

## CHAPTER 21

### SUBDIVISIONS

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## (a) DEFINITIONS

### **21-1-1. Generally.**

Any of the terms defined in subsequent sections of this Article has the meaning, when used in any Article of this Chapter, which is given the term in this Article.

### **21-1-2. Plat.**

The term “plat” means, depending upon the context, a map, drawing or chart showing a lot, tract or land, or subdivision of a lot or tract of land; or a proposed lot, tract of land, or subdivision of a lot or tract of land.

### **21-1-3. Street.**

The term “street” means a way, other than an alley, for vehicular traffic. The term shall include a street, avenue, boulevard, thoroughfare, highway, parkway, throughway, road and lane.

### **21-1-4. Street, arterial.**

The term “street, arterial” means a street used primarily for fast-moving or heavy vehicular traffic.

### **21-1-5. Street, collector.**

The term “street, collector” means a street carrying vehicular traffic from minor streets to an arterial street. The term shall include principal entrance streets of, and streets for the circulation of vehicular traffic within, a residential development.

### **21-1-6. Street, marginal access.**

The term “street, marginal access” means a minor street that is parallel with and adjacent to an arterial street.

### **21-1-7. Street, minor.**

The term “street, minor” means a street used primarily for access to abutting lots or tracts.

### **21-1-8. Subdivision.**

The term “subdivision” means, depending upon the context, a lot or tract of land that has been, or is proposed to be, divided into two (2) or more lots or tracts for the purpose of sale or building development; or the process of dividing a lot or tract of land in such manner and for such purpose. The term shall include a resubdivision of a lot or tract of land.

### **21-1-9. Other.**

Other words and phrases shall have the meaning ascribed to them in Article 22 of Chapter 25.

## (b) GENERAL PROVISIONS

### **21-1-10. Provisions; applicability.**

The provisions of this Article shall be applicable to all lots, tracts of land, and parts thereof within the corporate limits of the City and, except as hereinafter otherwise specified, to all lots, tracts of land, and parts thereof outside but within two (2) miles of the corporate limits of the City and not within the corporate limits of any other incorporated city or village. However, specifically providing that the provisions of this article will not apply to a Utility Sublot as defined in §25-24-2 of the Municipal Code.

**21-1-11. Same; conformance, required.**

No person, firm or corporation shall subdivide or lay out in blocks, lots, streets, or other areas that are proposed to be dedicated to the use of the public or of the owners or purchasers of abutting or adjacent lots, any lot, block or tract of land, or file for record a plan or plat thereof, except in conformance with the provisions of this Article. Nor shall any person, firm or corporation convey, transfer or sell, or agree or negotiate to convey, transfer or sell, any land by reference to or exhibition or use of, a plan or plat of a subdivision unless such plan or plat has been approved and recorded in the manner prescribed in this Article. The description of a lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of transferring or selling shall not exempt the transaction from the requirements of this Article. (Ord. 1987, 1973; Ord. 1116)

**21-1-12. Lots; street frontage required; street dedications.**

Every lot in a subdivision shall abut upon a street that has been dedicated to public use. Lots that abut upon an arterial street may be required by the City Council to front upon a marginal access street. No private streets shall be platted. The City Council may require the platting and dedication to public use of streets or alleys in the proposed subdivision to provide access to and from lands, whether platted or unplatted, adjoining or adjacent to the subdivision. (Ord. 1225, 1959; Ord. 1116)

**21-1-13. Existing streets; extension into subdivision.**

Existing arterial and collector streets outside the proposed subdivision that end at a boundary line of the subdivision shall be extended through the subdivision. (Ord. 1225, 1959; Ord. 1116)

**21-1-14. Streets; right-of-way width; dedications.**

The width of the right-of-way for streets and alleys in a subdivision, if shown on a master street plan adopted by the City Council, shall not be less than that shown on such plan; if not shown on such a plan, the width shall not be less than the following:

Street, Arterial	80 to 150 ft., as required by City Council
Street, Collector	66 ft.
Street, Marginal Access	50 ft.
Street, Minor	60 ft.
Street, Minor w/Parking Restrictions	52 ft.
Street, Minor, 1-way Travel, Parking on One Side	46 ft.
Alley	20 ft.

Provided, if the width of an existing arterial or collector street that is to be extended through the subdivision exceeds the foregoing minimum width, the width of the extended part shall be not less than the greater of the two (2) widths. If the proposed subdivision abuts upon an existing street, the right-of-way of which is not as wide as is required by the preceding provisions of this section, the owner shall dedicate to public use as a street an adjoining strip of land of such width that the street, thus widened, will comply with the requirements of such provisions. Provided, the City Council may approve a street of a lesser width if it finds that topographical or other physical conditions render impracticable the construction of a street of the width required by the preceding provisions of this section.(Ord. 3829, 2005)

**21-1-15. Same; intersection jogs, centerline curvature.**

No street jog at an intersection shall have a centerline offset of less than one hundred twenty-five

(125) feet. In the event there occurs a deflection angle of more than ten (10) degrees in the alignment of a street at a place other than an intersection, a curve of reasonably long radius shall be provided. On a street of sixty-six (66) or more feet in width, the radius of curvature of the centerline shall be not less than three hundred (300) feet; on other streets, such radius shall be not less than one hundred (100) feet. A tangent of not less than one hundred (100) feet in length shall be provided between reverse curves on arterial and collector streets. (Ord. 1225, 1959; Ord. 1116)

**21-1-16. Same; intersection, angle; curb line radius.**

Every intersection of streets shall be as nearly as practicable at an angle of ninety (90) degrees, and in no event less than sixty (60) degrees. The radius of the curb line at a street intersection shall be not less than twenty (20) feet in length, and, if the angle of the intersection is less than seventy-five (75) degrees, the Planning and Building Official may require a longer radius. Lot lines shall be rounded or otherwise set back sufficiently to enable sidewalks of normal width to be constructed. (Ord. 1225, 1959; Ord. 1116)

**21-1-17. Same; grades.**

Grades on arterial and collector streets shall not exceed seven (7) percent, or, on other streets, ten (10) percent. Changes in grade on arterial or collector streets shall be connected by vertical curves of a length in feet not less than fifteen (15) times the algebraic difference in rates of grade, and, on other streets, not less than one-half (1/2) of such length. (Ord. 1225, 1959; Ord. 1116)

