

TITLE V - BUILDING AND PROPERTY REGULATIONS
ZONING, LAND USE AND SUBDIVISIONS

CHAPTER 124
SUBDIVISION CONTROL - GENERAL PROVISIONS

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124.01 PURPOSE. The purpose of the regulations contained in Chapters 124 through 126 of this Code of Ordinances is to establish minimum standards for the design, development and improvement of all new subdivisions and resubdivisions so that existing developments will be protected and so that adequate provisions are made for public services and to promote the health, safety and general welfare.

124.02 POLICY. It is hereby declared to be the policy of the City to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the City to provide for the orderly, efficient and economical development of the City. And further:

1. Character of Land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

2. Regulations to Supplement and Facilitate. It is intended that these subdivision regulations shall supplement and facilitate the enforcement of provisions and standards, ordinances or regulations of the City.

124.03 APPLICATION AND JURISDICTION. Every owner or agent of any tract or parcel of land lying within the City or within two (2) miles of the corporate limits of the City who has subdivided or shall hereafter subdivide the same into three (3) or more parts for the purpose of laying out an addition, subdivision, building lot or lots, or acreage lots shall cause plats of such area to be made in the form, and containing the information as hereafter set forth, before selling any lots therein contained or placing the plat on record.

124.04 INTERPRETATION. In their interpretation or application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. Specifically:

1. Relationship to Other Public Provisions. These regulations are not intended to interfere with, or abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

2. Relationship to Private Provisions. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern.

124.05 ACTION UNDER PRIOR PROVISIONS. These regulations do not abate any action now pending under, or by virtue of, prior existing subdivision regulations. Nor do they discontinue, abate, modify, or alter any penalty accrued or about to accrue, or affect the liability of any person, or waive any right of the City under any section or provision existing at the time of adoption of these regulations. Nor do they vacate or annul any rights obtained by any person, by lawful action of the City except as expressed in these regulations.

124.06 DEFINITIONS. For use in these chapters relating to Subdivision Control, certain terms or words used herein shall be interpreted or defined as follows:

1. "Alley" means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

2. "Applicant" means the owner of land to be subdivided or a representative.

3. "Block" means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or corporate boundaries.

4. "Bond" means any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the Council.
5. "Building" means any structure built for support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.
6. "Central Sewage System" means a private sewer system including collection and treatment facilities established by the developer to serve a new subdivision or resubdivision.
7. "Central Water System" means a private water system established by the developer to serve a new subdivision or resubdivision. It includes water treatment and distribution facilities.
8. "City Engineer" means the person designated by the Council to furnish engineering assistance for the administration of these regulations.
9. "Commission" means the Planning and Zoning Commission of the City.
10. "Cul-de-sac" means a municipal service street with only one outlet and having an appropriate terminal for safe and convenient reversal of traffic movement.
11. "Detention Basin" means a storm water management facility designed, constructed or modified to provide short term storage of storm water runoff, which reduces peak overflow to a rate less than the peak inflow.
12. "Developer" means the owner of land proposed to be subdivided or a representative.
13. "Easement" means an authorization by a property owner for the use by another, and for a specified purpose, of any designated part of said owner's property.
14. "Erosion" means the wearing away of the land surface by running water, wind, ice, gravity or other geological, natural agents or manmade agents.
15. "Frontage" means that portion of a lot abutting on a street or way and complying with the setback and front yard requirements as they may exist, but it is not considered as the side of a corner lot.
16. "Individual Sewage Disposal System" means a septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

17. "Land Disturbing Activity" means a land change such as the tilling, clearing, grading, excavating, transporting or filling of land which may result in soil erosion from water or wind and the movement of sediment and sediment related pollutants into the waters of the State or onto lands in the State but does not include certain activities listed in the Code of Iowa.

18. "Local Board of Health" means a County, City or District Board of Health.

(Code of Iowa, Sec. 137.2)

19. "Lot" means a portion of a subdivision or other parcel of land intended for the purpose, whether immediate or future, of transfer of ownership or for building development.

20. "Municipal Arterial Streets" means those streets which connect principal traffic generating areas or connect such areas with other street systems.

(Code of Iowa, Sec. 306.1)

21. "Municipal Collector Streets" means those streets that collect traffic from municipal service streets and connect to other street systems.

(Code of Iowa, Sec. 306.1)

22. "Municipal Service Street" means those streets that primarily provide access to property.

