational facilities and open spaces by the future inhabitants of the subdivision.

(2002 Code, § 74-295) (Ord. 2013-8, passed 2-19-2013)

**§ 151.130 PARK FEE; EXCEPTIONS.**

The following subdivisions are excepted from the requirements of this subchapter:

(A) All lot split subdivisions as provided in Art. VII, § 705, of the 1979 subdivision regulations ordinance of the city, Ord. 947;

(B) All light and heavy industrial park subdivisions. An industrial park subdivision shall require all the real estate within the subdivision to be zoned industrial (I-1, I-2) pursuant to the zoning ordinances of the city; and

(C) All business and commercial districts. A business and commercial district subdivision shall require all the real estate within the subdivision to be zoned business and commercial (B-1, B-2, B-3) pursuant to the zoning ordinances of the city.

(D) All agricultural districts. An agricultural subdivision shall require all the real estate within the subdivision to be zoned agricultural (A-1, A-2) pursuant to the zoning ordinances of the city. (2002 Code, § 74-296)

**§ 151.131 CONVEYANCES PRIOR TO 8-28-1979; EXEMPT FROM SUBDIVISION REQUIREMENTS.**

All conveyances of real estate, either within the corporate limits of the city or outside the corporate limits of the city, but within the zoning jurisdiction of the city, where such conveyances have created parcels which have not received subdivision approval, and which conveyances have been recorded in the office of the Register of Deeds of the appropriate county prior to 8-28-1979, are exempted from subdivision approval requirements and are validated. (2002 Code, § 74-297)

**§ 151.999 PENALTY.**

(A) Any engineer, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section, and in § 10.99.

(B) Any person who fails to comply with the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor. Each day a violation exists or continues shall constitute a separate offense.

(C) Nothing contained in this section shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. (2002 Code, § 74-5) (Ord. 93-12, passed 9-28-1993)