**21-1-18. Same; terminal, closed; turnarounds.**

Minor terminal streets or courts designed to have one (1) end permanently closed shall not exceed four hundred (400) feet in length. The closed end shall have a turnaround the diameter of the right-of-way of which shall be not less than one hundred (100) feet and the outside diameter of the roadway of which shall be not less than eighty (80) feet. Where the closed end of a proposed street will abut upon unplatted land, such end shall have a temporary turnaround the outside diameter of the roadway of which shall be not less than eighty (80) feet. (Ord. 1225, 1959; Ord. 1116)

**21-1-19. Same; naming.**

A proposed street that is substantially in alignment with an existing named street shall bear the name of the existing street. With such exception, no street shall bear the name of any existing street that has been dedicated to public use; and this prohibition shall apply to the substitution of the word "street," "avenue," "boulevard," "drive," "place," or "court," or of a like word, for a word contained in the name of an existing street. (Ord. 1225, 1959; Ord. 1116)

**21-1-20. Alleys; location.**

An alley shall be provided at the rear of every lot used or proposed to be used for business purposes. Provided, however, a subdivision may be approved without an alley at the rear of a lot, if the following conditions are met:

- (1) The applicant has provided and will maintain access sufficient for emergency vehicles and City vehicles needed for trash, sewer, water or other City services, as well as access for delivery vehicles; or
- (2) The applicant has provided and will maintain an access easement(s) sufficient for the City to use for emergency vehicles, other city vehicles for trash, sewer or water.

If the Owner agrees to provide access under subparagraph (1) or subparagraph (2), in either situation, the City, through its Planning and Development Department, Public Works Department and Fire Department ("Departments), will conduct a review of the proposed subdivision to determine if

sufficient access or easements are present, If the Departments make such a determination they will recommend the Mayor or Council President sign a written waiver on behalf of the City for the required alley and its location. (Ord. 1225, 1959; Ord. 1116; Ord. 4175, 2016)

**21-1-21. Streets, alleys; conformance to Future Street Extensions map.**

As to all matters not specified by ordinance, all streets and alleys shall conform to such Future Street Extensions map in the City's Comprehensive Plan as the City Council may adopt." (Ord. 1225, 1959; Ord. 1116; Ord. 4145)

**21-1-22. Blocks; dimensions; dedications; required when.**

Blocks shall be not less than six hundred (600) feet nor more than one thousand three hundred and twenty (1,320) feet in length, unless, in the judgment of the City Council, a lesser or greater length is necessary to secure efficient use of land or desired street patterns. They shall be of sufficient width to contain two (2) tiers of lots of minimum depth, unless the lots will front on arterial or collector streets, or unless topographical conditions or the size of structures proposed to be erected render impracticable the creation of two (2) tiers of lots, in which event the City Council may approve a single tier of lots of minimum depth. If a block exceeds six hundred (600) feet in length, and the City Council shall so direct, (1) one or more strips of land, which shall be not less than ten (10) feet in width and shall extend across the block at such location or locations as the City Council shall designate, shall be dedicated to public use for crosswalks, and (2) one or more easements, which shall be not less than twenty (20) feet in width, and shall extend across the block at such location or locations as the City Council shall designate, shall be created for public utility lines. (Ord. 1225, 1959; Ord. 1116)

**21-1-23. Lots; street frontage; lot lines.**

Each lot shall front upon a public street. Inside lot lines, in so far as is practicable, shall be perpendicular to a straight street line, or radial to a curved street line. (Ord. 1225, 1959; Ord. 1116)

**21-1-24. Same; residential; dimensions; sewage; parking.**

Residential lots served by a public sewer shall be not less fifty-five (55) feet in width at the building line, ninety (90) feet in depth, and five thousand five hundred (5,500) square feet in area. Residential lots not served by a public sewer shall be not less than one hundred (100) feet in width at the building setback line, one hundred fifty (150) feet in depth, and, in any event, twenty thousand (20,000) square feet in area; all types of lots not served by public sewer shall contain an area adequate for an approved type of septic tank and disposal field. Lots proposed to be used for business, commercial or industrial purposes shall be of a size and dimensions that will permit the development of off-street service and parking facilities appropriate to the use contemplated. Provided, the dimensions and area of a lot in no event shall be less than are necessary in order to comply with the requirements of Chapter 25 of this ordinance that are applicable to the lot.(Ord. 3829, 2005)

**21-1-25. Same; utility easements.**

An easement for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains, and other utility lines shall be established across the rear part of lots if an alley is not provided and such an easement, in the judgment of the City Council, is necessary or desirable. If deemed necessary or desirable by the City Council, such an easement shall be established along side lot lines or across other parts of a lot. Such an easement shall be twenty (20) feet in width, unless both a sanitary sewer and water line are present, in which case the easement shall be thirty (30) feet in width. The City Council may authorize or require an easement of a lesser or greater width. (Ord. 1225, 1959; Ord. 1116; Ord. 3861, 2005)

**21-1-26. Zoning requirements.**

The proposed subdivision shall comply in all respects with the requirements in Chapter 25 of this ordinance that are applicable to the area. (Ord. 1225, 1959; Ord. 1116)

**21-1-27. Improvements; requirements; general.**

Construction of all improvements required by this Article shall apply in every subdivision hereafter platted that is within the corporate limits of the City or is proposed to be annexed into the corporate limits of the City, and every existing street or alley of the City that abuts such subdivision. However, some, or all, of the improvements required by this Article may not be required in a subdivision hereafter platted if the applied for subdivision is located outside the City's corporate limits but within two (2) miles thereof and is within a designated area as set forth in the City's Comprehensive Plan. The City's Comprehensive Plan will designate areas outside of the corporate limits of the City where applied for subdivisions may not be required to have some or all of the improvements required by this Article.

In any event, the improvements referred in this Article must be constructed in the subdivision in accordance with the requirements in this Article.

All improvements required by this Article shall be constructed by the person proposing the subdivision at his or her own expense. Construction shall not be commenced until after plans and specifications, and contracts, if any, therefor have been approved by the Planning and Building Official, and shall be completed in accordance with the plans, specifications and contracts. Provided further, anything in the foregoing provisions of this section to the contrary notwithstanding, the requirements in this section are subject to the exceptions set forth in the City's Comprehensive Plan, or stated in sections 21-1-28 to 21-1-30, inclusive, and section 21-1-40.