(Code of Iowa, Sec. 306.1)

23. "NPDES Permit" means National Pollutant Discharge Elimination System permits for storm water discharges from industrial activities, a federal EPA program administered by IDNR, applicable to construction activity including clearing, grading and excavation activities except: operations that result in the disturbance of less than five (5) acres of total land area which are not part of a larger common plan of development or sale.

24. "Owner" means any person having legal title to or sufficient proprietary interest in the land to be sought to be subdivided under these regulations.

25. "Plat" means a map, drawing or chart on which the developer's plan of the subdivision of land is presented and which the developer submits for approval and intends in final form, to record.

26. "Plat, Auditor's" means a subdivision plat required by either the auditor or assessor, prepared by a registered land surveyor under the direction of the County Auditor in accordance with Section 354.13 through 354.17 of the Code of Iowa.

27. "Plat, Sketch" means a sketch of a proposed layout of lots, blocks, streets and public improvements prepared for a pre-subdivision conference prior to submittal of a preliminary plat.

28. "Public Improvement" means any drainage ditch, roadway, parkway, sidewalk, pedestrian crosswalk, tree, lawn, off-street parking area, lot improvement, 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.

29. "Retention Basin" means a storm water management facility designed, constructed or modified to provide long-term storage of storm water runoff, which reduces the peak outflow during a specific rainfall event. This facility is typically designed to maintain a specific water elevation.

30. "Right-of-way" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

31. "Roadway" means that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back to back of curbs.

32. "Sediment" means solid material, both mineral and organic, that is in suspension, has been transported or has been moved from its origin by air, water, gravity or ice and has been deposited by the action of water or wind.

33. "Street" means and includes any public way, highway, street, avenue, boulevard, parkway, or other public thoroughfare, and each of such words includes every other of them, and includes the entire width between property lines.

34. "Subdivider" means a person undertaking the subdivision or resubdivision of a tract or parcel of land.

35. "Subdivision" means the division of land into three (3) or more lots or other division of land for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate

to the context, relates to the process of subdividing or to the land subdivided, or the resubdivision of land heretofore divided or platted into lots or other divisions of land, or, if a new street is involved, any division of land.

36. "Surveyor" means a land surveyor licensed and registered under the provisions of Chapter 355, Code of Iowa. *(Ord. 652)*

37. "Wetlands" means an area of two or more acres in a natural condition that is mostly under water or waterlogged during the spring growing season and is characterized by vegetation of hydric soils.

(Ord. 802 – Jul-00 Supp)

124.07 VARIATIONS AND EXCEPTIONS. The following apply to the granting of variations or exceptions:

1. Hardships. Where the Council finds that extraordinary hardships or particular difficulties regarding the physical development of land may result from strict compliance with these regulations, it may make variations or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Council shall not grant variations or exceptions to these regulations unless it shall make findings based upon the evidence presented to it in each specific case that:

A. The granting of the variation will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

B. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought, and are not applicable, generally, to other property.

C. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.

D. The purpose of the variation is not based exclusively upon a desire to make more money out of the property.

2. Conditions. In granting variations and exceptions the Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

3. Procedure for a Variance. A petition for any such variance shall be submitted in writing by the developer at the time when the preliminary plat is filed. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

124.08 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the Council, provided, however, that such changes or amendments shall not become effective until after a public hearing has been held, public notice of which shall have been given as required by law. Such proposed amendments shall first be submitted to the Commission for study and recommendation before the hearing is held. The Commission shall forward its recommendations to the Council within thirty (30) days, after which the Council shall give notice of and hold a public hearing on the proposed amendment.

124.09 ENFORCEMENT, VIOLATIONS AND PENALTIES. No plat or subdivision within the City or within two (2) miles thereof shall be filed or recorded with the County, nor shall any plat or subdivision have any validity until it complies with the provisions of these regulations, has been approved by the Council as herein set forth, and further:

1. Issuance of Building Permits. No more than two (2) building permits for each separate tract existing at the time of the adoption of the 1978 City Code shall be issued unless the tract has been platted in accordance with these regulations; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by applicable land use regulations such as zoning and restricted residence regulations or additions or improvements to a main or accessory building already legally located upon said tract.

2. Sale or Lease Without Plat. Any person who shall dispose of or offer for sale or lease any lots in the City or addition to the City, until the plat thereof has been acknowledged and recorded as provided in these regulations, shall forfeit and pay fifty dollars (\$50.00) for each lot and part of lot sold or disposed of, leased or offered for sale.



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