The applicant shall submit all construction documents representing "As-Constructed" conditions. Each drawing shall be stamped "As-Constructed" and shall be dated. Submit one (1) original mylar and two (2) copies of the black and white or blue and white prints. In addition, drawings shall be on 3½ inch diskette or CD ROM in AutoCAD format, latest version." (Ord. 3645, 2000; Ord. 4145)

**21-1-28. Same; construction by City; special assessments; release of security.**

(1) Prior to approval by the City Council of any final plat of a subdivision in which some or all of the improvements required in this Article have not been constructed, the owner of the property in the proposed subdivision shall enter into a written agreement with the City, to be approved by the City Council, as herein provided, and shall deposit with the City Clerk an amount equal to the fee of the Register of Deeds for recording the agreement. The agreement shall provide in effect that the owner of the property:

- (a) agrees to construct such improvements within the time specified in the agreement,
- (b) consents (with respect to the improvements that are of a type which the City under statute has power to construct, and to pay the cost, or part of the cost, of which the City has power to levy special assessments against property to the extent of special benefit) that if such construction is not completed by the owner within the time specified, the City may, in accordance with statute, construct such improvements and levy such special assessments,
- (c) waives, with respect to the construction and special assessments referred to in subdivision (2) of this section, the provision of any statute to the effect that a protest filed with the City Council or City Clerk by the owner or owners of property in a proposed improvement district will bar the formation of the district by the City Council, and

- (d) agrees that the agreement shall bind as well the personal representatives, heirs, devisees, legatees, successors and assigns of the owner.
- (2) The agreement shall bear an acknowledgment by the owner, be in a form recordable in the office of the Register of Deeds, and otherwise be in such form as the Planning and Building Official shall prescribe. Approval of the agreement by the City Council, if granted, shall be specifically shown in the minutes of the meeting of the City Council. Upon approval of the agreement and the final Plat by the City Council, the City Clerk shall cause the agreement to be filed for record with the Register of Deeds, such filing to be made either prior to or forthwith after the filing of the plat with the Register of Deeds.
- (3) The City Manager or the Finance Director is authorized to release all or part of any security given by the developer to secure the developer's financial obligation to the City when one of the following events has occurred:
  - (a) the developer's financial obligation to the City has been discharged, or
  - (b) the City Manager or Finance Director finds that pursuant to the terms of the agreement the developer is entitled to a release or partial release of the security, or
  - (c) the City Manager or Finance Director finds that after such a release the City will remain adequately secured for the balance of the developer's financial obligation to the City.

**21-1-29. Same; street, alley intersections.**

The cost of construction of such street or alley intersections, or parts thereof, as the City shall construct within the City shall be paid by the City. (Ord. 2100, 1975; Ord. 1116)

**21-1-30 Same; water, sewer mains.**

Part of the cost of construction of a water main may be paid by the City in the circumstances provided in Chapter 22. The cost of construction of water mains or sewer mains that is to be paid initially by the City, whether or not specially assessed to benefitted property, shall be paid only in warrants as provided in section 16-671, R.R.S. 1943, unless the City Council otherwise shall direct. (Ord. 2100, 1975; Ord. 1116)

**21-1-31. Block corners, street intersections and curves; setting of rods.**

An iron rod not less than three-fourths (3/4) inch in diameter and thirty-six (36) inches in length shall be set at all block corners, all points at which street lines intersect the outer boundaries of the subdivision, and all angle points and points of curve in each street. All other lot corners shall be marked with an iron rod not less than five-eighths (5/8) inch in diameter and eighteen (18) inches in length. The tops of all iron rods shall be set flush with the finished grade. (Ord. 1268, 1960; Ord. 1116)

**21-1-32. Streets and alleys; provisions; conformance, required.**

The provisions of this Article shall apply to all streets and alleys, and parts thereof, within the subdivision, whether completed at the time of the platting of the subdivision, or constructed thereafter. If an existing street, or a part thereof, lies outside of the subdivision but the street adjoins the subdivision, the part of the street between the centerline and the right-of-way line that constitutes the boundary line of, or lies within, the subdivision shall also be made to conform to such requirements. (Ord. 1225, 1959; Ord. 1116)



**21-1-33. Same; grading; removal of obstructions; suitable fill.**

The right-of-way of every street and alley shall be graded to its full width. Prior to the commencement of grading, the entire right-of-way area shall be cleared of all stumps, roots, brush and other objectionable materials and all trees not intended for preservation. Stumps, boulders and other obstructions shall be removed to a depth of not less than two (2) feet below the subgrade. Rock other than boulders, when encountered, shall be scarified to a depth of not less than twelve (12) inches below the subgrade. Suitable material from street or alley cuts may be used in the construction of fills, approaches, or other places as needed. Excess materials (as, for example, soft clay and organic materials) shall be removed from the site. The fill shall be spread in layers not to exceed twelve (12) inches in depth when loose, and shall be compacted by a sheep's foot or rubber tired roller; provided, utility trenches and other locations not accessible to a roller shall be mechanically tamped. Where water is used to assist compaction, the water content shall not exceed optimum moisture. (Ord. 1225, 1959; Ord. 1116)

**21-1-34. Same; completion of subgrade; improvement; paving stops.**

Upon completion of the subgrade, the roadbed of every street and alley shall be improved, at a minimum, with the following material:

Street, Arterial: A subgrade investigation and pavement design report shall be required to determine an adequate pavement cross section. The cross-section shall consist of the recommended pavement cross-section or a minimum cross-section consisting of 5" Portland Cement Concrete (PCC) or, alternatively, a 4-inch stabilized base course with a 4-inch asphaltic concrete wear surface (placed in maximum 2-inch lifts).

Street, Collector: A subgrade investigation and pavement design report shall be required to determine an adequate pavement cross section. The cross-section shall consist of the recommended pavement cross-section or a minimum cross-section consisting of 5" Portland Cement Concrete (PCC) or, alternatively, a 4-inch stabilized base course with a 4-inch asphaltic concrete wear surface (placed in maximum 2-inch lifts).

Street, Other: A subgrade investigation and pavement design report shall be required to determine an adequate pavement cross section. The cross-section shall consist of the recommended pavement cross-section or a minimum cross-section consisting of 5" Portland Cement Concrete (PCC) or, alternatively, a 4-inch stabilized base course with a 2-inch asphaltic concrete wear surface.

Provided, concrete paving stops, which shall be not less than five (5) inches in thickness and one hundred (100) feet in length, shall be constructed at all approaches of asphaltic concrete streets to intersections with arterial or collector streets. Concrete curb and gutter also shall be constructed on all streets referred to in this section.

Provided further, that the City Planner may waive the requirements of this section for areas outside of the Corporate City limits, but any waiver by the City Planner must be limited to those areas designated in the City's Comprehensive Plan as areas where the improvements described this section are not required. (Ord. 3858, 2005; Ord. 4145)

**21-1-35. Same; minimum width, improvement.**

Every street and alley shall be improved as provided in section 21-1-34 to a minimum width. Minimum width, to be measured from gutter flowline to gutter flowline, shall be as follows:

Street, Arterial	As required by City Council
Street, Collector	43 ft.
Street, Minor	37 ft.
Street, Minor w/Parking Restrictions	30 ft.
Street, Minor, One-way Travel, Parking One Side	22 ft.
Street, Minor, One-way Travel, Parking One Side, Center Median	20 ft.
Street, Marginal Access	33 ft.

(Ord. 3829, 2005)

**21-1-36. Sidewalks; required; construction standards.**

Sidewalks conforming to the specifications for sidewalks set forth in Article 3 of Chapter 20 of this ordinance shall be constructed within the right-of-way of all streets. (Ord. 1225, 1959; Ord. 1116)

**21-1-37. Water supply system; required; standards.**

A water supply system, including mains, valves, hydrants and other necessary appurtenances, shall be constructed. The types and size of water mains, location and types of valves and hydrants, depth of soil cover over pipes and all other construction features shall conform to the standards and specifications as contained in the following codes published by American Water Works Association (AWWA) and editions approved by AWWA on the dates shown:

- (1) AWWA Standard for Polyvinyl Chloride (PVC) Pressure Pipe, 4 in. through 12 in., for Water Distribution; January 29, 1989.
- (2) American National Standard for Ductile-Iron and Gray-Iron Fittings, 3 in. through 48 in., for Water and Other Liquids; June 18, 1987.
- (3) American National Standard for Cement-Mortar Lining For Ductile-Iron Pipe and Fittings for Water; January 28, 1985.
- (4) American National Standard for Ductile-Iron Pipe, Centrifugally Cast in Metal Molds or Sand-Lined Molds, for Water or Other Liquids; June 22, 1986.
- (5) American National Standard for Ductile-Iron Compact Fittings, 3 in. through 16 in., for Water and Other Liquids; June 19, 1988.
- (6) AWWA Standard for Direct-Reading Remote-Registration Systems for Cold-Water Meters; June 22, 1986.
- (7) AWWA Standard for Cold-Water Meters— Compound Type; June 22, 1986.
- (8) AWWA Standard for Cold-Water Meters— Turbine Type; June 19, 1988.
- (9) AWWA Standard for Resilient-Seated Gate Valves for Water and Sewerage Systems; January 25, 1987.
- (10) AWWA Standard for Rubber-Seated Butterfly Valves; June 18, 1987.
- (11) AWWA Standard for Dry-Barrel Fire Hydrants; January 27, 1985.
- (12) American National Standard for Rubber-Gasket Joints for Ductile-Iron and Gray-Iron Pressure Pipe and Fittings; June 23, 1985.
- (13) AWWA Standard for Disinfecting Water Mains; January 26, 1986. (Ord. 3153, 1990)

**21-1-38. Sanitary sewer system; required; specifications.**

A sanitary sewer system, adequate to serve each of the lots in the subdivision, shall be constructed

and connected to the sanitary sewer system of the City. The sewer mains and laterals shall comply as to type and size with such requirements, conformable to good engineering practice, as the Planning and Building Official shall prescribe; provided, sewer mains and laterals in no event shall be less than eight (8) inches in diameter (inside measurement). (Ord. 1225, 1959; Ord. 1116)

**21-1-39. Drainage system; required; standards.**

- (1) An adequate system to control the adverse impacts associated with increased stormwater runoff shall be constructed.
- (2) The minimum stormwater controls shall require that all developments provide management measures necessary to maintain the post-developed peak discharge at a level that is equal to or less than the pre-developed peak discharge for the design storm. The (m) year storm is defined as a storm event which, over a long period of time, will be equaled or exceeded on the average of once every (m) years.
- (3) Site specific facilities shall be designed to restrict storm water discharge to that generated from the pre-developed site during a 5-year storm. The facilities shall be designed to limit the  $Q_5$  discharge up through the 10-year storm event. The facility shall be designed to prevent uncontrolled overflow for storms having a frequency of 25 years or less.
- (4) Regional facilities shall be designed to allow a maximum controlled discharge of  $Q_5$  pre-development through the 25-year storm. The minimum uncontrolled overflow should be based on the 100-year storm.
- (5) Site grading and drainage for all sites shall be designed to prevent stormwater from outside of the design area from entering the area.
- (6) All conveyance systems for proposed projects shall be analyzed, designed and constructed for existing tributary off-site runoff and developed on-site runoff from the proposed project. Conveyance systems in residential areas shall be designed to carry a 2-year intensity storm. A 10-year intensity storm shall be used to check the hydraulic grade of the pipe system. The hydraulic grade line shall be limited to 5 inches of water in the gutter.
- (7) In commercial and industrial areas, the design storm intensity shall be a storm of 5-year frequency, the check intensity for hydraulic grade calculations shall be a 10-year frequency with the hydraulic grade limited to the gutter elevation.(Ord. 3669, 2001)

**21-1-40. Planned unit development; waiver; modification.**

Anything in the preceding sections of this Article to the contrary notwithstanding, if a proposed subdivision comprises, or is wholly comprised within, an area with respect to which the Planning Commission shall have issued a special permit authorizing a planned unit development as provided in Article 9 of Chapter 25, the City Council may, with respect to such subdivision, or a part thereof, waive or modify the requirements in this Article concerning the design of streets, street right-of-way width, width of construction of streets, length of streets, length or width of blocks, design of cul-de-sacs, necessity or location of curb, gutter and sidewalls, type of construction of streets and sidewalks, utilities design and public facilities design. (Ord. 2489, 1979; Ord. 1116)

**21-1-41. Additional regulations; Council authority; conformance required.**

The City Council, prior to approving a proposed subdivision, may impose requirements set forth in the foregoing sections of this Article, and compliance with such additional requirements shall also be necessary to warrant approval of the subdivision. Provided, notwithstanding the fact that a

proposed subdivision may comply with the requirements set forth in the foregoing sections of this Article, the City Council may refuse to approve it if, in the judgment of the City Council, platting and development of the site for the purposes or in the manner proposed, or for other reasons, would not be in the public interest. (Ord. 1225, 1959; Ord. 1116)

**21-1-42. Proposed subdivisions; plat; required; exceptions.**

A proposed subdivision of a lot, block or other tract of land shall not be approved by the City Council unless and until a plat thereof shall have been submitted to the Planning and Building Official and presented to the Planning Commission and the City Council, and approved by the City Council, as provided in this Article, and approval of the plat shall constitute approval of the subdivision; provided, a plat effecting a further subdivision of existing lots and blocks may be approved by the Planning and Building Official as provided in sections 21-1-65, 21-1-66 and 21-1-67, whenever all required public improvements have been installed, no new dedication of public rights-of-way or easements is involved, and such subdivision complies with all requirements in Chapter 25 concerning minimum areas and dimensions of such lots and blocks. Provided, further, a proposed subdivision may be approved by the City Council without a plat in circumstances described in this Article. (Ord. 2812, 1983)

**21-1-43. Proposed subdivisions, approval without plat; public way, establishment, change.**

A proposed subdivision may be approved without a plat thereof if the subdivision is for the purpose solely of establishing or changing the boundary of a public way. (Ord. 2359, 1977; Ord. 1116)

**21-1-44. Same; lot boundary changes.**

A proposed subdivision may be approved without a plat thereof if the subdivision consists of a change of boundary between two adjoining lots on one or both of which are situated a building or buildings which do not comply with minimum setback requirements under Article 3, as amended, of Chapter 25, where the purpose of the change is to effect, or more nearly effect, compliance with such requirements; provided, a change of boundary between two (2) adjoining lots for the purpose of effecting, or more nearly effecting, compliance with setback requirements shall not be approved unless the City Council shall find that the owner of the lot at the time when construction of the building was commenced did not have knowledge of the noncompliance, or of facts that should have put him or her on inquiry in regard thereto. (Ord. 2359, 1977; Ord. 1116)

**21-1-45. Same; adjoining platted lots.**

A proposed subdivision may be approved without a plat thereof if the subdivision consists of a subdivision of three adjoining platted lots into two adjoining unplatted lots. (Ord. 2359, 1977; Ord. 1116)

**21-1-46. Same; lawful conveyance for completed construction.**

A proposed subdivision may be approved without a plat thereof if the subdivision is for the purpose of making lawful the conveyance of a part of a lot, block or tract of land which would otherwise be or was accomplished in violation of section 21-1-42, either in the original form of such section or as amended from time to time, where a building has been constructed on such part of a lot, block or tract of land in accordance with a building permit issued by the Planning and Building Official, and where the City Council finds that the owner of the lot, at the time of application for the building

permit, fully disclosed all of the pertinent facts to the Planning and Building Official. (Ord. 2581, 1980; Ord. 1116)

**21-1-47. Same; lawful conveyance due to construction problems.**

A proposed subdivision may be approved without a plat thereof if the subdivision is for the purpose of making lawful the conveyance of a part of lot, block or tract of land which would otherwise be or was accomplished in violation of section 21-1-42, either in the original form of such section or as amended from time to time, where the acquisition or conveyance of such part of a lot, block or tract of land was made necessary by problems arising in the construction of a building on adjoining property and where the City Council finds that the problems arising in the construction of the building could not reasonably have been anticipated before commencement of construction. (Ord. 2359, 1977; Ord. 1116)

**21-1-48. Same; prior existing tracts.**

A proposed subdivision may be approved without a plat thereof if the subdivision is of a lot into two or more tracts on each of which there has existed since June 10, 1974 one (1) or more residence buildings. Provided, approval of such subdivision shall not entitle the owners or occupants of the tracts thus created to occupy or use the tracts if the occupancy or use would be in violation of requirements of Chapter 25 as amended, unless such persons shall first obtain from the Planning Commission a special permit as provided in Chapter 25, Article 3. (Ord. 2419, 1978; Ord. 1116)

**21-1-49. Purchase of unplatted property; platting requirements.**

If the vendee under a written contract to purchase unplatted property from the owner of record proposes to plat some or all of the property without the signature upon the plat of the vendor, the City Council nevertheless may approve a subdivision which would be effected by a deed of the property which the vendee proposes to plat from the vendor to the vendee if all the following conditions are met:

- (1) if prior to such approval the City Council has approved a preliminary plat, signed and acknowledged by the vendee, of all of the property which is the subject of the contract,
- (2) if, prior to or concurrently with the City Council's approval of the subdivision that will be effected by the deed, the City Council approves a final plat, signed and acknowledged by the vendee, covering all the property, and only the property, that is the subject of the deed,
- (3) prior to or concurrently with the approval of such final plat by the City Council, a warranty deed from the owner of record to the vendee of all and only the property covered by the final plat (together with the recording fee) is delivered to the City Clerk for recording with the Register of Deeds. The City Clerk shall cause the deed so delivered to be filed with the Register of Deeds for recording prior to filing the plat for recording. (Ord. 2359, 1977; Ord. 1116)

**21-1-50. Subdivision application; application to City Council; contents.**

Every application for approval of a subdivision by the City Council shall be in writing, and shall identify the tract of land proposed to be subdivided, describe the proposed subdivision and the purpose thereof, and state whether the subdivision is proposed to be effected by a plat or by a deed without a plat. The application shall be signed by the owner of record of the tract proposed to be subdivided and, if the tract has been sold under a contract providing for a deed which has not been recorded, shall also be signed by the purchaser under the contract. The application shall be

accompanied by proof of ownership stating the record ownership of the tract proposed to be subdivided. The proof of ownership shall be dated not more than ten (10) days prior to the date the application is delivered to the City. The proof of ownership shall be in one of the following forms or a combination of them:

- (1) A written opinion of an attorney at law licensed to practice under the laws of the State of Nebraska
- (2) A photocopy of a title insurance policy or, alternatively, a commitment for title insurance issued in either case by a title insurance company authorized to do business in the State of Nebraska
- (3) A certificate of a registered abstractor, duly authorized as such according to the laws of the State of Nebraska. (Ord. 3260, 1992)

**21-1-51. Preliminary plat; submission; fees.**

If a tract of land proposed to be subdivided is to be platted, a preliminary plat of the proposed subdivision, in two (2) copies, shall be submitted to the City Planner not less than one month prior to the meeting of the Planning Commission at which the subdivision proposal is first to be presented. Any subsequent presentation to the City Council is not subject to this one-month review period. At the time of submitting the preliminary plat to the Official, the applicant shall pay to the Official a fee in the amount provided in Chapter 6, Article 6. If the tract of land is not to be platted, the applicant shall, at the time of submitting the application to the Official, pay to the Official a fee in the amount provided in Chapter 6, Article 6. (Ord. 3827, 2005)

**21-1-52. Preliminary plat; contents.**

The preliminary plat shall be drawn to a scale of not less than one (1) inch to the one hundred (100) feet. It shall contain the following drawings and information:

- (1) legal description, acreage and name of the proposed subdivision,
- (2) name and address of the owner, name of the person who prepared the plat, and date,
- (3) north point and graphic scale,
- (4) contours at five (5) foot intervals,
- (5) sketch map showing relationship of the subdivision site to the surrounding area,
- (6) names of adjoining subdivisions and streets,
- (7) location of existing lot lines, streets, public utility easements, water mains, sewers, drain pipes, culverts, water courses, bridges, railroads and buildings in the proposed subdivision,
- (8) layout of proposed blocks and lots, including the dimensions of each, the block and lot numbers in numerical order, and building setback lines,
- (9) locations, widths, other dimensions and names of proposed streets, alleys, roads, easements, parks and other open spaces or reserved areas,
- (10) grades of proposed streets and alleys, which shall refer to and include a permanent bench mark extended from the Base Survey Bench Mark, and
- (11) the present zoning classification of the land to be subdivided and of the adjoining land.

The preliminary plat of a subdivision within, or proposed to be included within, the City shall show, in addition:

- (a) a cross-section of the proposed streets showing width of roadway, location and type of curb and gutter, paving, where required, and sidewalks to be installed, and
- (b) the layout and grades of proposed water mains, sewers, drains, power lines, and other utilities. The arrangement and design of the features shown in the preliminary plat shall comply with

the requirements in the preceding sections of this Article.

In addition to submitting the drawing, the applicant shall submit the plat containing the information described above on a 3½ inch diskette or CD ROM in AutoCAD drawing format, latest version.

Information relating the plat datum to state plane coordinates shall be provided on the plat so that the plat can be included in the City of Scottsbluff and County of Scotts Bluff GIS data. Each entity shall be responsible for adding the data to the GIS. For plats less than 20 acres, the Point of Beginning of the plat shall be referenced to State Plane Coordinates. The datum shall be NAD 83 (in feet), or the current datum adopted by the City at the time of plat submittal. Information on existing monuments that have established state plane coordinates can be obtained from the Scotts Bluff County Surveyor. The reference can be in the form of a note on the plat that includes a description of the reference point, the coordinates in feet, and the average scale factor. For plats larger than 20 acres the Point of Beginning and one additional point at the opposite corner of the Point of Beginning shall be referenced to State Plane Coordinates. The reference can be in the form of a note on the plat that includes a description of the reference points, coordinates in feet, and the average scale factor. The applicant shall also submit one paper copy of the preliminary plat on a sheet not to exceed 11" x 17". (Ord. 3693, 2001)

**21-1-53. Same; elevations.**

The preliminary plat of a subdivision comprising more than fifty (50) lots or more than five (5) acres, whichever is lesser in area, shall show, in addition to the information prescribed in section 21-1-52, current elevations, fill elevations and elevations to which floors of buildings developed on the property must be constructed. (Ord. 2499, 1979; Ord. 1116)

**21-1-54. Application and preliminary plat; examination; hearing; submitted to Council.**

Upon compliance of this Article, the Planning and Building Official shall examine the application and the preliminary plat, if any, and examine or cause to be examined by the City Attorney the proof of ownership of the tract proposed to be subdivided. Thereafter, the application and the plat, if any, together with the recommendation of the Planning and Building Official, shall be submitted to the Planning Commission. Subsequent to a hearing thereon by the Planning Commission as provided by law, the application, the plat, if any, the recommendation of the Planning and Building Official, and the recommendation of the Planning Commission shall be submitted to the City Council. (Ord. 3260, 1992)

**21-1-55. Same; approval or disapproval.**

After receiving the report of the Planning and Building Official, the City Council shall approve, with or without modifications, or disapprove the preliminary plat. Provided, approval by the City Council of a preliminary plat shall not constitute final approval of a plat; provided further, approval by the City Council of a preliminary plat, shall lapse and be of no further effect unless a final plat, and such other plans as the City Council may require, shall be submitted and approved by the City Council as hereinafter set forth. Upon approval, with or without modifications, or disapproval of a preliminary plat by the City Council, one copy thereof bearing or accompanied by notations by the Planning and Building Official concerning the action taken by the City Council shall be returned to the person who submitted the plat. (Ord. 1225, 1959; Ord. 1116)

**21-1-56. Final plat.**

All final plats shall conform to the requirements of this Article. (Ord. 3156, 1990)

**21-1-57. Same; submission.**

A final plat, in two (2) copies, complying with the requirements set forth in this Article, together with any other plans that may be required by the City Council, shall be submitted to the City Planner not less than one month prior to the meeting of the Planning Commission at which the final plat proposed is to be presented for approval. Any subsequent presentation to the City Council is not subject to this one-month review period. In no event shall the final plat be submitted to the City Planner more than two (2) years after approval of the preliminary plat by the City Council, unless application for an extension of time for submitting the final plat is filed with the City Planner within such two (2) year period and is granted by the City Council.(Ord. 3891, 2005)

**21-1-58. Same; form.**

The final plat shall be drawn in black ink on mylar; provided, one copy may be in the form of prints in black and white or blue and white. They shall be drawn to a scale on a sheet not to exceed 11" x 17" in size. When more than one (1) sheet is needed, the sheets shall be lettered in alphabetical order, and there shall be attached to them an index sheet of the same size showing in key form the numbering of the sheets. (Ord. 3693, 2001)

**21-1-59. Same; conformance to preliminary plat; contents.**

The final plat shall conform substantially to the preliminary plat as approved, or as approved with modifications, by the City Council; provided, if the person submitting the final plat shall desire to develop less than the whole of the area platted in the preliminary plat, and to record a plat of only the part to be developed, the final plat may include only such area if the plat otherwise conforms to all of the requirements in this Article. The final plat shall contain the following:

- (1) legal description, acreage and name of the proposed subdivision,
- (2) name and address of the owner, name of the person who prepared the plat, and date,
- (3) north point and graphic scale,
- (4) names of adjoining subdivisions and streets,
- (5) location of existing lot lines, streets and public utility easements,
- (6) layout of proposed blocks and lots, including the dimensions of each and the block and lot numbers in numerical order,
- (7) locations, widths, other dimensions, and names of proposed streets, alleys, roads, easements, parks and other open spaces or reserved areas,
- (8) notes stating purposes and limitations of any areas dedicated to public use,
- (9) data sufficient to permit ready determination and reproduction at the site of the location, and length of every street, lot, block or other boundary line, whether curved or straight, including, in the case of a curved street or curved lot line that does not constitute the boundary of a curved street, the radius, central angle and tangent distance for the centerline of such curved street or curved lot line,
- (10) all dimensions to the nearest one-hundredth (100) of a foot, and angles to the nearest minute,
- (11) locations and descriptions of monuments,
- (12) a certificate of the accuracy of the survey, plat and placement of monuments signed



by the registered surveyor by whom the work was done.

(13) a certificate, signed and acknowledged by the person by whom the plat is submitted, to the effect that he or she is the owner of the land shown in the plat, that he or she plats the same and dedicates to the public use the areas shown in the plat as being dedicated to such use, and, if the land is being brought within the corporate limits of the City, that the land is made an addition to the City, and

(14) a form of certificate, to be signed by the Mayor, showing approval of the plat by the Mayor and City Council. (Ord. 1225, 1959; Ord. 1116)

**21-1-60. Same; conformance determination.**

The Planning and Building Official shall determine whether a final plat which has been submitted for approval by the City Council complies with the requirements of this Article, and advise the Mayor and City Council in regard thereto. (Ord. 2812, 1983)

**21-1-61. Same; approval; filing of original.**

If the final plat is approved by the Mayor and City Council, such approval shall be indicated on the original (linen) copy and two (2) of the black and white or blue and white prints by the signature of the Mayor. Approval of the final plat by the Mayor and City Council:

(1) shall constitute acceptance of the dedication to public use of streets, alleys and other public ways and places shown in the plat; and

(2) if the subdivision is within, or the plat contains a declaration by the signers to the effect that the subdivision is being annexed to the corporate limits of the City, shall constitute acceptance of the subdivision as an addition to the City.

The original (linen) copy and one (1) copy of the print shall be delivered to the person by whom they were submitted, and such person shall cause the original (linen) copy and one (1) copy to be filed for record in the office of the Register of Deeds of Scotts Bluff County, Nebraska, within thirty (30) days after approval of the plat by the Mayor and City Council; if the plat shall not be so filed, the City Council, by resolution, may declare its previous acceptance of the plat to be void and of no force and effect and, upon the adoption of such a resolution and the filing of a copy thereof in recordable form by the City Clerk in the office of the Register of Deeds prior to the filing of the plat in such office, the previous acceptance of the plat by the Mayor and City Council and the plat itself shall be void and of no force and effect. Provided, in the case of any plat approved after January 3, 1978, there shall be returned to the person by whom the copies were submitted only one (1) copy, namely, one (1) of the signed prints, and the City Clerk shall cause to be filed for record in the office of the Register of Deeds the original (linen) copy of such plat. The person by whom the plat was submitted shall, within fifteen (15) days after approval of the plat, furnish to the Planning and Building Official six (6) additional copies of the plat. (Ord. 2359, 1977; Ord. 1116)

**21-1-62. Same; approval, disapproval to be recorded.**

Approval or disapproval of a final plat by the Mayor and City Council shall be shown in the records of the City Council. (Ord. 1225, 1959; Ord. 1116)

**21-1-63. Variance; procedure; grant or denial.**

Except as to matters governed by the provisions of Chapter 25 (as to which matters variances may

be granted only in the circumstances and in accordance with the procedure therein provided), the City Council may authorize a variance from the substantive requirements of this Article when, in its opinion, undue hardship due to topographical or other conditions peculiar to the site of the proposed subdivision may result from strict compliance, and the variance will observe the spirit of this Article, secure the public safety and welfare, and do substantial justice. Application for a variance shall be submitted to the Planning and Building Official in writing by the person submitting the preliminary plat of the subdivision at the time when the preliminary plat is submitted to the Official. The application shall be addressed to the City Council and shall state fully the grounds for the application and the facts relied upon by the applicant. The granting or denial of the application shall be shown in the records of the City Council. (Ord. 2801, 1983)

**21-1-64. Violation; penalty.**

A violation of any provision of this Article is a Class II violation.

**21-1-65. Subdivision application; application to Planning and Building Official; contents; fees.**

Every application for approval of a subdivision by the Planning and Building Official shall comply with all the provisions of this Article, except that the application shall state that the subdivision is proposed to be effected by a plat. The application shall be filed with the Official and shall be accompanied by:

- (1) a filing fee in the amount provided in Chapter 6, Article 6, to be paid to the Official, and
- (2) a deposit in the amount of the fee to be paid to the Register of Deeds upon the filing of the plat with such officer, if the plat shall be approved by the Official. (Ord. 2812, 1983)

**21-1-66. Same; plat.**

There also shall be submitted to the Official at the time of the filing of the application four (4) copies of a plat of the tract to be subdivided which in form shall comply with the requirements in this Article, and in content shall comply with the numbered requirements in section 21-1-59, except requirement numbered (14). In addition, the plat shall contain a form of certificate, to be signed by the Planning and Building Official showing approval of the plat by the Official. (Ord. 2812, 1983)

**21-1-67. Same; approval; filing.**

If the Official shall determine that the plat complies with the requirements of this Article which are applicable to such a plat, he or she shall enter in the records of the Planning and Building Official, an order approving the plat, and shall also indicate such approval, by an entry over his or her signature, on the original (linen) copy and two (2) of the black and white or blue and white prints. Such approval shall constitute approval of the proposed subdivision. If he or she shall not approve the plat, he or she shall enter in the records of the Department an order to the effect that the plat has not been approved or, as the case may be, has been disapproved, and such order shall constitute disapproval of the proposed subdivision.

One (1) copy of the print shall be re-delivered to the person by whom the copies were submitted, and the Official shall cause the original, (linen) copy to be delivered to the City Clerk, who shall cause such copy to be filed for record in the office of the Register of Deeds. The person by whom the plat was submitted shall, within fifteen (15) days after approval of the plat by the Official, furnish to the Official six (6) additional copies of the plat.

In addition to submitting the drawing, the applicant shall submit the plat containing the information described above on a 3½ inch diskette or CD ROM in AutoCAD format.

Information relating the plat datum to state plane coordinates shall be provided on the plat so that the plat can be included in the City of Scottsbluff and County of Scotts Bluff GIS data. Each entity shall be responsible for adding the data to the GIS. For plats less than 20 acres, the Point of Beginning on the plat shall be referenced to State Plane Coordinates. The datum shall be NAD 83 (in feet), or the current datum adopted by the City at the time of plat submittal. Information on existing monuments that have established state plane coordinates can be obtained from the Scotts Bluff County Surveyor. The reference can be in the form of a note on the plat that includes a description of the reference point, the coordinates in feet, and the average scale factor. For plats larger than 20 acres the Point of Beginning and one additional point at the opposite corner of the Point of Beginning shall be referenced to State Plane Coordinates. The reference can be in the form of a note on the plat that includes a description of the reference points, coordinates in feet, and the average scale factor. (Ord. 3645, 2000)

**21-1-68. Amended plat; limiting the number of times a final plat can be amended, procedures; notice; fees.**

After approval of a final plat by the mayor and city council such final plat may be amended or replatted, either in whole or in part, a total of two (2) times. If an application for amendment or replat of a final plat or portion of an existing plat, is received by the City for a third time, the final or existing plat must be vacated by ordinance prior to any amendment or replatting, after hearings by the planning commission and the city council, before the city will approve the application by the owners. Except as specifically provided in this section the amended plat and application therefor shall conform to all requirements of this article for final plats provided however, that if only part of the final plat is amended, the certificate required by Section 21-1-59 may be made by the owner or owners of the land shown in the amended plat.

At the time of submitting the amended plat to the Planning and Building Official, the applicant shall pay a fee in the amount provided in Chapter 6, Article 6 plus the additional amount provided in Chapter 6, Article 6 for each property owner who is entitled to notice pursuant to the provisions of this section.

In addition to submitting the drawing, the applicant shall submit the plat on a 3½ inch diskette or CD ROM in AutoCAD format, latest version.

Information relating the plat datum to state plane coordinates shall be provided on the plat so that the plat can be included in the City of Scottsbluff and County of Scotts Bluff GIS data. Each entity shall be responsible for adding the data to the GIS. For plats less than 20 acres, the Point of Beginning on the plat shall be referenced to State Plane Coordinates. The datum shall be NAD 83 (in feet), or the current datum adopted by the City at the time of plat submittal. Information on existing monuments that have established state plane coordinates can be obtained from the Scotts Bluff County Surveyor. The reference can be in the form of a note on the plat that includes a description of the reference point, the coordinates in feet, and the average scale factor. For plats larger than 20 acres the Point of Beginning and one additional point at the opposite corner of the Point of Beginning shall be referenced to State Plane Coordinates. The reference can be in the form of a note on the plat that includes a description of the reference points, coordinates in feet, and the average scale factor.

An application to amend a plat shall set forth the number of times a replat or amendment has been applied for by the owner prior to this application and shall be reviewed by the Planning and

Building Commission only if the proposed amendment creates more lots than existed on the original final plat or if the amended plat proposes to make changes in any public right-of-way or easement. (Ord. 3645, 2000; Ord. 4149)

## ARTICLE 2

### MISCELLANEOUS PROVISIONS

#### Section

<a href="#"><u>21-2-1</u></a>	<a href="#"><u>Grades; base surveys; grade book.</u></a>
<a href="#"><u>21-2-2</u></a>	<a href="#"><u>Same; grade plans.</u></a>
<a href="#"><u>21-2-3</u></a>	<a href="#"><u>Same; curb grades.</u></a>
<a href="#"><u>21-2-4</u></a>	<a href="#"><u>Same; violations; penalty.</u></a>

#### **21-2-1. Grades; base surveys; grade book.**

The Base Survey Bench Mark for the establishment of a grade for any improvement within the City shall be the bench mark as established by the Chicago, Burlington and Quincy Railroad Company (now Burlington Northern, Inc.) at the southeast corner of the passenger depot of such company. Such bench mark is designated U.S.G.S. 3876.05 feet above sea level, and also is known as 3841.49 feet City Datum Equivalent. Every grade fixed upon any street, alley, sidewalk or gutter or for any other purpose within the City, or within its subdivision or zoning jurisdiction outside the corporate limits, shall be fixed and established with relation to such grade. All such grades shall be recorded and kept by the City Manager, or the designee of the City Manager, in a book marked "Scottsbluff Bench Marks," which book shall be kept on file in the office of the City Manager or the designee of the City Manager, and hereby is made by reference a part of this ordinance. (Ord. 2354, 1977; Ord. 1116)

#### **21-2-2. Same; grade plans.**

All plans establishing a grade plan shall refer to and include a permanent bench mark extended from the Base Survey Bench Mark. (Ord. 2354, 1977; Ord. 1116)

#### **21-2-3. Same; curb grades.**

Curb grades shall be determined from the grades contained in the approved preliminary subdivision plat, approved street construction plans or as-built street construction plans, whichever is the more recent. (Ord. 2354, 1977; Ord. 1116)

#### **21-2-4. Same; violations; penalty.**

A violation of any provision of this Article is a Class II violation.